

CHAPTER VII. DEPARTMENT OF PUBLIC SAFETY

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ARTICLE 1. DEPARTMENT OF PUBLIC SAFETY

7-101. DEPARTMENT OF PUBLIC SAFETY. (a) The law enforcement department shall consist of a director of public safety and such number of regular law enforcement officers as shall be appointed as provided by K.S.A. 14-201.

(b) The department of public safety is created for the protection and safety of persons and property. (Code 2010)

7-102. DIRECTOR OF PUBLIC SAFETY; POWERS AND DUTIES; SUPERVISION OF DEPARTMENT. (a) The director of public safety shall be in charge of and shall supervise the administration of the department of safety, subject to approval of the city manager, and he or she shall serve as the city marshal-chief of police, fire marshal, and chief of the fire department.

(b) The director of public safety of the department of public safety shall be under the supervision of the city manager 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 director of safety's duty to see that all such apparatus and equipment is ready at all times for immediate use. It shall also be the director of safety'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.

(c) The director of safety, subject to the approval of the city manager, shall prepare rules and regulations relating to the conduct of the department of safety and of the officers of the department, including but not limited to the training and instruction of the officers of the department in approved, up-to-date techniques of promoting public safety and of providing fire and police protection. He or she may require such officers to attend practice or training sessions or courses as he or she may deem advisable and necessary to adequately carry out the functions of the department of safety.

(Code 1975, 15-102, 15-201; Code 1991)

7-103. LAW ENFORCEMENT PERSONNEL; GENERAL DUTIES. (a) It shall be the general duty of the Director of Public Safety and all sworn law enforcement personnel to the best of their ability to preserve good order, peace and quiet throughout the city as provided by law or ordinance.

The Director of Public Safety and all sworn law enforcement personnel shall at all times have power to make arrest under proper process or without process on view of any offense against the laws of the State of Kansas or laws of the city

and to keep all persons so arrested, unless admitted to bail, in the city jail, county jail or other proper place to prevent their escape until their trial can be had before the proper officer.

All persons arrested for violation of any law of the state and who shall not be charged with an offense under any law of the city shall be released to the custody of the sheriff of the county and such arrest shall be reported to the county attorney.

(b) All officers of the department of safety, either commission or volunteer, shall be appointed by the city manager and they shall have the powers, duties, immunities and authority of police officers and firefighters and such other duties as may be determined by the city manager. They shall have power to arrest all offenders against the laws of the state or the ordinances of the city, by day or by night, with proper process, and to arrest without process where any such offense shall be committed or attempted to be committed in their presence, and to bring such offenders to trial.

(Code 2010)

7-104. RULES AND REGULATIONS. The Director of Public Safety shall have power to make such rules and regulations as may be necessary for the proper and efficient conduct of the department. (Code 2010)

7-105. DIRECTOR OF PUBLIC SAFETY; POWERS. (a) The director of public safety 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.

(b) The director of public safety 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 director of public safety 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 firefighters 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.

(Code 1975, 15-202; Code 1991)

7-106. SAME; RECORDS. The director of public safety of the public safety 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. (Code 1975, 15-203; Code 1991)

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 safety department. (Code 1975, 15-206; Code 1991, 7-109)

7-108. 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 safety 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. (Code 1975, 15-205; Code 1991, 7-112)

7-109. VOLUNTEER SAFETY OFFICERS; COMPENSATION. All sums for services of the voluntary members of the safety department, as determined by the governing body, shall be paid by the city directly to the voluntary safety department association of the city. (Code 1975, 15-107; Code 1991, 7-115)

