

CHAPTER VII: FIRE

Article

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ARTICLE 1: FIRE DEPARTMENT

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§ 7-101 CONSOLIDATION OF FIRE DEPARTMENT.

The Fire Department of the city shall be consolidated into Shawnee County Fire District No. 1 and, after such consolidation, the district shall be known as Shawnee County Consolidated Fire District No. 1.

(Ord. 1253, passed 4-16-1984)

§ 7-102 DISSOLUTION OF CONSOLIDATED DISTRICT.

The Consolidated Department was effected by agreement and that same document allows for the city to withdraw from the Consolidated District at any time and, thereafter, to recreate its own department.

(Ord. 1253, passed 4-16-1984)

§ 7-103 FIRE EQUIPMENT; EMERGENCY RIGHT-OF-WAY AND USE.

(a) All fire apparatus and equipment is hereby given and granted the exclusive right-of-way over and through all streets, avenues, alleys and public thoroughfares in the city while en route to fires or in response to any alarm, and it shall be unlawful for any person or persons to in any manner obstruct or hinder the apparatus or equipment.

(b) All emergency vehicles of the Fire Department, while proceeding on official business, shall be operated in strict accordance with the requirements of state law regarding the operation of emergency vehicles, and each departmental member assigned to the operation of emergency vehicles shall familiarize himself or herself with the requirements of the law and govern himself or herself accordingly. Any operator violating the provisions of the state law shall be liable for disciplinary action.

§ 7-104 SAME; FIRE HOSE.

It shall be unlawful for any person or persons to drive any vehicle over any fire hose laid on any street, alley or lot. This section shall not apply to any apparatus or vehicle being driven by members of the fire department.

§ 7-105 OBSTRUCTION OF FIRE HYDRANT.

It shall be unlawful for any person to place or cause to be placed upon or about any fire hydrant any rubbish, building material, fence or other obstruction of any character, or in any manner obstruct, hinder, or delay the Fire Department in the performance of its duties in case of fire. Nor shall any person fasten to any fire hydrant any guy rope or brace, nor stand any vehicle within 15 feet of any such hydrant.

§ 7-106 FALSE ALARM.

It shall be unlawful for any person to knowingly make or sound or cause to be made or sounded, or by any other means, any false alarm.

ARTICLE 2: FIRE PREVENTION

Section

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§ 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 International Fire Code, 2021 Edition, including all the Appendix chapters, published by the International Code Council, one copy shall be filed in the office of the Clerk of the city, and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this article shall take effect, the provisions thereof shall be controlling within the limits of the city.

§ 7-202 SAME; ENFORCEMENT.

The code hereby adopted shall be enforced by the Chief of the Fire Department.

§ 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 Silver Lake.

(b) All sections of the Uniform Fire Code relating to fireworks are hereby deleted in their entirety.

§ 7-204 ACCUMULATION OF RUBBISH AND TRASH.

It shall be unlawful for any person to allow to accumulate or to keep in any part of any building or outside of and adjacent to any building or in any alley, sidewalk, street or premises within 30 feet of any building any rubbish, trash, waste paper, excelsior, empty boxes, barrels or other combustibles that shall constitute a fire hazard.

§ 7-205 STACKING OF HAY OR STRAW.

It shall be unlawful for any person to deposit, stack or store any hay or straw within 500 feet of any building located inside the fire limits of the city.

§ 7-206 KEEPING OF PACKING MATERIALS.

It shall be unlawful to keep excelsior or other packing material in any other than metal or wood metal lined boxes or bins having self-closing or automatic covers. All refuse and trash from rooms where packing or unpacking is done shall be removed daily.

§ 7-207 STORAGE OF ASHES.

It shall be unlawful to store ashes inside of any non-fire-proof building unless they are stored in a noncombustible container or receptacle, and a clearance of at least five feet shall be maintained between such container or receptacle and any combustible materials not placed therein. Ashes shall not be stored outside of any building in wooden, plastic or paper product receptacles or dumped in contact with or in close proximity to any combustible materials.

