

CHAPTER VII. 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 not less than 10 nor more than 15 firefighters. Members of the fire department shall be appointed by the mayor and confirmed by the city council. (Ord. 1220, Sec. 1; Code 1992)
- 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. 1220, Sec. 2; Code 1992)
- 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. 1220, Sec. 3; Code 1992)
- 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.
(Ord. 1220, Secs. 4:5; Code 1992)

- 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. 1220, Sec. 6; Code 1992)
- 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. 1220, Sec. 8; Code 1992)
- 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. 1220, Sec. 13; Code 1992)
- 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. 1220, Sec. 9; Code 1992)
- 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. 1220, Sec. 10; Code 1992)
- 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. 1220, Sec. 11; Code 1992)

- 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. 1220, Sec. 12; Code 1992)

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 LaHarpe 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 LaHarpe," 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 1992)

- 7-202. SAME; ENFORCEMENT. The code hereby adopted shall be enforced by the chief of the fire department. (Code 1992)

- 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 LaHarpe.
(b) Article 13, Fireworks, of the Fire Prevention Code is hereby deleted in its entirety.
(Code 1992)

- 7-204. OPEN BURNING. (a) It shall be unlawful to burn trash, rubbish, leaves, lumber, straw or any other combustible material in any street, avenue, alley, or lot within the fire limits or without 15 feet of any building in the city unless provided for in subsections (b) or (c) of this section.
(b) It shall be permitted to burn trash, rubbish, leaves, lumber, straw or any other combustible material in a solid metal container with a top, as to let no spark or ashes to escape from the container. Further provided that there are no combustible material around the container that will burn.
(c) The city clerk shall issue burning permits, at no charge, for the burning of leaves, brush, lumber, grass or other combustible material that cannot be burned in an approved container. The permit will be valid for 10 days from the date issued. The burning will not commence before sunrise and must be extinguished before sunset.
- R. [unclear]*
J. [unclear]

(d) It shall be unlawful for any person or persons to leave any fire described in (a) or (b) above unattended.
(Ord. 1646, Secs. 1:4)

- 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. (Ord. 1361, Sec. 1; Code 1992)
- 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. (Ord. 1361, Sec. 2; Code 1992)
- 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. (Ord. 1361, Sec. 3; Code 1992)
- 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 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. (Ord. 1361, Sec. 4; Code 1992)
- 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 1992)
- 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 1992)

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. (Ord. 1220, Sec. 7; Code 1992)

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 1992)

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 1992)

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 1992)
- 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 than .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 1992)
- 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 the hours of 8:00 a.m. and 12:00 p.m. on July 1st through July 4th.
- (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 1992)
- 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 p.m. commencing July 1st and through July 4th of each year. (Code 1992)

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 \$0 per establishment or premises to the city clerk and applying for and securing a permit therefor 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 1992)

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 as determined by the governing body, written by an insurance carrier licensed to do business in Kansas, conditioned as being non-cancellable 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 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 1992)

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 1992)

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 1992)

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 1992)

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 1992)

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" shall be displayed in the section of a store or premises set aside for the sale of fireworks.
(Code 1992)

7-312. FIRE EXTINGUISHES REQUIRED. (a) Two functioning and approved fire extinguishes 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 1992)

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 1992)

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 1992)

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 or explosion, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 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 article. (Ord. 1668, Sec. 1; Code 1992)

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 or explosion, where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of 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 written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss. (Ord. 1668, Sec. 2; Code 1992)

7-403. SAME; ENCUMBRANCES. Prior to final settlement on any claim covered by section 7-402, the insurer or insurers shall contact the county treasurer, Allen 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, Allen County, Kansas. (Ord. 1668, Sec. 3; Code 1992)

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. (Ord. 1668, Sec. 4; Code 1992)

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 75 percent of the face value of the policy covering any building or other insured structure, and when all amounts due the holder of a first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements 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 \$5,000 or 10 percent of the covered claim payment, whichever is less, unless the chief building inspector 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 all 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 chief building inspector 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 followed under this article.

