

CHAPTER VII. FIRE

- Article 1. Fire Department
- Article 2. Fire Prevention
- Article 3. Open Burning
- Article 4. Fireworks

ARTICLE 1. FIRE DEPARTMENT

- 7-101. CITY FIRE DEPARTMENT ESTABLISHED; ORGANIZATION. There shall be organized in the City of Arma, Kansas, a company known as the Volunteer Fire Department to consist of able bodied men over eighteen years of age, who shall organize under the provisions of this article and adopt rules and by-laws for their government and who shall be divided into companies to be known and rank as: Hose Company No. 1, and Hose Company No. 2. Each of said companies shall consist of at least 7 men. (Ord. 416, Sec. 1; Code 2007)
- 7-102. MEMBERSHIP; FIRE DRILL. Members of the fire department shall all be volunteers. They shall meet at least once each month for practice and drill. The chief of the fire department shall keep a record of attendance of such meetings. Any member who shall fail to attend six consecutive meetings shall automatically become expelled from membership. (Code 2007)
- 7-103. SUPERVISION OF DEPARTMENT; CHIEF. (a) Said companies when organized shall be under command of some member of the said department who shall be designated as Chief of the Arma Volunteer Fire Department, who shall be appointed by the mayor of the City of Anna, by and with the consent of the council. Said appointment shall be made once each year and he shall hold his office for one year from the time of his appointment.
(b) Each of said companies shall elect annually its own foreman and such other officers as they may see fit subject to approval of the chief as provided in by-laws of the department.
(Ord. 416, Sec. 2; Code 2007)
- 7-104. FIRE CHIEF; POWERS. (a) It shall be the duty of the chief of said department to take charge of such apparatus and property as may be furnished and provided for it by the City, and to take proper care of the same at the places provided by the City therefor and to deliver the same to such persons as the council may direct upon order of the council.
(b) Members of said companies under control and direction of proper officers shall upon an alarm of fire being given, repair to place of such fire in city for extinguishing and preventing spread of fire, and there work and manage such apparatus under the direction of chief or other officer having control and shall be active in extinguishing, suppressing and preventing the spread of fire and shall not retire therefrom except by permission of officer having chief control and under

direction of officer having chief control they shall return all apparatus to its place of keeping and then and there leave the same properly and carefully housed.

(c) The commanding officer will be held responsible for the conduct of the members of the department and for the care of property of said City. This control shall apply to any citizen at a fire, that is to say, the controlling officer has absolute control of all members of the department and citizens at a fire. It shall be the duty of the Chief or Acting Chief to cause firemen to take proper means for the effectual extinguishment and suppression of fires.
(Ord. 416, Sec. 3; Code 2007)

7-105.

RECORDS. (a) It shall be the duty of the Chief of the Fire Department to receive from the City any and all apparatus for use of said department, filing his receipt therefor with the City Clerk, and said chief and foreman shall be held responsible to the City for the proper use and care of said apparatus and property. The chief shall make a report at least once each year and oftener if the council require it, of the condition of the apparatus and the number of men in the department, and make suggestions and recommendations as to the needs of the department as he deems best.

(b) 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.
(Ord. 416, Sec. 4; Code 2007)

7-106.

ASSISTANT CHIEF. The Chief may appoint one member of the department Assistant Chief whose duty it shall be, in absence of the Chief, to have and exercise full powers of the Chief, the Chief being held responsible for the actions of the Assistant Chief. In absence of the Chief and Assistant Chief, the foreman of the Hose Company No. 1 shall act as Chief and be obeyed as such, and in the absence of the Chief, Assistant Chief and foreman of Hose Company No. 1, the foreman of Hose Company No. 2 shall act as chief and be obeyed as such, and so on in succession thereof. (Ord. 416, Sec. 4; Code 2007)

7-107.

PRIVATE USE OF FIRE EQUIPMENT. It shall be unlawful for any person or persons to take away or use any fire apparatus or equipment for any private purpose or for any person willfully and without proper authority to remove, take away, keep or conceal any tool, appliance, equipment or other article used in any way by the fire department. (Code 2007)

7-108.

FIRE EQUIPMENT; EMERGENCY RIGHT-OF-WAY AND USE. (a) All fire apparatus and equipment is hereby given and granted the exclusive right-of-way over and through all streets, avenues, alleys and public thoroughfares in the city while enroute to fires or in response to any alarm, and it shall be unlawful for any person or persons to in any manner obstruct or hinder the apparatus or equipment.