ARTICLE 2. FIRE PREVENTION

- 7-201. FIRE PREVENTION CODE INCORPORATED. There is hereby adopted by the governing body of the city, 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 Uniform Fire Code, edition of 2003, including all the Appendix chapters, and the Uniform Fire Code Standards, and the National Fire Codes of the National Fire Protection Association (NFPA) 2003 and amendments hereafter, Fire Protection Association (NFPA) 2003 land amendments hereafter, published by the Western Fire Chiefs Association and the International Conference of Building Officials, being particularly the 2003 editions thereof and the whole thereof, save and except such portions as hereinafter deleted, modified or amended by section 7-203 of this article three copies which Code and Standards have been and are now filed in the office of the clerk of the City of Augusta, Kansas, and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the city. (Code 2010)
- 7-202. SAME; ENFORCEMENT. The code hereby adopted shall be enforced by the director of safety of the safety department. (Code 1991)
- 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 Augusta.
(b) Article 13, Fireworks, of the Fire Prevention Code is hereby deleted in its entirety.
(c) Wherever in the Fire Prevention Code the term chief of the fire department appears, it shall, for the purpose of this article, mean the director of public safety of the city.
(d) Wherever in the fire prevention code the term fire department appears, it shall, for the purpose of this article, mean the public safety department of the city.
(Code 1975, 8-102; Code 1991)
- 7-204. OPEN BURNING; GENERAL. It shall be unlawful for any person to conduct or permit within the city any open burning of any materials wherein contaminants resulting from such combustion are emitted directly into the ambient air provided that such open burning prohibition shall not apply to:
(a) Open fires for cooking or ceremonial purposes in facilities constructed specifically for such purpose on public or private premises used for recreational purposes, or facilities approved by the Director of Public Safety; provided that any such fire so started shall be extinguished and made safe before the person starting or maintaining the fire shall leave the place where the fire was started. Open pit fires are prohibited unless authorized by the Director of Public Safety;
(b) The burning of combustible materials in indoor fireplaces;
(c) The burning of combustible materials in outdoor fireplaces;
(d) Permanent sites which are licensed by the Kansas Department of Health and Environment for open burning.

(e) The burning of combustible material for fire training by a public fire department and/or private fire brigade only after notification to the Director of Public Safety;

(f) An approved closed chamber device as defined in 7-208;

(g) The removal of hazardous materials, which were accidentally discharged, but only when the Kansas Department of Health and Environment has issued the proper permit and has approved the burning operation.

(Ord. 1901, Sec. 1; Code 2010)

7-205.

OPEN BURNING; COMBUSTIBLE MATERIALS. Open burning of combustible materials as may be authorized by issuance of an open burning permit when conditions and restrictions stated thereon as determined by the Director of Public Safety, but only after an inspection of the burn site has been conducted by the Director of Safety or his/her designee. The following provisions shall apply to all outdoor burning, when a permit is issued by the Director of Public Safety:

(a) The person responsible for the burning shall be at least 18 years of age. An adult, at least 18 years of age, shall supervise the burning from the time of ignition until the fire is extinguished;

(b) The person(s) conducting such burning shall not be under the influence of any alcohol or narcotics;

(c) Provisions that are approved by the Director of Public Safety to control the fire shall be present at the burn site while the fire is burning;

(d) The wind shall not be over 15 miles per hour and the wind shall be in a direction to not carry smoke or other products of combustion over a populated area;

(e) If complaints are received, the responsible party shall immediately extinguish the fire;

(f) Other requirements as established by the Director of Public Safety based upon the location of the proposed burn site.

(Ord. 1901, Sec. 1; Code 2010)

7-206.

PERMITS; REQUIRED. Permits to conduct open burning of combustible materials shall be issued only when the person requesting the outdoor burning permit has demonstrated to the Director of Public Safety the reduction or disposal of such material would otherwise be impractical or not feasible and where such open burning would not be in conflict with state regulations. Such permit shall only be issued when the smoke or other by-products of combustion will not travel across or near any populated area of the City of Augusta all outdoor burning fires shall be extinguished before sun down on the day the permit was issued. (Ord. 1901, Sec. 1; Code 2010)

7-207.

LIABILITY OF PROPERTY OWNERS. It shall be prima facie evidence that the person who owns or controls property on which open burning occurs has caused or permitted the open fire. (Ord. 1901, Sec. 1; Code 2010)

7-208.

CLOSED CHAMBER DEVICE. Any enclosed chamber device or structure used for the destruction or volume reduction of garbage, rubbish, or other liquid or solid waste materials by combustion pursuant to disposal or salvaging operations

may be used, provided that the Director of Public Safety has approved each device for such use. (Ord. 1901, Sec. 1; Code 2010)

7-209. DISPOSAL OF HOT ASHES. No person shall deposit hot ashes, hot cinders, smoldering coal or oily substances liable to spontaneous ignition into any combustible receptacle; or place the same within 10 feet of any combustible material, except in metal or other non-combustible, covered receptacles. Such receptacles, unless resting upon a combustible floor or on the ground outside the building, shall be placed on non-combustible stands and in every case shall be kept at least two feet away from any combustible wall, partition, or exterior window opening. (Ord. 1901, Sec. 1; Code 2010)

