

(First Published in the Great Bend *Tribune* on January 14, 2018)

ORDINANCE NO. 342

**AN ORDINANCE AMENDING THE PAWNEE ROCK CITY CODE RELATING TO DANGEROUS OR UNFIT STRUCTURES WHERE DAMAGE IS CAUSED BY WEATHER RELATED OR WEATHER DRIVEN PHENOMENA;**

*BE IT ORDAINED AND ENACTED by the Governing Body of the City of Pawnee Rock, Kansas:*

SECTION 1. Subsection 4-601 of the Pawnee Rock City Code is hereby amended to read as follows:

4-601 PURPOSE. The governing body has found that there exist within the corporate limits of the city structures which are unfit for human use or habitation **or which may become unfit for human use or habitation**, because of dilapidation, defects increasing the hazards of fire or accidents, structural defects or other conditions which render such structures unsafe, **damage by fire to the structure, damage to habitable structures caused by weather or nature related or driven activities**, unsanitary or otherwise inimical to the general welfare of the city, or conditions which provide a general blight upon the neighborhood or surrounding properties. It is hereby deemed necessary by the governing body to require or cause the repair, closing or demolition or removal of such structures as provided in this article.

SECTION 2. Subsection 4-602 of the Pawnee Rock City Code is hereby amended to read as follows:

4-602. DEFINITIONS. For the purpose of this article, the following words and terms shall have the following meanings:

- (a) **Enforcing officer** - means the city clerk or his or her authorized representative.
- (b) **Structure** - shall include any building, wall, superstructure or other structure which requires location on the ground, or is attached to something having a location on the ground.
- (c) **Weather or nature related or driven activities includes any damage caused by high winds, earthquake, tornadoes, grass fires originating outside the city regardless of cause but causing damage to structures inside the city limits flooding from sources external to the damaged structure, and similar peril caused by nature rather than Man.**

(d) **Flooding includes rising and overflow of normal boundary in a flood-plain area from lakes, rivers and streams, or flash flooding inundation of a more temporary nature brought about by continuous heavy rainfall leaving standing water within the city limits causing damage to structures.**

SECTION 3. Subsection 4-613 of the Pawnee Rock City Code is hereby amended to read as follows:

4-613. STRUCTURES DAMAGED BY ~~FIRE OR EXPLOSION~~ ANY NATURAL OR MAN-MADE INSURED PERIL (LIENS & INSURANCE PROCEEDS). The City of Pawnee Rock will use the procedures established by K.S.A. 40-3901 et seq., whereby no insurance company shall pay a claim of a named insured for loss or damage arising out of any fire, explosion insured damage to property ~~fire or explosion or other natural or man-made peril set forth in Section 4-602 as amended~~, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 75% of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this code.

(a) When final settlement on a covered claim has been agreed to or arrived at between the named insured or insureds and of the face value of the policy covering any building or other insured structure, and when all amounts due to the holder of a structure, pursuant to the terms of the policy and endorsements thereto, shall have been paid, the insurance company or companies shall execute a draft payable to the city treasurer in an amount equal to the sum of \$5,000 or 10 percent of the covered claim payment, whichever is less, unless the building inspector of the city has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as all associated debris, or replaced, rebuilt, or otherwise made the premises safe and secure.

(b) Such transfer of funds shall be on a pro rate basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the city shall be disbursed in accordance with the policy terms.

(c) Upon the transfer of the funds as required by subsection (a) of this section, the insurance company shall provide the city with the name and address of the named insured or insureds, the total insurance coverage applicable to the building or other structure, and the amount of the final settlement agreed to or arrived at between the insurance company or companies and the insured or insureds, whereupon the building inspector shall contact the named insured or

insureds by registered mail, notifying them that the insurance proceeds have been received by the city and apprise them of the procedures to be followed under Pawnee Rock City Code Section 4-613.

(d) The city treasurer is hereby directed to create a fund to be known as the "Fire Insurance Proceeds Fund." All moneys received by the city treasurer as provided for by this code shall be placed in that fund and deposited in an interest-bearing account.

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

(f) Within 20 days of their receipt of the moneys, the building inspector shall determine, after prior investigation, whether the city shall instigate proceedings under the provisions of K.S.A. 12-1750 et seq., as amended.