(b) All emergency vehicles of the fire department, while proceeding on official business, shall be operated in strict accordance with the requirements of the Kansas Statutes regarding the operation of emergency vehicles, and each departmental member assigned to the operation of emergency vehicles shall

familiarize himself or herself with the requirements of the law and govern himself or herself accordingly. Any operator violating the provisions of the state law shall be liable for disciplinary action.
(Code 2007)

- 7-109. SAME; FIRE HOSE. It shall be unlawful for any person or persons to drive any vehicle over any fire hose laid on any street, alley or lot. This section shall not apply to any apparatus or vehicle being driven by members of the fire department.
(Code 2007)
- 7-110. OBSTRUCTION OF FIRE HYDRANT. It shall be unlawful for any person to place or cause to be placed upon or about any fire hydrant any rubbish, building material, fence or other obstruction of any character, or in any manner obstruct, hinder, or delay the fire department in the performance of its duties in case of fire. Nor shall any person fasten to any fire hydrant any guy rope or brace, nor stand any vehicle within 15 feet of any such hydrant. (Code 2007)
- 7-111. FALSE ALARM. It shall be unlawful for any person to knowingly make or sound or cause to be made or sounded, or by any other means, any false alarm.
(Code 2007)
- 7-112. EX-OFFICIO SUPERINTENDENT. The mayor of said City shall be Ex-Officio Superintendent of the Fire Department. (Ord. 416, Sec. 5; Code 2007)
- 7-113. MEETING QUARTERS. The Fire Department shall have free use of the quarters furnished by the City with free use of lights and fuel for the place of meeting. (Ord. 416, Sec. 6; Code 2007)

ARTICLE 2. FIRE PREVENTION

- 7-201. FIRE PREVENTION CODE INCORPORATED. There 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, that certain code and standards known as the Uniform Fire Code, edition of 2003, including all the Appendix chapters, and the Uniform Fire Code Standards, and the National Fire Codes of the National Fire Protection Association (NFPA) 2003 and amendments hereafter, Fire Protection Association (NFPA) 2003 land amendments hereafter, published by the Western Fire Chiefs Association and the International Conference of Building Officials, being particularly the 2003 editions thereof and the whole thereof, save and except such portions as hereinafter deleted, modified or amended by section 7-203 of this article three copies which Code and Standards have been and are now filed in the office of the clerk of the City of Arma, Kansas, and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the city. (Code 2007)
- 7-202. SAME; ENFORCEMENT. The code hereby adopted shall be enforced by the chief of the fire department. (Code 2007)
- 7-203. SAME; AMENDMENTS. (a) Wherever the word municipality is used in the code hereby adopted, it shall be held to mean the City of Arma.
(b) All sections of the Uniform Fire Code relating to fireworks are hereby deleted in their entirety.
(Code 2007)
- 7-204. ACCUMULATION OF RUBBISH AND TRASH. It shall be unlawful for any person to allow to accumulate or to keep in any part of any building or outside of and adjacent to any building or in any alley, sidewalk, street or premises within 30 feet of any building any rubbish, trash, waste paper, excelsior, empty boxes, barrels or other combustibles which shall constitute a fire hazard. (Code 2007)
- 7-205. STACKING OF HAY OR STRAW. It shall be unlawful for any person to deposit, stack or store any hay or straw within 500 feet of any building located inside the fire limits of the city. (Code 2007)
- 7-206. KEEPING OF PACKING MATERIALS. It shall be unlawful to keep excelsior or other packing material in any other than metal or wood metal line boxes or bins having selfclosing or automatic covers. All refuse and trash from rooms where packing or unpacking is done shall be removed daily. (Code 2007)
- 7-207. STORAGE OF ASHES. It shall be unlawful to store ashes inside of any nonfireproof building unless they are stored in a noncombustible container or receptacle, and a clearance of at least five feet shall be maintained between such container or receptacle and any combustible materials not placed therein. Ashes shall not be stored outside of any building in wooden, plastic, or paper product

receptacles or dumped in contact with or in close proximity to any combustible materials. (Code 2007)

