

CHAPTER 6. FIRE PROTECTION

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ARTICLE 1. FIRE DEPARTMENT (Ord. 653 Sec. 1)

- 6-101 CITY FIRE DEPARTMENT ESTABLISHED. The fire department of the City of Washington is hereby established and the department shall be organized to consist of a fire chief, an assistant fire chief, two fire marshals and not less than ten (10) nor more than twenty-five (25) fire fighters. Members of the fire department shall be appointed by the mayor and confirmed by the city council. The fire chief may submit the names of prospective members to the mayor for consideration from time to time.
- 6-102 MEMBERSHIP; DUTIES. Members of the fire department shall all be volunteers. They shall meet at least once each month for practice and drills. The chief of the fire department shall keep a record of attendance of such meetings. Any member who shall fail to attend three (3) consecutive meetings shall automatically become expelled from membership, unless the nonattendance is excused by the fire chief.
- 6-103 SUPERVISION OF DEPARTMENT. The chief of the fire department shall be appointed in May of each year by the mayor and approved by the council. The chief shall be under the supervision of the mayor 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 chief's duty to see that all such apparatus and equipment is ready at all times for immediate use. It shall also be the chief's duty to submit a written report as to the condition of all fire apparatus and equipment to the governing body at their October meeting of each year.
- 6-104 FIRE CHIEF; POWERS.
- (a) The fire chief 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/her duties at a fire.
 - (b) The chief 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 chief 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 fire fighters in the discharge of their duties. He/She shall take such measures as he/she shall deem proper and necessary in the preservation and protection of property and extinguishing of fires.

- 6-105 SAME; RECORDS. The chief of the fire 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 contents, loss on building and contents, insurance on building and contents, members responding to the alarm, and any other information deemed advisable.
- 6-106 SAME; PREVENTION OF FIRES. It shall be the duty of the chief of the fire department to adopt all prudent measures for the prevention of fires and for this purpose he/she or his/her designated assistant may, upon request of the legal resident of any building, enter the same; or wherever the fire chief has visual or other actual knowledge that the safety of life and property demands it, enter any building, yard or premises in the city of the purpose of inspection and where dangerous, unsafe or hazardous conditions are found to exist he/she shall give such directions for the alteration, change or removal or better care or management of the same as he/she may deem proper. Such directions shall be obeyed and complied with by the property owner or resident at their expense when the property owner, acting upon the advice of a qualified electrician, disagrees with the opinion of the fire chief or his/her assistant the changes deemed necessary by the fire chief shall be subject to review by the mayor.
- 6-107 ASSISTANT CHIEF. The assistant fire chief shall be appointed by the mayor and approved by the council. In the absence of the chief, the assistant fire chief shall perform all the duties and have all the authority and responsibility of the chief as conferred by this article.
- 6-108 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 fire department.
- 6-109 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 the Kansas Statutes regarding the operation of emergency vehicles and each departmental member assigned to the operation of emergency vehicles shall familiarize himself/herself with the requirements of the law and govern himself/herself accordingly. Any operator violating the provisions of the state law shall be liable for the disciplinary action.
- 6-110 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.
- 6-111 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 fifteen (15) feet of any such hydrant.

- 6-112 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.
- 6-113 FIRE MARSHALS; APPOINTMENT AND DUTIES. The chief shall each year in May appoint two members of the fire department to serve as fire marshals. It shall be the duty of the fire marshals, working together, to make when so directed by the fire chief a full and complete inspection within the fire zone of the city of all buildings, cellars, and alleys, noting any condition constituting in their opinion, a fire hazard and shall report immediately their findings to the fire chief.
- 6-114 REMOVAL OF MEMBERS AND OFFICERS. Any member, chief, assistant chief or fire marshal of the fire department may be removed by the city council as a member of the fire department and/or officer of the fire department for abuse of his/her authority, insubordination, misconduct, or any other reason deemed appropriate by the city council.
- 6-115 MEETINGS OF MEMBERS. The members of the fire department shall meet for regular meetings at the fire house or such other place designated by the fire chief on the second Monday of each month, unless such date falls on a holiday, in which event the meeting shall be held on the second Tuesday of the month, at six thirty (6:30) p.m. Special meetings may be called by the chief or any three members of the department and reasonable notice shall be give to each member of all special meetings.
- 6-116 PAYMENT. Each member of the fire department shall receive five dollars (\$5.00) for attending regular and special meetings, and shall receive five dollars (\$5.00) for each fire at which the member assists and remains until all equipment used at the fire has been readied for and returned to the firehouse. In addition to the foregoing payment, the fire chief shall receive ten dollars (\$10.00) per month. Payment of the above fees shall be made by the city at the same time as the first pay period for other city employees is made in the month of December in each year with each member being paid the entire amount he is entitled to for the preceding year at that time.

