

November 26, 2007

Insurance Commissioner
420 SW 9th Avenue
Topeka, KS 66612



To Whom It May Concern:

Please find the attached ordinance number 3392-02 of the City of Ottawa, Kansas, which was adopted in 2002 and amends the City's Insurance Proceeds Ordinance. It was recently brought to our attention that this ordinance had not been filed with your office. Therefore, it hereby submitted to supplant any Insurance Proceeds Ordinance you currently have on record for the City of Ottawa.

Please contact me with any questions you might have at 785-229-3615.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott D. Bird". The signature is fluid and cursive, with a large loop at the end.

Scott D. Bird
City Clerk/Director of Finance
City of Ottawa, Kansas

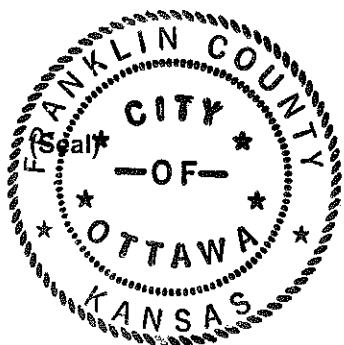
CERTIFICATE

State of Kansas)
) Ss
County of Franklin)

I, Scott D. Bird, City Clerk of the City of Ottawa, Kansas, do hereby certify that the attached copy is a true and exact copy of **Ordinance no. 3392-02**, adopted by the Governing Body of the City of Ottawa, Kansas at the regular meeting of the Governing Body of the City of Ottawa, Kansas, dated January 16, 2002.

Signed November 26, 2007



Scott D. Bird, City Clerk

ORDINANCE NO. 3392-02

AN ORDINANCE AMENDING CHAPTER IX, ARTICLE I OF THE MUNICIPAL CODE OF THE CITY OF OTTAWA, KANSAS 1997, AND ADOPTING BY REFERENCE THE INTERNATIONAL FIRE CODE AND ALL APPENDIX CHAPTERS, 2000 EDITION AND THE ADOPTION OF THE LIFE SAFETY CODE NFPA 101, 2000 EDITION, UNDER THE AUTHORITY OF K.S.A. 12-3010 AND PROVIDING FOR DELETIONS, AMENDMENTS AND CORRECTIONS TO SAID INTERNATIONAL FIRE CODE AND ALL APPENDIX CHAPTERS, 2000 EDITION, AND THE LIFE SAFETY CODE NFPA 101, 2000 EDITION, AND REPEALING ORDINANCE NUMBERS 2962-90, 2978-91, 3208-96, 3234-97, 3338-00, AND 3360-01.

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

Section 1. ARTICLE I OF CHAPTER IX of the Municipal Code of the City of Ottawa, Kansas, 1997, relating to the fire code is hereby repealed and replaced with the following:

ARTICLE I. FIRE DEPARTMENT; FIRE CODES*

Sec. 9-101 Created; appointments.

There is hereby created a Fire Department which shall be composed of a Chief of the Fire Department and such other officers and members as may be necessary for the control and prevention of fires. The City Manager shall appoint the Chief of the Fire Department and such other officers.

Sec. 9-102 Fire Chief.

The Chief of the Fire Department shall, under the direction of the City Manager, shall have complete control of the Fire Department and all of the firefighting equipment of the City. The Fire Chief shall be responsible for the proper organization, training, discipline and functioning of the personnel of the Fire Department and for the fire apparatus of the City. The Fire Chief is hereby authorized to suspend, in accordance with the personnel rules and regulations of the City, any member of the Fire Department for refusal to obey orders, for misconduct, or for failure to perform duties. It shall be the duty of the Fire Chief to enforce all City ordinances, laws of the state, and administrative rules and regulations of the Office of the State Fire Marshal. The Fire Chief shall have the power to adopt and enforce reasonable rules and regulations governing the Fire Department, subject to the approval of the City Manager. These rules and regulations shall contain provisions which call for the Fire Chief or an officer designated by the Fire Chief to be on duty during each and every day and night. In the absence of the Fire Chief, the senior officer in charge shall have authority to perform all the duties of the Fire Chief.

Sec. 9-103 Physical examinations.

No person shall be employed as a member of the Fire Department of this City until determined to be physically fit for duty as a firefighter after examination by a physician designated by the City Manager. The Fire Chief or City Manager may, at any time, require a physical examination of any member of the Fire Department as a condition to the continued employment of such person.

Sec. 9-104 Records.

The Chief of the Fire Department shall keep in convenient form a complete record of all fires as may be necessary for the submission of any reports to the state fire marshal. Such information shall include:

1. The time and location of all fires;
2. Construction of building involved;

State law references-Firefighters, K.S.A. 14-10a08, 14-10a09, 31-145; qualifications, K.S.A. 44-1110; compensation and salary, K.S.A. 80-1904.

