

Chapter 11

FIRE PROTECTION AND PREVENTION

Articles:

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Article I. In General

Sec. 11-1. False fire alarms.

It shall be unlawful for any person knowingly and wilfully to turn in a false alarm to the fire department in the city. (Code 1958, 11-18)

Sec. 11-2. Fireworks—sale or explosion prohibited.

It shall be unlawful for any person to explode, use or sell firecrackers, rockets, torpedoes, fireworks or similar substances, or other pyrotechnics, or any substance containing chlorate or potash mixture or other similar substance, except toy pistols or guns loaded with caps, within the city; except supervised displays as hereinafter provided. (Code 1958, 11-20)

Sec. 11-3. Same—supervised displays—license.

The chief of the fire department shall have the power to grant permits for supervised public displays of fireworks to be held by fair associations, amusement parks, and other organizations or groups of individuals. Every such display shall be handled by a competent operator to be approved by the chief and shall be of such a character, and so located, discharged or fired as in the opinion of the chief, after proper inspection, shall not be hazardous to property or endanger any person or persons. Application for permits shall be made in writing at least fifteen (15) days in advance of the date of the display. After such privilege shall have been granted, sales, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable. (Code 1958, 11-21)

Sec. 11-4. Same—same—bond.

The chief of the fire department shall require a bond from the fireworks display permittee in a sum not less than five hundred dollars (\$500.00), conditioned for the payment of all damages which may be caused either to persons or to property by reason of the display, and arising from any acts of the licensee, his agents, employees or subcontractors. (Code 1958, 11-22)

Sec. 11-5. Same—confiscation of stocks.

The chief of the police department or any member of the police force of the city is hereby authorized and directed to take, seize, remove or cause to be removed at the expense of the owner all stocks of fireworks or combustibles offered or exposed for sale, stored or held in violation of this article. (Code 1958, 11-23)

Sec. 11-6. Smoking in theater.

Smoking or the carrying of a lighted pipe, cigar, cigarette or other form of smoking material in a theater is prohibited unless the premises of the theater has been inspected by the fire chief for fire hazards and he has granted permission in writing to the theater owner or manager for smoking on the premises. (Code 1958, 11-27; Ord. No. 1145, 10-18-65)

Sec. 11-7. Fire extinguishers.

The chief of the fire department is authorized to require the installation of hand or other portable fire extinguishers in any store, factory, garage or other building where readily flammable material is stored, handled, kept or sold. Where such extinguishers are required, the property owners or occupants shall be required to maintain the extinguishers in proper operative condition. (Code 1958, 11-19)

Sec. 11-8. Use of water for sprinkling or irrigation during fire.

It shall be unlawful for any user of water from the city water system to use any water for sprinkling or irrigation from such system during the progress of any fire in the city, and all irrigation and sprinkling shall be immediately stopped when an alarm of fire is sounded in any part of the city, and shall not be resumed until the fire has been extinguished. (Code 1958, 11-17)

Sec. 11-9. Burglar and fire alarms—direct dialing to 911 prohibited.

No person may program an automatic dialing burglar/fire alarm device into a 911 phone number. Any such device must use the traditional seven digit phone number. (Ord. 1724, 10/19/92)

Sec. 11-10—11-29. Reserved.

Article II. Fire Codes

Sec. 11-30. Fire Prevention Code—adopted.

There is hereby adopted and incorporated by reference by the City Commission for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Uniform Fire Code, 1997 Edition, and Uniform Fire Code (UFC) Standards, 1997 Edition, compiled by the International Conference of Building Officials; however, the following sections of the Uniform Fire Code are not adopted:

1. Appendix 1-A Existing Buildings, except for Section 2.4 Fire Escapes and Section 6 Smoke Detectors which are hereby adopted;
2. Appendix II-C Marinas; and

3. Appendix II-D Rifle Ranges. (Ord. 1551, 5/19/86; Ord. 1648, 2/2/90; Ord. 1719, 8/3/92; Ord. 1785, 9/19/94; Ord. 1903, 1/16/01)

Sec. 11-31. Chief enforcement officer.

The chief enforcement officer of the Uniform Fire Code shall be the Chief of the Fire Department.

Sec. 11-32. Establishment of limits.