7-210. PERMITS; ISSUANCE OF. Permits to conduct open burning of combustible materials shall be issued by the Director of Public Safety and shall be issued only for the date that the burning is to be conducted. Each permit shall state all conditions and restrictions, which may be placed by the Director of Safety. No permit shall be issued for open burning prior to the date such burning is authorized. Prior to any burn permit being issued, the Augusta Department of Public Safety shall inspect the proposed burn site. Each permit shall contain the following information:

- (a) Location;
- (b) Name of individual who is authorized;
- (c) Date that the burning is authorized;
- (d) Time period that the burning is authorized;
- (e) Special restrictions and conditions, which may apply;
- (f) Name of official who issues permits.

(Ord. 1901, Sec. 1; Code 2010)

7-211. PERMITS: REVOKED BY DIRECTOR OF PUBLIC SAFETY. The Director of Public Safety shall have the right at any time with just cause, to revoke any burn permits when conditions change which made such burning unsafe. (Ord. 1901, Sec. 1; Code 2010)

7-212. PENALTY. Any person who shall be convicted of violation of Sections 7-204 through 7-211 shall be punished by a fine of not more than \$1,000.00 and/or a sentence of not more than 30 days. (Ord. 1901, Sec. 1; Code 2010)

ARTICLE 3. FIREWORKS

7-301.

DEFINITIONS. For the purpose of this article, the words and phrases used herein shall have the following meanings unless otherwise clearly indicated by the context:

(a) "Fireworks" - shall mean and include any combustible and deflagrating composition, article, or device suitable for use of the public for producing a visible or audible effect by combustion, deflagration, or by detonation and previously approved by the chemical laboratory of the United States Department of Transportation, by the Kansas State Fire Marshal's Office and by the Augusta Department of Safety. The following devices are not classified as common fireworks by the U.S. Department of Transportation but are generically known as novelties, tricks and noisemakers, including but not limited to, the following items; snakes or glow worms, tubs or spheres that upon ignition produce white or colored smoke as the primary effect, wire sparklers not containing magnesium and not exceeding one hundred grains of composition material per sparkler, and the following noise maker devices that produce a small report, including what is commonly known as a party popper, booby trap, snapper, trick match, cigarette load, and auto burglar alarm not exceeding .25 grains of explosive material. This term shall not include any auto flares, paper caps not in excess of an average of .25 grains of explosive per cap, toy pistols, cannons and guns or other devices for the use of such caps.

(b) "Prohibited fireworks" - shall mean and include any combustible or deflagration device other than Interstate Commerce Commission Class "C" fireworks not approved for sale within the State of Kansas by the Kansas State Fire Marshal or by the Department of Public Safety. The following shall be unlawful fireworks within the City of Augusta; firecrackers greater than one and one-half inch in length, torpedoes, sky rockets, and bottle rockets as defined by the State Fire Marshal, and any other fireworks deemed to pose an unusual risk or hazard to the health and welfare of the City of Augusta, but only after conducting actual field test of such items.

(Ord. 1773, Sec. 1; Code 2010)

7-302.

DISCHARGE OF FIREWORKS. It shall be unlawful for any person, firm, corporation or partnership to discharge fireworks within the limits of the city except as permitted by this article. The discharge of lawful fireworks will be permitted on January 1 between 12:00 midnight and 12:15 a.m. and on July 3 between the hours of 8:00 a.m. and 10:00 p.m. and on July 4 between the hours of 8:00 a.m. and 12:00 midnight. The discharge of fireworks will be allowed on private property but there shall be no discharge of fireworks on city property unless a permit is granted by city for such discharge. In addition, it shall be unlawful to commit any of the following acts within the City of Augusta:

(a) The discharge of fireworks within 1,000 feet of any hospital, sanitarium or infirmary;

(b) The discharge of fireworks into, under or from any motor vehicle, whether moving or standing still;

(c) The discharge of fireworks within 200 feet of any facility where fireworks are sold or stored;

(d) The discharge of fireworks within 300 feet of a service station;

(e) The discharge of fireworks on any public roadway, street or right of way;

(f) The discharge of fireworks in any manner which may pose an unreasonable risk of fire, property damage or personal injury;

(g) The discharge of fireworks on private property not owned or under the legal control of the person discharging the fireworks unless the person is a social invitee and has permission of the owner to discharge the fireworks;

(h) The discharge of fireworks toward any residence, commercial building or other structure whether intended or not.