State law reference-Adoption of codes by reference, K.S.A. 12-3009 et seq., 12-3301 et seq.

3. Owner and occupancy of building involved;
4. Manner as to how fires were extinguished;
5. Value of the buildings and contents;
6. Loss on building and contents;
7. Amounts of insurance on buildings, and contents; and
8. Logs containing the time of departure and return of equipment to station.

Sec. 9-105 International Fire Code -Adopted; copies on file; penalty.

For the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code and standards known as the International Fire Code, 2000 Edition, including all appendix chapters, 2000 Edition, published by the International Code Council, 5203 Leesburg Pike, Suite 708, Falls Church, VA, 22041-3401, are hereby adopted and incorporated by reference as fully as if set out at length herein and, from the date on which this chapter shall take effect, not less than three (3) copies of each named uniform code have been and are now filed in the Office of the City Clerk. Any person violating the provisions of the International Fire Code shall be deemed guilty of a Class C misdemeanor.

State law reference-Rules and regulations of the State Fire Marshal, Kansas Fire Prevention code, K.S.A. 31-134(b).

Sec. 9-106 Same-Enforcement.

The International Fire Code, 2000 Edition, shall be enforced by the Fire Chief or such other members of the Fire Department that the Fire Chief designates as inspectors.

Sec. 9-107 Same-Definitions.

Whenever the word "jurisdiction" is used in the International Fire Code, it shall mean the City, and whenever the words "Bureau of Fire Prevention" and "Chief of the Bureau of Fire Prevention" are used, such terms shall mean "Fire Department" and "Fire Chief," respectively.

State law reference-Appeals to state fire marshal, K.S.A. 31-140.

Sec. 9-108 Appeals.

A board of International Fire Board Code of Appeals is hereby established. Such board shall consist of the entire membership of the International Building Code Board of Appeals.

The powers and duties of the board shall be to hear evidence on complaints of violations filed by the city inspector and to determine the issues of law. The Board of Appeals shall have no authority relative to interpretation of the administrative provisions of this code, nor shall the board be empowered to waive requirements of this code.

Membership of Board: The board of appeals shall consist of five (5) members, all of whom shall be appointed by the governing body and shall serve one-year terms. Upon the expiration of the term of office of a board member, his successor shall be appointed for a term of one (1) year. No member of the board of appeals shall serve more than two (2) consecutive terms. Vacancies shall be filled by appointment for the unexpired terms only.

Qualifications of Board Members: The board shall consist of members who are qualified by experience and training to rule on matters pertaining to building construction and who are not employees of the jurisdiction. Any member of the board who is engaged as a contractor, materials supplier or in the preparation of plans and specifications or in which they have any personal interest shall abstain from any decision making on the question in hand.

Board Chairperson, Vice Chairperson Secretary: The board shall select one (1) of its members to serve as chairperson and one (1) of its members to serve as vice-chairperson. The city inspector or deputy city inspector shall be an ex-officio member and shall act as secretary to said board, but shall have no vote on any matter before the board. The secretary shall keep detailed records of all proceedings on file in the office of the city inspector. The board shall render all decisions and findings in writing to the appellant with a duplicate copy to the city inspector.

Same-Penalties.

Any person who shall violate any of the provisions of the code adopted in Section 9-105, or fail to comply therewith, or who shall build in violation of any detailed statement of specifications or plans submitted and approved there under, or any certificate or permit issued there under, 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 Manager or by a court of competent jurisdiction, within the time fixed therein, shall severally for each and every such violation and noncompliance, respectively, be guilty of a Class C misdemeanor.

Sec. 9-110 Amendments to the International Fire Code

Section 108 – Board of Appeals – Delete this section in its entirety.

Section 109.3 – Violation penalties – Delete this section in its entirety.

Section 111.4 – Failure to comply – Delete this section in its entirety.

Section 307.2.2 – Prohibited open burning – Amend to read as follows: Open burning that will be offensive or objectionable due to smoke or odor or any material containing, waste, paper, or construction materials shall be prohibited. The code official is authorized to order the extinguishment by the permit holder or the fire department of open burning which creates or adds to a hazard or objectionable situation.

Sec. 9-111 Life Safety Code NFPA 101 2000 Edition adopted; copies on files; purpose.

The Life Safety Code NFPA 101, 2000 Edition, published by the National Fire Protection Association, is hereby adopted and incorporated by reference as fully as if set out at length in this section. Not less than three (3) copies of such code are filed in the Office of the City Clerk. The purpose of such code is to establish minimum requirements that will provide a reasonable degree of safety from fire in building structures.