The storage and dispensing of flammable liquids in outside aboveground tanks and bulk storage of liquefied petroleum gases is to be permitted is as follows:

A. There shall be no new facilities for the storage of flammable liquids in outside aboveground tanks installed, or bulk storage of liquefied petroleum gases within the City, except as follows:

1. Only upon special permit issued by the City of Livingston when, in the sole discretion of the Fire Chief that such installation is not detrimental to the general welfare, health and safety of the residents of the City of Livingston and then only if such aboveground storage tanks meet the following requirements:

a. The aboveground storage tank must be installed in accordance with the requirements set forth in Appendix II-F of the 1994 Uniform Fire Code;

b. The aboveground storage tank must be listed and labeled fire protected tank assembly in accordance with Appendix II-F of the 1994 Uniform Fire Code;

c. The aboveground storage tank must only be used for the storage and dispensing of diesel fuel;

d. Any public or private entity installing said aboveground storage tank must comply with the Environmental Protection Agency's (EPA) Spill Prevention, Control and Countermeasure (SPCC) regulations set forth in 40 CFR 112 or provide written confirmation from the EPA that such regulations do not apply to the subject aboveground storage tank; and

e. That under no circumstances will aboveground storage tanks be allowed in any area zoned residential, central business district or neighborhood commercial.

B. Application and Application Fee. Any public or private entity desiring to install an aboveground tank must submit an application to the Fire Chief with an application fee in the amount of Two Hundred Fifty Dollars (\$250.00) which fee shall be used to defray the costs of site inspection and approval. (Ord. 1307, 10/6/75; Ord. 1487, 7/6/81; Ord. 1849, 3/17/97)

Sec. 11-33. Provide for a fire inspection program and inspection fee.

A. The City of Livingston Fire Department shall undertake an active fire inspection program of all commercial properties located within the City of Livingston. A written fire inspection form shall be used by the Fire Department and a copy of the fire inspection form shall be delivered to the occupant of each building or structure at the conclusion of each inspection.

B. The Chief of the Fire Department shall establish a regular fire inspection program for commercial properties that shall require all commercial properties to be inspected at least one (1) time per year.

C. The owners, occupants, and lessees of all buildings or structures shall allow Fire Department employees upon their premises to conduct such inspection and shall cooperate with all reasonable requests of the Fire Department to adequately inspect all structural areas and shall correct any violations of the Fire Code and provide proof thereof to the Fire Department within thirty (30) days. Any violation of this Section shall be punishable by Section 1-8 of the Code of Ordinances.

D. A fire inspection fee shall be charged to each occupant or separate business within any building or structure. Each lessee or owner that controls a separate portion of a single building shall be charged a separate inspection fee.

E. The inspection fee shall be in the amount of Eighty Dollars (\$80.00) per year, payable within thirty (30) days from the date of the first inspection in any calendar year. Any owner or lessee shall be given a credit against the inspection fee in the amount of an owner's or lessee's City business or occupational license if such a license has been obtained. (Ord. 1497, 4/19/82; Ord. 1836, 8/5/96; Ord. 1991, 10/15/07)

Sec. 11-34. Same—modifications.

The Chief of the Fire Department shall have power to modify any of the provisions of the Fire Prevention Code adopted upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that 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 decision of the Chief of the Fire Department thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant. (Code 1958, Sec. 11-49; Ord. 1144, 9-20-65)

Sec. 11-35. Same—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 fire prevention 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 chief of the fire department to the city council within thirty (30) days from the date of the decision appealed. (Code 1958 11-49; Ord. No. 1144, 7, 9-20-65)

Sec. 11-36. Same—violations.

(a) Any person who shall violate any of the provisions of the fire prevention code hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the city council or by a court of competent jurisdiction, within the time fixed herein, shall severally for each such violation and noncompliance, respectively, be punishable as provided in Section 1-8 of this Code of Ordinances. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects within a reasonable time and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.

(b) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions. (Code 1958, 11-49; Ord. No. 1144, 7, 9-20-65)

Sec. 11-37. Life Safety Code—adopted.

There is hereby adopted by the City Council for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Life Safety Code, promulgated by the National Fire Protection Association, being particularly NFPA No. 101, 1988 Edition, or that edition which is most recently issued, and the whole thereof, of which one copy shall at all times be on file in the office of the City, and the same is hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling within the corporate limits of the City. (Ord. 1307, 10/6/75; Ord. 1666, 6/20/90)

Sec. 11-38. Same—enforcing officer.

The life safety code hereby adopted shall be enforced by the chief of the fire department.