- 7-208. FILLING GASOLINE TANKS OF MOTOR VEHICLES. The engines of motor vehicles shall be stopped when the gasoline tanks of such vehicles are being filled with gasoline at service stations or other places where gasoline is supplied to motor vehicles. The driver or person in control of such vehicle when the gasoline tank of same is being filled who refuses, neglects or fails to stop the engine of such vehicle shall likewise be guilty of a violation of this code. (Code 2007)
- 7-209. FIRE HAZARDS GENERALLY. 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, fire hydrant or any other condition that might delay the fire department in fighting fire is declared to be unlawful. (Code 2007)
- 7-210. SAME; INSPECTIONS TO DISCOVER. 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 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. (Code 2007)
- 7-211. ABATEMENT OF FIRE HAZARDS; ISSUING 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 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 and such order shall be complied with immediately by the owner or occupant of such buildings 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. (Code 2007)

7-212.

SAME; SERVICE OF ORDER; RECORDS. Any order made under section 7-212 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 of 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 complaint with the municipal court against the property owner and/or occupant. (Code 2007)

ARTICLE 3. OPEN BURNING

7-301 RESTRICTIONS ON OPEN BURNING. It shall be unlawful for any person, firm or corporation to burn any sweepings, trash, lumbers, leaves, straw, papers, grass or other combustible material in any street, alley, yard or upon any lot within the fire limits of the City of Arma, Kansas, except in the manner and form as hereinafter provided in this ordinance. For the purposes of this ordinance, fire limits shall be defined as:

All the North 100 feet of the Lots in the North half of Blocks 12, 13, and 14, and the South 100 feet of the Lots in the South half of Blocks 7, 8, and 9, in rust, now Arma on Washington Avenue.

7-302 APPROVED MANNER OF BURINING. This article shall not prevent the burning of material enumerated in section one of this ordinance, provided that any burning occur between the hours of 1:00 p.m. and 5:00 p.m., and then not within 30 feet of any frame building or within 15 feet of any brick building or in any manner so as to endanger property.

7-303 EXCEPTIONS. It shall be unlawful to burn any of the refuse or material enumerated in section one of this ordinance within the fire limits of the City of Arma, Kansas, except in a refuse burner constructed of iron, steel, brick, concrete or stone in a substantial manner which shall be a closed receptacle, with a tight door at bottom, if any opening there, and the opening at top shall be protected in a secure manner by a wire screen of not less than nine gauge wire and not to exceed one inch mesh, if such refuse burner is constructed of iron or steel it shall not be thinner than 14 B.W. gauge.

7-304 BURNING OUTSIDE FIRE LIMITS. It shall be unlawful to burn any refuse or materials enumerated in section one of this article within the City of Arma, Kansas, except between the hours of 6:00 a.m. and 6:00 p.m. and then only under the supervision of an adult person. Leaves and small brush may be burned on resident's property only while there is no high wind.

7-305 HAZARDOUS MATERIAL. It shall be unlawful to burn, whether opened or contained, within a radius of 100 feet from the property line of any business which sells, distributes, pumps, stores, or handles any explosives, or flammable liquid including, but not limited to, gasoline, kerosene, diesel fuel, or similar material or derivatives thereof.

7-305a LOCATION. Open burning shall not be conducted within 25 feet of any property line, structure, or combustible material when the pile size is four feet or less in diameter by three feet in height. Any pile larger than four feet in diameter by three feet in height shall be at least 100 feet from any roadway, structure or adjacent property line.

