

ORDINANCE NO. 948

AN ORDINANCE AMENDING THE CODE OF THE CITY OF EDWARDSVILLE, KANSAS (“CODE”), CHAPTER 5, FIRE PREVENTION AND PROTECTION AND REPEALING ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EDWARDSVILLE, KANSAS:

Section 1. Chapter 5, Fire Prevention and Protection, Article 5.01 General Provisions, of the Code of the City of Edwardsville is hereby amended as follows:

Section 5.01.001, Burning of trash or other waste, is hereby amended to read as follows:

- (a) It shall be unlawful for any person within the city to burn openly or cause or permit the open burning of any trash or wastes.
- (b) “Open burning” is defined as the burning of any materials wherein contaminants resulting from such combustion are emitted directly into the ambient air without passing through a stack or a chimney from an enclosed chamber.
- (c) “Bonfire” is an outdoor fire utilized for ceremonial purposes as defined by the International Fire Code.
- (d) “Recreational Fire” is an outdoor fire burning materials other than rubbish where the fuel burned is not contained in an incinerator, outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of 3 feet or less in diameter and 2 feet or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes as defined by the International Fire Code. The total fuel area may be increased to 8 feet or less in diameter and 5 feet or less in height if contained in a pit that is recessed into the ground a minimum of 12", surrounded by a non-combustible material such as natural stone and approved by the fire department on a yearly basis.
- (e) It shall be prima facie evidence that the person who owns or controls property on which open burning occurs has caused or permitted the open burning.
- (f) “Trash or other wastes” is any wasted material, trash, waste paper, excelsior, empty boxes, refuse, litter or anything considered unimportant or valueless.
- (g) “Accelerants” is any substance used to speed up the process of the spreading or starting of a fire.
- (h) The location for open burning shall not be less than 50 feet from any structure, and provisions shall be made to prevent the fire from spreading to within 50 feet of any structure.

Exceptions:

- (1) Fires in approved containers that are not less than 15 feet from a structure.
- (2) The minimum required distance from a structure shall be 25 feet where the pile size is 3 feet or less in diameter and 2 feet or less in height. Any conditions which could cause a fire to spread within 25 feet of a structure shall be eliminated prior to ignition.

Section 5.01.003, Accumulation of rubbish and trash, is hereby deleted in its entirety.

Section 5.01.004, Storage of packing materials, is hereby deleted in its entirety.

Section 5.01.005, Storage of ashes, is hereby deleted in its entirety.

Section 5.01.007, Abatement of fire hazards, is hereby amended to read as follows:

- (a) Prohibited conditions. It is unlawful for any person 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 the spreading of fire. Any situation or condition conducive to the outbreak of or spreading of fire is declared to be a fire hazard. The violation of or failure to comply with any law pertaining to the storage, handling or use of inflammable oils, explosives, liquefied petroleum gases, or fertilizers, and all wires and other conductors charged with electricity, is declared to be a fire hazard. The placing of stools, chairs or any other obstruction in the aisles, hallways, doorway, or exit of any theater, public hall, auditorium, church or other place of indoor public assemblage, or the failure to provide any such place of public assemblage with sufficient accessible and unobstructed fire exits and escapes, is also declared to be a fire hazard. The obstruction of any street, avenue, alley, or fire hydrant or any other condition that might delay the fire department in fighting fire is declared to be unlawful.
- (b) Inspections. It shall be the duty of the fire chief to inspect or cause to be inspected by fire department officers or members, as often as may be necessary, but not less than once a year, all buildings, particularly all mercantile buildings, manufacturing plants, warehouses, garages, hotels, boarding houses, rooming houses, theaters, auditoriums and all places of public assemblage, for the purpose of discovering the violation of any fire preventive law or any fire hazard and ascertaining and causing to be corrected any conditions liable to cause fires, and to see that all places of public assemblage, hotels and rooming houses have sufficient and unobstructed facilities for escape therefrom in case of fire.
- (c) Issuance of order. Whenever any officer or member of the fire department shall find or discover any fire hazard, or shall find in any building or 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, or situations hazardous to public safety from fires, the fire chief shall order the fire hazard or danger from the fire forthwith abated and remedied and such order shall be complied with immediately by the owner or occupant of such building or premises. If the hazard or condition ordered abated and remedied is a violation of, or a failure to comply with, any law, 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.