(Ord. 1965, Sec. 1; Code 2010)

7-303. PUBLIC DISPLAY. It shall be unlawful for any person, firm, corporation or partnership to provide a public fireworks display within the limits of the city without first obtaining a permit to do so. An application for a public display permit can be obtained from the City Clerk and should be filed at least thirty (30) days in advance of the date of the proposed display. The application shall clearly state the name of the applicant, the location, date and time of display, the nature of the fireworks used in the display, the name of the person, firm or corporation who will be in charge of the detonation of the fireworks, and the anticipated need for police, fire or other municipal services. The permit may be denied if it is determined that the nature of the fireworks or other relevant, factors create an undue, risk of harm or damage to persons or property. (Ord. 1773, Sec. 1; Code 2010)

7-304. MANUFACTURE, STORAGE AND SALE OF FIREWORKS. (a) Except as otherwise provided in this Article, it shall be unlawful for any person, firm, corporation or partnership to manufacture or assemble fireworks within the city. It shall also be unlawful for any person, firm, corporation or partnership to store, possess or offer for sale fireworks within the limits of the city.

(b) Except as otherwise provided, no entity may store fireworks within the city without the express written approval of city. Any requests for storage must be submitted in writing and investigated by the Department of Public Safety. The results of the investigation by the Department of Public Safety shall be submitted to the City Manager for his determination as to whether the request will be granted.

(c) The sale and storage of approved fireworks within the city as authorized under this Article shall be conducted and transacted only by licensed persons and entities under such regulations and at such times and places as provided in this Article.

(d) The sale of approved fireworks will be permitted on the dates of June 27 through July 4 of each year between the hours of 9:00 a.m. and 10:00 p.m. by licensed persons or entities. Any persons, partnership, corporation or other entity may apply to the City Clerk for a license to self fireworks by filing an application stating the name of the applicant, the proposed locations of sale and attaching to the application written approval for the use of the proposed site and a certificate of insurance as required herein. Attached to the application shall be site plan which shall consist of a drawing of the proposed location. Indicated on this drawing shall be the property lines, and the proposed location of the sales site. The distance between the property lines and the safes site shall be indicated. A

minimum of 25ft set back shall be maintained from the side property lines. Unless said property falls within restrictions of locations of buildings specified under General Requirements for Sale, Storage and Testing of Fireworks, Section 1, Requirements for the Sale of Fireworks and where two adjacent properties exist, both of which are properly zoned the minimum set back from said property line shall be 75 feet. If upon inspection, the sales site is found to be different from indicated on the site plan, the permit shall not be issued. All permits will be issued in order received by the City of Augusta. The permit application and all required documents will be returned to the City Clerk. Once received, the City Clerk shall submit the application to the Director of Public Safety. The Director of Public Safety or his/her designee will review the applications and the site plan for compliance with this ordinance. The Director of Safety will submit a report to the City Clerk with the recommendation to either approve or deny the application. Before the actual sale of fireworks can commence, the Director of Public Safety or his/her designee shall conduct an inspection of the sales site. This inspection shall be conducted after all stock is in place and the site is ready for business. Such license shall be issued to a specific person or entity at a specific site and such license shall not be transferable. The fee for such license shall be established from time to time by Resolution of the Governing Body of the City of Augusta, Kansas and must be submitted with the application by cashier's check or money order. Such license shall be available at the authorized site for inspection at all times the sale of fireworks is being conducted.

(e) In addition to the license fee, any licensee will be required to make a security deposit in the sum of Two Thousand Five Hundred Dollars (\$2,500.00) at the time of the granting of the license to sell fireworks. The security deposit must be in the form of a cashier's check or money order. The security deposit will be held by City until such time as the site used for the sale of fireworks can be inspected to determine if the tent or other temporary structure and other material and debris have been properly removed from the site. Should the licensee fail to clean the site on or before July 10 or if any other act on the part of the licensee causes expense to the City, then a deduction from the security deposit equaling the expenditures of the City may be made by City and the balance, if any, returned to licensee.

(f) The City Manager may from time-to-time, promulgate with approval of the City Council certain regulations for operation and maintenance of the sites for sale of fireworks. Such regulations shall be distributed with each license to sell fireworks. These regulations shall be enforceable against all persons, employees and agents of the licensee of each site for the sale of fireworks. Failure to follow such regulations shall constitute a violation of this ordinance.

