

## CHAPTER 7 FIRE

Article 1	Fire Department
Article 2	Fire Prevention
Article 3	Fireworks
Article 4	Fire Insurance Proceeds Fund

---

### 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, an assistant fire chief and one company consisting of not less than 15 nor more than 25 firefighters. Members of the fire department shall be appointed by the mayor and confirmed by the council.  
(Ord. 435, Secs. 6-101:102; Code 1994; Code 2003; Code 2015)

7-101-A FIRE DEPARTMENT COMPANY; RESTRICTIONS- Members of the company shall be in good health and able-bodied, able to lift 70 pounds, and shall live and work near or within the city, but in any event, shall be those who are normally available for response to fire alarms at any time, and who train at least once each month. The age restrictions for fire members are that they shall not be less than 21 years of age nor more than 65 provided, that the age limit of the chief of said fire company is extended to the age of 70.  
(Ord. 435, Sec. 6-102; Code 1994; Code 2003; Code 2015)

7-102 MEMBERSHIP; FIRE DRILL- Members of the fire department shall all be volunteers 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 six consecutive meetings shall automatically become expelled from membership.  
(Ord. 435, Sec. 6-105; Code 1994; Code 2003; Code 2015)

7-103 SUPERVISION OF DEPARTMENT- The chief of the fire department shall be under the supervision of the mayor 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. It shall also be the chief's duty to submit a written report as to the condition of all fire apparatus and equipment to the governing body at their first meeting in October of each year.  
(Ord. 435, Sec. 6-106; Code 1994; Code 2003; Code 2015)

7-103A CITY AND RURAL FIRE RESPONSE- The company shall be available to respond to both city and rural fire alarms. In addition to the responsibilities of the fire chief as hereinafter set forth, it shall be the responsibility of the fire chief to ensure that when the company responds to a rural fire alarm that sufficient personnel and equipment are held in reserve to respond to a city fire alarm and likewise when the company responds to a city fire alarm, sufficient equipment and men are held in reserve to respond to a rural fire alarm. The fire chief or the person in charge shall have the right in every case to assign fire equipment and personnel at his sole discretion for the most effective fire control.  
(Ord. 435, Sec. 6-103; Code 1994; Code 2003; Code 2015)

7-103B SAME; USE OF CITY FIRE EQUIPMENT OUTSIDE CITY LIMITS, PRIORITY- Whereas the first priority for the use of city fire equipment and apparatus shall be to control fires within the city, the fire chief or person in charge of the St. Francis fire department, at his discretion, is authorized to use fire equipment and apparatus belonging to the city to respond to fire alarms outside the city limits.  
(Ord. 435, Sec. 6-104; Code 1994; Code 2003; Code 2015)

7-104 FIRE CHIEF; POWERS- (a) The fire chief shall be responsible for the discipline of the members and is hereby given authority to suspend or expel 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.

7-104A SAME; DUTIES- It shall be the duty of the chief of the fire department to adopt all prudent measures for the prevention of fires and for this purpose he or she, or his or her assistant under his or her direction may, upon request or whenever he has reason to believe that the safety of life and property demands it, and as often as he or she may deem necessary, enter any building, yard or premises in the city during reasonable hours of the purpose of inspection, and where dangerous, unsafe or hazardous conditions are found to exist he or she shall give such directions for the alteration, change or

removal or better care or management of the same as he or she may deem proper, and such directions shall be obeyed and complied with by the person directed in that regard and at their expense.

(Ord. 435, Sec. 6-110.; Code 1994; Code 2003; Code 2015)

7-105                SAME; RECORDS- The chief of the fire department shall keep in convenient form a complete record of all fires. Such information shall include the time and location, construction of building, owner, occupancy, how extinguished, value of building and contents, loss on building and contents, insurance on building and contents, members responding to the alarm, and any other information deemed advisable.

(Ord. 435, Sec. 6-109; Code 1994; Code 2003; Code 2015)

7-106                ASSISTANT CHIEF- In the 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.

(Ord. 435, Sec. 6-111; Code 1994; Code 2003; Code 2015)

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.

