

CHAPTER X. POLICE

- Article 1. Police Department
- Article 2. Property in Police Custody
- Article 3. Police Fees
- Article 4. Fireworks

**ARTICLE 1. POLICE DEPARTMENT**

10-101 POLICE DEPARTMENT. The law enforcement department shall consist of a chief of police and such number of regular law enforcement officers as shall be appointed as provided by K.S.A 15-204. (Code 2004)

10-102 LAW ENFORCEMENT PERSONNEL; GENERAL DUTIES. It shall be the general duty of the chief of police 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 chief of police 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 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. (Code 2004)

10-103 RULES AND REGULATIONS. The chief of police shall have power to make such rules and regulations as may be necessary for the proper and efficient conduct of the department. Such rules and regulations shall be approved by the governing body. (Code 2004)

**ARTICLE 2. PROPERTY IN POLICE CUSTODY**

10-201 REGULATIONS. The police department is required to establish regulations detailing the collection, storage, and inventory of property which may come under its control by any manner. (Code 2004)

10-202 DISPOSITION. Any property which has been acquired or turned over to the police department and has been classified in accordance with procedures existing in the police department 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 10-203, may be returned to the finder or sold at public auction to the highest bidder and the proceeds after expenses shall be paid to the city general fund. (Code 2004)

10-203 SAME; EXEMPT PROPERTY. The following classes of property shall be considered exceptions to section 10-202 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 10-202.

(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 police department inventory.

(2) Firearms, ammunition, explosives, bombs, and like devices which have been used in the commission of a crime may be returned to the rightful owner, destroyed or forfeited to the Kansas Bureau of Investigation as provided in K.S.A. 21-4206.

(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.

10-204 CLAIMING PROPERTY. The police department 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 2004)

10-205 PROOF OF OWNERSHIP. Claimants to any property in police storage shall be required to present reasonable proof of ownership and no property shall be released unless such reasonable proof is presented. (Code 2004)

10-206 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 police department. 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 police department and any claims on property must be made prior to the start of the auction. (Code 2004)

### **ARTICLE 3. POLICE FEES**

10-301 FEE FOR POLICE 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.

Police Services Fee: The cost to the city of any special security assignment, including, but not limited to, salaries of police 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 police 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 police response. (Code 2004)

10-302 INITIAL POLICE RESPONSES TO PARTIES, GATHERINGS OR EVENTS. When any police officer responds to any party, gathering or event, and that police officer determines that there is a threat to the public peace, health, safety or general welfare, the police 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 police services fee as defined in this article. (Code 2004)

10-303 SUBSEQUENT POLICE REPONSES TO PARTIES, GATHERING OR EVENTS, LIABILITY. If, after a written notice is issued pursuant to section 10-302, a subsequent police 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 police 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 2004)

10-304 COST; COLLECTION. The chief of police shall notify the city clerk 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 2004)

#### **ARTICLE 4. FIREWORKS**

10-401 FIREWORKS PROHIBITED. Except as hereinafter provided, it shall be unlawful for any person to sell or discharge fireworks.

10-402 FIREWORKS DEFINED.

a) For purposes of this Code the term “fireworks”, when used in this article, shall mean and include any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an 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, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, Daygo bombs, sparkler or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any tablets, or other device containing any explosive substance. Nothing in this article shall be construed as applying to toy paper caps containing not more than .25 of a grain of explosive composition per cap, and to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation, nor applying to the military or navy forces of the United States or of the State of Kansas, or police officers, nor as prohibiting the sale or use of blank cartridges for ceremonial or theatrical or athletic events.

(b) In addition to the restrictions upon all fireworks set forth within this Article, Bottlerockets 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 at any time.

10-403

#### VENDOR LOTTERY LIMITED TO CHARITABLE ORGANIZATIONS.

(a) Applications to sell fireworks within the City of Colwich may only be submitted by, or on behalf of, charitable and/or not-for-profit organizations (hereinafter “charitable organizations”). The charitable organization shall be the recognized vendor and responsible for complying with this Article, regardless of which fireworks wholesaler is supplying the charitable organization with fireworks to sell. **Due to the size of the City of Colwich, and the limited safe areas available to store/sell fireworks, only three fireworks vendors will be permitted annually, and each will be permitted to operate one (1) fireworks vending stand.**

(b) All applications for a permit to sell fireworks shall be submitted to the City Clerk on or before March 1<sup>st</sup>. If more than three applications are received a lottery will be held on the First Monday in April, to which a representative of each applicant will be invited, but not required, to be present. Three of the applicants will be selected from all valid applications to be given a Right to Obtain a Permit. The lottery shall be conducted in a manner that is random and provides all valid applicants an equal chance of being selected. Permits will be issued during the month of April upon the selected vendor’s submission of the permit fee. Failure to have the permit fee and mandatory proof of insurance as set forth within this Article to the City Clerk by the end of business on the last business day in April shall be deemed a waiver of the Right to Obtain a Permit.

