

ORDINANCE NO. 2018-02-4451

AN ORDINANCE MODIFYING MUNICIPAL CODE PART II, CHAPTERS 14 AND 62, CONCERNING BUILDINGS AND BUILDING REGULATIONS; LICENSING OF BACKFLOW PREVENTION, AND FIRE SUPPRESSION INSTALLATION CONTRACTORS, PROPERTY OWNERS' ABILITY TO PERFORM WORK ON THEIR OWN PROPERTIES; THE COMPOSITION OF AND APPEALS PROCESS FOR THE BUILDING TRADES ADVISORY BOARD, AND OTHER RELATED ISSUES.

WHEREAS, the Governing Body of the City of Arkansas City, Kansas, has expressed a desire to consider modifying the membership and composition of the Building Trades Advisory Board, in order to allow more participation by citizens at large who are familiar with the requirements of its building codes; and

WHEREAS, the 2017 Public Works Department reorganization, including the realignment of the Neighborhood Services Division under the City Manager Department, the implementation of the Technical Advisory Committees and the creation of the Quick Problem Resolution process, has spurred a need to amend Municipal Code, to authorize and reference these new organizations and processes; and

WHEREAS, the City of Arkansas City, Kansas, currently administers limited contractor licenses for fire suppression installation contractors, but no provisions for these licenses nor definition of such contractors currently exists in Municipal Code, which City staff desires to remedy; and

WHEREAS, the Governing Body of the City of Arkansas City, Kansas, seeks to better clarify Municipal Code concerning the rights of property owners to perform technical work on their own properties, including plumbing, electrical or mechanical work on their own single-family residential dwelling; and

WHEREAS, the Governing Body of the City of Arkansas City, Kansas, seeks to create a license for backflow prevention contractors and to amend Municipal Code to require a permit for this work; 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 CITY, KANSAS:

SECTION ONE: AMENDMENT TO MUNICIPAL CODE SECTION 14-196.

The Governing Body of the City of Arkansas City, Kansas, hereby amends Section 14-196 of the Arkansas City Municipal Code to read as follows (new provisions in italics):

Sec. 14-196. - Contractors subject to licensure *and examination.*

Prior to performing any work within this city, any contractor described below shall be licensed by the city after (1) providing proof of passing by at least 75 percent the test designated by K.S.A. 12-1501 et seq., or the applicable examination issued by the International Code Council; (2) providing a bond required by this article; (3) providing public liability and property damage insurance certificates required by this article; and (4) paying the applicable fee set by the board of city commissioners:

- (a) *Electrical contractor: Any person, firm, or corporation that employs or oversees others who install, repair, construct, alter, add to, remove, restore, remodel and/or maintain (hereafter collectively "alter(s)") electrical wiring; and/or advertises or represents to others as having the capacity and/or ability to undertake or submit a bid or offer to alter electrical wiring. An electrical contractor must either be a master electrician or employ a master electrician.*