Sec. 9-112 Supervision of public gatherings.

Whenever, in the opinion of the Fire Chief, it is essential for public safety in any place of public assembly or any other place where people congregate, because of the number of persons, or the nature of the performance, exhibition, display, contest or activity, the Fire Chief, in his discretion, may place members of the Fire Department to be on duty at such place. Any member designated for this duty shall be admitted to any such assemblage, meeting or place without charge. The orders and requests of any such duly authorized person, attempting to reduce the danger from fire and prevent its outbreak, shall be observed by all persons assembled. Firefighters shall not be required or permitted, while on such duty, to perform any other duties than those specified.

ARTICLE II. HANDLING, STORAGE AND TRANSPORTATION OF ANHYDROUS AMMONIA

Sec. 9-201 Adoption of state regulations; copies on file.

The State Board of Agriculture regulations pertaining to the handling, storage and transportation of anhydrous ammonia, published in Kansas Administrative Regulations by the Kansas Revisor of Statutes, are hereby adopted by reference and made a part of this article the same as if fully set forth in this article. Not less than three (3) copies of such administrative regulations are on file in the Office of the City Clerk.

State law reference-Regulations, K.S.A. 2-1212.

Sec. 9-202 Truck routes when transporting anhydrous ammonia.

- (a) All tank trucks and semi-trailer trucks used for the transportation of anhydrous ammonia shall travel in and through the City to the nearest point of unloading only on United States and Kansas highways, as follows: U.S. Highway 59 and 50, Interstate 35, and Kansas Highway 68.
- (b) All nurse tank trailers used for the transportation of anhydrous ammonia shall only travel in and through the City on the following designated streets: North Locust, West and East Wilson, U.S. 59 North, north of Marais des Cygnes River, K-68 bypass, K-68 East, and 23rd Street East and West.

- (c) Exceptions to the established routes of travel provided in this section shall only be granted if specifically approved by the Fire Chief.

Sec. 9-203 Penalty for violation of article.

Any person who shall be found guilty of violating the provisions of this article shall be deemed guilty of a Class B misdemeanor. Each day of continued violation shall be a separate offense.

ARTICLE III. FIREFIGHTERS RELIEF ASSOCIATION

Sec. 9-301 Composition; officers; bylaws.

- (a) The Firefighters' Relief Association shall be composed of members of the Fire Department of the City and shall be incorporated under the laws of the State.
- (b) The officers of the Firefighters' Relief Association shall consist of a president, vice-president, and secretary/treasurer. Such officers shall be selected as provided in the bylaws of such association.
- (c) The Firefighters' Relief Association shall adopt such bylaws, rules and regulations as it may deem advisable in carrying out and promoting the objectives of such association, not inconsistent with the provisions of this article or the laws of the State. The secretary shall keep a complete record of the transactions of the association, which shall at all times be subject to inspection by the Board of Commissioners.

State law reference-Firefighters Relief Association, K.S.A. 40-1701 et seq.

Sec. 9-302 Treasurer, duties; bond.

- (a) The treasurer of the Firefighters' Relief Association shall receive from the State Commissioner of Insurance all money issued to the Firefighters Relief Fund of the Firefighters Relief Association of the City and other money collected, and shall deposit such funds to the credit of the City's Firefighters' Relief Fund. The treasurer shall pay out such funds only on warrants issued by such association, which warrants shall be signed by the president, countersigned by the secretary, and bear the seal of the association.
- (b) The treasurer shall give bond for the safekeeping of funds received from the Firefighters Relief Fund and for faithful performance of such sum with such sureties as may be approved by the Board of Commissioners.

State law reference -Treasurer, bond, etc., K.S.A. 40-1706(g).

Sec. 9-303 Authorized use of funds-Generally.

All monies received by the treasurer of the Firefighters Relief Association shall be set apart and used by the Firefighters' Relief Association solely and entirely for the objectives and purposes of this article and as set forth in K.S.A. 40-1707, and shall be paid to and distributed by the Firefighters' Relief Association under such provisions as shall be made by the Commission; provided, that in all cases involving expenditures or payments in an amount of \$1,500.00 or more, prior certification shall be obtained from the City Attorney that such expenditures or payment complies with such requirements.

State law references-Authorization by attorney, K.S.A. 40-1706(g); authorized uses of funds, K.S.A. 40-1707.

Sec. 9-304 Same-Insurance; purchase of or payment of premiums.