- (d) Service of order; records; filing of complaint. Any order made under subsection (c) of this section shall be in writing, and may be served personally upon the owner or occupant of the premises, or by leaving it with any person in charge of the premises, or, if the premises are unoccupied and the owner is a nonresident of the city, then by mailing a copy to the owner's last known post office address. One notice to either the occupant or owner shall be sufficient. The fire chief shall keep a record and copies of all such orders and notices, and shall follow up such notices at the expiration of the time for compliance therewith, and when complied with make proper entry, and, if not complied with, file a complaint with the municipal court against the delinquent.
- (e) Contents of notice. Whenever the fire department has declared a dwelling, multifamily dwelling, garage, shed or yard as a fire or life hazard, they shall give notice to the owner of such declaration. Such notice shall:
 - (1) Be in writing;
 - (2) Include an address for sufficient identification;
 - (3) State the length of time in which the owner must complete the request;
 - (4) State that, if such repair, reconstruction, alteration, removal or demolition is not voluntarily completed within the stated time as set forth in the notice, the fire department shall institute legal proceedings charging the person or persons, firm, corporation or agent with a violation of this code.

Section 5.01.008, Appeals, is hereby deleted in its entirety.

Section 5.01.009, New materials, processes or occupancies which may require permits, is hereby deleted in its entirety.

Section 2. Chapter 5, Fire Prevention and Protection, Article 5.02 Fire Department, of the Code of the City of Edwardsville is hereby amended as follows:

Section 5.02.002, Appointment of officers, is hereby amended to read as follows:

The fire chief will be appointed by the City Manager.

Section 5.02.003, Supervision, is hereby amended to read as follows:

The fire department and all officers, employees, firefighters and members of the fire department will be under the supervision of the City Manager.

Section 5.02.004, Powers and duties of chief, is hereby amended to read as follows:

The chief of the fire department will be under the supervision of the City Manager and the chief will:

- (1) Have supervision and control of, and be responsible for, the care and condition of all fire apparatus and equipment, and it shall be his or her duty to see that all such apparatus and equipment shall be at all times ready for immediate use;
- (2) 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 or her duty;
- (3) 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. 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 firefighters in the discharge of their duties;
- (4) Take such measures as he or she shall deem proper and necessary in the preservation and protection of property and extinguishing of fires;
- (5) Be responsible for enforcement of the rules and regulations adopted and approved for the fire department by the governing body;
- (6) Make such rules and regulations necessary for the proper and efficient conduct of the department, provided such rules and regulations are not in violation of, or in conflict with, regulations adopted by the governing body.

Section 5.02.005, Record of fires, is hereby amended to read as follows:

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 building and contents, loss on building and contents,

insurance on building and contents, members responding to the alarm, and any other information deemed advisable.

Section 5.02.007, Members, is hereby deleted in its entirety.

Section 5.02.008, Meetings and drills, is hereby deleted in its entirety.

Section 5.02.009, Compensation of members, is hereby deleted in its entirety.

Section 5.02.011, Aid to other municipalities, is hereby deleted in its entirety.

Section 5.02.012, Use of equipment outside city, is hereby deleted in its entirety.

Section 5.02.013, Unlawful use of equipment, is hereby deleted in its entirety.

Section 5.02.014, Right of way of emergency vehicles; operation of emergency vehicles, is hereby deleted in its entirety.

Section 5.02.016, Obstruction of fire hydrant or firefighters, is hereby deleted in its entirety.

Section 5.02.017, False alarms, is hereby deleted in its entirety.

Section 3. Chapter 5, Fire Prevention and Protection, Article 5.03 Fire Code, of the Code of the City of Edwardsville is hereby amended as follows:

Section 5.03.001, Adopted, is hereby amended to read as follows:

- (a) The International Fire Code, including the appendix chapters thereof, as published by the International Code Council, is hereby adopted as the code of the city for regulating and governing the safeguarding of life and property from fire and explosion hazards arising from storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the city, and providing for the issuance of permits for hazardous uses or operations, and each and all of the regulations, provisions, conditions and terms of such International Fire Code, 2012 edition, published by the International Code Council, are hereby referred to, adopted and made a part hereof as it fully set out in this section.
- (b) These regulations shall be known as the fire code of the city, hereinafter referred to as “this code.”

Section 5.03.002, Amendments, is hereby deleted in its entirety.

Section 5.03.003, Enforcement; inspectors, is hereby amended to read as follows:

The International Fire Code shall be enforced by the fire department of the city, which such enforcement shall be under the supervision of the chief of the fire department.

Section 5.03.005, Penalty, is hereby amended to read as follows:

Any person convicted of doing any of the acts or things prohibited or made unlawful, or the failing to do any of the things commanded to be done, as specified and set forth in this article, shall be deemed in violation of this code and punished in accordance with Section 1.01.009 of the Code of Ordinances.

Section 5.03.006, Limits of districts in which storage of flammable or combustible liquids in outside aboveground tanks is prohibited, is hereby deleted in its entirety.

