

## CHAPTER 6. FIRE SAFETY

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### ARTICLE 1. OUTDOOR BURNING

#### 6-101 OUTDOOR BURNING

- a) Persons conducting any outdoor open burning regulations, shall notify the Douglas County Emergency Communication Center or Jurisdictional Fire Department of such intention to burn prior to the burn and provide the following information and agree to the stated conditions:
  - 1) Location of the intended burn and the name, address, and telephone number of the person responsible for the open burning.
  - 2) Duration and schedule of the burning.
  - 3) Description of the proposed open burning.
- b) All outdoor burning shall be conducted in accordance with the Kansas Department of Health and Environment rules and regulations for Open Burning (K.A.R. 28-19-645 thru K.A.R. 28-19-648). For the purpose of these regulations “Agricultural Open Burning” of vegetation such as grass, woody species, crop residue, and other dry plant growth for the purpose of crop, range, pasture, wildlife or watershed management shall be exempt from the prohibition on the open burning of any materials imposed by K.A.R. 28-19-645, provided they follow all other conditions.
- c) Nothing in this resolution shall relieve any property owner or other responsible parties from the obligations of obtaining the proper permit from the Kansas Department of Health and Environment.
- d) The Officer in Charge or his/her designee of any fire service agency shall have the authority to deny any person permission to conduct open burning within their fire protection jurisdiction based upon the current or expected weather conditions, the availability of fire suppression and support resources, or other conditions which may create an unreasonable risk to the public’s safety. (HR Resolution 17-3-1, Sec. 1)

6-102 OPEN BURNING ONLY ALLOWED IN LIMITED SITUATIONS. No person shall conduct any open burning in the unincorporated areas of Douglas County except as allowed by the regulations, conditions, and limitations set forth in this Article. Allowed open burning is limited to the following:

- a) Agricultural open burning. The open burning of vegetation such as grass, woody species, crop residue, and other dry plant growth for the purpose of crop, range, pasture, wildlife or watershed management (this includes the burning of routine brush piles accumulated from the property); provided, however, brush, limbs, and other materials brought from offsite shall not be burned.
- b) Residential open burning. Open burning at a residential premise containing five or less dwelling units and incidental to the normal habitation of the units.
- c) Ceremonial and cooking open burning. Open burning for cooking or ceremonial purposes on public or private land regularly used for recreational purposes. A ceremonial and cooking open burning fire shall not exceed five feet in diameter at its base. Ceremonial and cooking open burning fires that exceed this limitation require a permit granted pursuant to Section 6-107.
- d) Construction open burning. Open burning of clean wood from construction projects carried on at the construction site; provided, however, materials other than wood or materials brought from offsite shall not be burned.
- e) Specifically approved open burning. Open burning in accordance with a permit granted pursuant to Section 6-107. (HR Res. 17-3-1, Sec. 1)

6-103 OPEN BURNING REGULATIONS. Persons conducting open burning, as allowed in Section 6-101, shall comply with the following regulations:

- a) A person shall not conduct an open burn that creates a traffic safety hazard. If conditions exist that may result in smoke blowing toward a public roadway, the person conducting the burn shall give adequate notification to the Highway Patrol, Sheriff's Office, or other appropriate state or local traffic control authorities before burning.
- b) A person shall not conduct an open burn that creates an airport safety hazard. If smoke may affect visibility at an airport, the person conducting the burn shall give adequate notification to the appropriate airport authorities before burning.<sup>3</sup>
- c) The person conducting the burn shall ensure that the burning is supervised until the fire is extinguished.
- d) The person conducting the burn shall notify Douglas County Communications Center or the local fire control authority with jurisdiction over the area before the burning begins. (HR Res. 17-3-1, Sec. 1)

6-104 OPEN BURNING PROHIBITED.

