

ORDINANCE NO. 2019-04-4485

AN ORDINANCE MODIFYING MUNICIPAL CODE PART II, CHAPTER 14, CONCERNING CARBON MONOXIDE ALARMS, AS WELL AS CHAPTER 34, ADOPTING BY REFERENCE THE 2015 INTERNATIONAL FIRE CODE, AMENDING THAT CODE AND MODIFYING MUNICIPAL CODE TO SO REFLECT.

WHEREAS, technical boards from Arkansas City, Wellington and Winfield worked closely for an extended period to review, draft, and recommend standardized technical codes applicable to all three cities; and

WHEREAS, the Governing Body of the City of Arkansas City, Kansas, voted on December 20, 2016, to adopt the 2015 International Code Cycle and 2014 National Electrical Code as the amended law of this City, and thus incorporated them into the Municipal Code of the City of Arkansas City, Kansas; and

WHEREAS, this adoption of the 2015 International Code Cycle did not include the adoption of the 2015 International Fire Code, but now, after due study, the Arkansas City Fire-EMS Department has reviewed and now recommends the adoption of this Code, retaining current amendments as noted herein; and

WHEREAS, the Neighborhood Services Division of the City of Arkansas City, Kansas, and the City's Building Trades Board have worked diligently throughout 2018 to develop and recommend suitable language concerning carbon monoxide alarms that would require their installation in residential buildings upon substantial remodeling or a change in occupancy, in addition to all new construction; and

WHEREAS, the proposed language would further amend the 2015 International Residential Code to so require carbon monoxide alarms, to ensure the health and safety of all Arkansas City residents; and

WHEREAS, the Arkansas City Fire-EMS Department has worked diligently to compile a list of all significant changes from the 2009 and 2012 versions of the International Fire Code to the 2015 version this ordinance adopts by reference; and

WHEREAS, the Governing Body of the City of Arkansas City, Kansas, desires to amend Arkansas City Municipal Code to accomplish all of these aforestated goals.

NOW THEREFORE, IN CONSIDERATION OF THE AFORESTATED PREMISES, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ARKANSAS, KANSAS, AS FOLLOWS:

SECTION ONE: AMENDMENT TO MUNICIPAL CODE SECTION 14-40.

The Governing Body of the City of Arkansas City, Kansas, hereby amends Section 14-40 of the Arkansas City Municipal Code to read as follows (deleted provisions struck through; new provisions in italics):

Sec. 14-40. - Adoption.

- (a) The city adopts by reference the following codes, as amended by this chapter:
 - (1) International Building Code, 2015 Edition (hereafter "International Building Code"), for regulating and governing conditions and maintenance of all property, buildings and structures, including Appendices F, H and J; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure the structures are safe, sanitary, and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures, including amendments as set out in Section 14-43 (published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795);

- (2) International Residential Code for One- and Two-Family Dwellings, 2015 Edition, including Appendices A—J, and M—P (hereafter “International Residential Code”), for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal, and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with separate means of egress, including amendments as set out in Section 14-44 (published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795);
- (3) International Plumbing Code, 2015 Edition, including Appendices C and E (hereafter “International Plumbing Code”), regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems, including amendments as set out in Section 14-45 (published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795);
- (4) International Property Maintenance Code, 2015 Edition (hereafter “International Property Maintenance Code”), regulating and governing the maintenance of existing buildings, including amendments as set out in Section 14-46 (published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795);
- (5) International Fuel Gas Code, 2015 Edition, including all Appendices (hereafter “International Fuel Gas Code”), regulating and governing fuel gas systems and gas-fired appliances, including amendments as set out in Section 14-47 (published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795);
- (6) NFPA 70: The National Electrical Code, 2014 Edition, including Appendix H (Article 80), (hereafter “National Electrical Code”), including amendments as set out in Section 14-48 (published by the National Fire Protection Association, One Batterymarch Park, Quincy, MA 02169-7471); and the corresponding National Electrical Code Handbook, Library of Congress;
- (7) International Mechanical Code, 2015 Edition, including Appendix A (hereafter “International Mechanical Code”), regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, and addition to, use or maintenance of mechanical systems, including amendments as set out in Section 14-49 (published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795);
- (8) International Existing Building Code, 2015 Edition, including its Appendix (hereafter “International Existing Building Code”), regulating and governing the repair, alteration, change of occupancy, addition, and relocation of existing buildings, including historic buildings, including amendments as set out in Section 14-50 (published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795); ~~and~~
- (9) International Private Sewage Disposal Code, 2015 Edition (hereafter “International Private Sewage Disposal Code”), regulating design, installation and inspection of private sewage disposal systems, including amendments as set out in Section 14-51 (published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795); *and*
- (10) *International Fire Code, 2015 Edition (hereafter “International Fire Code”), including Appendices B, C, D, F and I, and also including amendments as set out in Section 34-20*