§ 7-208 FILLING GASOLINE TANKS OF MOTOR VEHICLES.

The engines of motor vehicles shall be stopped when the gasoline tanks of such vehicles are being filled with gasoline at service stations or other places where gasoline is supplied to motor vehicles. The driver or person in control of such vehicle when the gasoline tank of same is being filled who refuses, neglects or fails to stop the engine of such vehicle shall likewise be guilty of a violation of this code.

§ 7-209 FIRE HAZARDS GENERALLY.

It is unlawful for any person to cause or create anywhere within the city, or to permit on any premises under his or her control, any situation or condition that is conducive to or likely to cause or permit the outbreak of fire or the spreading of fire. Any situation or condition conducive to the outbreak of or spreading of fire is declared to be a fire hazard. The violation of or failure to comply with any law pertaining to the storage, handling or use of inflammable oils, explosives, liquefied petroleum gases or fertilizers and all wires and other conductors charged with electricity, is declared to be a fire hazard. The placing of stools, chairs or any other obstruction in the aisles, hallways, doorway or exit of any theater, public hall, auditorium, church or other place of indoor public assemblage, or the failure to provide any

such place of public assemblage with sufficient, accessible and unobstructed fire exits and escapes is also declared to be a fire hazard. The obstruction of any street, avenue, alley, fire hydrant or any other condition that might delay the Fire Department in fighting fire is declared to be unlawful.

§ 7-210 SAME; INSPECTIONS TO DISCOVER.

It shall be the duty of the Fire Chief to inspect or cause to be inspected by Fire Department officers or members, as often as may be necessary, all buildings, particularly all mercantile buildings, manufacturing plants, warehouses, garages, hotels, boarding houses, rooming houses, theaters, auditoriums and all places of public assemblage, for the purpose of discovering the violation of any fire preventive law or any fire hazard and ascertaining and causing to be corrected any conditions liable to cause fires and to see that all places of public assemblage, hotels and rooming houses have sufficient and unobstructed facilities for escape therefrom in case of fire.

§ 7-211 ABATEMENT OF FIRE HAZARDS; ISSUING ORDER.

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

§ 7-212 SAME; SERVICE OF ORDER; RECORDS.

Any order made under § 7-211 shall be in writing and may be served personally upon the owner or occupant of the premises or by leaving it with any person in charge of the premises or if the premises are unoccupied and the owner is a nonresident of the city, then by mailing a copy to the owner's last known post office address. One notice to either the occupant or owner shall be sufficient. The Fire Chief shall keep a record of and copies of all such orders and notices and shall follow up such notices at the expiration of the time for compliance therewith and when complied with make proper entry, and if not complied with, file complaint with the Municipal Court against the property owner and/or occupant.

ARTICLE 3: FIREWORKS

Section

- 7-301 Fireworks defined
- 7-302 Sale of fireworks
- 7-303 Discharge of fireworks prohibited; exception
- 7-304 Permit for sale of fireworks required; fees; issuance
- 7-305 Sale of fireworks; where prohibited
- 7-306 Retail display of fireworks

§ 7-301 FIREWORKS DEFINED.

For the purpose of this article, the following definition shall apply unless the context clearly indicates or requires a different meaning.

FIREWORKS. Those items as defined by the rules and regulations of the State Fire Marshal, and shall include but not be limited to: firecrackers, torpedoes, sparklers, Roman candles, sky rockets, pin wheels, cap or toy pistols (except such pistols or any like device designed to discharge paper caps containing not more than 0.25 grains of explosive mixture), canes, bombs, cannons or other like devices and all classes of fireworks that may be shot into the air or propelled over the ground by explosive discharges or any device using blank cartridges.

§ 7-302 SALE OF FIREWORKS.

Any person, group or corporation who has first obtained a valid permit to sell fireworks within the city may do so between the hours of 8:00 a.m. and 11:00 p.m. commencing June 27 and through July 5 of each year.

