

CITY OF LAKE QUIVIRA

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE V SECTION 4 OF THE CODE OF THE CITY OF LAKE QUIVIRA, KANSAS, TO INCORPORATE BY REFERENCE THE INTERNATIONAL BUILDING CODE, 2018 EDITION, WITH OMISSIONS AND ADDITIONS, TO REGULATE THE ERECTION, CONSTRUCTION, ENLARGEMENT, ALTERATION, REPAIR, MOVING, REMOVAL, CONVERSION, DEMOLITION, OCCUPANCY, EQUIPMENT, USE, HEIGHT, AREA AND MAINTENANCE OF PROPERTY, BUILDINGS OR STRUCTURES IN THE CITY OF LAKE QUIVIRA, KANSAS; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFORE.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAKE QUIVIRA, KANSAS, THAT:

INTERNATIONAL BUILDING CODE ADOPTED.

PARAGRAPH ONE.

Title V, Section 4, of the Code of the City of Lake Quivira, Kansas, adopting the International Building Code with amendments, is hereby amended to read as follows:

A. Incorporation by Reference.

There is hereby incorporated by reference the International Building Code, 2018 Edition, prepared and published in book form by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, Illinois 60478-5795, and hereby referenced as the IBC.

B. Amendments and Additions.

The following sections of the IBC are amended as follows:

Amend Section 101.1 Title of the IBC by replacing “[NAME OF JURISDICTION]” with “City of Lake Quivira, Kansas.”

Amend by omitting Section 101.4.7 Existing Buildings, of the IBC, and amend by adding in lieu thereof a new Section 101.4.7 Existing Buildings, which reads:

101.4.7 Existing Buildings. The provisions of the International Building Code, International Plumbing Code, International Mechanical Code, International Fuel Gas Code, International Residential Code, International Energy Conservation Code, International Fire Code and NFPA 70 shall apply to matters governing the repair, alteration, change of occupancy, addition to and relocation of existing buildings. Alterations to any building or structure shall comply with the requirements of the code for new construction. Alterations shall be such that the existing building or structure is no less complying with the provisions of this code than the existing building or structure was prior to the alteration.

Buildings and structures, and parts thereof, shall be maintained in a safe and sanitary condition. Devices or safeguards which are required by this code shall be maintained in conformance with the code edition under which installed. The owner or owners designated agent shall be responsible for the maintenance of the buildings and structures. To determine compliance with this subsection, the Building Official shall have the authority to require a building or structure to be re-inspected.

The requirements of this section shall not provide the basis for removal or abrogation of the fire protection and safety systems and devices in existing structures. The provisions of this code related to the construction, repair, alteration, restoration and movement of structures, and change of occupancy shall not be mandatory for historic buildings where such buildings are judged by the Building Official to not constitute a distinct life safety hazard.

No change shall be made in the use or occupancy of any building that would place the building in a different division of the same group of occupancies or in a different group of occupancies, unless such building is made to comply with the requirements of this code for such division or group of occupancies. Subject to the approval of the Building Official, the use or occupancy of existing buildings shall be permitted to be changed and the building is allowed to be occupied for the purpose in other groups without conforming to all the requirements of this code for those groups, provided the new or proposed use is less hazardous, based on life and fire risk, than the existing use. A certificate of occupancy shall be issued where it has been determined that the requirements for the new occupancy classification have been met.

Amend by omitting Section 103 Department of Building Safety of the IBC in its entirety.

Amend by omitting Section 104.3 Notices, Orders and Work Hours, which reads:

104.3 Notices, Orders and Work Hours. The Building Official, or his/her designated representatives, shall issue all necessary notices or orders to ensure compliance. These regulations shall be known as the Building Code of the City of Lake Quivira, hereafter referred to as "this code."

All work done under a valid building permit, which is audible at any property line, shall conform to this section. No work regulated by this section shall be done between 10:00 PM and 7:00 AM Monday through Friday, or between 9:00 PM and 8:00 AM Saturday through Sunday.

EXCEPTION: 1. Emergency work, as approved by the City Manager, may be done at any time. 2. Work may be done between 6:00 AM and 10:00 PM Monday through Friday during the months of June, July and August. 3. Work, which is more than five-hundred feet (500') from an occupied dwelling, may be done at any time. 4. Work specifically authorized by the Planning Commission may be done as allowed by the Planning Commission. 5. Work, which is within five-hundred feet (500') of an occupied dwelling in the same ownership as the permit holder doing the work, may be done at any time. All measurements for the above exceptions are to be taken from the property lines of the permitted project to the wall of affected dwellings. Constructions projects, where work is done in violation of this section, may be required to stop all remaining work, as provided for in Section 115 of this code, for a period not to exceed seven (7) consecutive days, for each separate violation.

Amend by omitting Item # 4 under Section 105.2 Work exempt from permit, Building, of the IBC and amend by adding in lieu thereof a new Item # 4, which reads:

4. Retaining walls which are not over 4 feet (1,219 mm) in height measured from the bottom of the footing to the top of the wall, unless the wall is located within a drainage easement, or unless the wall is located on a lot that is designated as an E/I lot on the subdivision records of the City Engineer, or unless the wall supports a surcharge or impounds Class I, II or III-A liquids.