- (1) *Master electrician: Any person who lays out, plans, and/or alters electrical wiring, appliances, fixtures, motors or other apparatus requiring electrical current; or who supervises a journeyman electrician.*
 - (2) *Journeyman electrician: Any person who alters electrical wiring, or in any way works as an electrician, under the direction of a city-licensed master electrician.*
- (b) *Plumbing contractor: Any person, firm, or corporation that (a) employs or oversees others who (i) alter plumbing pipes, fixtures and appurtenances thereof (collectively “plumbing”), (ii) make any connection with the mains or laterals of the city plumbing, sewer and/or water systems, (iii) have a state certification for backflow prevention, and/or (iv) perform any plumbing repairs or maintenance; and/or (b) advertises or represents to the public as having the capacity and/or ability to undertake or submit a bid or offer to alter plumbing. A plumbing contractor must either be a master plumber or employ a master plumber.*
- (1) *Master plumber: Any person who lays out, plans, and/or alters any plumbing; makes any connection with the mains or laterals of the city plumbing, sewer and/or water systems; connects a lawn sprinkler system to the service line on commercial property; performs backflow prevention services if certified by the state; and/or supervises a journeyman plumber.*
 - (2) *Journeyman plumber: Any person who alters plumbing, makes any connection with the mains or laterals of the city plumbing, sewer and/or water systems; performs backflow prevention services, if certified by the state; and/or connects a lawn sprinkler system to the service line on commercial property, under the direction of a city-licensed master plumber.*
- (c) *Mechanical contractor: Any person, firm, or corporation that employs or oversees others who alter mechanical systems or have a state certification for backflow prevention; and/or advertises or represents to others as having the capacity and/or ability to undertake or submit a bid or offer to alter mechanical systems. A mechanical contractor must either be a master mechanical specialist or employ a master mechanical specialist.*
- (1) *Master mechanical specialist: Any person who lays out, plans, and/or alters any mechanical system; performs backflow prevention services, if certified by the state; and/or supervises a journeyman mechanical specialist.*
 - (2) *Journeyman mechanical specialist: Any person who alters mechanical systems and/or performs backflow prevention services, if certified by the state, under the direction of a city-licensed master mechanical specialist.*
- (d) *Private sewage disposal contractor: Any person, firm, or corporation that lays out, plans and/or alters private sewage disposal systems.*
- (e) *General contractor: Any person, firm, or corporation that alters any building or structure, or a portion thereof, for which a permit is required. A general contractor also may perform all work described in Sections 14-196(f-h), and Sections 14-197(b-d) and (f-g).*
- (f) *Building contractor: Any person, firm, or corporation that alters the following buildings or structures, for which a permit is required: commercial buildings, industrial buildings, and single- and multiple-family dwellings not to exceed three stories in height. A building contractor may repair or remodel an existing structure in excess of three stories in height. A building contractor also may perform all work described in Sections 14-196(g-h), and Sections 14-197(b-d) and (f-g), on structures described in this subsection.*
- (g) *Residential contractor: Any person, firm, or corporation that, in exchange for any compensation, alters the following buildings or structures, for which a permit is required: one-, two- or three-*

family residential dwellings not exceeding three stories in height, including all structural alterations, and the construction of carports. A residential contractor also may perform all work described in Sections 14-196(h)(1)(2) and (4), and Sections 14-197(b-d) and (g), on structures described in this subsection.

(h) *Limited contractor: Any person, firm or corporation that performs the following specific tasks:*

- (1) *Concrete contractor: Any person, firm, or corporation that, in exchange for any compensation, constructs, pours, places, and/or finishes driveways, sidewalks and other similar flatwork using concrete or asphaltic materials; or constructs forms and/or framework for the casting and shaping of concrete and/or placing of reinforcing steel.*
- (2) *Drywall and plastering contractor: Any person, firm, or corporation that, in exchange for any compensation, coats surfaces with a mixture of sand or other aggregate, gypsum, plaster or Portland cement, quick lime and water, or other combinations of materials to create a permanent surface coating; installs wire mesh or necessary elements to hold the coating; and/or installs gypsum drywall products or finishes preparation of drywall systems.*
- (3) *Masonry contractor: Any person, firm, or corporation that constructs or repairs walls, footings, or other structures by the laying of bricks, blocks, or stone.*
- (4) *Roofing contractor: Any person, firm, or corporation that, in exchange for any compensation, installs, repairs or replaces roof-covering systems, including roof decking insulation, roof coating, the use of sheet metal and/or metal products incidental to roofing work, nonstructural decking, asphalt and fiberglass shingles, tile roofing systems, slate and wood shingles, or any other roofing product. If required to be registered under state law, a roofing contractor shall provide to the city their state roofing registration number before receiving a roofing contractor's license.*

SECTION TWO: AMENDMENT TO MUNICIPAL CODE SECTION 14-197.

The Governing Body of the City of Arkansas City, Kansas, hereby amends Section 14-197 of the Arkansas City Municipal Code to read as follows (new provisions in italics):

Sec. 14-197. - *Limited contractors subject to licensure (no examination).*

Prior to performing any work described below within this city, the following limited contractors shall be licensed by the city after (1) providing a bond required by this article; (2) providing public liability and property damage insurance certificates required by this article; and (3) paying the applicable fee set by the board of city commissioners:

- (a) *Backflow prevention contractor: Any person, firm, or corporation that alters or winterizes any lawn sprinkler system, atmospheric vacuum breaker, pressure vacuum breaker assembly, or reduced pressure principle backflow prevention assembly; or connects a lawn sprinkler system to a service line on residential property, but does not include any connection to a service line from commercial property. If required to have a certificate to perform this work under state law, a backflow prevention contractor shall provide to the city their current state backflow certificate number before receiving a backflow prevention contractor's license. A licensed master plumber, journeyman plumber, master mechanical specialist or journeyman mechanical specialist is not required to have a separate city backflow prevention contractor's license, as long as he or she has a state certification to perform backflow prevention work.*
- (b) *Carpenter/handyman contractor: Any person, firm, or corporation that, in exchange for any compensation, performs minor repairs and maintenance to one- and two-family dwellings that does not require a permit or otherwise require a specific contractor's license; replaces less than*

100 square feet of roofing materials; installs countertops or cabinets; and/or constructs detached accessory buildings (excluding carports) of less than 100 square feet.