(c) An alternate vendor shall also be selected at the time of the lottery. In the event that any of the three selected vendors fails to pay the permit fee and supply proof of insurance to the City by the last day of April, the alternate vendor shall be awarded the Right to Obtain a Permit. The alternate vendor shall be notified on the first business day in May, or earlier if possible, if a selected vendor has waived a previously awarded Right to Obtain a Permit.

(d) A valid applicant is an applicant who has submitted a completed application prior to the application deadline. An incomplete application, including failure to complete acknowledgement of nuisance

provisions, permit fees, and insurance requirements, shall be deemed an invalid application. An applicant may be deemed an invalid applicant if such applicant has failed to demonstrate financial responsibility. In this regard and by way of illustration, evidence that the holder of a permit has failed to pay the cost of merchandise when due, failed to pay costs associated with leased land or facilities when due, or failed to pay wages of employees when due in connection with sales of fireworks in prior years, may constitute sufficient grounds for the rejection of an application for a permit. An applicant may also be deemed an invalid applicant if such applicant failed to comply with the removal and clean-up provisions of this article in any prior year.

10-404

PERMITTED DATES OF SITE SET-UP, AND SITE CLEAN-UP.

(a) Permits to sell fireworks shall only be effective from June 27<sup>th</sup> of the year in which fireworks will be sold pursuant to such permit, to July 4<sup>th</sup> of that same year.

(b) Fireworks stands may be erected beginning June 24<sup>th</sup>, and must be dismantled and removed by July 7<sup>th</sup>. Removal includes removal of all trash associated with fireworks and their sale from the site and its immediate environment. Failure to dismantle and clean-up the site within the time provided by this section shall be grounds for prosecution under 10-409 below, and the municipal court judge may prohibit the vendor from sale of fireworks within the city for one year from the date of conviction.

10-405

APPLICATION. Applications to sell fireworks within the City of Colwich may only be submitted by, or on behalf of, a charitable organization. Applications for permits shall require the following information, as well as any other information deemed necessary by the City Clerk or Fire Chief:

(a) The application for the permit shall be upon a form provided by the City Clerk's office, which shall be completed and notarized by the applicant, and include the name and address of the organization that is seeking the permit, the location of the vending structure, information about anticipated date of set-up and removal of vending structure, date and time of meeting with City Fire Chief, or designee, regarding location, and any additional information deemed necessary by the City.

(b) The application shall include the tax i.d. or federal i.d. number of the charitable organization. Youth groups without their own federal or tax i.d. number may use the charitable organization identification number associated with its parent organization (Church, School, etc.).

(c) A description of each location referred to herein shall be provided to and approved by the Fire Chief of the City or his/her designee prior to the completion of the application to sell fireworks. Fireworks stands shall not be located on City owned property. A letter from the property owner agreeing to allow a fireworks vending stand to be located on private property shall accompany the application. Corrections in the location of the stand may be made in writing up to the date of issuance of the permit, with the approval of the Fire Chief.

(d) Each applicant shall sign an acknowledgement of the nuisance provisions of this Article and a waiver of any further notice regarding such provisions. The acknowledgement shall contain a requirement that the owner of the fireworks vending structure also be notified of the nuisance provisions of this Article by the vendor utilizing such structure, and that by setting up the fireworks vending structure within the city, all parties with an interest in the fireworks vending structure have waived any further notice of the nuisance provisions of this Article.

(e) Each applicant shall acknowledge in writing the permit fee associated with selection to vend fireworks within the City, and shall acknowledge in writing the insurance requirements contained within this Article.

10-406

#### SAFETY REQUIREMENTS ASSOCIATED WITH LOCATION OF FIREWORKS VENDING STAND.

(a) The Fire Chief of the City, and/or his designee, must approve the location upon which fireworks are to be stored and/or sold within the City. The following requirements may be made more restrictive in reference to a specific site if the Fire Chief of the City, or his designee, deems a special hazard exists in that location, and the health, safety, and welfare of the city requires more restrictive requirements.

(b) No location to sell fireworks within the City shall be within one-hundred fifty (150) feet of another permit location, measured structure to structure. If a tent is used for the construction of the fireworks stand, the material must be of a flame-retardant type.