(published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795).

- (b) At least one copy of the above-referenced codes shall be maintained on file at City Hall, 118 W. Central Ave., Arkansas City, KS 67005, and may be inspected during regular business hours, the same being adopted as if set out at length herein.

SECTION TWO: AMENDMENT TO MUNICIPAL CODE SECTION 14-44.

The Governing Body of the City of Arkansas City, Kansas, hereby amends Section 14-44 of the Arkansas City Municipal Code to read as follows (deleted provisions struck through; new provisions in italics):

Sec. 14-44. - Amendments to the International Residential Code.

- (a) The following amendments and additions are made to the International Residential Code:
- (1) Section R101.1 is amended by inserting: City of Arkansas City, Kansas.
 - (2) Section R108.2 is amended by inserting: See Arkansas City Comprehensive Fee Schedule for applicable fee schedule.
 - (3) Section R112.1 is amended by inserting: The Building Trades Board of the City of Arkansas City, Kansas (The Board) is hereby appointed as the appeals board to hear any appeals made of decisions of the city code official.
 - (4) Section R301.2 Climatic and Geographic Design Criteria. Table R301.2(1) is amended to read as the following Table:

Design Criteria, R301.2 (1) Climatic and Geographic

Roof snow load	15 lbs./sq. ft.
Wind speed	Less than 115 MPH
Seismic design category	A
Weathering	Severe
Frost line depth	24 inches
Termite hazard	Moderate to heavy
Decay hazard	Slight to moderate
Winter design temperature	0 Degrees
Ice shield underlayment required	No
Flood hazard criteria	FIRM; October 19, 2010
Air freezing index	600
Mean annual temperature	58 degrees Fahrenheit

- (5) Section R313 Automatic Fire Sprinkler Systems is amended by replacing the word “shall” with the word “may” in Sections R313.1 and R313.2.
- (6) *Section R315 Carbon Monoxide Alarms is amended by inserting the following new section:*

R315.2.3 Existing residential structures and changes of occupancy. Every dwelling, building, or structure occupied by a tenant, in whole or in part for residential purposes, which contains fossil fuel-burning equipment or incorporates enclosed parking within its structure, shall be equipped by the owner with working carbon monoxide alarms meeting the minimum requirements of UL 217, UL 2034, NFPA 72 and NFPA 720. Existing residential structures occupied by a tenant shall be required to have carbon monoxide alarms installed upon any change of occupancy. Alarms shall be installed according to the provisions of this section.

(7) Section R315.2 Where required is amended to read as follows: Carbon monoxide alarms shall be provided in accordance with Sections R315.2.1, R315.2.2 and R315.2.3.

(8) Section R315.5 Power source is amended to read as follows:

R315.5 Power source. Carbon monoxide alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and, where primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection.

Exceptions:

1. Carbon monoxide alarms shall be permitted to be battery operated where installed in buildings without commercial power.
2. Carbon monoxide alarms installed in accordance with Section R315.2.2 and Section R315.2.3 shall be permitted to be battery powered.

(69) Section R908.3.1.1 Condition 3 is amended to read as follows: Shall have no more than one layer for asphalt shingles.

(710) Section M1602.2 Return Air Openings is amended by deleting: #2. The amount of return air taken from any room or space shall be not greater than the flow rate of the supply air delivered to such room or space.

(811) Section M2003.2 Minimum Capacity is amended by adding the phrase to the end of the sentence: or as determined by the design professional.