- a) Notwithstanding any other provision in this Article, open burning is only allowed during a Low, Moderate, or High Rangeland Fire Index.
- b) Open burning is prohibited during Very High, Extreme or Red Flag categories of the Rangeland Fire Index.
- c) Open burning may be prohibited when a local determination is made by the County Administrator or his/her designee that a threat to the area exists or due to any other variables that could affect fire burning. These variables include, but are not limited to:
  - 1) Local jurisdictional authority
  - 2) Rangeland Fire Index is High, but the forecast is for sustained winds of greater than 15mph.
  - 3) Rangeland Fire Index is Low or Moderate, but the forecast is for sustained winds greater than 20mph.
  - 4) Resource limitations
  - 5) Local conditions of dryness
- d) Open burning is prohibited on those days when a local or state governmental entity has imposed a county-wide or state-wide burning ban that includes the proposed burn location as set forth in 6-104 or other applicable law. (HR Res. 17-3-1, sec. 1)

6-105 ECLARATION OF EMERGENCY.

- a) As provided in K.S.A. 48-932, the Chair of the Board may declare that, due to low moisture conditions, or other relevant conditions, an emergency exists and that the outdoor burning ban provided for in Section 6-103 shall take effect and be in force for periods not in excess of seven days at a time. Such restrictions shall take effect and be in force 24 hours after the filing thereof with the Douglas County Clerk.
- b) As an alternative to the procedure contained in paragraph (a) of this Section, a majority of the Board may declare by ordinary motion that, due to low moisture conditions, or other relevant conditions, an emergency exists and that the outdoor burning ban provided for in Section 6-103 shall be in force for such time period as determined appropriate by the Board. Such restrictions shall take effect and be in force 24 hours after the filing thereof with the Douglas County Clerk. (HR Res. 17-3-1, Sec. 1)

6-106 OUTDOOR BURNING PROHIBITIONS DURING BURN BANS. Except as provided in Section 6-106, during periods of an outdoor burning ban in

accordance with Section 6-103 and an emergency declared in accordance with Section 6-104, the outdoor burning ban includes, but is not limited to the following:

- a) The careless use and disposal of smoking materials, including, but not limited to, cigarettes, cigars and pipes. All smoldering remains shall be discarded in inflammable containers and in a manner to reduce the potential for fires.
- b) Building, maintaining, attending or using any open fire or campfire, except in permanent stoves or fireplaces or in barbecue grills in developed recreational sites or on residential home sites.
- c) Burning of all fence rows, fields, wild lands, ravines, trash, debris or other areas or materials. Such burning may be exempted from these restrictions when it is necessary for crop survival and has been specifically approved in writing by both the Douglas County Sheriff's Office and the fire chief of the jurisdiction in which the burning is to take place. Crop survival means the burning of stubble in preparation for the planting of a crop. (HR Res. 17-3-1, Sec. 1)

#### 6-107 BURN PERMITS.

- a) A permit allowing an owner or operator to burn despite a burning ban under Section 6-104 or a burning ban under Section 6-105 may be granted by the Board of County Commissioners upon the filing of an application therefore by the owner or operator of any business or governmental authority in Douglas County, if the Board of County Commissioners finds the following conditions are satisfied:
  - 1) The burning of trash, debris, or waste that is a byproduct of the operation of the business or governmental operations is a business or governmental necessity.
  - 2) Such burning will be carried out at a location, at such a time, and in a manner that does not pose an unreasonable risk to neighboring property and the public health, safety and welfare.
  - 3) The business or governmental authority presents evidence of insurance determined by the Board to be adequate to insure against loss of life, other personal injury, or damage to any property occurring on or off the business premises that results either directly or indirectly from such burning operation.
  - 4) The business or governmental authority is in compliance with all other laws, rules or regulations of Douglas County at the time the permit is granted.