(c) Each location upon which fireworks are to be sold shall provide for the public not less than one (1) off-street parking stall per one-hundred (100) square feet of sales structure floor area and adequate ingress and egress aisles. Fireworks shall not be stored or sold within fifty (50) feet of any source of flame, sparks, or flammable or volatile liquids in excess of one (1) gallon, except in stores where cleaners, paints, and oils are handled in sealed containers only. Each vendor shall furnish without cost to the City such flag person and attendants as are necessary to insure the orderly parking of vehicles around each sale site, and shall in no way interfere with the normal flow of traffic on public roads. No vendor shall allow parking on public right-of-way around any sale site.

(d) Prior to issuance of the permit, an inspection will be made of the applicant's facility to determine the square footage of the stand/tent/building and other pertinent laws and no permit shall be issued for any premises not in compliance with such laws. The sale of fireworks shall occur at any location, building, structure, tent or other similarly describable enclosure in conjunction with the retail sales of non-fireworks related items except as allowed by written request of the vendor and approved in writing by the Chief of Police prior to any sale taking place.

(e) All safety precautions and equipment at each sales site shall be approved by the Fire Chief or his/her designee; such precautions to include fire extinguishers and such other equipment as required by applicable state and City laws and regulations are required.

(f) A permit may be immediately revoked with no refund of any portion of the permit fee if the city's Chief of Police and Fire Chief determine that the vendor/permit holder has violated this section regarding safety precautions.

10-407

#### DESIGNATED TIMES FOR SALE AND DETONATION.

(a) Fireworks permitted under this article shall be sold only between the hours of 8:00 a.m. to 10:00 p.m., and only from June 27<sup>th</sup> through July 4<sup>th</sup>.

(b) The detonation of fireworks within the City shall be permitted only between 8:00 a.m. and 11:00 p.m., and only from June 27<sup>th</sup> through July 4<sup>th</sup>.

10-408

#### LIMITATIONS ON MANNER OF DETONATION OF FIREWORKS.

(a) Fireworks, which may be displayed, detonated, discharged, and/or ignited within the City limits shall only be those devices permitted to be sold within the City.

(b) Residents of the City and their guests may detonate fireworks permitted under this article on their private property during authorized shooting hours as set forth in this article. 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.

(c) Fireworks may not be thrown. Lighting and throwing a firework at, in the path of, or upon an animal, a person or property in which another person has a legal interest shall be prima facie evidence of intent to cause harm and may be prosecuted under the appropriate section of the uniform public offense code.

10-409

**DISCHARGE OF FIREWORKS: EMERGENCY CONDITIONS.** Upon the determination of the mayor and based upon recommendations of the fire Chief and/or Chief of Police, the discharge of fireworks may be limited, suspended or prohibited within the City limits of the City even during those times generally permitted by this article. Such determination shall be made if it appears to the mayor that the discharge of fireworks constitutes an immediate hazard to the safety of property or persons within the City. Such limitation, suspension or prohibition shall be by emergency proclamation, signed by the mayor, which shall be publicized and posted at the City Hall and anywhere else practicable. If thereafter, circumstances occur which minimize or eliminate the hazardous condition resulting in such proclamation, the proclamation may be rescinded or modified by subsequent proclamation with similar posting. In the absence of the mayor, the then serving president of the council shall be empowered to issue such proclamation.

10-410

**FIREWORKS SALES PERMITS.**

(a) Permit fees shall be collected for each sale location based on square feet of the structure. The square footage shall be determined by the interior dimension measurements of the physical structure of the stand/tent/building. Each permit so issued shall be valid until midnight on July 4<sup>th</sup> of the year issued and then shall expire.

(b) There shall be collected for each location within the city for which a fireworks sales permit has been issued pursuant to this Article, permit fees based upon the square footage of the structure from which fireworks are to be sold:

- (1) For structures not exceeding 400 square feet \$1,500.00
- (2) For structures having square footage of 401,  
but not exceeding 800 square feet \$2,000.00
- (3) For structures greater than 800 square feet,  
But not exceeding 1,500 square feet \$2,500.00
- (4) For structures exceeding 1,500 square feet \$5,000.00

For the purposes of this section, square footage shall be determined by the interior dimension measurement of the structure.

10-411

**PROCEEDS FROM FIREWORKS PERMIT SALES.** Proceeds from the sale of fireworks permits shall be made part of the General Fund and shall be used as determined by the Governing Body.

10-412

**INSURANCE REQUIREMENTS FOR VENDORS.**

(a) Each vendor shall obtain a policy of product liability insurance for a minimum coverage of \$500,000 per occurrence for products sold and/or stored within the City by the vendor, and shall provide the City with a copy of the certificate of such insurance. Such policy or policies shall not be cancelable by the vendor upon less than thirty (30) days notice.