In addition to the above payments, the City of Washington shall pay the sum of three dollars (\$3.00) per member for each meeting and/or fire attended by each member and payment thereof shall be made to the Washington Fire Department on a monthly basis.

- 6-117 ATTENDANCE AT RURAL FIRES. The fire chief, assistant fire chief, and three (3) members of the Washington Fire Department, said three members to be designated by the fire chief, shall remain in the city limits of the City of Washington, Kansas, when there is a rural fire for the protection of the city. The designation of the above said three members may be on a rotating basis or changed from time to time by the fire chief.

ARTICLE 2. FIRE PREVENTION

- 6-201 FIRE PREVENTION CODE INCORPORATED. There is hereby adopted and incorporated by reference by the City of Washington, under the provisions of Section 12-3009:3012 of the Kansas Statutes Annotated, the Fire Prevention Code, 1976 Edition Abbreviated, recommended by American Insurance Association, 85

John Street, New York, New York 10038, of which edition not less than three (3) copies are filed in the office of the city clerk and the same is hereby incorporated by reference as if set out at length herein.

- 6-202 DEFINITION. Wherever the word “municipality” is used in the code herein incorporated by reference, it shall be held to mean the City of Washington.
- 6-203 FIRE PREVENTION INSPECTOR. There is hereby created the office of fire prevention inspector, who shall have the duty of enforcing this code.
- 6-204 MODIFICATIONS. The fire prevention inspector shall have power to modify any of the provisions of the Fire Prevention Code upon application in writing by the owner or lessees, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code; PROVIDED, That the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed, and the decision of the fire prevention inspector thereon, shall be entered upon the records of the department and a signed copy shall be furnished the applicant.
- 6-205 APPEALS. Whenever the fire prevention inspector shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the fire prevention inspector to the city council within thirty (30) days from the date of the decision appealed
- 6-206 PENALTY. Any person who shall violate any of the provisions of the Fire Prevention Code incorporated by reference in Section 6-201 of this article or fail to comply thereunder, or who shall build in violation of any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the city council or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, for which a penalty is not otherwise provided, be guilty of a misdemeanor, punishable by a fine of not less than five dollars (\$5.00) nor more than one hundred dollars (\$100.00) or by imprisonment of not less than five (5) days nor more than thirty (30) days or by both such fine and imprisonment. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue. All such persons shall be required to correct or remedy such violation or defects within a reasonable time. When not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.

The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

ARTICLE 3. FIREWORKS

- 6-301 SALE, DISCHARGE. It shall be unlawful for any person, firm or corporation to sell, or offer for sale any fireworks or pyrotechnics within the city limits.

- 6-302 DISCHARGE OF FIREWORKS, LOCATION. It shall be unlawful for any person to discharge or set off any fireworks or pyrotechnics within the city limits within the City of Washington, Kansas, except on the 3rd and 4th day of July of each year between the hours of eight o'clock (8:00) a.m. and midnight (12:00) a.m. upon said days; PROVIDED, The governing body may authorize any association or corporation to discharge fireworks for public display on a certain date in the city park upon a majority vote of the governing body. (Ord. 699 Sec. 1)
- 6-303 STATE LAWS, REGULATIONS. It shall be unlawful and a violation of this article, for any person, firm or corporation to violate any of the laws, rules and regulations of the State of Kansas, made by the legislature thereof, or by the State Fire Marshal.
- 6-304 PENALTY. Any person, firm or corporation violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one dollar (\$1.00) nor more than twenty-five dollars (\$25.00) for each such offense. Each sale and each day's neglect of compliance and violation shall be deemed a separate offense.