- 5) The proposed burn complies with all other applicable laws, rules or regulations, including but not limited to permit and other requirements of Kansas agencies.
  - b) Any permit granted by the Board of County Commissioners in accordance with this Section shall be subject to revocation at any time by a majority vote of the Board of County Commissioners if the Board of County Commissioners determines that the owner or operator is not conducting the burn in accordance with the conditions of the permit or if one or more of the findings made in accordance with Subsection (a) of this Section are no longer applicable.
  - c) The Board of County Commissioners may impose such conditions upon the approval of a permit as it deems appropriate under the circumstances.
  - d) Any burn pursuant to a permit must be conducted in compliance with all conditions that the Board of County Commissioners may place upon the burn.
  - e) The person conducting the burn pursuant to a permit must be in possession of the permit issued under the authority of the Board of County Commissioners pursuant to this Section, and shall present the permit to any law enforcement officer, representative of the jurisdictional fire department, or any Douglas County employee upon request.
- 6-108 PRESUMPTION. In levying a criminal penalty or civil fine for any violation or failure to comply with any provision of this Article, it shall be considered *prima facie* evidence that the person owning, occupying, or controlling any property upon which open burning is conducted voluntarily caused or permitted such burning to occur. (HR Res. 17-3-1, Sec. 1)
- 6-109 INTERPRETATION AND SEVERABILITY. This Article is supplementary to other provisions or remedies authorized or prescribed by any other applicable law or rule or regulation enacted thereunder. The invalidity of any particular provisions of this Article shall not affect the validity of any other provision. This Article shall be liberally construed to the fullest extent permitted by law to effectuate the broad remedial purposes for which it is intended. (HR Res. 17-3-1, Sec. 1)
- 6-110 ENFORCEMENT AND PENALTIES.
- a) Illegal Open Burning. Except as specifically permitted and in compliance with the terms and conditions in this Article, it shall be unlawful for any person to cause or permit any open burning of any wastes, structures,

vegetation, or any other materials in the unincorporated areas of Douglas County.

- b) General Violation. Any person who violates or fails to comply with any provisions of this Article or engages in conduct in violation of this Article shall be guilty of a Class C misdemeanor.
- c) Violation of a Burn Ban. A person conducting or responsible for a knowing and willful open burn in violation of a county or state-wide burn ban shall be guilty of a Class A misdemeanor in accordance with K.S.A. 48-939.
- d) Initiation of Criminal Proceedings. In addition to any other method of initiating a criminal proceeding under applicable law, any law enforcement officer or fire official of a governmental entity may initiate a criminal proceeding under this Article by making an offense report and forwarding a copy to the district attorney for prosecution or by serving a citation and notice to appear in court upon the alleged violator. (HR Res. 17-3-1, Sec. 1)

## **ARTICLE 2. USE AND SALES OF FIREWORKS**

6-201 DEFINITIONS. As used in this Article, unless the context clearly indicates otherwise, the following words and terms have the following meanings:

- a) Fireworks mean any combustible or deflagrating composition, article, or device suitable for the use of the public for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation and previously approved for transportation by the chemical laboratory of the United States Department of Transportation.
- b) Fireworks Stand means any permanent or temporary building, trailer, tent, display, awning, canopy, temporary membrane structure, or location from which a Person sells or otherwise distributes Fireworks in the unincorporated areas of Douglas County, Kansas.<sup>7</sup>
- c) Operator means any Person who sells or otherwise distributes Fireworks or owns, manages or operates a Fireworks Stand.
- d) Person means an individual, organizational entity of any type, partnership, church, corporation, limited liability company, trust, association of any type, or any agent, officer, employer, committee, or group of any of the foregoing. (HR 07-6-4, Sec. 1)

6-202 USE OF FIREWORKS PROHIBITED. It shall be unlawful to ignite, explode, discharge, or use any Fireworks in the unincorporated area of the County, except as follows:

- a) Date and Time Limitations. The use of Fireworks shall be allowed only during the following dates and times:
  - July 1 7:00 A.M. to 10:00 P.M.
  - July 2 7:00 A.M. to 10:00 P.M.
  - July 3 7:00 A.M. to Midnight.
  - July 4 7:00 A.M. to Midnight.
- b) Special Permit. The use of Fireworks may be allowed at dates and times other than those contained in Section 6-202(a) pursuant and strictly in compliance with a permit issued pursuant to Section 6-304 of the Douglas County Code.
- c) Prohibited Locations. Notwithstanding the provisions of Section 6-202(a), it shall be unlawful to ignite, explode, discharge, or use any Fireworks:
  - 1) within 1,000 feet of any hospital, sanitarium or infirmary; or
  - 2) within 100 feet of any Fireworks Stand; or
  - 3) into, under, from, or on a car or vehicle, whether moving or standing still; or
  - 4) on any public roadway or the right-of-way adjoining a public roadway; or
  - 5) on any public or private property without the express permission and, with respect to private property, direct supervision of the owner, occupier, or other Person having control of such property.
- d) Prohibited Fireworks. Notwithstanding the provisions of Section 6-202(a), it shall be unlawful to ignite, explode, discharge, or use Fireworks prohibited under the laws of the State of Kansas, with the exception it shall be unlawful to ignite, explode, discharge, or use Fireworks commonly referred to as "bottle rockets" even if otherwise permitted under the laws of the State of Kansas. (HR 12-7-1, Sec. 1)