(b) Each vendor shall obtain a policy of general comprehensive liability insurance for a minimum coverage of \$500,000 per occurrence, with the City of Colwich named as an additional insured, and shall provide the City with a copy of the certificate of such insurance. Such policy or policies shall not be cancelable by the vendor upon less than thirty (30) days notice, and shall show that it is effective from June 24<sup>th</sup> until the fireworks stand and its contents are removed from the City.

(c) Each vendor shall at all times indemnify the City of Colwich, Kansas, its officials, representatives, designees and employees, and shall defend, save and hold them harmless, from and against any and all claims, actions, damages, liability and expense, including but not limited to attorneys and other professional fees, in connection with loss of life, personal injury and/or damage to property arising from our out of the storage, sale, discharge and/or transportation of fireworks by such vendor and vendor's customers, representatives, employees, contractors and designees.

10-413

**PENALTY CONNECTED WITH THE SALE OF FIREWORKS.** The violation of any provision of this Article related to the Sale of fireworks, including 10-402 through 10-407, shall be prosecuted within the municipal court of the City and punishable by a fine of not more that \$2,500.00 per offense and/or imprisonment for not more than one (1) year and/or revocation of any permit to sell fireworks. Any permit holder violating any provisions shall first be issued a warning by the police department shall revoke the permit for sale and terminate the sale of fireworks by the violator. Any action deemed extremely negligent or reckless by the Chief of Police may result in immediate revocation of the permit to sale fireworks. Any permit holder whose permit is revoked hereunder may appeal to the Governing Body by notice served upon the City Clerk, and a hearing shall be called and held not less than twenty-four (24) hours from the date of the filing of such notice of appeal.

10-414

**EACH DAY OF VIOLATION OF ANY PROVISION OF THIS ARTICLE SHALL BE DEEMED SEPARATE OFFENSE.** Each day that any violation of this article continues shall constitute a separate offense and shall be punishable hereunder as a separate violation.

10-415

**FAILURE TO DISMANTLE THE VENDING STRUCTURE SHALL BE DEEMED A NUISANCE.** All vendors are hereby notified that failure to remove a fireworks vending structure from the City on or before July 7<sup>th</sup> is hereby deemed a nuisance. As stated on the application for permit, Fireworks Vendors waive any further notice and acknowledge that the City will remove any fireworks vending structures still standing on July 8<sup>th</sup>. The City will not be liable for any damage to such structure, and will not return such structure to the vendor or its fireworks supplier, or any other interested party, until the costs associated with removing and storing such structure have been paid to the City in full. If such costs have not been paid to the city within fourteen days following dismantle of such vending structure, the City will consider such structure abandoned property and will dispose of it in any

manner the Mayor determines to be appropriate without further action by the Governing Body necessary.

Additionally, the applicant signing the application for permit, or the owner of the structure if a different party, may be prosecuted in the municipal court for violation of the nuisance ordinance.

10-416                   PENALTY FOR UNLAWFUL DETONATION OF FIREWORKS. The violation of any provision of this article associated with improper detonation of fireworks shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00) per offense and forfeiture of any and all fireworks that were then in the possession of the alleged offender.

10-417                   PERMIT FOR PUBLIC FIREWORKS DISPLAY REQUIRED.

(a) It shall be unlawful for any person to give or provide a fireworks display 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.

(b) No permit shall be approved unless the applicant furnishes a Certificate of Insurance evidencing coverage in the amount of \$500,000.00 combined single limit per occurrence for bodily injury, personal injury, and property damage, and shall name the city of Colwich as an additional loss payee thereunder. Said Certificate shall be submitted to the City Clerk. Said Certificate shall also contain a clause granting a minimum of ten (10) calendar days prior notice to City before any material change or cancellation of insurance is effective. In the event of cancellation of the insurance prior to the display, the permit shall automatically be revoked and void.

(c) The application for the permit shall be upon a form provided by the City Clerk's office, which shall be completed and notarized by the applicant, including the name of the permit applicant, the organization for which the display is planned, whether the display is to be public or privately attended, the location of the display, the date and time of the display, the nature of the fireworks, the organization discharging the fireworks, anticipated need for police, fire or other municipal services, and any additional information deemed necessary by the City.

(d) Permits for events charging a fee to the general public to attend, or for private events, shall be \$2,500.00 per event. This fee shall be waived if the display is part of an event which is free of charge to the community as a whole. (Ord. No. 618; 8-17-09)