- 7-305b MATERIAL RESTRICTIONS. The open burning of heavy smoke producing material such as heavy oils, roofing materials, tar paper, tires, or other similar materials is prohibited. The material to be burned should be dry before it is burned, must be generated on the property through the normal cleaning of property, any may not be transported from another location to that property.
- 7-305c FIRE EXTINGUISHING EQUIPMENT. A fully charged hose connected to an adequate water supply or other approved fire extinguishing equipment shall be readily available for use at open burning site.
- 7-305d ATTENDANCE. Burning material shall be constantly attended by an adult familiar with burning limitations which restrict open burning. An attendant shall supervise the burning material until the fire has been extinguished.
- 7-305e DISCONTINUANCE. Burning shall be discontinued immediately if the Police (City Representatives) determine that smoke emissions are offensive to occupants of surrounding property, or if the open burning is determined to constitute a hazardous condition.
- 7-306 LANDOWNER DUTIES. It shall be prima facie evidence that a person who owns or controls property upon which open burning occurs has caused or permitted the open burning.
- 7-307 BURNING SUSPENSION. The Chief of the Fire Department or the Chief of Police in the absence of the Fire Chief, may order suspension of any and all burning within the City of Arma as the Chief of the Fire Department determines to be in the best interest of the City to protect the public safety and welfare. Notice of the burning suspension shall be deemed given if written notice is delivered to a person or posted in the City Hall and published in the city newspaper one time. The withdrawal of the suspension of burning may be given in the same manner.
- 7-308 PENALTY. Any person who shall violate any of the provisions of the ordinance hereby adopted or shall fail to comply therewith, or who shall violate or fail to comply with any order given thereunder, upon conviction shall be severally for each and every such violation and non-compliance respectfully, be guilty of an unclassified misdemeanor and punishable by a fine not to exceed \$500.00 or by imprisonment for not more than thirty (30) days or by both such fine and imprisonment. A convicted offender shall further be liable for any costs associated with the violation including, but not limited to, fire fighting expenses, damages to property, cost of removal of prohibited conditions. Application of the above fine and penalty shall not be held to prevent the enforced removal of prohibited conditions.

ORDINANCE NO. 586

AN ORDINANCE AMENDING CHAPTER VII Article 4, OF THE CODE OF THE CITY OF ARMA, KANSAS 2006 RELATING TO FIREWORKS, SALE AND REGULATION OF.

WHEREAS, the Governing Body of the City of Arma, Kansas has determined that it is necessary to modify the current chapter in regard to Fireworks and Regulation

NOW THEREFORE, Be it ordained by the Governing Body of the City of Arma, Kansas:

Section One: The current provisions of Chapter VII Article 4, of the Code of the City of Arma, Kansas 2006 are hereby deleted and repealed.

Section Two: The following pages are substituted and adopted as Chapter VII Article 4, of the Code of the City of Arma, Kansas 2006:

Chapter VII, Article 4 FIREWORKS

Section 7-401. Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Class C fireworks (common fireworks) means pyrotechnics designed primarily to produce visible effects by combustion. The definition of class C fireworks is based on the definition of the United States Department of Transportation of common fireworks (49 CFR 173.100(R), as amended). Some small devices designed to produce an audible effect are included, but only when containing two grains or less of pyrotechnic compositions. Propelling or expelling charges consisting of a mixture of sulfur, charcoal, and potassium nitrate (saltpeter) are not considered as designed to produce an audible effect. Nothing in this Section shall be construed as applying to toy smoke devices defined as smoke balls, or tubes containing a pyrotechnic mixture which upon ignition produces a visible cloud of colored smoke (white and black smokes are considered colored); or to toy paper caps containing not more than 0.25 of a grain of explosive composition per cap, or to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation, or applying to the military or naval forces of the United States or of this state, or to law enforcement officers, nor as prohibiting the sale or use of blank cartridges for ceremonial or theatrical or athletic events, nor as prohibiting the firing of sky rockets or missiles when produced by a science class of any school and when under supervision of the

science instructor and when the place and time of firing the sky rockets or missiles has been approved by the chief of the City Fire Department (Fire Chief).

Section 7-402. Subject to seizure

Pyrotechnic devices which are sold, offered for sale, ignited or discharged, possessed or transported in violation of the provisions of this article shall be subject to seizure by the state fire marshal, any deputy state fire marshal, any law enforcement officer, the Fire Chief, or any member of the City's Fire Department who has been duly authorized by the Fire Chief.

Section 7-403. Sales, ignition or discharge prohibited; exception

Except as allowed pursuant to a duly issued special events permit, it shall be unlawful to sell, offer for sale, ignite, or discharge within the City limits any pyrotechnic device other than class C fireworks. There shall be no sale of fireworks in any part of the business district of the City of Arma.