**6-203 SALE OF FIREWORKS.** It shall be unlawful to sell or otherwise distribute Fireworks at a Fireworks Stand, except as follows:

- a) Date Limitations. The sale or distribution of Fireworks shall be allowed only on the following dates within the unincorporated areas of Douglas County, Kansas: July 1, July 2, July 3, and July 4.
- b) Prohibited Fireworks. Sale or other distribution of Fireworks shall be limited to Class "C" Fireworks authorized under the laws of the State of Kansas, with the exception that the sale or other distribution of Fireworks commonly referred to as "bottle rockets" is prohibited.

- c) Permit Required. The sale or other distribution of Fireworks at a Fireworks Stand shall not be done without obtaining and holding a valid Fireworks Stand permit, issued by Douglas County Department of Zoning & Codes in accordance with this Article.
- d) Appropriate Zoning. Fireworks Stands may only be located on, and permits may only be issued for, property as allowed by the Douglas County Zoning Regulations as they exist on the date the permit is granted. As of May 1, 2007, Fireworks Stands are allowed only in A, B-1, B-2, B-3, I-1, I-2 and I-3 Districts. (HR 07-6-4, Sec. 1)

6-204 PERMIT APPLICATION FOR FIREWORKS STAND. Applications for a Fireworks Stand permit shall be on forms and according to procedures prepared by the Douglas County Department of Zoning & Codes and shall be accompanied by a \$125.00 application fee. Applications will not be made available or accepted before June 1<sup>st</sup> of each year and must be received by the Douglas County Department of Zoning & Codes on or before the close of business on June 25<sup>th</sup> of that same year. If June 25<sup>th</sup> is a day on which the office of the Department of Zoning & Codes is closed, the application must be received on or before the close of business on the next succeeding business day before June 25<sup>th</sup>. Submitted applications shall, at a minimum, contain the following information:

- a) The name, address, legal description, and phone number of the owner of the real estate upon which the Fireworks Stand is to be operated;
- b) The name, address, and phone number of the Operator of the Fireworks Stand;
- c) A diagram of the grounds on which the Fireworks Stand is to be located, showing the location of the Fireworks Stand; the location of all buildings, highways and any lines of communication; and the location of the off-street parking area designated for the Fireworks Stand;
- d) If a sign will be used to advertise the Fireworks Stand, the diagram must show the location and size of the sign; and
- e) The application shall contain a copy of the Operator's current Kansas Retailers' Sales Tax Registration Certificate.

No permit shall be issued if the Fireworks Stand does not or will not comply with the provisions of this Article. In addition, the Department of Zoning & Codes is authorized to deny a permit to an Operator who has previously failed to comply with Douglas County regulations governing the sale of Fireworks and the operation of a Fireworks Stand. (HR 07-6-4, Sec. 1)

6-205 FIREWORKS STAND REQUIREMENTS. All Fireworks Stands shall be subject to and operate in compliance with the following minimum requirements:

- a) Compliance with the Law. The tract of real estate on which the Fireworks Stand is located, and any and all buildings thereon (whether or not the buildings are actually used in connection with the Fireworks Stand), shall not have been found to be in violation of any of the County's zoning, site-planning, building, plumbing, mechanical or electrical codes on or before the application for the permit is submitted. No permit shall be issued for a Fireworks Stand to be located on any real estate if any such violations have been determined on or before the application for the permit is submitted. In addition, any temporary or permanent structure used in connection with the Fireworks Stand shall comply with all applicable building codes relevant to the sale and storage of Fireworks, whether or not found to be in violation on or before the application for the permit is submitted. In addition, each Operator shall comply with all applicable local, state and federal laws and regulations, regardless of whether those legal requirements are specifically referenced herein. Without limiting the foregoing, all electrical systems and equipment, including temporary electrical connections, used in conjunction with the Fireworks Stand shall be installed and used in compliance with the National Electric Code or other applicable electric code, as then adopted and in force in the unincorporated areas of Douglas County, Kansas.
- b) Distance from Road. All Fireworks Stands shall be located at least 25 feet from any road rights-of-way or highway rights-of-way.
- c) Distance from Flammable Materials. No Fireworks shall be stored or sold within 50 feet of any source of flame, sparks, or more than one gallon of any explosive, flammable, combustible, or volatile material; provided, however, that the foregoing shall not apply to operable motor vehicles located more than 20 feet away from stored Fireworks or the Fireworks Stand.
- d) Fireworks, Open Flames and Hot Objects. Fireworks, open flames and devices capable of igniting combustible materials shall not be used, discharged or exploded in or adjacent to any Fireworks Stand.
- e) No Smoking/Alcoholic Beverages. Smoking and alcoholic beverages shall not be permitted within 100 feet of any Fireworks Stand or any adjacent areas where Fireworks are stored, sold or displayed. "FIREWORKS FOR SALE—NO SMOKING" signs shall be conspicuously posted inside and outside of the storage and/or sales location. The Operator shall enforce this provision with respect to all Persons at the Fireworks Stand. Both the Operator and the Person