(Ord. 2330, passed 5-16-2016)

§ 7-303 DISCHARGE OF FIREWORKS PROHIBITED; EXCEPTION.

It shall be unlawful for any person to fire or discharge any fireworks, as defined in this article, within the corporate limits of the city; provided, that fireworks may be discharged within the corporate limits of the city only at such times as the governing body of the city may provide by resolution duly adopted; provided further, that the governing body may grant permission, in writing, for the public display of fireworks by responsible individuals.

(Ord. 1821, passed 6-20-2000)

§ 7-304 PERMIT FOR SALE OF FIREWORKS REQUIRED; FEES; ISSUANCE.

(a) It shall be unlawful for any person to sell, display for sale, and offer to sell or give away any type of fireworks within the city without first obtaining a permit and paying a permit fee. The amount of said permit fee shall be equal to the fee established by Shawnee County for fireworks stands. The permit fee is to be paid to the City Clerk for each establishment or premises applying for permit, and is to be paid by June 1 of the permit year.

(b) No permit shall be issued for any location contained in a residential zoning district. The city reserves the right to restrict the location of sales to certain parts of the central business district or other commercial areas of the city.

(c) Prior to the issuance of the permit, an inspection will be made of the applicant's facility for compliance with this chapter and other pertinent laws and no permit shall be issued for any premises not in compliance with such laws. Upon qualifying for the permit, the permittee shall prominently display the same at the establishment or premises where fireworks are to be sold or displayed for sale. The permit fee shall not be refundable upon failure to qualify for the permit or withdrawal or cancellation of the application or permit. Two functioning and approved fire extinguishers must be provided and kept in close proximity to the stock of fireworks in all permanent buildings, small stands, tents or any other structures where fireworks are stored, sold or displayed for sale.

(d) In order to obtain a permit, the applicant must provide proof of adequate liability insurance coverage for the operation of the fireworks stand, with coverage for no less than \$1,000,000 per occurrence, and aggregate coverage of \$2,000,000.

(Ord. 2330, passed 5-16-2016)

§ 7-305 SALE OF FIREWORKS; WHERE PROHIBITED.

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

(b) Where any fire district or city officer deems there is a fire hazard at any permitted fireworks sale location, he or she is hereby authorized to have such hazard abated or any permit either denied or revoked until such time as the fire hazard is abated.

(Ord. 2330, passed 5-16-2016)

§ 7-306 RETAIL DISPLAY OF FIREWORKS.

(a) All retailers are forbidden to expose fireworks where the sun shines through glass on the merchandise displayed, except where such fireworks are in the original package.

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

(c) Signs reading “Fireworks for Sale-No Smoking Allowed” shall be displayed in any location providing fireworks for sale.

(Ord. 2330, passed 5-16-2016)

ARTICLE 4: OPEN BURNING

Section

- 7-401 Prohibitions
- 7-402 Exceptions to prohibitions on open burning
- 7-403 Prima facie evidence
- 7-404 Fire Department fee for service
- 7-405 Unpaid fee for services
- 7-406 Right to enter property
- 7-407 Criminal penalties
- 7-408 Criminal remedies preserved
- 7-409 Burning permits
- 7-410 Open burning general terms and conditions
- 7-411 Record keeping

§ 7-401 PROHIBITIONS.

(a) It shall be unlawful, and a violation of this article, for any person to:

- (1) Cause or permit the open burning of any wastes, structures, vegetation or any other materials on any premises within the corporate limits of the city, except as authorized by this article;
- (2) Refuse or neglect to comply with the conditions or limitations on or in any duly issued burning permit;
- (3) Refuse or neglect to keep and maintain records required by this article;
- (4) Refuse or neglect to make a burning permit or records required to be kept by this article available for inspection to the Fire Chief, the Fire Chief's designated representative or any law enforcement officer upon request;
- (5) Impede, obstruct or hinder, or to otherwise prevent or attempt to prevent, the Fire Chief or any firefighter in the performance of duties in connection with the administration and enforcement of this article; and
- (6) Violate the terms and conditions of a burning ban issued by the Governor, the Board of Shawnee County Commissioners, or the governing body of the city.