Section 7-404. Retail license

- a) *Required.* Every business, person, firm, organization or corporation offering for sale at retail class C fireworks permitted by state regulations and Section 1 shall obtain an annual temporary license from the City for each location from which the applicant proposes to sell or offer for sale such fireworks at retail. No license shall be issued until the applicant submits a request by completing an application on a form prepared by the city at least 25 days prior to commencing such sales and pays the license fees established by the Governing Body. Prior to opening each location for sales, the premises shall be inspected and approved by the City Fire Department and the City Police Department with the only locations to be approved being in an area where retail sales are allowed and adequate off-street parking is provided. Licenses granted under this Section shall be valid during any year only so long as fireworks may be lawfully sold pursuant to Section 7. No license shall be issued to any business, person, firm, organization or corporation who, within the past five years, has been convicted of or has had a license or permit revoked for a violation of applicable state or federal laws, City ordinances or state regulations regulating the sale or discharge of pyrotechnic devices nor to any such person's spouse, and no license shall be issued for any location to be operated by a manager or agent unless such manager or agent would be eligible to hold the license himself. Applicants must have a State and/or Federal license as required and show such proof before any city license will be issued.
- b) *Fee.* Prior to the issuance of a license, the licensee shall pay a license fee for each location.

- c) *Revocation.* Licensees shall at all times conduct their operations according to the terms of the license, applicable state and federal law, City ordinances and rules and regulations of the state fire marshal. Licenses may be revoked on the order of either the Police Chief or the Fire Chief (or their designated representative), upon it being determined that the licensee has violated the terms of the license, state or federal law, City ordinances, rules and regulations of the state fire marshal or has made a material false statement on the application form.

Section 7-405. Proper signage on premises

All licensees shall display a sign reading "FIREWORKS FOR SALE – NO SMOKING OR OPEN FLAMES PERMITTED" in close proximity to the location where class C fireworks are being displayed or offered for sale and at all entrances to the facility used to sale the fireworks.

Section 7-406. Temporary stands

No class C fireworks temporary stands shall be located within 40 feet of any structure with each stand adhering to the setback requirements of the zoning ordinance. All temporary stands shall be removed by July 9 or by the first Monday after July 9 if that date falls on a weekend.

Section 7-407. Days retail sales permitted

No business, person, firm, organization or corporation shall deliver, give away or sell class C fireworks at retail, out of temporary fireworks stands or other locations, or deliver such retail fireworks purchased by mail order except on the days when such sale is permitted by state law or rules and regulations adopted by the state fire marshal, all as amended from time to time.

Section 7-408. Unlawful discharge

It shall be unlawful to ignite or discharge class C fireworks within 1,000 feet of any hospital, sanitarium or infirmary; into, under or on a car or vehicle, whether moving or standing still; or on a public roadway, an alley or in a public park or on public property unless a special events permit has been issued. Class C fireworks shall not be discharged within 100 feet of a location where such fireworks are sold at retail or any facility where fireworks are stored.

Section 7-409. Storage

Class C fireworks shall not be sold or kept for sale or stored in any building. All fireworks shall be stored at least 40 feet from any building in a separate building, trailer or place of sale that meets all state and federal requirements.

Section 7-410. Fire extinguisher required

Two approved and inspected fire extinguishers must be provided and kept in close proximity to the stock of class C fireworks in all buildings and temporary stands where such fireworks are sold.

Section 7-411. Storage or discharge near gasoline

Class C fireworks shall not be stored, kept, sold or discharged within 100 feet of any gasoline pump, gasoline filling station, gasoline bulk station or any building in which gasoline or volatile liquids are sold.

Section 7-412. Discharge or ignition prohibited; exceptions, regulations and hours

No person, business, firm, organization or corporation shall ignite, discharge or knowingly authorize the ignition or discharge of any class C fireworks inside the City limits except on the days when such fireworks are permitted to be sold at retail by state law or rules and regulations adopted by the state fire marshal, all as amended from time to time; provided, however, that it shall be unlawful to ignite or discharge such fireworks between the hours of 10:00 p.m. and 8:00 a.m. on any day except the July 4 when it shall be lawful to ignite and discharge such fireworks from the hour of 7:00 a.m. on July 4 until 12:00 a.m. on July 5, or unless in connection with a special events permit issued by the City. No fireworks shall be shot off within one hundred feet (100') of any place of the sale of such fireworks. In all cases adult supervision shall be present when shooting off fireworks if participants are 12 years old or younger.

Section 7-413. Residential storage

It shall be unlawful to store class C fireworks in occupancies classified as residential except for the personal use of persons residing therein.

Section 7-414. Storage areas permitted

All Class C fireworks shall be displayed, kept, stored or located only in areas and places and during the times when permitted in compliance with state law and the rules and regulations of the state fire marshal, as amended from time to time.