- (c) *Demolition contractor: Any person, firm, or corporation that, in exchange for any compensation, demolishes, razes or otherwise removes structures, including the removal of all debris, leveling of property and/or plugging of sewer lines to such structures.*
- (d) *Fence contractor: Any person, firm, or corporation that, in exchange for any compensation, constructs, builds or installs any type of fencing, including chain link or privacy, and performs incidental work to install a fence.*
- (e) *Fire suppression installation contractor: Any person, firm, or corporation that installs, services, repairs, inspects, and/or maintains fire protection equipment, fire sprinkler systems, special hazard fire suppression systems, and/or kitchen fire suppression systems, fire alarm systems or portable fire extinguishers. If required to have a state-issued license to perform this work, a fire suppression installation contractor shall provide to the city a copy of the current state license before receiving a city license.*
- (f) *Residential swimming pool contractor: Any person, firm, or corporation that installs, repairs and/or replaces residential swimming pools, including pumps, pool heaters, solar pool heaters, filters and chlorinators, piping incidental to the recirculation system, and concrete slab work attached to the swimming pool.*
- (g) *Window and siding contractor: Any person, firm, or corporation that, in exchange for any compensation, fabricates, installs, maintains, repairs, alters, or extends siding, soffits, gutters, awnings, storm doors and/or windows.*

SECTION THREE: AMENDMENT TO MUNICIPAL CODE SECTION 14-198.

The Governing Body of the City of Arkansas City, Kansas, hereby amends Section 14-198 of the Arkansas City Municipal Code to read as follows (new provisions in italics):

Sec. 14-198. - *Unlawful acts.*

It is unlawful for any person, firm or corporation to:

- (a) *Enter into any agreement to subterfuge the licensing, bonding or insurance requirements as set forth in this code;*
- (b) *Act as a contractor defined within this article without being licensed by the city; or*
- (c) *Perform any work within this city without obtaining any required permit for such work.*

SECTION FOUR: AMENDMENT TO MUNICIPAL CODE SECTION 14-199.

The Governing Body of the City of Arkansas City, Kansas hereby amends Section 14-199 of the Arkansas City Municipal Code to read as follows (new provisions in italics):

Sec. 14-199. - *Work performed by property owner(s).*

Despite any provision of this article requiring a licensed contractor, a property owner may alter electrical wiring, plumbing and/or mechanical systems, on the owner's own single-family primary residence or its accessory buildings, if:

- (a) *The property owner personally alters the electrical wiring, plumbing and/or mechanical systems;*
- (b) *The property owner receives no compensation;*

- (c) *The property owner demonstrates to the code enforcement officer that the owner has the skills and knowledge necessary to perform such alterations in accordance with applicable codes;*
- (d) *Any person, firm or corporation assisting the owner is licensed by the city; and*
- (e) *All alterations comply with all applicable provisions of Municipal Code, technical codes and other applicable law, including permit/inspection requirements and installation/maintenance standards.*

SECTION FIVE: AMENDMENT TO MUNICIPAL CODE SECTION 14-200.

The Governing Body of the City of Arkansas City, Kansas, hereby amends Section 14-200 of the Arkansas City Municipal Code to read as follows (new provisions in italics):