(912) Section G2414.5 (403.5) Metallic Tubing is amended to read: Steel tubing shall be permitted to be used with gases not corrosive to such material.

(1013) Section G2417.1.4 (406.1.4) Section Testing is amended by deleting the sentence: Under no circumstances shall a valve be used as a bulkhead between gas in one section of the piping system and test medium in an adjacent section.

(1114) Section P2502.1 Existing building sewers and drains is amended to read: Existing building sewers and drains shall be used in connection with new systems when found by examination and/or test to conform to the requirements prescribed by this document.

(1215) Section P2503.4 Building sewer testing is amended to read: The building sewer may be tested by insertion of a test plug at the point of connection with the public sewer, filling the building sewer with water and pressurizing the sewer to not less than 10-foot (3048 mm) head of water. The pressure shall not decrease during a period of not less than 15 minutes. The building sewer shall be watertight at all points.

- (~~1316~~) The last sentence in Section P2603.4 is amended to read: The sleeve shall have an inside diameter of at least one-half inch (1/2") larger than the outside diameter of the pipe passing through it.
- (~~1417~~) The last sentence in Section P2603.5.1 is amended by inserting the number "12 inches" and again "12 inches".
- (~~1518~~) Section P2801.6.1 Pan size and drain is amended by striking the reference to Table P2906.5 and inserting Table P2906.4.
- (~~1619~~) Section P2902.5.3 Lawn irrigation systems is amended by adding the following sentence: Maintenance of any atmospheric vacuum breaker, pressure vacuum breaker assembly or reduced pressure principle backflow prevention assembly shall be performed annually by a certified backflow prevention contractor. Proof of such annual maintenance shall be provided to the city within 60 days of notice being issued to the property owner. If such proof is not provided within the specified time frame, the city shall hire a certified backflow prevention contractor to perform such maintenance to the city's satisfaction, at the owner's expense.
- (~~1720~~) The last sentence in Section P2906 Separation of water service and building sewer is amended to read: The required separation distance shall not apply where the bottom of the water service pipe that is located within 5 feet (1524 mm) of the sewer is not less than 24 inches (610 mm) above the highest point of the top of the building sewer.
- (~~1821~~) Section P2906.4 is amended by adding a new section: Section 2906.4.2 Tracer wire: For the purpose of locating the building service lines, all new or replacement installations using non-metallic pipe or tubing shall have a #12 THHW copper conductor, or equivalent, tracer wire installed with the service line. The tracer wire shall be installed as follows: For water lines, the tracer wire shall extend six (6) inches above the meter box cover through the meter box to the point of entry into the building, where it shall be connected to a one half (1/2) pound anode or larger. For yard hydrants, the tracer wire shall extend six (6) inches above the surface of the ground at the backflow device to the point of connection to the water service, where it shall be connected to an existing tracer wire or grounded to a one half (1/2) pound anode or larger. For lawn sprinklers, the tracer wire shall extend six (6) inches above the surface of the ground at the backflow prevention device to the point of connection to the water service, where it shall be connected to an existing tracer wire or grounded to a one half (1/2) pound anode or larger.
- Exception:* The tracer wire may be omitted on lawn sprinkler piping installed after the backflow prevention device located on private property.
- (~~1922~~) Section P2906.5. Hot and cold water branch lines is amended by adding the following sentence: Hot and cold water branch lines connected to within 18 inches of the water heater connection shall be of brass, K, L, or M copper or galvanized steel, or an approved metallic water heater connector.
- (~~2023~~) Section P3002.2 Building Sewer is amended by adding a new section: Section P3002.2.2 Tracer wire: For the purpose of locating building sewers, all new installation and replacements shall have a #12 THHW copper conductor or equivalent tracer wire installed with the sewer line. The tracer wire shall extend six (6) inches above the surface of the ground at the cleanout to the tap, where it shall be connected to an existing tracer wire or grounded to a one half (1/2) pound anode or larger at the sewer tap or at the downstream end of the replaced sewer line.