(g) Any fireworks that remain unused after the sale of fireworks shall be immediately disposed of in a safe manner for the type of fireworks involved.

(Ord. 1804, Sec. 1; Ord. 1773, Sec. 1; Code 2010)

7-305.

SEIZURE OF FIREWORKS. The Department of Public Safety is authorized to seize, take and remove any fireworks stored within the city without permit at the expense of the person in possession of such fireworks. Any seized fireworks shall be disposed of in a procedure provided by the State Fire Marshal. (Ord. 1773, Sec. 1; Code 2010)

- 7-306. INSURANCE. (a) Any person, firm, corporation or partnership applying for a permit for a public display of fireworks must provide evidence or a certificate of insurance in an amount not less than \$500,000.00 currently in force to the City Clerk along with the application for the permit. Failure to provide the certificate to the City Clerk may result in a permit being denied. Any permits issued by the city under this article will be subject to immediate revocation at any time it is determined that insurance coverage is not in force as required above.
- (b) All licensees for retail sales of approved fireworks shall furnish a copy of or certificate of insurance in the amount of not less than \$500,000.00 for the payment of all damages which may result to persons or property caused by any act or omission of licensee or its employees or agents regarding the retail sale of fireworks in the city. Failure to provide the certificate of insurance upon request by the City Clerk or City Manager may result in a license being terminated. (Ord. 1773, Sec. 1; Code 2010)
- 7-307. TERMINATION. (a) Whenever the city has issued a public display permit or license to sell fireworks at retail under the provisions of this article and it is determined by the Department of Public Safety that the permitted function is in violation of this article or is operating in an unsafe manner, the Department of Public Safety shall immediately report the violation to the City Manager who shall determine whether to terminate the operations or permanently cancel the permit or license involved.
- (b) If a permit or license shall be terminated by the City Manager under this section, the permittee or licensee shall have a right to appeal the decision to terminate to the City Council for review. The City Council shall consider the request for review at the next City Council meeting, whether regularly scheduled or specially called. The City Council shall then decide by majority vote whether to continue or terminate the permit or license in question. Upon review, the license shall remain terminated or suspended until considered by the City Council. (Ord. 1773, Sec. 1; Code 2010)
- 7-308. EMERGENCY. At any time special circumstances exist including but not limited to a state wide ban on burning and/or fireworks detonation or any other circumstances which indicate the detonation of fireworks will create a public hazard, the time, place and manner of detonation of fireworks may be altered or suspended by the City Manager. (Ord. 1773, Sec. 1; Code 2010)
- 7-309. EXCEPTIONS. Nothing in this article shall prohibit the use of fireworks by railroads or other public transportation companies or agencies for signal or illumination purposes. The sale or use of blank pistol cartridges for any commercial, theater or entertainment, for signal or ceremonial purposes at athletic or sporting contests or the use of fireworks or similar devices by military, law enforcement or fire service agencies shall not constitute a violation of this article. (Ord. 1773, Sec. 1; Code 2010)
- 7-310. TESTING. The Department of Public Safety shall set up testing procedures for use in determining whether certain fireworks allowed to be discharged within the City of Augusta comply with requirements of this article and regulations approved by the City Council. The results of such testing will be made known to

the City Manager who will in turn take appropriate action under the terms of this article. (Ord. 1773, Sec. 1; Code 2010)

7-311.

PENALTIES. Any person, firm, corporation or partnership who violates the provisions of this article may be fined in an amount not less than \$50.00 nor more than \$1,000.00 for each occurrence. (Ord. 1773, Sec. 1; Code 2010)

ARTICLE 4. FIREMEN'S RELIEF ASSOCIATION

7-401. FIREMEN'S RELIEF ASSOCIATION; RECOGNITION. The nonprofit corporation known as "Firemen's Relief Association of Augusta, Kansas," organized and existing pursuant to K.S.A. 40-1702, et seq., as amended, is hereby recognized and acknowledged by the governing body of the city to be a validly organized and existing corporation under the laws of the State of Kansas. (Code 1975, 15-401; Code 1991, 7-501)

7-402. PUBLIC SAFETY OFFICERS; MEMBERSHIP IN FIREMEN'S RELIEF ASSOCIATION. All officers of the department of public safety, either commissioned or volunteer, shall be members of the Augusta Firemen's Relief Association. (Code 1975, 15-106; Code 1991, 7-114; Code 2010)