(Ord. 1668, Sec. 5; Code 1992)

7-406. FUND CREATED; DEPOSIT OF MONEYS. The city treasurer is hereby authorized and shall create a fund to be known as the "Fire Insurance Proceeds Fund." All moneys received by the city treasurer as provided for by this article shall be placed in said fund and deposited in an interest-bearing account. (Ord. 1668, Sec. 6; Code 1992)

7-407. BUILDING INSPECTOR; INVESTIGATION, REMOVAL OF STRUCTURE. (a) Upon receipt of moneys as provided for by this article, the city treasurer shall immediately notify the chief building inspector of said receipt, and transmit all documentation received from the insurance company or companies to the chief building inspector.

(b) Within 20 days of the receipt of said moneys, the chief building inspector 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 20 days established by subsection (b) of this section, the chief building inspector shall notify the city treasurer whether he or she intends to initiate proceedings under K.S.A. 12-1750 et seq., as amended.

(d) If the chief building inspector 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 30 days after receipt of the moneys by the city treasurer.

(e) Upon notification to the city treasurer by the chief building inspector 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 30 days of the receipt of the moneys from the insurance company or companies. (Ord. 1668, Sec. 7; Code 1992)

7-408. REMOVAL OF STRUCTURE; EXCESS MONEYS. If the chief building inspector 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. (Ord. 1668, Sec. 8; Code 1992)

7-409. SAME; DISPOSITION OF FUNDS. If the chief building inspector, with regard to a building or other structure damaged by fire or explosion, 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 7-405(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 chief building inspector shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city treasurer under section 7-405(a), the chief building inspector shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred. (Ord. 1668, Sec. 9; Code 1992)

7-410. EFFECT UPON INSURANCE POLICIES. This article 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. (Ord. 1668, Sec. 10; Code 1992)

7-411. INSURERS; LIABILITY. Insurers complying with this article or attempting in good faith to comply with this article 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 article, or releasing or disclosing any information pursuant to this article. (Ord. 1668, Sec. 11; Code 1992)

(First published in the lola Register, 1756, 2004)

GENERAL ORDINANCE NO

AN ORDINANCE AMENDING CHAPTER 7, ARTICLE 3, SECTION, 7 OF THE CODE OF THE CITY OF LaHARPE, RELATING TO FIREWORKS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LaHARPE, KANSAS:

SECTION 1: AMENDMENT. The City does hereby amend Section 7 of Article 3, Chapter 7 of the Code of the City of LaHarpe, to read as follows:

7-303. SAME: EXCEPTIONS; DISCHARGES. (a) Section 7-303 of this article shall not apply to the firing or discharge of fireworks in the city between the hours of 8:00 a.m. to 12:00 midnight on June 27th through July 5th.

SECTION 2: REPEAL. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed accordingly.

SECTION 3: EFFECTIVE DATE. This Ordinance shall take effect from and after its passage, approval and publication in The lola Register as provided by law.

PASSED and **APPROVED** by the counsel and **SIGNED** by the Mayor this 11th day of August 2004.

CITY OF LaHARPE, KANSAS

By: Marilyn S. Boyd
Marilyn S. Boyd, Mayor

Attest:

Robert E. McKinzie
City Clerk

(First published in the lola Register, May 13, 2017)

GENERAL ORDINANCE NO: 1799

AN ORDINANCE AMENDING CHAPTER 1686, ARTICLE 2, SECTION 7-204 OF THE CODE OF THE CITY OF LaHARPE, RELATING TO OPEN BURNING.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LaHARPE, KANSAS:

SECTION 1: AMENDMENT. The City does hereby amend Section 7-204 of Article 2, Chapter 1686 of the Code of the City of LaHarpe, to read as follows:

OPEN BURNING.