ARTICLE 4. STRUCTURES DAMAGED BY FIRE,
EXPLOSION OR WINDSTORM (Ord. 650, Sec. 1; Ord. 719)

- 6-401 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 where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of seventy-five percent (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 ordinance.
- 6-402 LIEN CREATED. The governing body of the city hereby creates a lien in favor of the city on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the city caused by or arising out of any fire, explosion or windstorm, where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of seventy-five percent (75%) of the face value of the policy(s) covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy, or any other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss.
- 6-403 SAME; ENCUMBRANCES. Prior to final settlement on any claim covered by section 402, the insurer or insurers shall contact the county treasurer, Washington County, Kansas, to determine whether any such encumbrances are presently in existence. If the same are found to exist, the insurer or insurers shall execute and transmit in an amount equal to that owing under the encumbrances a draft payable to the county treasurer, Washington County, Kansas.
- 6-404 SAME; PRO RATA BASIS. Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure.
- 6-405 PROCEDURE.

- (a) When final settlement on a covered claim has been agreed to or arrived at between the named insured or insureds and the company or companies, and the final settlement exceeds seventy-five percent (75%) of the face value of the policy covering any building or other insured structure, and when all amounts due the holder of a first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements thereto, shall have been paid, the insurance company or companies shall execute a draft payable to the city treasurer in an amount equal to the sum of fifteen percent (15%) of the covered claim payment, unless the chief 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 repaired, rebuilt, or otherwise made the premises safe and secure.
- (b) Such transfer of funds shall be on a pro rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the city shall be disbursed in accordance with the policy terms.
- (c) Upon the transfer of 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 amount of the final settlement agreed to or arrived at between the insurance company or companies and the insured or insureds, whereupon the chief building inspector shall contact the named insured or insureds by registered mail, notifying them that said insurance proceeds have been received by the city and apprise them of the procedures to be followed under this ordinance.

6-406 FUND CREATED; DEPOSIT OF MONEYS. The city treasurer is hereby authorized and shall create a fund to be known as the "Fire Insurance Proceeds Fund." All moneys received by the city treasurer as provided for by this ordinance shall be placed in said fund and deposited in an interest-bearing account.

6-407 BUILDING INSPECTOR; INVESTIGATION, REMOVAL OF STRUCTURE.

- (a) Upon receipt of moneys as provided for by this ordinance, the city treasurer shall immediately notify the chief building inspector of said receipt, and transmit all documentation received from the insurance company or companies to the chief building inspector.
- (b) Within twenty (20) days of the receipt of said moneys, the chief 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.
- (c) Prior to the expiration of the 20 days established by subsection (b) of this section, the chief building inspector shall notify the city treasurer whether he or she intends to initiate proceedings under K.S.A. 12-1750 et seq., as amended.
- (d) If the chief building inspector has determined that proceedings under K.S.A. 12-1750 et seq., as amended, shall be initiated, he or she will do so immediately but no later than thirty (30) days after receipt of the moneys by the city treasurer.
- (e) Upon notification to the city treasurer by the chief building inspector that no proceedings shall be initiated under K.S.A. 12-1750 et seq., as amended, the city treasurer shall return all such moneys received, plus accrued interest, to the insured

or insureds as identified in the communication from the insurance company or companies.

- 6-408 REMOVAL OF STRUCTURE; EXCESS MONEYS. If the chief building inspector has proceeded 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.
- 6-409 SAME; DISPOSITION OF FUNDS. If the chief building inspector, with regard to a building or other structure damaged by fire, explosion or windstorm, determines that if necessary to act under K.S.A. 12-1756, any proceeds received by the city treasurer under the authority of section 5(a) relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1756. Upon reimbursement from the insurance proceeds, the chief 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 the city treasurer under section 5(a) the chief building inspector shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred.
- 6-410 EFFECT UPON INSURANCE POLICIES. 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.
- 6-411 INSURERS; LIABILITY. 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 ordinance, or releasing or disclosing any information pursuant to this ordinance.

ARTICLE 5. GRASS BURNING (Ord. 721, 753)

- 6-501 GRASS BURNING. The Governing Body of the City of Washington, Kansas, finds that grass burning can be allowed from time to time; PROVIDED, that the following uniform standards and procedures for such burning as outlined below are followed.
- 6-502 STANDARDS AND PROCEDURES.
1. Any resident wishing to burn dead grass (ONLY) off of their property shall be required to apply for a permit through the City Clerk of the City of Washington.
 2. All permits shall be inspected by the City of Washington Fire Chief or his/her designee.
 3. All applicants shall follow all requirements put forth by the City of Washington Fire Chief or his designee at the time of inspection.
 4. All permits shall be approved by the Fire Chief first and then the City Clerk.
 5. If the permit is granted the City Clerk will notify the 911 and adjoining neighbors of the date, address, resident and time the burning will take place.