violating this provision may be subject to prosecution pursuant to Section 6-207.

- f) Use of Awnings, Canopies, Temporary Membrane Structures and Tents. The use of awnings, canopies, temporary membrane structures or tents shall, in addition to all other requirements, comply with the following requirements:
  - 1) (1) Location. No temporary membrane structure, canopy or tent shall be located within twenty 20 feet of property lines, buildings, parked vehicles, internal combustion engines, other temporary membrane structures, tents, awnings, and/or canopies.
  - 2) (2) Flame-retardant Treatments. The sidewalls, drops, and tops of awnings, canopies, temporary membrane structures and tents shall be composed of flame-resistant material or shall be treated with a flame-retardant material.
- g) Means of Egress.
  - 1) Location of Exits. Exits shall be spaced at approximately equal intervals around the perimeter of the Fireworks Stand and shall be located such that all points are no more than 100 feet from an exit.
  - 2) Number of Exits. Every Fireworks Stand shall have at least 2 exits.
  - 3) Maintenance of Exits. The required width of exits, aisles and passageways to a public way shall not be less than 36 inches. Guide wires and other support members shall not cross a means of egress.
  - 4) Exit Signs. Exit signs shall be installed at required exit doorways and where otherwise necessary to clearly indicate the direction of egress.
- h) Fire Extinguisher/Telephone. Each Fireworks Stand shall have at least 2 approved and operable fire extinguishers (2A10BC minimum) and telephone on site for emergencies at all times. The telephone requirement may be satisfied by maintaining an operable wireless phone on site.
- i) Posting of Rules. Each Fireworks Stand shall display a 3 foot by 3 foot sign visible to the public advising of the following rules:
  - 1) Fireworks shall only be discharged on private property in the unincorporated areas of Douglas County, Kansas if an adult owner, occupier, or person having control of the property consents to and provides direct supervision of the discharge of fireworks.
  - 2) Fireworks shall not be discharged on any public street or roadway.

- 3) Fireworks may be discharged in the unincorporated areas of Douglas County, Kansas only during the following dates and times:

July 1	7:00 A.M. to 10:00 P.M.
July 2	7:00 A.M. to 10:00 P.M.
July 3	7:00 A.M. to Midnight.
July 4	7:00 A.M. to Midnight

- 4) No smoking or alcoholic beverages are allowed at the Fireworks Stand.
- 5) Violations are punishable by fines and/or confiscation of Fireworks.
- j) Parking. Off street parking must be provided for all employees and customers, which shall be a minimum of 20 feet away from the Fireworks Stand and any Fireworks storage areas.
- k) Site Preparation. Weeds and grass must be cut back a minimum of 100 feet from the Fireworks Stand.
- l) Temporary Stand Removal. The temporary stand and signs shall be removed on or before July 8th.
- m) Damage Deposit/Bond. Any Fireworks Stand which gains its principle means of ingress/egress by crossing either a public hike or bike path shall post a \$1,000 refundable bond or pay a \$1,000 deposit to ensure that the path is not damaged by the operation. The bond shall be made payable to Douglas County.
- n) Advertising Sign. Only one advertising sign can be erected to advertise each Fireworks Stand, which may be illuminated but shall not be flashing. The sign cannot be larger than 32 sq. ft. and must be located in the front of the Fireworks Stand but not on the road or highway rights-of-way, and shall not represent a safety hazard.
- o) Sales Tax Registration Certificate. The Operator shall conspicuously display its current Kansas Retailers' Sales Tax Registration Certificate at the Fireworks Stand.
- p) Only Fireworks May be Sold. Unless applicable zoning regulations and approved site-plans allow the sale of other items at retail, only Fireworks-related items may be sold at Fireworks Stands and sale of other items is strictly prohibited.
- q) Fireworks Stand Permit. The Operator shall conspicuously display its Fireworks Stand permit at the Fireworks Stand.
- r) Original Packaging. All Fireworks shall remain in original packaging, unless otherwise permitted pursuant to regulations of the Kansas Fire Marshall. (HR 07-6-4, Sec. 1)