- (~~2124~~) Section P3005.2.6 Cleanout plugs is amended to read: Cleanout plugs shall be copper alloy, plastic or other approved materials. Cleanout plugs for borosilicate glass piping systems shall be of borosilicate glass. Brass cleanout plugs shall conform to ASTM A74. Plastic cleanout plugs shall conform to the reference standards for plastic pipe fittings as indicated in Table P3002.3. Cleanout plugs shall have a raised square head, a countersunk square head or a countersunk slot head. Where a cleanout plug will have a trim cover screw installed into the plug, the plug shall be manufactured with a blind end threaded hole for such purpose.
- (~~2225~~) Section P3114.3 Where permitted is amended by adding the following statement: Permission shall be required from the building official and noted on the plumbing permit.
- (~~2326~~) Section E3406.3 Minimum size of conductors is amended to read as follows: The minimum size of conductors for feeders and branch circuits shall be #12 AWG copper and #6 AWG aluminum. The minimum size of service conductors shall be as specified in Chapter 36. The minimum size of Class 2 remote control signaling and power-limited circuit conductors shall be as specified in Chapter 43. [310.106(A)].
- (~~2427~~) Section E3601.6.2 Service disconnect location is amended to read: The service disconnecting means with overcurrent protection shall be installed at a readily accessible location outside of the building. Each occupant shall have access to the disconnect serving the dwelling unit in which they reside.
- (~~2528~~) Section E3604.2.2 Vertical Clearance from grade is amended to read: Overhead service or feeder conductors shall have the following minimum clearances from final grade:
- a. For conductors supported on and cabled together with a grounded bare messenger wire, the minimum vertical clearance shall be 10 feet (3048 mm) at the electric service or feeder entrance to the buildings or structures at the lowest point of the drip loop of the structure electric entrance and above areas or sidewalks accessed by pedestrians only. Such clearance shall be measured from the final grade or other accessible surfaces.
 - b. Twelve (12) feet (3653 mm) — over residential property or sidewalks accessed by pedestrians only.
 - c. Fifteen (15) feet (4500 mm) — over residential property or residential driveways subject to vehicular traffic.
 - d. Eighteen (18) feet (5486 mm) — over public streets, alleys, roads or parking areas subject to truck traffic. [230.24 (B) (1), (2), (3) and (4)].
- (~~2629~~) Section E3604.5.1 Strength is amended to read: The service mast shall be of adequate strength or shall be supported by braces or guys to safely withstand the strain imposed by the service-drop or overhead service conductors and in no case are smaller than a 2-inch ridge conduit. Hubs intended for use with a conduit that serves as a service mast shall be identified for use with service-entrance equipment.
- (~~2730~~) Section E3608.1 Grounding electrode system is amended by adding the following statement: On all new construction, one or more of the electrodes specified in Sections E3608.1.1 through E3608.1.3 shall be made available.
- (~~2831~~) Table E3702.14 Branch Circuit Requirements Summary, Circuit Rating 15 amp: Conductor is amended by deleting “#14 AWG Wire” and inserting “#12 AWG Wire”.

(2932) Section E3706 Panelboards is amended by adding a new section: Section E3706.6 Panelboard Size: The panelboard shall be of a size large enough to allow the installation of all circuit overcurrent devices required for the present installation and a minimum of four (4) extra spaces for future use.

(3033) Section E4002.14 Tamper-resistant receptacles is amended by adding a new exception: Exception 4. A single or duplex receptacle used for countertop appliances or other electric devices where such receptacles are located over a standard height and size countertop.

(b) The following sections of the International Residential Code are deleted:

- (1) Section R303.4 Mechanical Ventilation.
- (2) Chapter 11 Energy Efficiency.
- (3) Section M1411.8 Locking access port caps.
- (4) Section G2414.5.2 (403.5.2) Copper, copper alloy tubing.

SECTION THREE: AMENDMENT TO MUNICIPAL CODE SECTION 34-19.

The Governing Body of the City of Arkansas City, Kansas, hereby amends Section 34-19 of the Arkansas City Municipal Code to read as follows (deleted provisions struck through; new provisions in italics):

Sec. 34-19. - Adoption.

The International Fire Code, 2009–2015 Edition, including Appendices B, C, D, ~~and F~~ and I (published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795) is adopted with amendments as hereinafter set out.