(b) For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY. The City of Silver Lake, Kansas.

FIRE CHIEF. The Fire Chief of the Fire District.

FIRE DEPARTMENT or **FIRE DISTRICT.** Shawnee County Fire District No. 1.

OPEN BURNING. Setting, starting, igniting, maintaining, spreading, fueling or failing to extinguish an open fire.

OPEN FIRE. Any outdoor fire other than a small fire in a non-combustible container, the primary purpose of which is to cook food such as, but not limited to, barbecue grills.
(Ord. 1809, passed - -)

§ 7-402 EXCEPTIONS TO PROHIBITIONS ON OPEN BURNING.

(a) The following open burning operations shall be exempt from the prohibition on open burning:

(1) Open burning carried out on a residential premises containing five or less dwelling units and incidental to the normal habitation of the dwelling units, unless prohibited by any local authority with jurisdiction over the premises;

(2) Open burning for cooking or ceremonial purposes, on public or private lands regularly used for recreational purposes;

(3) Open burning for the purpose of crop, range, pasture, wildlife or watershed management in accordance with this article; or

(4) Open burning approved by the fire department having jurisdiction pursuant to division (b) below.

(b) A person may conduct an open burning operation that is not otherwise exempt from the prohibition imposed by this article if the Fire Chief or the Fire Chief's designee finds that the open burning is:

(1) Necessary, which in the case of burning for the purpose of disposal of any materials, shall mean that there is no other practical means of disposal;

(2) In the public interest; and

(3) Not prohibited by state law or regulations.

(c) Open burning operations for which an approval is required but which are deemed to be necessary and in the public interest include the following:

- (1) The use of safety flares for disposal of flammable gases;
 - (2) Fires related to the training of government or industrial personnel in firefighting procedures;
 - (3) Fires set for the removal of dangerous or hazardous liquid materials;
 - (4) Open burning of trees and brush from non-agricultural land clearing operations; and
 - (5) Open burning of clean wood waste from construction projects carried out at the construction site.
- (Ord. 1809, passed 1-17-2000)

§ 7-403 PRIMA FACIE EVIDENCE.

It shall be prima facie evidence that the person who owns or controls property on which open burning has occurred has caused or permitted the open burning.

(Ord. 1809, passed 1-17-2000)

§ 7-404 FIRE DEPARTMENT FEE FOR SERVICE.

(a) A fee for services may be assessed on any landowner as provided in division (b) below, whenever a Fire Department responds to investigate or extinguish a fire which has been set, started, ignited, caused, maintained, conducted or spread in violation of this article, K.S.A. 65-3010 or K.A.R. 28-19-647, and amendments thereto. As used in this article *FEE FOR SERVICES* means the reasonable costs or expenses associated with the apparatus, equipment, material and personnel activated, summoned or responding to investigate or extinguish the fire.

(b) The Fire Chief or a duly authorized representative of the Fire Chief of the Fire Department, upon a finding that a landowner, or any employee or agent thereof or any person or entity under such landowner's direction and control has violated any of the provisions of this article, K.S.A. 65-3010 or K.A.R. 28-19-647, or amendments thereto, may assess a fee for services as provided in this article upon such landowner payable to the city at the city's offices. In determining the amount assessed, such official shall consider the person's prior violations of prohibitions against burning, whether the violation was committed knowingly, intentionally or recklessly, and other aggravating or mitigating factors which bear upon the seriousness of the offense.

(c) No fee for services shall be imposed pursuant to this article except upon the written invoice of the Fire Chief or the duly authorized representative of the Fire Chief to the landowner against whom the fee for services is to be assessed, with a copy thereof provided to the City Clerk. Such written invoice shall be served upon the landowner either personally or by certified mail, return receipt requested, and

shall state the violation, the fee for services assessed and the right of the landowner to appeal to the governing body of the city. Where the invoice is mailed, service is complete upon mailing.