Sec. 11-39. Same—use of term “authority having jurisdiction”.

Whenever the words “authority having jurisdiction” are used in the life safety code hereby adopted, it shall be held to mean this city.

Sec. 11-40. Same—modifications.

The chief of the fire department shall have power to modify any of the provisions of the life safety code hereby adopted upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that 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 decision of the chief of the fire department thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant.

Sec. 11-41. Same—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 life safety 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 chief of the fire department to the city council within thirty (30) days from the date of the decision appealed.

Sec. 11-42. Same—violations.

(a) Any person who shall violate any of the provisions of the life safety code hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the city council or by a court of competent jurisdiction, within the time fixed herein, shall severally for each such violation and noncompliance, respectively, be punished as provided in Section 1-8 of this Code of Ordinances. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects within a reasonable time and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.

(b) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

Sec. 11-43. Storage and transportation of liquid petroleum gas—additional limits.

A. General. The storage and transportation of LP (liquid petroleum) gas and the installation and maintenance of pertinent equipment shall be in accordance with the Uniform Fire Code Standard No. 82-1, 1991 Addition or most recent, and subject to the approval of the chief, except as provided herein.

B. Maximum Capacity Within Established Limits. Within the corporate limits of the city of Livingston, the aggregate capacity of any one installation shall not exceed a one hundred (100) pound bottle capacity. Bulk storage shall be prohibited per the requirements of Section 11-32.

C. Container Location. Containers shall be located with respect to buildings, public ways, and lines of adjoining property which can be built upon, in accordance with Table No. 82.104-A of the Uniform Fire Code (U.F.C.). (Ord. 1752, 2/7/94)

Sec. 11-44. Utility turnoffs access requirements.

All owners and occupants of structures upon real property in the City of Livingston shall keep completely free and clear an access to all outside gas, electric, and other utility turnoffs. The passageway must be entirely uncluttered and allow a free passage way of at least three (3) feet

in width and the immediate surrounding area must be totally free of obstacles or clutter. (Ord. 1754, 12/20/93)

Secs. 11-45—11-49. Reserved.

Article III. Fire Department

Sec. 11-50. Officers and employees—designated.

The fire department of the city shall consist of a chief, an assistant chief, and such paid firemen as may be authorized by the city council, together with such volunteer firemen as may be organized under and by virtue of the laws of the state. (Code 1958, 11-35)

Sec. 11-51. Reserved.

Sec. 11-52. Powers and duties of chief—generally.

The chief of the fire department shall: Be responsible for the discipline, good order and proper conduct of the officers and firemen constituting the department, and for the good

condition of all equipment and apparatus belonging to and connected with the department; have the superintendence, and control of all buildings, equipment and apparatus used by the department; have such authority over the subordinate officers and firemen as is provided in the laws of the state and City ordinance. (Code 1958, 11-37)

Sec. 11-53. Same—during fires.

The chief of the fire department and in his absence the assistant chief shall have power during any fire, and while the fire department is engaged in putting out any fire or caring for property at any fire to order any place of business in the vicinity of such fire closed for such length of time as deemed necessary, and any person refusing to comply with such orders shall be punished as provided in Section 1-8. (Code 1958, 11-38)

Sec. 11-54. Same—command during fires.

The chief of the fire department and in his absence the assistant chief shall have sole and absolute control and command over all other members of the department and all other persons present at fires, and the movement of all persons or property within the streets in the area threatened by fire. The fireman or officer of the department who first arrives at a fire shall be the officer in command until the chief or assistant chief of the fire department arrives. (Code 1958, 11-39)

Sec. 11-55. Assistant fire chief to serve in absence of chief; compensation.

In the absence from active duty for any reason whatsoever of the fire chief of the city, the assistant fire chief shall perform the duties of the chief. There shall be paid to the assistant fire chief as salary and compensation, a sum equal in amount to the salary and compensation being paid to the fire chief at the time he ceases to engage in active service with the department. Such sum shall be paid monthly during the period in which he actually performs the duties of chief and until the return of the fire chief to active duty with the department. The compensation and salary to be paid, as hereinbefore provided shall be received by the assistant fire chief in lieu of the salary and compensation received from the city in payment of services as assistant fire chief, and shall be the sole salary and compensation to be received by the assistant while performing the duties of fire chief. Upon the return of the fire chief to active service with the department the assistant fire chief shall thereupon receive only such compensation as may be provided by the ordinances of the city for the position of assistant fire chief. (Code 1958, 11-40)

Sec. 11-56. Service call.