6-206      INSPECTIONS OF FIREWORKS STANDS; REVOCATION OF PERMIT. One or more inspections of the proposed site for the Fireworks Stand may be required to ensure compliance with this Article prior to or after issuing the permit. Inspections may be made by any Douglas County law enforcement officer, code enforcement officer, or personnel of any applicable fire department. By submitting any application for a Fireworks Stand permit, the applicant shall be deemed to have consented to all such inspections. If the applicant does not own the subject property, the filing of an application shall be deemed to be a representation by the applicant that the applicant has permission of the owner of the land that that the applicant is authorized to consent to such inspection. Any permit previously issued may be revoked or suspended upon notice to the Operator if the Fireworks Stand is not operating in compliance with the provisions of this Article. Upon revocation or suspension of the permit, the Operator of the Fireworks Stand shall immediately cease sale of all Fireworks until the Fireworks Stand is brought into compliance and the permit is reinstated. (HR 05-3-1, HR 07-6-4, Sec. 1)

6-207      VIOLATIONS, ENFORCEMENT AND PENALTIES.

- a)      Criminal Penalties. Any Person who violates the provisions of this Article shall be guilty of a misdemeanor, punishable by a fine in an amount not to exceed \$500, confinement in the county jail for a period not to exceed one month, or both.
- b)      Initiation of Proceedings. In addition to any other method of initiating a criminal proceeding under applicable law, criminal proceeding may be initiated for violation of any provision of this Article by making an offense report and serving a uniform complaint and notice to appear upon the accused. The offense report may be forwarded to the district attorney for prosecution.
- c)      Continuing Violation. Each day that any violation occurs shall constitute a separate offense and shall be punishable as a separate violation. Provided, however, that if any person is found guilty of a violation hereunder and it shall appear to the court that the violation complained of is continuing, then in addition to the penalty set forth, the court shall enter such order as it deems appropriate to cause the violation to be abated.
- d)      Confiscation of Fireworks. In addition to the other provisions of this Section, whenever a Douglas County law enforcement officer, code enforcement officer, or personnel of any applicable fire department has probable cause to believe that a person possesses Fireworks with intent to violate the provisions of this Article or has violated the provisions of this Article, the law enforcement officer, code enforcement officer or

personnel of the applicable fire department may confiscate Fireworks from such person. (HR 07-6-4, Sec. 1)

- 6-208 BURNING BAN. In the event that the Douglas County Board of County Commissioners has declared a burning ban during the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> days of July in any year, no Fireworks shall be sold or discharged and no Fireworks Stands may be operated on such days. All permit fees for Firework Stands shall be refunded to the permit applicants. (HR 07-6-4, Sec. 1)
- 6-209 PARTIAL INVALIDITY. If any provision of this Article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable. (HR 07-6-4, Sec. 1)
- 6-210 JURISDICTION. The provisions of this Article shall apply to the unincorporated areas of Douglas County, Kansas. (HR 07-6-4, Sec. 1)