Section 7-415. Throwing

It shall be unlawful for any person to throw, cast, or propel a pyrotechnic device of any kind in the direction of or into the path of any person or group of persons, or from or in the direction of a car or vehicle.

Section 7-416. Fees

The retail license fee for the sale of fireworks shall be \$300.00 per location. A retail application shall be available at City Hall from the Arma City Clerk. All licenses shall be approved by the Arma Police Chief and Fire Chief and by the Arma City Council. Applications shall be filled out and turned in at least twenty-five days (25) prior to the first day of sales to ensure all approvals shall be completed.

Section 7-417. Insurance

Any person, business or entity receiving a permit to sell fireworks shall provide proof of insurance in the amount of a minimum of \$1,000,000.00, and naming the City of Arma as additional insured.

Section 7-418. Penalty

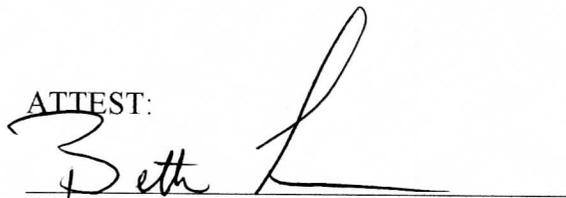
Every person, partnership or corporation shall, upon conviction for a violation of any of the provisions of this article, be punished by fine of not more than one thousand dollars (\$1,000.00) . The imposition of a penalty for a violation of this article shall not excuse the violation, or permit it to continue; such violation shall be remedied within a reasonable time, and each ten days that such violation is permitted to exist shall constitute a separate offense. The application of the above penalty shall be held to prevent the enforced removal of prohibited conditions.

Section Three. This ordinance shall take effect and be enforced from and after its approval and publication once in the Pittsburg Morning Sun, the official city paper.

Passed by the Council and approved by the Mayor this 17 day of May, 2010.


Chris Pommier, Mayor

ATTEST:


Bette Lessen, City Clerk

ORDINANCE NO. 598

AN ORDINANCE AMENDING CHAPTER VII ARTICLE 4 OF THE CODE OF THE CITY OF ARMA, KANSAS 2006 RELATING TO FIREWORKS, SALE AND REGULATION OF AND AMENDING AND REPEALING ORDINANCE NO. 586.

WHEREAS, the Governing Body of the City of Arma, Kansas, has determined that it is necessary to modify the current chapter in regard to Fireworks and Regulation.

NOW THEREFORE, be it ordained by the Governing Body of the City of Arma, Kansas:

Section One: The current provisions of Chapter VII Article 4 of the Code of the City of Arma, Kansas, 2006 are hereby deleted and repealed.

Section Two: The following pages are substituted and adopted as Chapter VII Article 4 of the Code of the City of Arma, Kansas (2014 amended).

Chapter VII, Article 4
FIREWORKS

Section 7-401. Definitions

The following words, terms and phrases, when used in the article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Class C fireworks (common fireworks) means pyrotechnics designed primarily to produce visible effects by combustion. The definition of class C fireworks is based on the definition of the United States Department of Transportation of common fireworks (49 CFR 173.100(R), as amended). Some small devices designed to produce an audible effect are included, but only when containing two grains or less of pyrotechnic compositions. Propelling or expelling charges consisting of a mixture of sulfur, charcoal, and potassium nitrate (saltpeter) are not considered as designed to produce an audible effect. Nothing in this Section shall be construed as applying to toy smoke devices defined as smoke balls, or tubes containing a pyrotechnic mixture which upon ignition produces a visible cloud of smoke (white and black smokes are considered colored); or to toy paper caps containing not more than 0.25 of a grain of explosive composition per cap, or to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation, or applying to the military or naval forces of the United States or of this state, or to law enforcement officers, nor as prohibiting the sale or use of blank cartridges for ceremonial or theatrical or athletic events, nor as prohibiting the firing of sky rockets or missiles when produced by a science class of any school and when under supervision of the science instructor and when the place and time of firing the sky rockets or missiles has been approved by the chief of the City Fire Department (Fire Chief).

Section 7-502. Subject to seizure

Pyrotechnic devices which are sold, offered for sale, ignited or discharged, possessed or transported in violation of the provisions of this article shall be subject to seizure by the state fire marshal, any deputy state fire marshal, any law enforcement officer, the Fire Chief, or any member of the City's Fire Department who has been duly authorized by the Fire Chief.