All members of the fire department shall be subject to call at any time for service. (Code 1958, 11-41)

Sec. 11-57. Adoption of regulations.

The city council shall adopt such rules and regulations as they may deem necessary for the guidance, discipline, operation and control of the officers and firemen of the fire department, and shall post a copy of such rules in a conspicuous place in the fire station. (Code 1958, 11-42)

Sec. 11-58. Gambling, spirituous liquors prohibited.

No gambling shall be allowed in any building occupied by the fire department, nor shall spirituous liquors be kept or used therein. (Code 1958, 11-43)

Sec. 11-59. Salaries—established by council.

The chief of the fire department, the assistant chief and the firemen of the department shall each receive such salary as may from time to time be fixed by the city council; provided, however, the salary of any fireman in his probationary period shall be fixed by the city council at the time of the appointment of such fireman. (Code 1958, 11-44)

Sec. 11-60. Same—disability pension in lieu of.

Any member of the fire department injured or disabled when on actual duty shall receive such compensation during the time lost in consequence as may be granted by the Firemen's Relief Association, which shall be in lieu of pay during such time. (Code 1958, 11-45)

Sec. 11-61. Volunteer fire department—created.

In addition to the paid fire department of the city, there is created, as a part of said fire department, the volunteer fire department of the city. (Code 1958, 11-46)

Sec. 11-62. Same—volunteer fireman defined.

A volunteer fireman is defined to be one of a group of persons associated together for the purpose of fighting fires, voluntarily within the city, and as a volunteer, performs such duties freely and of his own volition. (Code 1958, 11-47)

Secs. 11-63—11-69. Reserved.

Article IV. Cost and Recovery

Sec. 11.70. Purpose.

This Article shall provide procedures for recovering costs incurred by the City for City assistance in hazardous materials and power line emergencies. (Ord. 1725, 10/19/92)

Sec. 11-71. Definitions.

As used in this Article:

"Expenses" means the actual labor costs of the City and volunteer personnel including worker's compensation benefits, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, costs of materials, costs of disposal and the cost of any contract labor and materials.

“Hazardous materials emergency” means a sudden and unexpected release of any substance that, because of its quantity, concentration or physical, chemical, or infectious characteristics, presents a direct and immediate threat to public safety or the environment, and requires immediate action to help control the release or to address public safety concerns.

“Power line emergency” means any City response where the fire department assists or stands by with men and equipment as a safety measure due to power lines. (Ord. 1725, 10/19/92)

Sec. 11-72. Recovery authorization and procedure.

A. Any railroad car-related hazardous materials emergency shall have all City recovery expenses allocated against the transporting rail carrier. This imposition of expenses shall be regardless of negligence or fault on the part of the transporting carrier. If recovery is not made from the transporting rail carrier, then the City may also recover expenses from the owner of the rail car.

B. The City shall recover from any person, corporation, partnership whose negligent actions cause hazardous material or power line emergency expenses incurred by City agencies directly associated with a response to a hazardous material or power line emergency. Cost recovery shall be pursuant to the following procedure:

1. The City, through the Fire Chief, shall determine responsibility for the emergency and notify the responsible party by mail of the City’s determination of responsibility and costs to be recovered.

2. The notice shall specify that the determined responsible party may appeal the City’s decision to the City Manager within ten (10) days from the date of the notice.

3. In the event the determined responsible party appeals the determination, the City Manager shall hold a public hearing to consider any issues raised by the appeal, at which hearing the appealing party and the City shall be entitled to present evidence in support of their respective positions.

4. The City Manager shall, after the hearing, issue a decision assessing responsibility and costs. (Ord. 1725, 10/19/92)

Sec. 11-73. No admission of liability.

The payment of expenses determined owing under this Article does not constitute an admission of liability or negligence in any legal action for damages. (Ord. 1725, 10/19/92)

Sec. 11-74. Failure to pay City—legal action.

In the event parties determined to be responsible for the repayment of hazardous material emergency costs fails to make payment to the City within thirty (30) days after a determination of any appeal or thirty (30) days from the deadline for appeal in the event no appeal is filed, the City may initiate legal action to recover from the determined responsible parties the costs determined to be owing. The unpaid balance shall accrue interest at the legal rate from the date past due. (Ord. 1725, 10/19/92)