Section 5.03.007, Limits of districts in which storage of liquefied petroleum gas is restricted, is hereby deleted in its entirety.

Section 5.03.008, Limits of districts in which explosives and blasting agents is restricted, is hereby deleted in its entirety.

Section 5.03.009, Appeals, is hereby amended to read as follows:

When the fire chief disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief to the Board of Appeals established in accordance with the International Fire Code, latest adopted edition. Appeals must be submitted within 30 days from the date of the decision of the fire chief.

Section 5.03.010, New materials, processes or occupancies which may require permits, is hereby deleted in its entirety.

Section 4. Chapter 5, Fire Prevention and Protection, Article 5.04 Fireworks, of the Code of the City of Edwardsville is hereby amended as follows:

Section 5.04.002, Enforcement, is hereby amended to read as follows:

- (a) The fire chief and all law enforcement officers are charged with the duty of enforcing all of the provisions, terms, and regulations of this article.
- (b) The fire chief and law enforcement officers may confiscate or cause to be confiscated and removed and stored, retained and disposed of at the owner's expense, all stocks of fireworks offered or exposed for sale, sold at retail, stored, possessed or held in violation of this article or in violation of the laws of the state and the rules and regulations of the state fire marshal. The storage; retention and disposition of such confiscated fireworks shall be subject to and governed by state fire marshal regulations, including but not limited to Kansas Administrative Regulations 22-6-20 and amendments thereto, as well as KSA 31-501 through 31-506 (the "Kansas Fireworks Act").

Section 5.04.004, Violations; penalties, is hereby amended to read as follows:

- (a) Any person who shall violate any of the provisions of this article shall, upon conviction, be punished in accordance with Section 1.01.009 of the Code of Ordinances.
- (b) In addition, any violations of the provisions of this article which result in a conviction in the municipal court of the city or any state court within Kansas shall bar the person so convicted from obtaining city permits and licenses relating to fireworks for a period of two (2) years.

Section 5.04.010, Bottle rocket, is hereby amended to read as follows:

Section 5.04.010, Prohibited Sales

The sale, use, manufacture, storage, possession and discharge of all pyrotechnic items not approved in section 5.04.006 are hereby prohibited, including, but not limited to, the following items:

- (1) Bottle Rocket. Any rocket mounted on a stick.
- (2) Sky Rocket. Tube not exceeding one-half of an inch (12.5 millimeters) interior diameter that may contain up to 20 grams of pyrotechnic composition. Sky rockets contain a wooden stick for guidance and stability and rise into the air upon ignition. A burst of color, noise, or both is produced at the height of flight.
- (3) Missile-type Rocket. A device similar to a sky rocket in size, composition, and effect that uses fins rather than a stick for guidance and stability.

- (4) Unmanned aerial luminary; Chinese or Kongming lantern; sky candle; or fire balloon. A device resembling a small hot air balloon, constructed of lightweight material which is capable of traveling through the air when powered by fire or a fuel cell until such flame or fuel deteriorates, causing such device to fall to the ground at an unknown location.

Section 5.04.013, Insurance requirements for sale or public display, is hereby amended to read as follows:

Before a permit will be issued for the sale of fireworks or for a public exhibition or display of fireworks, the applicant shall file with the city clerk a certificate of general liability insurance approved as to form by the city attorney stating that the applicant has a general liability insurance policy for bodily injury in the minimum amount of \$500,000 for each person; \$1,000,000 each occurrence, and for property damage of \$500,000 each occurrence; \$1,000,000 aggregate. The certificate of insurance shall name the city as an additional named insured.

Section 4. Chapter 5, Fire Prevention and Protection, Article 5.06 Hazardous Materials Response, of the Code of the City of Edwardsville is hereby amended as follows:

Section 5.06.002, Violations; penalties, is hereby amended to read as follows:

Any person who shall violate any of the provisions of this article shall, upon conviction, be punished in accordance with Section 1.01.009 of the Code of Ordinances.

Section 5. Chapter 5, Fire Prevention and Protection, Article 5.07 Filing and Service of Complaints, of the Code of the City of Edwardsville is hereby deleted in its entirety

Section 6. Appropriate numbers to articles, sections and other subdivisions to be inserted in the code and, where necessary to accommodate new material, change existing article or section or other subdivision numbers shall be made in accordance with Section 1.01.008 of the Code of the City of Edwardsville.

Section 7. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance shall be and are hereby repealed.

Section 8. This Ordinance shall take effect and be in force from and after its passage and publication as required by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EDWARDSVILLE, KANSAS ON THIS 8th DAY OF JUNE, 2015.



ATTEST



John McTaggart, Mayor



Tamara A. Harris, City Clerk

APPROVED AS TO FORM:



David K. Duckers, City Attorney