ARTICLE 5. PROPERTY IN SAFETY DEPARTMENT CUSTODY

- 7-501. **DESIGNATION OF PROPERTY.** This article relates to and embraces all lost, stolen, strayed, abandoned, unclaimed or confiscated property which of itself is not contraband or the possession of which is not unlawful, which is now or which may hereafter come into the possession of the authorized officers of the city; provided however, that the property mentioned herein shall not include motor vehicles which shall be sold otherwise by the laws of the State of Kansas, and any property held as legal evidence or that shall be illegal or any property which shall be illegal to possess. (Ord. 1334, Sec. 1; Code 1991, 7-601)
- 7-502. **CUSTODY.** All personal property of the character described in section 7-501 shall be delivered to the custody of the director of safety who shall retain possession of such property for a period of not less than 90 days, except as elsewhere herein provided, unless the owner or person entitled to the possession of such property shall sooner claim such property and establish his or her ownership and right to possession thereof. (Ord. 1334, Sec. 2; Code 1991, 7-602)
- 7-503. **NOTICE OF INTENT TO SELL; REQUIREMENTS AS TO SALE.** If the owner or person entitled to the possession of property as described in this article, shall fail to claim such property within 90 days, then at such time or at any time thereafter, the director of safety may cause a notice to be published in the official city paper, setting forth a detailed description of such property and stating that unless the same be claimed within 10 days, such property will be sold at public auction to the highest bidder therefore for cash, and stating the time and place of such sale; provided, that if such property be livestock, the value of which is less than the cost of keeping the same for the periods described in this section such property shall be advertised immediately and sold after a three days' notice given as herein provided. If the property shall be perishable, then the same shall be sold without the procedure aforesaid in any feasible manner. (Ord. 1334, Sec. 3; Code 1991, 7-603)
- 7-504. **FAILURE OF OWNER TO CLAIM BEFORE SALE; SALE TO HIGHEST BIDDER, ETC.** If the owner or person entitled to the possession of property advertised under the preceding section shall fail to claim the same at any time before the date of such sale, then it shall be sold to the highest bidder therefor cash, and the purchaser thereof shall take a good and perfect title thereto. (Ord. 1334, Sec. 4; Code 1991, 7-604)
- 7-505. **COSTS TO BE PAID BY OWNER IF PROPERTY CLAIMED AFTER PUBLICATION.** If the owner or person entitled to the possession of property contemplated by this article shall claim the same after the publication of the same as provided in section 7-503, he or she shall pay the actual cost of publication, together with the actual cost of keeping such property during its custody. (Ord. 1334, Sec. 5; Code 1991, 7-605)
- 7-506. **DISPOSITION OF PROCEEDS OF SALE.** Any funds received from the sale of any property as provided in this article, less the cost of publication and keeping

the same for sale and the costs of such sale, shall be deposited with the city treasurer and shall be kept in a separate fund, during which time the former owner of the property may claim the fund received from the sale of such property, less the deductions provided in this article. If such fund be not claimed within the period of six months such sum shall be paid to the general fund of the city. (Ord. 1334, Sec. 6; Code 1991, 7-606)

7-507. DISCRETIONARY SALE. If the director of public safety shall ascertain that the property as provided in this article shall not be of sufficient value to justify a sale as provided herein, he or she shall hold such property until a sale shall be justified. If the property shall be of little or no value then the same may be destroyed as refuse with a record being kept as to such disposal. Provided that property shall not be given to any person unless the same shall have been approved by the governing body of the city. (Ord. 1334, Sec. 7; Code 1991, 7-607)

7-508. REGULATIONS. The Department of Public Safety is required to establish regulations detailing the collection, storage, and inventory of property which may come under its control by any manner. (Code 2010)

7-509. DISPOSITION. Any property which has been acquired or turned over to the Department of Public Safety and has been classified in accordance with procedures existing in the Department of Public Safety as unclaimed or for which the proper owner cannot be ascertained shall be kept for a minimum of 90 days. After a period of 90 days, such property, except as provided in section 7-503, shall be sold at public auction to the highest bidder and the proceeds after expenses shall be paid to the city general fund. (Code 2010)

7-510. SAME; EXEMPT PROPERTY. The following classes of property shall be considered exceptions to section 7-502 and shall be dealt with in the following manner:

(a) Cash money shall be turned over to the city general fund unless it shall be determined to have collector's value, in which case it shall be auctioned according to the provisions in section 7-502.