Section 7-403. Sales, ignition or discharge prohibited; exception

Except as allowed pursuant to a duly issued special events permit, it shall be unlawful to sell, offer for sale, ignite, or discharge within the City limits any pyrotechnic device other than class C fireworks. There shall be no sale of fireworks in any part of the business district of the City of Arma.

Section 7-404. Retail license

a. *Required.* Every business, person, firm, organization or corporation offering for sale at retail class C fireworks permitted by state regulations and Section 1 shall obtain an annual temporary license from the City for each location from which the applicant proposes to sell or offer for sale such fireworks at retail. No license shall be issued until the applicant submits a request by completing an application on a form prepared by the city at least 25 days prior to commencing such sales and pays the license fees established by the Governing Body. Prior to opening each location for sales, the premises shall be inspected and approved by the City Fire Department and the City Police Department with the only locations to be approved being in an area where retail sales are allowed and adequate off-street parking is provided. Licenses granted under this Section shall be valid during any year only so long as fireworks may be lawfully sold pursuant to Section 7. No license shall be issued to any business, person, firm, organization or corporation who, within the past five years, has been convicted of or has had a license or permit revoked for a violation of applicable state or federal laws. City ordinances or state regulations regulating the sale or discharge of pyrotechnic devices nor to any such person's spouse, and no license shall be issued for any location to be operated by a manager or agent unless such manager or agent would be eligible to hold the license himself. Applicants must have a State and/or Federal license as required and show such proof before any city license will be issued.

b. *Fee.* Prior to the issuance of a license, the licensee shall pay a license fee for each location.

c. *Revocation.* Licensees shall at all times conduct their operations according to the terms of the license, applicable state and federal law, City ordinances and rules and regulations of the state fire marshal. Licenses may be revoked on the order of either the Police Chief or the Fire Chief (or their designated representative), upon it being determined that the licensee has violated the terms of the license, state or federal law, City ordinances, rules and regulations of the state fire marshal or has made a material false statement on the application form.

Section 7-405. Proper signage on premises

All licensees shall display a sign reading "FIREWORKS FOR SALE – NO SMOKING OR OPEN FLAMES PERMITTED" in close proximity to the location where class C fireworks are being displayed or offered for sale and at all entrances to the facility used to sale the fireworks.

Section 7-406. Temporary stands

No class C fireworks temporary stands shall be located within 40 feet of any structure with each stand adhering to the setback requirements of the zoning ordinance. All temporary stands shall be removed by July 9 or by the first Monday after July 9 if that date falls on a weekend.

Section 7-407. Days retail sales permitted

No business, person, firm, organization or corporation shall deliver, give away or sell class C fireworks at retail, out of temporary fireworks stands or other locations, or deliver such retail fireworks purchased by mail order except on the days when such sale is permitted by state law or rules and regulations adopted by the state fire marshal, all as amended from time to time.

Section 7-408. Unlawful discharge

It shall be unlawful to ignite or discharge class C fireworks within 1,000 feet of any hospital, sanitarium or infirmary; into, under or on a car or vehicle, whether moving or standing still; or on a public roadway, an alley or in a public park or on public property unless a special events permit has been issued. Class C fireworks shall not be discharged within 100 feet of a location where such fireworks are sold at retail or any facility where fireworks are sold at retail or any facility where fireworks are stored.

Section 7-409. Storage

Class C fireworks shall not be sold or kept for sale or stored in any building. All fireworks shall be stored at least 40 feet from any building in a separate building, trailer or place of sale that meets all state and federal requirements.

Section 7-410. Fire extinguisher required

Two approved and inspected fire extinguishers much be provided and kept in close proximity to the stock of class C fireworks in all buildings and temporary stands where such fireworks are sold.

Section 7-412. Discharge or ignition prohibited; exceptions, regulations and hours

No person, business, firm, organization or corporation shall ignite, discharge or knowingly authorize the ignition or discharge of any class C fireworks inside the City limits except on the days when such fireworks are permitted to be sold at retail by state law or rules and regulations adopted by the state fire marshal, all as amended from time to time; provided, however, that it shall be unlawful to ignite or discharge such fireworks between the hours of 10:00 p.m. and 8:00 a.m. on any day except the July 4 when it shall be lawful to ignite and discharge such fireworks from the hour of 7:00 a.m. on July 4 until 12:00 a.m. on July 5, or unless in connection with a special events permit issued by the City. No fireworks shall be shot off within one hundred feet (100') of any place of the sale of such fireworks. In all cases adult supervision shall be present when shooting off fireworks if participants are 12 years old or younger.