(Ord. 435, Sec. 6-116; Code 1994; Code 2003; Code 2015)

7-108                FIRE EQUIPMENT; EMERGENCY RIGHT-OF-WAY AND USE- (a) All fire apparatus and equipment is hereby given and 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 provisions of the state law shall be liable for disciplinary action. (Ord. 435, Sec. 6-112; Code 1994; Code 2003; Code 2015)

- 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.  
(Ord. 435, Sec. 6-113; Code 1994; Code 2003; Code 2015)
- 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.  
(Ord. 435, Sec. 6-114; Code 1994; Code 2003; Code 2015)
- 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.  
(Ord. 435, Sec. 6-115; Code 1994; Code 2003; Code 2015)

## **ARTICLE 2     FIRE PREVENTION**

- 7-201                    FIRE PREVENTION CODE; INCORPORATED- The Fire Prevention Code, 1976 Edition, supplemented by the November 1982 amendments, as recommended by the American Insurance Association is hereby adopted by reference for the purpose of regulation of conditions hazardous to life and property from fire and explosion including the Appendix thereof, as stated in the "City of St. Francis Official Copy." No fewer than three copies of the Fire Prevention Code shall be marked or stamped "Official Copy as Incorporated by the Code of the City of St. Francis," and shall be filed with the city clerk to be open to inspection and available to the public at all reasonable hours of business. (Code 1978, 5-201; Code 1994; Code 2003; Code 2015)
- 7-202                    SAME; ENFORCEMENT- The code hereby adopted shall be enforced by the chief of the fire department.  
(Code 1994; Code 2003; Code 2015)
- 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 St. Francis.  
                              (b) Article 13, Fireworks, of the Fire Prevention Code is hereby deleted in its entirety.  
(Code 1994; Code 2003; Code 2015)
- 7-204                    OPEN BURNING-(a) It shall be unlawful for any person or entity to dispose of refuse by burning the same within the city other than in an

approved incinerator constructed and operated in accordance with Air Pollution Emission Control Regulations of the State of Kansas as published by the Kansas State Department of Health. "Refuse" is defined as unwanted or discarded material resulting from residential, commercial, industrial and agricultural operations and from normal community activities. "Refuse" includes in part garbage, paper, rubbish, dead animals, animal wastes, leaves, limbs and other plant wastes.

7-204A

ALLOWED FIRES;FIRES REQUIRING PRIOR NOTIFICATION; EXCEPTIONS- Regulations relating to the types of fires that will be allowed and those fires that will be allowed upon providing prior notification and the exceptions of such fire shall be as follows:

(a) The following fires shall not constitute a violation of this article:

(1) Fires set for the purpose of instructing and training city firemen in the methods of fighting fires;

(2) Fires set at the direction of the mayor or governing body for destruction of abandoned or condemned structures and buildings;

(3) Fires set in residential fireplaces;

(4) Fires set for the preparation of food, such as barbecuing or charcoaling;

(5) Campfires in approved camping area: Provided that the fire in not more than four feet in diameter at the base;

(b) The following fires shall not constitute a violation of this article as long as notification is given to the city fire department and city power plant prior to the planned fire and authorization obtained from the fire department to proceed with said fire:

(1) Fires set for the disposal of tree trunks, tree limbs, leaves or other vegetation: Providing that the notification of said fire sets forth the responsible person, what is to be burned, and the location of the fire and the estimated time it is to be commenced. No notification will be approved in the event that such fire would constitute a hazard to surrounding buildings or property or would constitute a nuisance. The responsible person is to remain on the scene of the authorized fire until it is completely extinguished.

(c) During dry climatic conditions and high velocity winds in the city, the mayor may declare by proclamation an emergency and suspend the burning under subsection (a) and (b) of this section in which event burning or fires thereunder shall constitute a violation of this article.