(b) Firearms which are available for disposition may be dealt with in the following manner:

(1) If compatible with law enforcement usage, they may be turned over to the department of public safety inventory.

(2) They may be sold to a firearms dealer who maintains the appropriate federal firearms license.

(3) They may be destroyed.

(4) In no case shall firearms be sold at public auction.

(c) Other weapons such as knives, etc., which are deemed to have a legitimate value may be sold at auction, however, homemade weapons or weapons of a contraband nature shall be destroyed.

(d) Any items determined to be contraband such as explosives, narcotics, etc., shall be destroyed.

(e) Items of a pharmaceutical nature, which, while not contraband when properly dispensed, or which are of an over-the-counter-variety, shall be destroyed.

(f) Foodstuffs, if sealed and undamaged may be turned over to any appropriate social service agency or destroyed, but shall not be auctioned.

(g) Alcohol products such as beer, wine, whiskey, etc., shall be destroyed.

(h) Items with a value in excess of \$500 may be sold after advertising said item in a general circulation newspaper on at least two occasions. Such sales shall be by closed bid.

(Code 2010)

7-511. CLAIMING PROPERTY. The Department of Public Safety shall be required to make reasonable attempts to locate the owner of any property in storage. However, the responsibility for claiming and identifying any such property shall rest solely with the owner. (Code 2010)

7-512. PROOF OF OWNERSHIP. Claimants to any property in the Department of Public Safety's storage shall be required to present reasonable proof of ownership and no property shall be released unless such reasonable proof is presented. (Code 2010)

7-513. AUCTION. At such time as it has been determined that an auction is necessary to dispose of unclaimed property, an inventory listing all property to be disposed of shall be prepared and kept on file in the department of public safety. Notice of an auction shall be published at least twice in a general circulation newspaper prior to the date of the auction. The notice shall specify the date, time and place of the auction and shall also notify prospective buyers or potential claimants that a list of items to be auctioned is available at the department of public safety and any claims on property must be made prior to the start of the auction. (Code 2010)

ARTICLE 6. DEPARTMENT OF PUBLIC SAFETY FEES

7-601. FEE FOR RESPONSES TO PARTY. Definitions. As used in this article, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

Host: The person who owns or is in possession of the property where the party, gathering or event takes place, or the person in charge of the premises, or the person who organized the event. If the host is a minor, then the parents or guardians of that minor will be jointly and severally liable for the fee incurred for police services.

Party, Gathering or Event: An event involving a group of persons who have assembled or are assembling for a social occasion or for a social activity.

Services Fee: The cost to the city of any special security assignment, including, but not limited to, salaries of safety officers while responding to or remaining at the party, gathering or event, the pro rata cost of equipment, the cost of repairing city equipment and property, the cost of any medical treatment of injured police officers, and the cost of reasonable attorney fees.

Special Security Assignment: The assignment of public safety officers, services and equipment during a second or subsequent response to the party, gathering or event after the delivery of a written notice to the host that a fee may be imposed for costs incurred by the city for any subsequent safety response. (Code 1991, 7-701)

7-602. INITIAL RESPONSES TO PARTIES, GATHERINGS OR EVENTS. When any safety officer responds to any party, gathering or event, and that public safety officer determines that there is a threat to the public peace, health, safety, or general welfare, the safety officer shall issue a written notice to the host or hosts that a subsequent response to that same location or address within 24 hours of the first response shall be deemed a special security assignment rendered to provide security and order on behalf of the party, gathering or event and that the host may be liable for a safety services fee as defined in this article. (Code 1991, 7-702)

7-603. SUBSEQUENT RESPONSES TO PARTIES, GATHERINGS OR EVENTS; LIABILITY. If, after a written notice is issued pursuant to section 7-602, a subsequent safety response or responses is necessary to the same location or address within 24 hours of the first response, such response or responses shall be deemed a special security assignment. Persons previously warned shall be jointly and severally liable for a safety services fee as defined in this article.

The amount of the fee shall be a debt owned to the city by the person or person warned, and if he or she is a minor, his or her parents or guardians shall be jointly and severally liable for the debt. (Code 1991, 7-703)

7-604. COST; COLLECTION. The director of public safety shall notify the city treasurer in writing of the performance of a special security assignment, of the name and address of the responsible person or persons, the date and time of the incident, the services performed, the costs and such other information as may be required. The city treasurer shall thereafter cause appropriate billings to be made. (Code 1991, 7-704)