(d) Any landowner, within 20 calendar days after service, may make written request to the governing body of the city for a hearing. Where the invoice was mailed, the landowner shall have an additional three calendar days to make a written request for a hearing. The governing body of the city may affirm, reverse or modify the invoice of the Fire Chief or the authorized representative of the Fire Chief assessing a fee for services pursuant to this article. In so doing the governing body shall specify the reasons for its actions in writing and shall promptly notify the landowner in person or by certified mail, return receipt requested, of its decision.

(e) Any fee for services paid or recovered pursuant to the provisions of this article shall be remitted by the city to the Treasurer of the Fire District.
(Ord. 1809, passed 1-17-2000)

§ 7-405 UNPAID FEE FOR SERVICES.

(a) The unpaid balance of any fee for services not paid within 30 days after an invoice has been served or, where a hearing has been requested, within 30 days after the governing body of the city has notified the landowner of its decision shall be deemed delinquent and shall draw interest at a rate prescribed for delinquent taxes pursuant to K.S.A. 79-2968, as amended.

(b) In a case where a fee for services invoice remains unpaid by December 31 of each year, the governing body of the city shall immediately notify the landowner against whom the fee for services was assessed in writing by certified mail, return receipt requested, that if the fee for services is not paid within 30 days from the date of such notice of the amount remaining unpaid and any interest thereon shall be added to the fee for services amount and the total amount thereof shall become a lien upon the property upon which the violation occurred. A copy of the notice to the landowner, together with proof of notification, shall at the same time be filed with the Register of Deeds and the County Clerk and if such amount is not paid within the next 30 days, the County Clerk shall spread the amount of such statement upon the tax roll prepared by the Clerk and such amount shall become a lien against the entire contiguous tract of land upon which the violation occurred and shall be collected as other taxes are collected.

(c) If any land subject to a lien imposed under this article is sold or transferred, the entire remaining unpaid balance of any fees for services plus any penalties assessed for nonpayment thereof shall become due and payable prior to the sale or transfer of ownership of the property, and upon collection shall be paid to the city.
(Ord. 1809, passed 1-17-2000)

§ 7-406 RIGHT TO ENTER PROPERTY.

For the purposes of administering and enforcing this article, the Fire Chief or a duly authorized representative of the Fire Chief, and law enforcement officers, shall have the right to enter private property:

- (a) To inspect lands or property actually or reported to be burned as the result of open burning;
- (b) To inspect and investigate complaints of violations of this article;
- (c) To inspect burning permits; and

(d) To observe the open burning and the manpower and equipment available to control the burning.
(Ord. 1809, passed 1-17-2000)

§ 7-407 CRIMINAL PENALTIES.

Any person violating or failing to comply with any of the provisions of this article or attempting to violate or fail to comply with the provisions of this article shall be guilty of a misdemeanor, punishable by assessment of a fine not to exceed \$500.

(Ord. 1809, passed 1-17-2000)

§ 7-408 CRIMINAL REMEDIES PRESERVED.

Nothing in this article shall be construed to abridge, limit or otherwise impair the right of any person to damages or other relief on account of injury to persons or property and to maintain any action or other appropriate proceedings therefore.

(Ord. 1809, passed 1-17-2000)

§ 7-409 BURNING PERMITS.

(a) Each person desiring to conduct any open burning operation shall first submit a written request for a burning permit to the Fire Department on a form provided by such Department.

(b) Each burning permit shall be valid for such period of time as may be designated on the face thereof by the Fire Chief or the Fire Chief's designee issuing such permit.

(c) The Fire Chief or his or her designee may revoke any burning permit upon 30 days' notice.

(d) Burning permits shall contain at least the following information:

(1) The location of the proposed open burning, the landowner's name and address and the name, address and telephone number of the person responsible for the open burning;

(2) A description of the open burning including:

(A) The estimated amount and nature of material to be burned;

(B) The proposed frequency, duration and schedule of the burning;

(C) The size of the area to which the burning will be confined;

(D) The method of igniting the material;

(E) The location of any public roadways within 1,000 feet of the proposed burn;

(F) The number of occupied dwellings within 1,000 feet of the proposed burn; and

(G) Evidence that the open burning has been approved by appropriate health and/or environmental authority having jurisdiction over the area or that such approval is not required.