### **ARTICLE 3. FIREWORKS DISPLAYS**

- 6-301 DEFINITIONS. As used in this Article, unless the context clearly indicates otherwise, the following words and terms have the following meanings:
- a) Fireworks Display means a presentation of fireworks for a public or private gathering on any day of the year; provided, however, that public or private displays of consumer fireworks (class C fireworks), as classified by the U.S. Department of Transportation, during the dates and times permitted in Article 2 shall not be deemed a “Fireworks Display” and shall not be regulated by this Article.
  - b) Operator means the Person possessing a valid Fireworks Operators license issued by the Kansas Fire Marshal Department and identified as having primary responsibility for the conduct of the Fireworks Display. Operate means an Operator’s conducting of a Fireworks Display.
  - c) Person means an individual, organizational entity of any type, partnership, church, corporation, limited liability company, trust, association of any type, or any agent, officer, employer, committee, or group of any of the foregoing.
  - d) Sponsor means the Person sponsoring the Fireworks Display. (HR 04-7-2, Sec. 1)
- 6-302 UNLAWFUL ACTS CONCERNING PUBLIC FIREWORKS DISPLAYS. It shall be unlawful for any Person to Sponsor a Fireworks Display or participate in igniting the fireworks in a Fireworks Display unless the Board of County

Commissioners has previously issued a permit for the Fireworks Display pursuant to Section 6-304. If a permit has been issued, it shall be unlawful for any Person to Sponsor a Fireworks Display or participate in igniting the fireworks in the Fireworks Display unless done in strict compliance with such permit. (HR 04-7-2, Sec. 1)

- 6-303 REQUIREMENTS FOR FIREWORKS DISPLAYS. To insure that qualified individuals are present to operate the Fireworks Display and to provide adequate safety to the spectators and fire protection for surrounding property, each Fireworks Display shall comply with the following requirements:
- a) The Operator and assistants shall provide positive picture identification upon request and the Operator shall provide proof of having received a Fireworks Operators license issued by the Kansas Fire Marshal.
  - b) The Operator or the Sponsor shall obtain a permit from the Chief or the Chief's designee of the fire department having jurisdiction prior to performing the Fireworks Display, as required by National Fire Protection Association Pamphlet No. 1123, Code for Fireworks Display, incorporated by reference in K.A.R. 22-1-3.
  - c) The Operator or Sponsor shall demonstrate financial responsibility by providing proof of insurance or by other appropriate means.
  - d) The Operator or the Sponsor shall consult with the Chief or the Chief's designee of the fire department having jurisdiction to determine the level of fire protection required and shall provide adequate fire protection for the display.
  - e) Public access to the discharge site shall not be allowed.
  - f) The Operator shall have the primary responsibility for safety. The Operator shall ensure that all assistants are fully trained in the proper performance of their assigned tasks and that they are knowledgeable of safety hazards. While the Operator is allowed to actively participate in the firing of fireworks, safety shall be the primary concern.
  - g) If high winds, dry vegetation, lack of precipitation, or other adverse weather conditions prevail, such that in the opinion on of the Chief or the Chief's designee of the fire department having jurisdiction or the Operator, a significant safety danger exists, the Fireworks Display shall be postponed until weather conditions improve to an acceptable level.
  - h) Operator and assistants shall only use flashlights or electrical lighting for artificial illumination.
  - i) No smoking shall be allowed within 50 feet of any area where fireworks or other pyrotechnic materials are present.

- j) No individual shall be allowed in the discharge area while under the influence of alcohol, narcotics, or other drugs that could adversely affect judgment, movement, or stability.
  - k) The fallout area shall be a large open area. Spectators, vehicles, or readily combustible materials shall not be located within the fallout area during the display. The area selected for the discharge site, spectator-viewing area, parking area, and the fallout area shall be inspected and approved by the Chief or the Chief's designee of the fire department having jurisdiction.
  - l) All Fireworks Displays shall comply with then current regulations and guidelines of the Kansas Fire Marshal, including K.A.R. 22-1-3, which incorporates by reference National Fire Protection Association Pamphlet No. 1123, Code for Fireworks Display. (HR 04-7-2, Sec. 1)
  - m) The Operator or the Sponsor shall obtain a permit from the Douglas County Department of Zoning & Codes and comply with any additional requirements imposed in connection with issuance of the permit. Any Person aggrieved by the decision of the Douglas County Department of Zoning & Codes with respect to the denial of any such permit or additional requirements placed upon granting the permit or operation of the Fireworks Display may appeal to the Board of County Commissioners. (HR 07-6-5, Sec. 1)
- 6-304 PERMIT FROM DEPARTMENT OF ZONING & CODES. Notwithstanding the provisions of Section 6-202 of the Douglas County Code (currently prohibiting all fireworks on all days other than July 2, 3, and 4 of each year) as amended, the Douglas County Department of Zoning and Codes may issue permits for a Fireworks Display on any day of the year. Any Person who obtains a permit from the Douglas County Department of Zoning & Codes in accordance with this Section may lawfully Sponsor, Operate, conduct, and assist in the operation of a Fireworks Display in accordance the requirements of Section 6-303 and the provisions of such permit. (HR 07-6-5, Sec. 2)
- 6-305 PERMIT APPLICATION. Applications for a Fireworks Display permit shall be on forms and according to procedures prepared by the Douglas County Department of Zoning & Codes and shall be submitted with a filing fee in an amount set by the Board of County Commissioners from time to time. Applications shall, at a minimum, provide the following information:
- 1) The name, address, and phone number of the Sponsor of the Fireworks Display;
  - 2) The name, address, and phone number of the Operator of the Fireworks Display;