SECTION FOUR: AMENDMENT TO MUNICIPAL CODE SECTION 34-20.

The Governing Body of the City of Arkansas City, Kansas, hereby amends Section 34-20 of the Arkansas City Municipal Code to read as follows (deleted provisions struck through; new provisions in italics):

Sec. 34-20. - Amendments to the International Fire Code.

(a) The following ~~are~~ amendments *and additions are made* to the International Fire Code:

- (1) Section 101.1 is amended to insert: City of Arkansas City.
- (2) *Section 105 Permits is amended to read in its entirety as follows:*

105.2.2 Inspection authorized. *Before a new certificate of occupancy is approved, the fire code official is authorized to inspect the receptacles, vehicles, buildings, devices, premises, storage spaces or areas to be used, to determine compliance with this code or any operational constraints required.*

105.3.3 Occupancy prohibited before approval. *The building or structure shall not be occupied prior to the building official issuing a certificate of occupancy and the fire code official conducting associated inspections indicating the applicable provisions of this code have been met.*

105.3.6 Compliance with code. *The issuance or granting of a permit or certificate of occupancy shall not be construed to be a permit for, or an approval of, any violation of*

any of the provisions of this code or of any other ordinance of the jurisdiction. Permits or certificates presuming to give authority to violate or cancel the provisions of this code or other ordinances of this city shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the fire code official from requiring the correction of errors in the construction documents and other data. Any addition to or alteration of approved construction documents shall be approved in advance by the fire code official, as evidenced by the issuance of a new or amended permit.

105.6.32 Open burning. No person shall kindle or maintain any bonfire, rubbish or grass fire, or authorize any such fire to be kindled or maintained within the city, and open burning of rubbish, paper, tires, leaves or chemicals is prohibited, except that the fire chief or fire marshal for special and unusual occasions may grant permission to kindle or maintain a fire under such safety conditions that person may prescribe, in addition to those conditions provided by the International Fire Code. In addition to permission to conduct open burning by the fire chief or fire marshal, an open burning permit shall be obtained prior to conducting an open burn. The city may maintain an open burn area open to the public, to be regulated by the city for the purpose of disposing of tree limbs.

Section 105.6.30 is amended to read in its entirety as follows:

~~No person shall kindle or maintain any bonfire, rubbish or grass fire or authorize any such fire to be kindled or maintained within the city, and open burning of rubbish, paper, tires, leaves or chemicals is prohibited, except that the fire chief or fire marshal for special and unusual occasions may grant permission to kindle or maintain a fire under such safety conditions she/he may prescribe in addition to those conditions provided by 2009 International Fire Code. In addition to permission to conduct open burning by the fire chief or fire marshal, an open burning permit shall be obtained prior to conducting an open burn. The city may maintain an open burn area open to the public, to be regulated by the city for the purpose of disposing tree limbs.~~

- (3) Section 109.34 is amended to insert: Misdemeanor, \$100.00, 30 days.
- (4) Section 111.4 is amended to insert: \$100.00, \$500.00.
- (5) Section 307.4.3 is amended to read as follows:

Section 307.4.3 Portable outdoor fireplaces. Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet (4,572 mm) of a structure or combustible material. In addition, the following requirements shall be met:

1. Portable outdoor fireplaces shall be placed on a non-combustible surface and shall not be used on balconies or wood decks.
2. Portable outdoor fireplace use shall be discontinued when there is a ban or moratorium on burning issued by federal, state, or local agencies.
3. Portable outdoor fireplaces shall not be used when the wind speed is in excess of 15 mph.
4. Portable outdoor fireplaces shall not be used within 500 feet (152,400 mm) of any shake shingle roof, unless provided with a spark arrestor with a minimum ½ inch (12.7 mm) metal screen secured by metal wire, located on the vent/chimney.

5. Only firewood, limbs, leaves, and wood chips may be burned within the portable outdoor fireplace. Products such as paper, plastic and rubbish are not allowed.
6. The fire-*emergency medical services* department shall order the extinguishment of a fire in a portable outdoor fireplace if it creates a nuisance, or poses a danger to health, safety, or welfare.

(6) Section 603.8 is amended to insert: The use of incinerators is prohibited within the city limits.