Sec. 14-200. - *Building trades advisory board.*

- (a) *Authority. The board of building appeals, also referred to as the building trades advisory board, shall hear and decide appeals of orders, decisions or determinations made by the code enforcement officer relative to the application and interpretation of the city-adopted building codes and regulations, and the city's contractor license laws.*
- (b) *Membership. The board shall consist of nine voting members:*
 - (1) *Two electricians (either two master electricians or one master electrician and one journeyman electrician);*
 - (2) *Two plumbers (either two master plumbers or one master plumber and one journeyman plumber);*
 - (3) *Two mechanical specialists (either two master mechanical specialists or one master mechanical specialist and one journeyman mechanical specialist); and*
 - (4) *Three at-large members, consisting of general, building, residential or limited contractors and/or citizens or laymen familiar with the requirements of this code.*
- (c) *Conflict of interest. No two electricians, plumbers, mechanical specialists, or at-large members of the board may be employed by the same person, firm or corporation, or otherwise have any kind of professional partnership or financial interest with each other.*
- (d) *Ex officio membership. The building official and the fire chief or fire marshal of the city, or their designees, shall serve as ex officio members of the board without voting privileges. The code enforcement officer, or his or her designee, shall serve as secretary to the board.*
- (e) *Appointment and terms. Appointments of electricians, plumbers and mechanical specialists shall be for a period of two years. Appointments of at-large members shall be for a period of three years. Terms shall be staggered in such a way that the term of no more than one electrician, plumber, mechanical specialist or at-large member shall expire in any given year.*
- (f) *Rules of procedure. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant, with duplicate copies provided to the code enforcement officer and city manager.*
- (g) *Meetings. The board shall hold meetings at regularly scheduled intervals, but shall meet a minimum of four times a year.*

- (h) *Limitations of authority. The board shall have no authority relative to interpretation of the administrative provisions of the code adopted by the city, nor shall the board be empowered to waive requirements of this code.*

SECTION SIX: NEW MUNICIPAL CODE SECTION 14-201.

The Governing Body of the City of Arkansas City, Kansas, hereby creates Section 14-201 of the Arkansas City Municipal Code to read as follows (new provisions in italics):

Sec. 14-201. - Appeals.

- (a) *Appeals of any decision of a city code enforcement officer may be made to the board of city commissioners, board of building appeals, board of zoning appeals, historic preservation board or other appropriate city board in writing, within 10 days after the appellant has been notified of the city code enforcement officer's decision.*
- (b) *Appeals of a final decision of the board of building appeals may be made to the Cowley County District Court within 30 days of issuance of the board's decision.*
- (c) *In such instances when time is of the essence and a meeting of the relevant board cannot be convened in a timely manner, appeals of any decision of any city code enforcement officer may be made to the city in the form of a request for a Quick Problem Resolution (QPR) meeting. Such meeting will be scheduled within 48 hours of the request and moderated by the city manager, or his or her designee. A written response explaining the QPR moderator's decision will be provided within 24 hours of the conclusion of the QPR meeting. Appeals of the QPR moderator's decision then may be made to the board of city commissioners, board of building appeals, board of zoning appeals, historic preservation board or other appropriate city board in writing, within 10 days after the appellant has been notified of the QPR moderator's decision.*
- (d) *For the purposes of this section, a final decision does not include any decision that is preliminary, preparatory, procedural or intermediate with regard to subsequent action.*

SECTION SEVEN: AMENDMENT TO MUNICIPAL CODE SECTION 62-71.

The Governing Body of the City of Arkansas City, Kansas, hereby amends Section 62-71 of the Arkansas City Municipal Code to read as follows (deleted provisions struck through; new provisions in italics):

***Sec. 62-71. - Installation, maintenance*~~Maintenance~~ and repair.**

- (a) ~~It shall be the responsibility of building and premises owners to maintain all backflow preventers and vacuum breakers within the building or on the premises in good working order, and to make sure no piping or other arrangements have been installed for the purpose of bypassing the backflow devices. Installation, testing~~ *Testing* and repair of these devices should be made *only by a state-certified and city-licensed backflow prevention contractor, master plumber, journeyman plumber, master mechanical specialist, or journeyman mechanical specialist after obtaining a permit and inspection from the city* ~~by qualified technicians. (Qualified technicians are those technicians who have completed a state department of health and environment approved training course and have passed a written examination such as the American Backflow Prevention Association Device Testers Examination.) The director of public works shall certify the device testers after ascertaining the technician meets the above qualifications. The code enforcement officer~~ *director of public works will also ensure the proper installation of all backflow preventers and will set appropriate testing and overhaul schedules for such devices. Testing intervals shall not exceed one year.*
- (b) ~~Certified tester/repair technicians. All certified tester/repair technicians shall be recertified at no less than three year intervals. Persons certified as tester/repair technicians at the time of the~~

~~adoption of the ordinance from which this article is derived shall continue to be certified for a period of not more than three years as determined by the director of public works.~~

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

SECTION NINE: 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 the date of said publication.

PASSED AND ORDAINED by the Governing Body of the City of Arkansas City, Kansas, on this sixth day of February, 2018.

Dan Jurkovich, Mayor

ATTEST:

Lesley Shook, City Clerk

APPROVED AS TO FORM:

Tamara L. Niles, City Attorney