- 3) The name, address, and phone number of the supplier of the fireworks to the Operator, if different from the Operator;
- 4) Evidence of financial responsibility by the Sponsor or Operator of the Fireworks Display in the form of an insurance certificate or other appropriate documentation;
- 5) The date and time of day at which the Fireworks Display is to be held and, if desired, an alternative date and time in the event the Fireworks Display is postponed;
- 6) The exact location planned for the Fireworks Display;
- 7) Evidence that the Kansas Fire Marshal has issued a Fireworks Operator's license to the Operator;
- 8) The approximate number and kinds of fireworks to be discharged;
- 9) A diagram of the grounds on which the Fireworks Display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways and any lines of communication, the lines behind which the audience is to be restrained, and the location of other possible overhead obstructions;
- 10) Evidence that the permit from the Chief or the Chief's designee of the fire department having jurisdiction has issued a permit for the proposed Fireworks Display or an acknowledgement that it is illegal to conduct the proposed Fireworks Display without first obtaining such a permit.

If the Fireworks Display only includes consumer fireworks (class C fireworks), as classified by the U.S. Department of Transportation, the Fireworks Display need not have an Operator and the Board of County Commissioners may waive other requirements that it determines unnecessary to adequately protect health, welfare, and property. Unless the Fireworks Display permit states otherwise, the permit shall be deemed to incorporate a requirement that the Fireworks Display be conducted strictly in accordance with the permit application. (HR 04-7-2, Sec. 1)

6-306 AUTHORITY HAVING JURISDICTION. For purposes of National Fire Protection Association Pamphlet No. 1123, *Code for Fireworks Display*, which the Kansas Fire Marshal has incorporated by reference at K.A.R. 22-1-3, the "authority having jurisdiction" shall be the Fire Chief or the Fire Chief's designee of the fire department having jurisdiction of the area within which the Fireworks Display is held. (HR 04-7-2, Sec. 1)

- 6-307 CRIMINAL PENALTIES. Any Person who violates the provisions of Section 6-302 or engages in conduct in violation of the requirements of Section 6-303 shall be guilty of a misdemeanor, punishable by a fine in an amount not to exceed \$500, confinement in the county jail for not to exceed one month, or both. (HR 04-7-2, Sec. 1)
- 6-308 PARTIAL INVALIDITY. If any provision of this Article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable. (HR 04-7-2, Sec.
- 6-309 JURISDICTION. The provisions of this Article shall apply to the unincorporated areas within Douglas County, Kansas and, in addition, shall apply within the city boundaries of any incorporated city located within Douglas County, Kansas that adopts an ordinance or resolution or takes other formal action consenting to have this Article apply within such city's boundaries. (HR 04-7-2, Sec. 1)
- 6-310 ADVERSE WEATHER CONDITIONS. If high winds, dry vegetation, lack of precipitation, or other adverse weather conditions prevail, such that in the opinion on of the Chief or the Chief's designee of the fire department having jurisdiction or the Operator, a significant safety danger exists, the Fireworks Display shall be postponed until weather conditions improve to an acceptable level. In addition, notwithstanding the issuance of a Fireworks Display permit in accordance with this Article, the Board of County Commissioners may order the postponement of the Fireworks Display for the same reasons. (HR 04-7-2, Sec. 1)