

(First Published in the Larned Tiller and Toiler on October 7, 2021)

ORDINANCE NO. 1607

AN ORDINANCE REGULATING THE USE AND OPERATION OF FIRE PITS, BONFIRES, RECREATIONAL BURNING; OUTDOOR BARBECUES, FIREPLACES AND STOVES; CERTAIN TYPES OF FUEL FOR OPEN BURNING ARE NOT PERMITTED; PENALTIES; AMENDING SECTION 2.16.070 OF THE CITY ORDINANCES AND REPEALING SAME; DETERMINING PENALTIES;

BE IT ORDAINED AND ENACTED by the Governing Body of the City of Larned, Kansas:

NEW SECTION 1. The city council of Larned finds that because of the possibility of harm to property in city neighborhoods of uncontrolled burning, such activities should be regulated. It is therefore unlawful for any person or entity 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 facilitate the spreading of fire to other properties. Any such situations or conditions are declared to be a fire hazard. Therefore, it 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, the following sections.

NEW SECTION 2. The provisions hereby adopted shall be enforced by the chief of the fire department or his or her designee. Officers of the Larned Police Department and Larned Fire Department are authorized to require that a fire be immediately extinguished and discontinued, even if the fire is in compliance with this code, if it is determined that the smoke from the fire is offensive to nearby neighbors or is determined to constitute a hazard because of significant weather conditions that might carry sparks of the fire to other property. For purposes of the regulatory portions of this ordinance, the fire chief or his designee shall have the right of

entry for inspection set forth in SECTION 3.

SECTION 3. Ordinance Section 2.16.070 is hereby amended to read as follows:

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 the Chief or the Chief's designee under direction of the Chief may, upon request or whenever there is reason to believe that the safety of life and property demands it, and as often as deemed necessary, enter any building, yard or premises in the City during reasonable hours for the purpose of inspection, and where dangerous, unsafe or hazardous conditions are found to exist, shall give such directions for the alternation, change or removal or better care of management of the same as may be proper, and such directions shall be obeyed and complied with by the person direct in that regard, and at their expense. The Chief or the Chief's designee may enter a yard or premises during reasonable time periods within the city in order to inspect such premises to determine whether to order a fire to be extinguished because of adverse weather or wind conditions.

NEW SECTION 4. (a) The regulation of fireworks is separately regulated and controlled in Ordinance Sections 8.20.020 et seq. The prohibition against burning combustible solid waste in the city is set forth in Ordinance Sections 8.32.050 et seq.

NEW SECTION 5. The phrase "open burning" means the operation and use of firepits, bonfires, recreational burning, outdoor barbecues that use different fuels other than charcoal briquettes or portable propane cylinders, fireplaces, stoves, or similar devices meant to be used outside that hold the fuel to be burned, on an owner's property but in such a manner that such burning is or may be unsupervised by the property owner for a significant amount of time. The burning of treated lumber or pallets, wooden shingles, brush, leaves, yard waste, cardboard, paper, garbage, and other similar items, is not permitted as these fuels are considered combustible solid waste and regulated under Ordinance Sections 8.32.050.

NEW SECTION 6. *Malicious Intent*. It shall be unlawful for any person, firm, corporation, partnership, association, organization or governmental agency to deliberately, maliciously or negligently kindle or cause to be kindled a fire upon his, her or its property or the property of another for the purpose of fraud, spite, revenge, arson, vandalism, or for any reason that may endanger public health or safety or cause injury or loss of life or damage to property, or endanger the fire personnel assigned to respond. In addition to being a violation of this

ordinance the fire chief shall file a complaint with the County Attorney.

NEW SECTION 7: *Portable fire extinguishers.* (a) Portable fire extinguishers shall be made readily available in the near vicinity of firepits, bonfires, or barbecue pits. Buckets, shovels or garden hoses shall be readily available for use at recreational fires.

NEW SECTION 8. *Attendance.* Recreational fires, barbecues, firepits and other burning shall be constantly attended by a person knowledgeable in the use of fire extinguishing equipment required by this section. Such supervision of a recreational fire shall continue until such fire has been fully extinguished.

NEW SECTION 9. (a) The failure by a person or entity that is permitted to have a controlled burn, to maintain compliance with the permitted activity, shall constitute a violation of this Ordinance. Further, whenever any officer or member of the fire department shall find or discover any fire hazard that is contrary to the types of burns allowed in this ordinance, or shall find upon any premises combustible or explosive material or a 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. Such abatement order shall be in writing and notice given immediately and complied with immediately by the owner or occupant of such buildings or premises.

The failure of the owner or occupant to comply with an abatement order, 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. Such prosecution can include an injunction or administrative search warrant to come onto the property and for city employees to discharge the abatement order.

NEW SECTION 10. *Violation and Penalties.* The fire chief or such chief's designee is empowered to issue citations for violation of this ordinance. Unless the violation involves a situation of immediate danger to the property owner, his or her property or such person's neighbors, a citation for violation of this ordinance shall allow the property owner five (5) days to remedy or abate the violation. Any person, firm or corporation convicted of a violation of any provisions of this ordinance in city court shall be deemed guilty of a misdemeanor and punished by a fine of not more than five hundred dollars (\$500.00). -Each five (5) day period that the

violation continues after notice is provided shall constitute a separate offense and penalties. The appropriate authorities of the city in addition to other remedies may seek an injunction or other appropriate actions or proceedings in district court to prevent, correct, or abate any continuing violation pursuant to this ordinance.

NEW SECTION 11. *Severability Clause* If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this ordinance or resolution, or any part thereof, is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter or any part thereof. The city council declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sub-divisions, paragraphs, sentences, clauses, or phrases be declared invalid.

NEW SECTION 12. Section 2.16.070 of the Ordinances of the city of Larned is hereby repealed. Any other parts of the city code of Larned in conflict with these provisions are hereby repealed.

NEW SECTION 13. This Ordinance shall take effect and be in force from and after its publication in the official city newspaper of the City of Larned, Kansas or from and after compliance with K.S.A. 2012 Supp. 12-3007(b).

PASSED BY THE LARNED CITY COUNCIL AND APPROVED BY THE MAYOR
this 4th day of October, 2021.

WILLIAM NUSSER, MAYOR

ATTEST:

Kara Rath, City Clerk

(Published in compliance with K.S.A. 12-3007(b) on _____, 2021

SUMMARY OF ORDINANCE NO. _____

This ordinance is published pursuant to KSA 12-3007(b), and adds sections to the city's existing code relating different kinds of outdoor burning including open burning, fire pits, barbeques and the like, and stating penalties for violation.

Penalties for violation of the ordinance are provided.

A copy of the ordinance is available free of charge for viewing at the city offices by contacting the city clerk at any time during office hours. The number is (620) 285-8500.

The city's officially designated website URL is: www.cityoflarned.org. A reproduction of this entire ordinance is available at that site for at least one week following this summary publication in the official county newspaper.

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

Ronald D. Smith
City Attorney, Larned