Monies collected and received under the provisions of this article may be expended for the purchase of, or payment of premiums on, policies of life, accident and health insurance upon members of the Fire Department of this City, which policies may be owned either by the Firefighters' Relief Association of this City or by the individual members thereof; however, before any premium is paid on such policies of insurance, the provisions thereof shall be approved by such Firefighters Relief Association as suitable to carry out the objectives for which such association was established.

State law reference-Authorized use of funds, payment of premiums, K.S.A. 40-1707(b).

05 Same-Investments.

The officers of the Firefighters' Relief Association may invest any amount not to exceed ninety (90) percent of all monies received in purchasing bonds of the City; provided, that when bonds of the City are not obtainable, United States government securities may be purchased or any municipal bonds of this State where the bonded indebtedness of such municipality shall not exceed fifteen (15) percent of its total assessed valuation, as shown by the last assessment preceding such investment. Such investments must be approved by the Commission. It shall be the duty of the City Attorney to examine all such bonds as to their validity and report thereon in writing to the Commission and the Firefighters' Relief Association. No bonds shall be purchased by such Association until they have been approved and found valid by the City Attorney.

State law reference-Investment of funds, K.S.A. 12-1675, 40-1707(h).

ARTICLE IV. FIREWORKS

Sec. 9-401 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Fireworks- means and includes any combustible or explosive composition of any substance, or combination of substances, or any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used; any type of balloons which require fire underneath to propel them; firecrackers, torpedoes, skyrockets, bottle rockets, roman candles, dago bombs, sparklers or any other fireworks of like construction, or any fireworks containing any explosive or flammable compound; or any tablets or any device containing any explosive substance. Nothing in this article shall be construed as applying to toy paper caps and cap guns, and to the manufacture, storage, sale or use of safety or signal flares, nor as prohibiting the sale and use of blank cartridges for ceremonial, theatrical or athletic events, nor as prohibiting the firing of skyrockets or missiles when produced by a science instructor, and when the place of firing the skyrocket or missile has been approved by the Fire Chief or his designee.

Cross reference-Definitions and rules of construction generally, §1-101; 1-102.

Sec. 9-402 Sale, etc., prohibited.

It shall be unlawful for any person to expose or keep for sale or sell or barter or give away any fireworks within the corporate limits of the City.

Sec. 9-403 Discharge or possession prohibited; exception.

The discharge, firing, possession or igniting of fireworks within the corporate limits of the City is hereby prohibited; provided, that the Board of Commissioners may grant permission for the public display of fireworks by responsible persons. Such display shall be of such character and so located, discharged and fired as shall not be hazardous to surrounding property or endanger any person.

Sec. 9-404 Penalty for violation of article.

Any person violating any of the provisions of this article shall be deemed guilty of a Class B misdemeanor.

State law references-State Fire Prevention Code, K.S.A. 31-183; authority to regulate, K.S.A. 31-134(b); bottle rockets, K.S.A. 31-156, 74-139.

ARTICLE V. INSURANCE PROCEEDS

Sec. 9-501 Regulations established; requirements of insurance companies.

The city is hereby authorized to establish and does hereby enact the procedures set forth in K.S.A. 40-3901 et seq., whereby no insurance company doing business within the City shall pay a claim of a named insured for a loss or damage to a building or other structure arising out of any fire, explosion, or windstorm located within the City where the amount recoverable for the loss or damage

building or other structure under all policies is in excess of seventy-five (75) percent of the face value of the policy covering building or other insured structure unless there is compliance with the following procedures:

- (1) When final settlement on a covered claim has been agreed to between the named insured or insured's and the company or companies, and such final settlement exceeds seventy-five (75) percent of the face value of the policy covering a 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 Clerk in an amount equal to the sum of fifteen (15) percent of the covered claim payment, unless the City Manager 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.
- (2) The transfer of proceeds under this section 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, except as otherwise provided in this article.
- (3) Upon transfer of the funds as required in Subsection (A) of this section, an insurance company shall provide the City with the names and addresses of the named insured or insured's, the total insurance coverage applicable to such building or other structure, and the amount of the final settlement agreed to between the insurance company or companies and the insured or insured's, whereupon the City Manager shall contact the named insured or insured's by restricted mail to notify them that such insurance proceeds have been received by the City and apprise them of the procedures to be followed under this article.

State law references-Procedures, K.S.A. 40-3901; certificate of repair, removal or rebuilding of structure, K.S.A. 40-3906.

Sec. 9-502 Fire insurance proceeds fund.

The City Treasurer is hereby authorized and shall create a fund to be known as the Fire Insurance Proceeds fund. All monies received by the City Treasurer as provided for by in this ordinance shall be deposited by him/her in an interest bearing account.

Cross reference-Finance funds, § 2-401 et seq.