- (a) It shall be unlawful to burn trash, rubbish, leaves, lumber, straw or any other combustible materials in any street, avenue, alley, or lot within the designated fire limits of the City or within 15 feet of any building unless otherwise provided for in subsections (b), (c), or (d).
- (b) The City Clerk, or his or her designee, may issue burning permits for a time periods not to exceed ten (10) days, at no charge, for the burning of leaves, grass clippings, brush, limbs and tree stumps.
- (c) Any permitted burning shall be attended by one or more adult persons, and be conducted in compliance with all City ordinances and the burning permit restrictions.
- (d) Nothing in this section shall be construed to prohibit the burning of wood, coal or other approved fuel in a residential fireplace or stove, nor the ignition and burning of wood or charcoal for the purposes of cooking on private property, whether inside or outside a dwelling at any time, nor an open fire in an approved and identified container sold for home use outside the residential structure.
- (e) The burning of lumber, tires, shingles, or other oil based materials is strictly prohibited.

SECTION 2: REPEAL. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed accordingly.

SECTION 3: EFFECTIVE DATE. This Ordinance shall take effect from and after its passage, approval and publication in The lola Register as provided by

PASSED and APPROVED by the council and SIGNED by the Mayor this 10 day of
May 2017.

CITY OF LAHARPE, KANSAS

By: Ella Mae Crowell
Ella Mae Crowell, Mayor

Attest:

Michelle Altis
Michelle Altis, City Clerk

ORDINANCE NO. 1692

An ordinance relating to structures damaged by fire or explosion; creating a lien upon insurance proceeds with relation to said structure; providing for the disbursement of said insurance proceeds; creating a fire insurance proceeds fund; providing for a lien for certain taxes due on structures damaged by fire or explosion.

Be it ordained by the governing body of the City of LaHarpe, Kansas:

- Section 1. 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 or explosion, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 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 article.
- Section 2. 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, where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of 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 written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss.
- Section 3. SAME; ENCUMBRANCES. Prior to final settlement on any claim covered by section 2, the insurer or insurers shall contact the county treasurer, Allen 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, Allen County, Kansas.
- Section 4. 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.

Section 5. 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 75 percent of the face value of the policy covering any building or other insured structure, and when all amounts due the holder of a first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements 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 \$5,000 or 10 percent of the covered claim payment, whichever is less, unless the chief building inspector 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 all 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 chief building inspector 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 followed under this article.

Section 6. FUND CREATED; DEPOSIT OF MONEYS. The city treasurer is hereby authorized and shall create a fund to be known as the "Fire Insurance Proceeds Fund". All moneys received by the city treasurer as provided for by this article shall be placed in said fund and deposited in an interest-bearing account.

Section 7. BUILDING INSPECTOR; INVESTIGATION, REMOVAL OF STRUCTURE.

(a) Upon receipt of moneys as provided for by this article, the city treasurer shall immediately notify the chief building inspector of said receipt, and transmit all documentation received from the insurance company or companies to the chief building inspector.

(b) Within 90 days of the receipt of said moneys, the chief building inspector 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 90 days established by subsection (b) of this section, the chief building inspector shall notify the city treasurer whether he or she intends to initiate proceedings under K.S.A. 12-1750 et. seq., as amended.

(d) If the chief building inspector 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 90 days after receipt of the moneys by the city treasurer.

(e) Upon notification to the city treasurer by the chief building inspector 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 90 days of the receipt of the moneys from the insurance company or companies.

- Section 8. REMOVAL OF STRUCTURE; EXCESS MONEYS. If the chief building inspector 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.
- Section 9. SAME; DISPOSITION OF FUNDS. If the chief building inspector, with regard to a building or other structure damaged by fire or explosion, 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 chief building inspector shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city treasurer under section 5(a) the chief building inspector shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred.
- Section 10. EFFECT UPON INSURANCE POLICIES. This article 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.
- Section 11. INSURERS; LIABILITY. Insurers complying with this article or attempting in good faith to comply with this article shall be immune from civil and criminal liability and such action shall not be deemed inviolation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this article, or releasing or disclosing any information pursuant to this article.
- Section 12. REPEALER. All other ordinances or parts of ordinances in conflict are hereby repealed.

Passed by the governing body of the City of LaHarpe, Kansas,
this 15th day of May, 1992.

Approved:

Mary L Moore
Mayor

Attest:

Evelyn M. Maloney
City Clerk