6. No burning is permitted during periods when surface wind is greater than fifteen (15) miles per hour.
7. No burning shall commence during the nighttime, which is defined as that period from 2 hours before sunset until one hour after sunrise. No material shall be added to a fire after two hours before sunset.
8. No burning is permitted which creates a nuisance. No burning is permitted which creates a traffic or other safety hazard.
9. The person conducting the burn shall insure that the burning is supervised at all times until the fire is extinguished.
10. That the provisions of the Uniform Fire Code Volume 1, Section 1102.3.2 dealing with the general safety precautions of an open burn shall be made a part of the conditions of this ordinance by reference. A copy of said Uniform Fire Code provisions shall be available for review at the City Hall during regular business hours.
11. At such time the fire department determines that on-site attendance by the department is required a \$100.00 fee shall apply. (Ord. 753)
12. This Ordinance shall be supplemental to simply create one exception to the burning ban as stated in ordinance number 626.
13. In their interpretation and application, the provisions of this ordinance shall be liberally construed in favor of the City of Washington and the Governing Body.
14. The degree of public protection required by this ordinance is considered reasonable for regulatory purposes. This ordinance shall not create a liability on the part of the City of Washington, any officer, employee, or body thereof, for any damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.

ARTICLE 6. PORTABLE OUTDOOR FIREPLACES (Ord.
753/754)

6-601. DEFINITIONS. The Governing Body adopts from the International Fire Code the following definition for use in this ordinance:

- a. Portable Outdoor Fireplace: A portable, outdoor solid fuel burning fireplace that may be constructed of steel, concrete, clay or other noncombustible material. A portable outdoor fireplace may be open in design, or may be equipped with a small hearth opening and a short chimney or chimney opening in the top.

6-602. REGULATIONS. The following regulations shall govern the use of portable, outdoor fireplaces.

- a. Portable outdoor fireplaces shall not be operated within 15 feet of a structure, property line or combustible materials.
- b. Portable outdoor fireplaces shall not be used on a combustible deck.

- c. Outdoor fireplaces, other than portable, must be constructed of noncombustible materials and shall not be constructed within 15 feet of a structure, property line, or combustible materials unless constructed under the provisions of the International Fire Code.
- d. Outdoor fires that are offensive or objectionable because of smoke emissions or when atmospheric conditions or local circumstances made such fire hazardous shall be prohibited.
- e. Combustible materials which could cause a fire to spread shall be eliminated or at least mowed short in the immediate area prior to ignition.
- f. Ashes shall be discarded in a noncombustible container and kept outside of any structure.
- g. Only charcoal or clean, dry, and seasoned firewood can be used for fuel. Firewood can be a maximum of 2 feet long.
- h. Use of flammable and combustible fluids such as gasoline, alcohol, diesel fuel, kerosene or charcoal fluid to light and relight fires is prohibited.
- i. Trash, garbage, leaves, brush, asphalt, petroleum products, paints, rubber products, plastics, paper, cardboard, treated wood, construction debris, metal or any substance that normally releases toxic emissions, dense smoke, or obnoxious odors when burned shall not be used as a fuel.
- j. While a fire is burning or smoldering, it must be attended at all times.
- k. Buckets, shovels, garden hose or a fire extinguisher with a 4A or greater rating shall be readily available for use while a fire is burning or smoldering.
- l. Burn bans by the State of Kansas, Washington County, or the City of Washington shall be strictly enforced.
- m. Burning shall be prohibited when wind speeds are in excess of 10 miles per hour.
- n. This ordinance shall be enforced by the City of Washington, the Washington County Sheriff's Department or any law enforcement agent or agency certified by the State of Kansas.
- o. Before any portable outdoor fireplace, or any outdoor fireplace other than portable, may be operated or utilized, a use permit must be obtained from the City. There shall be no fee associated with said permit, and the permit need only be obtained once. Once obtained, the use permit shall be valid and sufficient for multiple use of the same portable or other outdoor fireplace for which it was obtained. (Ord. 754)

6-603. PENALTY. Violations of this ordinance shall be a Class B nonperson misdemeanor and shall be punishable by a fine of not less than Twenty Five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) and not more than six (6) months imprisonment plus the costs of the action.