Section 7-413. Residential storage

It shall be unlawful to store class C fireworks in occupancies classified as residential except for the personal use of persons residing therein.

Section 7-414. Storage areas permitted

All Class C fireworks shall be displayed, kept, stored or located only in areas and places and during the times when permitted in compliance with state law and the rules and regulations of the state fire marshal, as amended from time to time.

Section 7-415. Throwing

It shall be unlawful for any person to throw, cast or propel a pyrotechnic device of any kind in the direction of or into the path of any person or group of persons, or from or in the direction of a car or vehicle.

Section 7-416. Fees

The retail license fee for the sale of fireworks shall be \$300.00 per location. A retail application shall be available at City Hall from the Arma City Clerk. All licenses shall be approved by the Arma Police Chief and Fire Chief and by the Arma City Council. Applications shall be filled out and turned in at least twenty-five (25) days prior to the first day of sales to ensure all approvals shall be completed.

Section 7-417. Insurance

Repealed (2014)

Section 7-418. Penalty

Every person, partnership or corporation shall, upon conviction for a violation of any of the provisions of this article, be punished by fine of not more than one thousand dollars (\$1,000.00). The imposition of a penalty for a violation of this article shall not excuse the violation, or permit it to continue, such violation shall be remedied within a reasonable time, and each ten days that such violation is permitted to exist shall constitute a separate offense. The application of the above penalty shall be held to prevent the enforced removal of prohibited conditions.

Section Three. This ordinance shall take effect and be enforced from and after its approval and publication once in the Pittsburgh Morning Sun, the official city paper. (Amended 2014)

Passed by the Council and approved by the Mayor this _____ day of _____, 2014.

Buddy Bualle, Mayor

ATTEST:

Bette Lessen, City Clerk

ARTICLE 4. FIREWORKS

7-401. FIREWORKS, PYROTECHNICS; DEFINED. Pyrotechnics whenever used in this article shall be held to mean any fireworks, firecrackers, sparklers, squibs, rockets, bombs, roman candles, signal lights, torpedoes, rockets, flashlight compositions, toy pistols, toy cannons, detonating canes, blank cartridges, any combustible or explosive devices or compositions of potash, gun cotton, blank powder, yellow or white phosphorous, mercury, yellow potassium, dynamite caps, or other device or composition designed or intended to produce a visible or audible pyrotechnic display, and shall include fire balloons, that is balloons of a type which have burning material of any kind attached thereto. (Ord. 481, Sec. 1; Code 2007)

~~7-402.~~
Ord 598
SALE AND USE OF PYROTECHNICS. It shall be unlawful for any person, firm, or corporation to, in a commercial or wholesale manner, keep, store, use, manufacture, sell, handle or transport, within the City of Arma, any pyrotechnics; and it shall be unlawful for any corporation to, in a retail manner, sell, within the City or Arma, any pyrotechnics. (Ord. 481, Sec. 2; Code 2007)

7-403. 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 or avenue or in any park or public place within the city. (Code 2007)

7-404. THROWING PROHIBITED. It shall be unlawful for any person to throw, cast or propel fireworks of any kind in the direction of or into the path of any animal, person or group of persons, or from, in the direction of or into any vehicle of any kind. (Code 2007)

7-405. AUTHORITY OF FIRE CHIEF. The chief of the fire department is authorized to seize and confiscate all fireworks which may be kept, stored or used in violation of any section of this article, and all of the rules of the state fire marshal. He or she shall dispose of all such fireworks as may be directed by the governing body. (Code 2007)

7-406. PENALTY. Every person, partnership or corporation shall, upon conviction for a violation of any of the provisions of this article, be punished by a fine of not more than five hundred dollars (\$500.00). The imposition of a penalty for a violation of this article shall not excuse the violation, or permit it to continue; such violation shall be remedied within a reasonable time, and each ten days that such violation is permitted to exist shall constitute a separate offense. The application of the above penalty shall be held to prevent the enforced removal of prohibited conditions. (Ord. 481, Sec. 3; Code 2007)