(g) If the building inspector has determined that proceeding under K.S.A. 12-1750 et seq., as amended shall be initiated, he or she will do so immediately but no longer than 30 days after receipt of the moneys by the city treasurer.

(h) Upon notification to the city treasurer by the building inspector or city engineer that no proceedings shall be initiated under K.S.A. 12-1750 et seq., as amended, the city treasurer shall pay all such moneys received, plus accrued interest, to the insured or insureds as identified in the communication from the insurance company or companies. Such return shall be accomplished within 30 days of the receipt of the moneys from the insurance company or companies.

(i) If the building inspector proceeds under the provisions of K.S.A. 12-1750 et seq., as amended, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured.

(j) If the building inspector, with regard to the building or other structure damaged by fire or explosion, determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the city treasurer under the authority of this section in relation to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1756. Upon reimbursement from the insurance proceeds, the building inspector shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city treasurer under section 2(a), the building inspector shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to the excess expenses incurred.

(k) This ordinance shall not make the city a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

(l) Insurers complying with this ordinance or attempting in good faith to comply with this ordinance shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this code, or releasing or disclosing any information pursuant to this ordinance.

(m) The term “insured damage” includes all types of damage to structures within the city limits that in addition to damage caused by fire or explosion are also caused by any natural, weather related or man-made peril set forth in Section 4-602 as amended, if such damage is insured by a company or the federal government.

SECTION 4. The subsection marked 4-613 of the Pawnee Rock City Code regarding “appeals from the order” is misnumbered, and is hereby amended to be renumbered as subsection 4-613a.

SECTION 5. The subsection 8-801 of the Pawnee Rock City Code regarding an Insurance Proceeds Fund is hereby amended read as follows:

8-801. SCOPE AND APPLICATION. The city is hereby authorized to utilize the procedures established by K.S.A. 40-3901 et seq., whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city, arising out of any fire, explosion, or windstorm, **or other insured peril** where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this article. **The scope of this Article Eight (8) includes damage by natural or man-made perils as set forth in Subsection 4-601 and as defined in subsection 4-602 of Article 6, if such damage is insured by an insurance company or the federal government.**

Section 6. REPEAL. City of Pawnee Rock Ordinances 4-601, 4-602, 4-613 and 8-801 are hereby repealed. The second reference to 4-613 in the code regarding APPEALS FROM THE ORDER is renumbered as Section 4-613a.

Section 7. EFFECTIVE. This Ordinance shall take effect and be in force from and after its publication in the official city newspaper of the City of PAWNEE ROCK, Kansas or from and after compliance with K.S.A. 2012 Supp. 12-3007(b).

PASSED BY THE CITY COUNCIL OF THE CITY OF PAWNEE ROCK this  
8<sup>th</sup> day of January, 2018.

APPROVED by the Mayor:

Grida McCowan  
Waite, Mayor

Attest:

Cathy Groves  
City Clerk



(Published and compliance with K.S.A. 12-3007(b) first achieved on \_\_\_\_\_, 20\_\_)

**ORDINANCE NO. 342**

Current ordinances for the City of Pawnee Rock regulate the definition of unsafe structures which are subject to certain procedures by the city to raze such structures. These ordinance definitions are expanded to include structures made unsafe by natural perils, such as tornadoes, windstorms, flooding, grass fires, or other peril, whether insured or not, from nature as well as man-made causes.

Further, other ordinances created insurance funds only for fire, explosions or windstorm insured damage and that insurance companies compensate the city a certain percentage of loss for those types of damages. That ordinance is expanded to cover any kind of peril, natural or man-made, if insured by a company or the federal government.

A copy of the ordinance is available free of charge for viewing at the city offices at any time during office hours. Call the City Clerk at 620-982-4386.

The city's official website URL is:

pawneerock-ks.gov. A reproduction of this ordinance is available there for at least one week following summary publication in the official county newspaper.

Pursuant to KSA 53-601, as amended, as city attorney, I declare and certify under penalty of perjury that the foregoing is true and correct and legally accurate and sufficient.



Ronald D. Smith, #9069  
Pawnee Rock City Attorney