(3) The reason why the proposed open burning is necessary and in the public interest if the activity is not listed in § 7-402(c); and

(4) Any special conditions or restrictions imposed by the Fire Chief or his or her designee.

(e) Each person applying for a burning permit or requesting an exemption from the requirements of obtaining a burning permit shall be provided a copy of this article when requested.
(Ord. 1809, passed 1-17-2000)

§ 7-410 OPEN BURNING GENERAL TERMS AND CONDITIONS.

(a) Open burning shall be subject to the following conditions, except as provided in division (b) below:

(1) The person conducting the burning shall stockpile the material to be burned, dry it to the greatest extent possible before it is burned, and assure that it is free of matter that will inhibit good combustion;

(2) A person shall not burn heavy smoke-producing materials, including, but not limited to, heavy oils, tires and tar paper;

(3) A person shall not initiate nor continue burning during the nighttime, which for the purpose of this article is defined as the period from two hours before sunset until one hour after sunrise without the prior express permission of the Fire Chief or the Fire Chief's designee. A person shall not add material to a fire after two hours before sunset;

(4) A person shall not burn during inclement or foggy conditions or on very cloudy days, which are defined as days with more than 0.7 cloud cover and with a ceiling of less than 2,000 feet;

(5) A person shall not initiate or continue open burning during periods when surface wind speed is less than five mph or more than 15 mph without the express permission of the Fire Chief or the Fire Chief's designee.

(6) A person shall not burn within 1,000 feet of any occupied dwelling, unless the occupant of that dwelling has been notified before the burn and an adequate fire break separates the dwelling and the area or property to be burned;

(7) A person shall not burn within 250 feet of any structure unless an adequate fire break separates the structure from the area or property to be burned or a sufficiently equipped and competent fire watch is established until the fire is extinguished;

(8) A person shall not conduct a burn that creates a traffic or other safety hazard. If burning is to take place within 1,000 feet of a roadway, the person conducting the burn shall notify the highway patrol, sheriff's office or other appropriate state or local traffic authority before the burning begins. If burning is to take place within one mile of an airport, the person conducting the burn shall notify the airport authority before the burning begins;

(9) The person initiating the burn shall ensure that the burning is supervised by competent adults on site until the fire is extinguished;

(10) A person shall conduct an open burning operation under such additional conditions as the Fire Department may deem necessary including, but not limited to, conditions to prevent emissions which:

(A) May be injurious to human health, animal or plant life, or property; or

(B) May unreasonably interfere with the enjoyment of life or property.

(11) The person conducting the open burning shall have in such person's possession the burning permit, or an exact photocopy thereof; pertaining to the open burning being conducted.

(b) The Fire Chief or the Fire Chief's designee may issue a burning permit for an open burning operation that does not meet the conditions set forth in division (a) above upon a clear demonstration that the proposed burning:

(1) Is necessary and in the public interest;

(2) Can be conducted in a manner that will not result in emissions which:

(A) May be injurious to human health, animal or plant life or property; or

(B) May unreasonably interfere with the enjoyment of life or property.

(3) Will be conducted in accordance with state law and regulations and such conditions as the Fire Chief or Fire Chief's designee deems necessary.

(Ord. 1809, passed 1-17-2000)

§ 7-411 RECORD KEEPING.

(a) Whenever notice is required or has been provided under any provision of this article the person making such notification shall keep a record of the time of each person and agency notified, the

telephone number dialed to provide notice or other means of notification employed, and the time and date of all notifications made.

(b) Records made and kept pursuant to this section shall be made available upon request for inspection and copying by the Fire Chief; the Fire Chief's designee or any law enforcement officer.

(c) Records made pursuant to this section shall be kept and maintained for a period of 12 months from the date of the fire.

(Ord. 1809, passed 1-17-2000)