(Code 1978, 6-202; Ord. 468 passed 7-18-1995; Code 2003; Code 2015)

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 1994; Code 2003; Code 2015)

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 1994; Code 2003; Code 2015)

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 self-closing or automatic covers. All refuse and trash from rooms where packing or unpacking is done shall be removed daily.  
(Code 1994; Code 2003; Code 2015)

7-208                STORAGE OF ASHES- It shall be unlawful to store ashes inside of any non-fireproof building unless they are stored in a noncombustible container or receptacle, and a clearance of at least five feet shall be maintained between such container or receptacle and any combustible materials not placed therein. Ashes shall not be stored outside of any building in wooden, plastic, or paper product receptacles or dumped in contact with or in close proximity to any combustible materials.  
(Code 1994; Code 2003; Code 2015)

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 1994; Code 2003; Code 2015)

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. 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 1994; Code 2003; Code 2015)

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 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 1994; Code 2003; Code 2015)

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 combustible or explosive material or dangerous accumulation of rubbish or unnecessary accumulation of paper, boxes, shavings or any other inflammable material, so situated as to endanger property by the probability of fire, or shall find or discover any violation of this chapter or any other law hazardous to public safety from fires, the fire chief shall order the fire hazard or danger from the fire forthwith abated and remedied and such order shall be complied with immediately by the owner or occupant of such buildings or premises. If the hazard or condition ordered abated and remedied is a violation of, or a failure to comply with any law, the fire chief shall report the matter to the city attorney and he or she shall, if he or she deems it advisable, prosecute the offender.

(Code 1994; Code 2003; Code 2015)

7-213

SAME; SERVICE OF ORDER; RECORDS- Any order made under Section 7-212 shall be in writing and may be served personally upon the owner or occupant of the premises or by leaving it with any person in charge of the premises or if the premises are unoccupied and the owner is a nonresident of the city, then by mailing a copy to the owner's last known post-office address. One notice to either the occupant or owner shall be sufficient. The fire chief shall keep a record of and copies of all such orders and notices and shall follow up such notices at the expiration of the time for compliance therewith and when complied with make proper entry, and if not complied with, file complaint with the municipal court against the property owner and/or occupant.

(Code 1994; Code 2003; Code 2015)

### ARTICLE 3 FIREWORKS

7-301 FIREWORKS DEFINED- For purposes of this article, the term fireworks shall mean those items as defined by the rules and regulations of the Kansas state fire marshal, and shall include but not be limited to: firecrackers, torpedoes, sparklers, Roman candles, sky rockets, pin wheels, cap or toy pistols (except such pistols or any like device designed to discharge paper caps containing not more than .25 grains of explosive mixture), canes, bombs, cannons or other like devices and all classes of fireworks that may be shot into the air or propelled over the ground by explosive discharges or any device using blank cartridges.

(Code 1994; Code 2003; Code 2015)

7-302 FIREWORKS PROHIBITED- (a) Except as provided in sections 7-303:306; it shall be unlawful for any person to keep, store, display for sale, fire, discharge or explode any fireworks.

(b) Nothing in this article shall be construed as applying to:

(1) Toy paper caps containing not more that .25 of a grain of explosive composition per cap;

(2) The manufacture, storage, sale or authorized use of signals necessary for the safe operation of railroads or other classes of public or private transportation;

(3) The military or naval forces of the United States or of this state while in the performance of official duty;

(4) Law enforcement officers while in the performance of official duty; or

(5) The sale or use of blank cartridges for ceremonial, theatrical or athletic events.

(Code 1994; Code 2003; Code 2015)

7-303 SAME; EXCEPTIONS; DISCHARGES- (a) Section 7-302 of this article shall not apply to the firing or discharge of fireworks in the city between hours of 8:00 a.m. and 10:00 p.m. on June 27 through July 3rd and on July 5th. On July 4th the hours for allowed discharge shall be between 8:00 a.m. and 12:00 midnight.

(b) The governing body of the city may, in its discretion, grant permission at any time for the public display of fireworks by responsible individuals or organizations when such display or displays shall be of such a character and so located, discharged and fired as shall not be a fire hazard or endanger persons or surrounding property.



(c) It shall be unlawful for any person, firm or corporation to give any public display of fireworks without having first obtained a permit thereof.

(Code 1994; Ord. 467 passed 8-8-1995; Code 2003; Ord. 566 passed 05-10-2010; Code 2015)

7-304

SAME; EXCEPTION; SALE OF FIREWORKS- Any person who has first obtained a valid permit to sell fireworks within the city may do so between the hours of 8:00 a.m. and 12:00 midnight commencing June 27 through July 5th of each year.