(7) Section ~~1407.1-3307.1~~ *Storage and Handling of Explosive Materials* is amended to read in its entirety as follows:

The storage of explosives, blasting agents or detonators is prohibited within the city limits, except as listed in Section 3301.1.

(8) Section 3308 is amended to include:

The provisions of Article 3308 are in addition to Article III of this chapter (34) of this code, which remains in effect.

(9) ~~Article 34,~~ Section 3305.2 Flammable and Combustible Liquids, is amended to include:

(1.) The storage of Class I and Class II liquids in excess of ten gallons outside of a building, unless in an approved underground storage tank, or in fuel tanks of automobiles, or other self-propelled vehicles, is hereby prohibited within the city, except as specifically authorized by other applicable law.

(2.) There shall be no ~~NEW~~-*new* bulk plants constructed within the city. Existing bulk plants, stores, equipment, buildings, structures and installations for the storage, handling, or use of flammable or combustible liquids which are not in strict compliance with the terms of this article may be continued in use, provided they do not constitute a distinct hazard to life or adjoining property. Normal replacement and maintenance of existing bulk plants is acceptable.

(3.) It is unlawful for any bulk truck carrying flammable liquids to be parked on any street, avenue, or alley in any residential district of the city, as defined in Title 18 of Part III of this code; provided, however, that nothing herein contained shall prevent such vehicles hereinabove described from parking temporarily on such streets when necessary for the purpose of loading or unloading merchandise, freight, or cargo, or for the purpose of making emergency repairs.

(10) ~~Article 38, Chapter 58 Liquefied Petroleum~~-*Flammable Gases*, is amended to include:

There shall be no LPG fuel tanks installed within the city where there is natural gas available, except as authorized by other applicable law.

(b) *The following section of the International Fire Code is deleted in full:*

~~Deletions. The following sections are deleted in full:~~

~~Section 105, Permits;~~

~~Section 603.8, Incinerators.~~

- (bc) *Appeals.* The following shall apply to disputes regarding the International Fire Code: Whenever the fire chief shall disapprove an application or refuse to grant a license or 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 chief to the board of city commissioners within 30 days ~~from~~ of the date of the decision.

SECTION FIVE: AMENDMENT TO MUNICIPAL CODE SECTION 34-44.

The Governing Body of the City of Arkansas City, Kansas, hereby amends Section 34-44 of the Arkansas City Municipal Code to read as follows (deleted provisions struck through; new provisions in italics):

Sec. 34-44. - Discharge of certain fireworks permitted.

1.4G Fireworks, as defined in Section ~~3302.1-202~~ of the International Fire Code, ~~2009 edition~~, may be displayed, detonated, discharged, and/or ignited within the corporate limits of the city, in compliance with this section:

- (a) *Detonation times and locations.* Individuals who are at least 14 years old, ~~and~~ or under the age of 14 years old with adult supervision, may detonate fireworks permitted by this section *between the hours of 10:00 a.m. and 10:00 p.m. on June 27 through July 3* ~~between the hours of 10:00 a.m. and 10:00 p.m.;~~ and *between the hours of 10:00 a.m. through midnight on July 4*, with the permission of an adult that owns or resides at the property, or within any authorized shooting area authorized by resolution of the board of city commissioners.
- (1) If inclement weather prevents the use and discharge of fireworks on July 4, the city manager may extend authorized discharge to ~~July 5~~ *between the hours of 10:00 a.m. and midnight on July 5.*
 - (2) When an authorized discharge date falls on a Sunday, detonation of fireworks shall not commence before ~~12:00~~ noon on that date.
 - (3) The adult granting permission to detonate fireworks shall clear the front yard of that property and all adjacent public right-of-way of all debris from the detonation of the fireworks before 10:00 p.m. on July 5 *(or July 6, if the city manager has extended authorized discharge to July 5 due to inclement weather).*
- (b) *Discharge on streets and public property prohibited.* It shall be unlawful for any person to discharge, ignite, or fire any fireworks upon any public street, alley, avenue or public right-of-way, or in any park, city-owned property or other public place within the city, unless specifically authorized by the board of city commissioners.
- (c) No firework may be displayed, detonated, discharged, and/or ignited in a manner that may cause personal injury or property damage.
- (d) *Emergency conditions.* The fire chief, or his or her designee, may limit, suspend or prohibit the discharge of fireworks, even during times *otherwise* permitted by this section, if it appears the discharge of fireworks constitutes an immediate hazard to the safety of property or persons within the city. Such limitation, suspension or prohibition shall be approved by the city manager, and publicized and posted at city hall. If the hazardous condition is eliminated, the order limiting, suspending, or prohibiting the discharge of fireworks may be rescinded or modified by subsequent order, with similar posting.
- (e) Except as specifically authorized herein, no other fireworks, including not necessarily limited to 1.3G Fireworks, as defined in Section ~~3302.1-202~~ of the International Fire Code, ~~2009 edition~~, may be displayed, detonated, discharged, and/or ignited; except *that* the city manager, after