State law references-Claims against fire insurance policy proceeds, shall be deposited by the treasurer in an interest bearing account.

State law reference-Funds to be deposited in an interest bearing account, K.S.A. 403901(b).

Sec. 9-503 Receipt of insurance proceeds; duties of City.

- (a) Upon receipt of moneys under this article, the City Treasurer shall immediately notify the City Manager of such receipt and transmit all documentation received from the insurance company or companies to the City Manager.
- (b) Within twenty (20) days of the receipt of moneys under this article, the City Manager shall determine after prior investigation whether the City shall instigate proceedings under the provisions of K.S.A. 12-1750 et seq.
- (c) Prior to the expiration of the twenty (20) day period established in subsection (B), the City Manager shall notify the City Treasurer whether s/he intends to initiate proceedings under K.S.A. 12-1750 et seq.
- (d) If the City Manager has determined that proceedings under K.S.A. 12-1750 et seq. shall be initiated, s/he shall do so immediately but no later than thirty (30) days after receipt of such monies by the City Treasurer.
- (e) Upon notification to the City Treasurer by the City Manager that no proceedings shall be initiated under K.S.A. 12-1750 et seq., the City Treasurer shall initiate the return of monies plus accrued interest to the insured or insured's as identified in the communication from the insurance company or companies. Such return shall be accomplished within thirty (30) days of the receipt of such monies from the insurance company or companies.

Sec. 9-504 Excess proceeds paid; duty of City.

If the City Manager has proceeded under the provisions of K.S.A. 12-1750 et seq., all monies in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, shall be paid to the insured.

State law reference-Release of proceeds to insured, K.S.A. 40-3901.

Sec. 9-505 **Payments made from fund; liens established and released.**

If the City Manager, 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 authority of section 9-501 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 Manager shall immediately effectuate the release of any lien resulting therefrom. Should the expenses incurred by the City exceed the insurance proceeds paid over to the City Treasurer under Section 9-501, the City Manager shall establish a new lien as authorized by K.S.A. 12-1766 in an amount equal to such excess expenses incurred.

Sec. 9-506 **Lien established; other encumbrances.**

- (a) In addition to the liens and procedures created and adopted by the foregoing sections, the City, in accordance with K.S.A. 40-3901 et seq., does hereby create and establish a lien in favor of the City in and to 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 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 or policies covering such building or other insured structure. Such lien shall arise by virtue of any unpaid tax, special ad valorem levy, special assessment or other charge imposed upon any 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 (1) year prior to the filing of a proof of loss on such property.
- (b) Prior to final settlement of any claim covered by this section, the insurer or insurers shall contact the County Treasurer to determine whether any such encumbrances are presently in existence. If an encumbrance is found to exist, the insurer or insurers shall execute and transmit in an amount equal to that amount owing under such encumbrance a draft payable to the County Treasurer.
- (c) A transfer of proceeds under this section shall be on a pro rata basis by all insurance companies insuring the building or other structure.

State law reference-Creating lien, K.S.A. 40-3902.

ARTICLE IX. INSURANCE PROCEEDS; APPLICATION

Sec. 9-901 thru 9-907 Reserved.

Sec. 9-908 **Application of article.**

This article shall apply to fire and explosion claims arising on all buildings or structures.

State law reference-Similar provisions, K.S.A. 40-3907.

Sec. 9-909 **Interpretation.**

This article does not make the City a party to any insurance contract, nor is the insurer liable to any amount in excess of the proceeds otherwise payable under its insurance policy.

State law reference-Similar provisions, K.S.A. 40-3908.

Sec. 9-910 **Immunity granted insurers complying with article.**


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.

State law reference-Similar provisions, K.S.A. 40-3909.

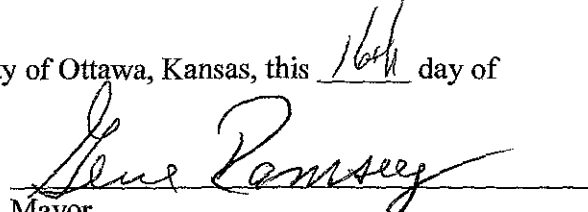
Section 2: ORDINANCE #'s 2962-90, 2978-91, 3208-96, 3234-97, 3338-00, and 3360-01 of the City of Ottawa, Kansas, are hereby repealed.

Section 3: EFFECTIVE DATE; PUBLICATION. This ordinance shall take after its publication in the official city newspaper.

PASSED AND ADOPTED by the Governing Body of the City of Ottawa, Kansas, this 16th day of January, 2002.

ATTEST:


Scott D. Bird, City Clerk



Mayor