(Code 1994; Ord. 500, passed. 7-18-2000; Code 2003; Code 2015)

7-305

PERMIT FOR SALE OF FIREWORKS REQUIRED; FEE; ISSUANCE- (a) 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 without first paying a fee of \$25.00 per establishment or premises to the city clerk and applying for and securing a permit therefore on or before June 25th, of the permit year.

(b) No permit shall be issued for any location where retail sales are not permitted under the zoning laws. Prior to the issuance of the permit, an inspection will be made of the applicant's facility for compliance with this chapter and other pertinent laws, and no permit shall be issued for any premises not in compliance with such laws. Upon qualifying for the permit, the permittee shall prominently display the same at the establishment or premises where fireworks are to be sold or displayed for sale. The permit fee shall not be refundable upon failure to qualify for the permit or withdrawal or cancellation of the application or permit.

(Code 1994; Ord. 467, passed. 8-8-1995; Code 2003; Code 2015)

7-306

PERMIT FOR PUBLIC FIREWORKS DISPLAY REQUIRED- (a) It shall be unlawful for any person to give or provide a fireworks display for the public or for organized groups without first obtaining a permit to do so by making application at least 30 days in advance of the desired display. Approval of the permit shall be by the governing body. No permit shall be approved unless the applicant furnishes a certificate of public liability insurance for the display in a minimum amount of \$500,000, written by an insurance carrier licensed to do business in Kansas, conditioned as being non-cancelable except by giving 10 days advance written notice to the city clerk. In the event of cancellation of the insurance prior to the display, the permit shall automatically be revoked and void. The application for the permit shall clearly state:

- (1) The name of the applicant.
- (2) The group for which the display is planned.
- (3) The location of the display.
- (4) The date and time of the display.
- (5) The nature or kind of fireworks to be used.

- (6) The name of the person, firm or corporation that will make the actual discharge of the fireworks.
  - (7) Anticipated need for the police, fire or other municipal services.
  - (b) No permit shall be issued if the location, nature of the fireworks or other relevant factor is such as to create an undue hazard or risk of harm or damage to persons or property.
- (Code 1994; Code 2003; Code 2015)

7-307 APPROVED FIREWORKS; BOTTLE ROCKETS PROHIBITED- (a) All fireworks offered for sale and discharged within the city shall be of a type that has been tested and approved for sale and use within the state by the state fire marshal.

(b) Bottle rockets and other similar self-propelled firework or fireworks devices consisting of a tube and attached guiding stock or rod shall not be sold or discharged in the city.

(Code 1994; Code 2003; Code 2015)

7-308 DISCHARGE ON STREETS AND PUBLIC PROPERTY PROHIBITED- 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.

(Code 1994; Code 2003; Code 2015)

7-309 THROWING PROHIBITED- It shall be unlawful for any person to throw, cast or propel fireworks of any kind in the direction of or into the path of any animal, person or group of persons, or from, in the direction of or into any vehicle of any kind.

(Code 1994; Code 2003; Code 2015)

7-310 SALE OF FIREWORKS; WHERE PROHIBITED- (a) It shall be unlawful for fireworks to be stored, sold or displayed for sale in a place of business where paint, oils, varnishes, turpentine or gasoline or other flammable substances are kept, unless such fireworks are in a separate and distinct section or department of the premises.

(b) Where the fire chief deems there is a fire hazard, he or she is hereby authorized to have such hazard abated.

(Code 1994; Code 2003; Code 2015)

7-311 RETAIL DISPLAY OF FIREWORKS- (a) All retailers are forbidden to expose fireworks where the sun shines through glass on the merchandise displayed, except where such fireworks are in the original package.

(b) All fireworks displayed for sale must remain in original packages, except where an attendant is on constant duty at all times where such fireworks are on display; provided, that fireworks in open stock may be kept in show cases or counters out of the reach of the public without an attendant being on duty.

(c) Signs reading "Fireworks for Sale -- No Smoking Allowed" and "Explosives" shall be displayed in the section of a store or premises set aside for the sale of fireworks.