investigation by the fire chief and/or his or her designee to ensure the proposed display poses no health or safety threat, may grant permission for the public display of additional fireworks not otherwise authorized by this section upon sufficient proof that the display will comply with all applicable provisions of the International Fire Code, ~~2009 edition~~. An application for such display may only be made by a ~~non-profit~~ *nonprofit* organization, and will be considered upon payment of an application fee set by the board of city commissioners.

- (f) *Violations.* In addition to any other fine or penalty authorized by ~~municipal~~ *this* code, fireworks illegally displayed, detonated, discharged, and/or ignited may be confiscated by the ~~Arkansas City Police Department~~ *police department*.

SECTION SIX: AMENDMENT TO MUNICIPAL CODE SECTION 34-45.

The Governing Body of the City of Arkansas City, Kansas, hereby amends Section 34-45 of the Arkansas City Municipal Code to read as follows (deleted provisions struck through; new provisions in italics):

Sec. 34-45. - Sale of fireworks.

1.4G Fireworks, as defined in Section ~~3302.1-202~~ of the International Fire Code, ~~2009 edition~~, may be sold within the city, in compliance with this section.

- (a) *Permit required.* It shall be unlawful for any person to sell, display for sale, offer to sell or give away (collectively “sell”) 1.4G Fireworks within the city without securing a permit therefore at least ten days in advance of the date sales commence, for each location sales will occur.
- (b) *Permit application.* The city clerk shall accept applications for permits to sell fireworks as of the first business day of January ~~of~~ *in* the year for which the permit is to be issued. A permit shall ~~only~~ be issued *only* if a Cowley County-based charitable, religious, political or other nonprofit *in* purpose organization, having achieved such status under the Internal Revenue Service Code, applies for the permit; or otherwise sponsors the application.
- (c) *Application process.*
- (1) All applications shall be on a form determined by; and include the information requested by; the city clerk. The appropriate permit fee, established by resolution of the board of city commissioners, must accompany each application in certified funds.
 - (2) Upon receipt of a complete application, the fire chief or his or her designee shall investigate its contents and inspect the proposed location to determine whether the applicant has met all requirements set forth below, including a determination as to the appropriateness of the proposed site, compliance with the applicable International Fire Code, compliance with the ~~City of Arkansas City’s~~ *city’s* Retail Fireworks Stands Manual; and the availability of a permit.
 - (3) Within ten business days of completion of the investigation, the city clerk shall notify the applicant by first-class United States Mail whether said applicant was successful in obtaining a permit. The city clerk may only issue a permit upon proof that the application was true and correct, and that the premises have passed the required inspection and investigation. If the investigation reveals noncompliance with subsection (c)(2) above, including applicable law and/or regulations, the city clerk shall deny the permit and return the permit fee submitted by the unsuccessful applicant.
- (d) *Location inspection.* In addition to any other applicable law, including the International Fire Code and ~~City of Arkansas City’s~~ *city’s* Retail Fireworks Stands Manual, every permitted location must comply with the following:

- (1) The location must be a vacant lot or contiguous lots within the city, where retail sales are authorized under the city's Land Development Code.
 - (2) Each location must have appropriate safety precautions and equipment, including fire extinguishers.
 - (3) Fireworks shall not be stored or sold within 50 feet of any source of flame, sparks, or flammable or volatile liquids in excess of one gallon.
 - (4) If housed in a tent, the tent shall be constructed of a flame-retardant material, with a certificate of such flame retardant attached. Any electrical cords shall be appropriately protected from damage by weather, the public and automobiles.
 - (5) No sales of fireworks shall occur at any location, building, structure, tent or other similarly describable enclosure in conjunction with the retail sales of non-fireworks items, except as allowed by the city manager, at the written request of the permittee.
- (e) *Permit display.* Upon qualifying for the permit, the permittee shall conspicuously post, and prominently display, the same, along with the ~~Arkansas City Fire Department~~ *fire-emergency medical services department's* inspection receipt, at the establishment or premises where fireworks are to be sold or displayed for sale.
- (f) *Permittee insurance.* Each permittee shall obtain a policy of general comprehensive liability insurance for a minimum coverage of \$500,000.00 per occurrence, with the ~~City of Arkansas City, Kansas~~ *city* named as an additional insured, and shall provide the city with a copy of the certificate of such insurance. Such policy or policies shall not be cancelable by the permittee upon less than ~~30 days~~ *30 days'* written notice.

Each permittee also shall obtain a policy of product liability insurance for a minimum coverage of \$500,000.00 per occurrence for products sold and/or stored within the city by the vendor, and shall provide the city with a copy of the certificate of such insurance. Such policy or policies shall not be cancelable by the permittee upon less than ~~30 days~~ *30 days'* written notice.

- (g) *Permittee indemnification.* Each permittee shall at all times indemnify the city, its officials, representatives, designees and employees, and shall defend, save and hold them harmless, from and against any and all claims, actions, damages, liability and expense, including but not limited to attorneys and other professional fees, in connection with loss of life, personal injury and/or damage to property arising from or out of the storage, sale, discharge and/or transportation of fireworks by such permittee and permittee's customers, representatives, employees, contractors and designees.
- (h) *Permit revocation.* Any permittee violating any provision of this section shall, upon the first violation, be issued a warning by the ~~Arkansas City Police Department~~ *police department*. On any second or subsequent violation, the ~~Arkansas City Police Department~~ *police department* shall revoke the permit for sale and terminate the sale of fireworks by the violator.

Any ~~permittee~~ *permittee* whose permit is revoked may appeal to the city manager by notice personally served ~~upon~~ *to* the city clerk. A hearing shall be called and held by the city manager or his or her designee not less than 24 hours from the date of the service of such notice of appeal. The determination of the city manager or his or her designee shall be final.

- (i) *Permittee disqualification.* No permit shall be issued or renewed to a holder who has been revoked hereunder in a prior year or who has failed to demonstrate financial responsibility. In this regard and by way of illustration, evidence that the holder of a permit has failed to pay the cost of merchandise when due, failed to pay costs associated with leased land or facilities when due, or

failed to pay wages of employees when due in connection with sales of fireworks in prior years, may constitute sufficient grounds for the rejection of an application for a permit.

- (j) *Sale times.* Fireworks permitted by this section shall be sold only between the hours of 8:00 a.m. and 10:00 p.m. from June 27 through July 4.
- (k) ~~{Applicability.}~~ Except as specifically authorized herein, no other fireworks, including *but* not necessarily limited to 1.3G Fireworks, as defined in Section ~~3302.1-202~~ of the International Fire Code, ~~2009 edition~~, may be sold within the city, except this prohibition shall not apply to the legal sale thereof by wholesale dealers.

SECTION SEVEN: The Governing Body of the City of Arkansas City, Kansas, hereby authorizes the Mayor and/or City Manager of the City of Arkansas City to take such further and other necessary actions that are required to effectuate the intent and purposes of this Legislative Enactment.

SECTION EIGHT: PUBLICATION; EFFECTIVE DATE. This ordinance, or a summary thereof, shall be published one time in the official City newspaper, and shall take effect and be in force from and after said publication.

PASSED AND ORDAINED by the Governing Body of the City of Arkansas City, Kansas, on this 16th day of April, 2019.

Jay Warren, Mayor

ATTEST:

Lesley Shook, City Clerk

APPROVED AS TO FORM:

Tamara L. Niles, City Attorney