(Code 1994; Amended for Code 2003; Code 2015)

**FIREWORKS LICENSE**

ST. FRANCIS, KANSAS

DATE: \_\_\_\_\_

I, (We) \_\_\_\_\_, hereby apply for a license to sell fireworks, as defined in the Code of the City of St. Francis, ordinance 7-301 and 7-302 and amended on August 8, 1995 by ordinance no. 467 and have paid a \$25.00 license fee to the City Clerk.

By Application for this license, I understand that:

- a. I must see in a location zoned for retail sales.
- b. I must prominently **display the permit** at the establishment or premises where the fireworks are to be sold or displayed for sale.
- c. The permit fee shall not be refundable upon failure to qualify for the permit or withdrawal or cancellation of the application or permit.
- d. Small stands, temporarily erected to be used as a place for storing and selling fireworks only, shall have one such **fire extinguisher** or in lieu of the fire extinguisher, a pressurized water hose with nozzle end within five feet of the fireworks stand.
- e. The chief of the fire department is authorized to seize and confiscate all fireworks which may be kept, stored or used in violation of any section of this article, and all of the rules of the state fire marshal. He or she shall dispose of all such fireworks as may be directed by the governing body.

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Organization

I certify that the licensee is in compliance with the St. Francis Fireworks ordinance.

\_\_\_\_\_  
City Clerk

7-312 FIRE EXTINGUISHERS REQUIRED- (a) Two functioning and approved fire extinguishers must be provided and kept in close proximity to the stock of fireworks in all permanent buildings where fireworks are stored, sold or displayed for sale.

(b) Small stands, temporarily erected to be used as a place for storing and selling fireworks only, shall have one such fire extinguisher, or in lieu of the fire extinguisher, a pressurized water hose with nozzle end within five feet of the fireworks stand.

(Code 1994; Code 2003; Code 2015)

7-313 RESTRICTIONS AS TO GASOLINE INSTALLATIONS- It shall be unlawful to store, keep, sell, display for sale or discharge any fireworks within 50 feet of any gasoline pump, gasoline filling station, gasoline bulk station or any building in which gasoline or volatile liquids are sold in quantities in excess of one gallon, except in stores where cleaners, paints and oils are handled in sealed containers only.

(Code 1994; Code 2003; Code 2015)

7-314 AUTHORITY OF FIRE CHIEF- The chief of the fire department is authorized to seize and confiscate all fireworks which may be kept, stored or used in violation of any section of this article, and all of the rules of the state fire marshal. He or she shall dispose of all such fireworks as may be directed by the governing body.

(Code 1994; Code 2003; Code 2015)

#### **ARTICLE 4 FIRE INSURANCE PROCEEDS FUND**

7-401 SCOPE AND APPLICATION- The city is hereby authorized to utilize the procedures established by K.S.A. 40-3901 *et seq.*, whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city, arising out of any fire, explosion, or windstorm, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of seventy-five (75%) percent of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this ordinance.

(Code 1994; Ord. 486 passed 5-8-1997; Code 2003; Code 2015)

7-402 LIEN CREATED- The governing body of the city hereby creates a lien in favor of the city on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located

within the city, caused by or arising out of any fire, explosion, or windstorm, where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of seventy-five (75%) percent of the face value of the policy(s) covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy, or any other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidenced by expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss. (Code 1994; Ord. 486 passed 5-8-1997; Code 2003; Code 2015)

7-403                   SAME; ENCUMBRANCES- Prior to final settlement on any claim covered by Section 2, the insurer or insurers shall contact the County Treasurer, Cheyenne County, Kansas, to determine whether any such encumbrances are presently in existence. If the same are found to exist, the insurer or insurers shall execute and transmit in an amount equal to that owing under the encumbrances a draft payable to the County Treasurer, Cheyenne County, Kansas.  
(Code 1994; Ord. 486 passed 5-8-1997; Code 2003; Code 2015)

7-404                   SAME; PRO RATA BASIS- Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure.  
(Code 1994; Ord. 486 passed 5-8-1997; Code 2003; Code 2015)

7-405                   PROCEDURE- (a) When final settlement on a covered claim has been agreed to or arrived at between the named insured or insureds and the company or companies, and the final settlement exceeds seventy-five (75%) percent of the face value of the policy covering any building or other insured structure, and when all amounts due to the holder of the first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsement thereto, shall have been paid, the insurance company or companies shall execute a draft payable to the City Treasurer in an amount equal to the sum of fifteen (15%) percent of the covered claim payment unless the City Superintendent of the city has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as associated debris, or repaired, rebuilt, or otherwise made the premises safe and secure.

(b) Such transfer of funds shall be on a pro rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the city shall be disbursed in accordance with the policy terms.

(c) Upon the transfer of the funds as required by subsection (a) of this section, the insurance company shall provide the city with the name and address of the named insured or insureds, the total insurance coverage applicable to said building or other structure, and the amount of the final

settlement agreed to or arrived at between the insurance company or companies and the insured or insureds, whereupon the City Superintendent shall contact the named insured or insureds by registered mail, notifying them that said insurance proceeds have been received by the city and apprise them of the procedures to be following under this ordinance.

(Code 1994; Ord. 486 passed 5-8-1997; Code 2003; Code 2015)

7-406

FUND CREATED; DEPOSIT OF MONEYS- The City Treasurer is hereby authorized and shall create a fund to be known as the "Insurance Proceeds Fund." All money received by the City Treasurer as provided for by this ordinance shall be placed in said fund and deposited in an interest-bearing account.

(Code 1994; Ord. 486 passed 5-8-1997; Code 2003; Code 2015)

7-407

BUILDING INSPECTOR; INVESTIGATION, REMOVAL OF STRUCTURE-

Upon receipt of moneys as provided for by this ordinance, the City Treasurer shall immediately notify the City Superintendent of said receipt, and transmit all documentation received from the insurance company or companies to the City Superintendent.

(b) Within twenty (20) days of the receipt of said moneys, the City Superintendent shall determine, after prior investigation, whether the city shall instigate proceedings under the provisions of K.S.A. 12-1750 *et seq.*, as amended.

(c) Prior to the expiration of the twenty (20) days established by subsection (b) of this section, the City Superintendent shall notify the City Treasurer whether he/she intends to initiate proceedings under K.S.A. 12-1750 *et seq.*, as amended.

(d) If the City Superintendent has determined that proceedings under K.S.A. 12-1750 *et seq.*, as amended, shall be initiated, he or she will do so immediately but no later than thirty (30) days after receipt of the moneys by the City Treasurer.

(e) Upon notification to the City Treasurer by the City Superintendent that no proceedings shall be initiated under K.S.A. 12-1750 *et seq.*, as amended, the City Treasurer shall return all such moneys received, plus accrued interest, to the insured or insureds as identified in the communication from the insurance company or companies. Such return shall be accomplished within thirty (30) days of the receipt of the moneys from the insurance company or companies.

(Code 1994; Ord. 486 passed 5-8-1997; Code 2003; Code 2015)

7-408

REMOVAL OF STRUCTURE; EXCESS MONEYS- If the City Superintendent has proceeded under the provisions of K.S.A. 12-1750 *et seq.*, as amended, all moneys in excess of that which is ultimately necessary to comply with the

provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured.

(Code 1994; Ord. 486 passed 5-8-1997; Code 2003; Code 2015)

7-409                    SAME; DISPOSITION OF FUNDS- If the City Superintendent, with regard to a building or structure damage by fire, explosion, or windstorm, determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the City Treasurer under the authority of Section 5(a) relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1756. Upon reimbursement from the insurance proceeds, the City Superintendent shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over the City Treasurer under Section 5(a), the City Superintendent shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred. (Code 1994; Ord. 486 passed 5-8-1997; Code 2003; Code 2015)

7-410                    EFFECT UPON INSURANCE POLICIES- This ordinance shall not make the city a party to any insurance contract nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy. (Code 1994; Ord. 486 passed 5-8-1997; Code 2003; Code 2015)

7-411                    INSURERS; LIABILITY- Insurers complying with this ordinance or attempting in good faith to comply with this ordinance shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this ordinance, or releasing or disclosing any information pursuant to this ordinance. (Code 1994; Ord. 486 passed 5-8-1997; Code 2003; Code 2015)