Amend by omitting Item # 6 under Section 105.2 Work exempt from permit, Building, of the IBC and amend by adding in lieu thereof a new Item # 6, which reads:

6. Sidewalks, driveways, decks and platforms not more than thirty inches (30”) or (762 mm) above grade and not over any basement or story below, and which are not part of an accessible route.

Amend the IBC by adding a new Item #14 under Section 105.2 Work exempt from permit, Building, which reads:

14. Replacement of existing windows and doors that do not require any changes to the framework of the building, re-roofing and re-siding. Re-roofing will be compliant with 2018 IBC/IRC standards to include Ice Barrier – commonly referred to as ice and watershed. Re-siding will be compliant with 2018 IBC/IRC to include water resistant /resistance barrier.

Amend Section 105.3 Application for permit of the IBC by adding a new Item # 8, which reads:

Include proof that the permit applicant has a valid contractor license, in the appropriate class, with Johnson County, Kansas. The Building Official is authorized to deny a building permit to any applicant that does not provide adequate proof meeting this requirement. The Building Official is authorized to waive the requirement for a valid contractor license for permit applications that involve minor projects (such as decks, fences, simple repairs, grading, demolition, etc.). The Building Official is also authorized to deny a building permit to any person who has an outstanding failure to appear in court (Bench Warrant), with respect to any violation of Lake Quivira laws or ordinances, or has established habitual inspection failures, or habitual stop work orders issued by the Building Official. Each permit applicant seeking to obtain a permit for work (demolition and construction) on one-and two-family residential, commercial, and accessory structures shall also be required to have on file with the Building Official a current contractor registration form. The Building Official shall, by administrative regulation, prepare the required form, which shall contain such information that the Building Official deems necessary to implement this requirement.

All persons identified on the contractor registration form as being legally responsible to the City for compliance with the conditions of the permit may be cited by the City for any violations of the code pertaining to that permit. The business, and any identified responsible persons, shall assume full legal responsibility and liability to the City for any permit issued to any authorized individual, and, absent written notification being received by the Building Official prior to the issuance of a permit of any changes in the authorized individuals, such responsibility shall exist regardless of whether in fact such listed authorized individual has any affiliation with the business at the time of issuance. It is further the continuing responsibility of the business to notify the Building Official in writing of any other changes to the form, and, in the absence of any such notification being received by the Building Official prior to the

issuance of a permit, all identified responsible persons shall be responsible for that permit to the City regardless of whether they maintain any affiliation with the business.

Amend by omitting Section 105.5 Expiration, of the IBC, and to amend by adding in lieu thereof a new Section 105.5 Expiration and Extension of Building Permit, which reads:

105.5 Expiration and Extension of Building Permit. Every building permit shall become invalid unless the work described in the permit application and authorized by the permit is commenced within 180 days of the date of issuance, if a building inspection is not obtained within any 180 day period after the date of issuance, or if the work described in the permit application and authorized by the permit is substantially suspended or abandoned for a period of 180 days after the time work is commenced. Every building permit shall expire 1 year from the date of permit issuance. The Building Official may upon written application and justifiable cause shown, grant in writing one extension of time, for a period of time not exceeding 180 days. Permit fees and bond moneys shall be forfeited upon expiration of the building permit.

Amend the IBC by adding a new Section 105.8 Responsibility, which reads:

105.8 Responsibility. The permit applicant of record shall complete, and be responsible for, all work for which the building permit was issued, in full compliance with applicable laws and ordinances. The permit applicant of record shall complete, and be responsible, for all sidewalks, drive approaches, grading, installation of required landscaping, and culvert drains in the public right of way abutting the property described by the building permit. The construction of sidewalks, drive approaches, and other public improvements described above shall comply with all applicable technical specifications adopted by the City of Lake Quivira and shall be located as required by the applicable codes and policy statements of the City of Lake Quivira.

Failure by the permit applicant of record to fully comply with any of the above requirements shall be deemed a violation of this Section.

The applicant of record may cancel the building permit by written request and written approval by the Building Official. The permit applicant of record shall still be responsible for all work completed under the building permit prior to cancellation. Building permits are not transferable.

Amend the IBC by adding a new Section 105.9 Compliance Statement, which reads:

105.9 Compliance Statement. The Permit applicant of record for any construction of new one and two-family dwellings shall submit a notarized statement that the project was constructed in compliance with all applicable municipal building codes and ordinances. The required notarized statement shall be submitted to the Building Official prior to any occupancy of the structure, on a form approved by the Building Official.

The Building Official is authorized to require written verification of the name of the subcontractor who performed electrical, plumbing, fire protection, or mechanical work on any project for which a permit was issued. Written verification of the subcontractor work shall be on an approved form, provided by the subcontractor who did the work, and shall be provided to the Building Official prior to obtaining a satisfactory final inspection. The Building Official is authorized to waive this requirement for minor projects.

Amend by omitting Section 109.2 Schedule of permit fees, of the IBC.

Amend by omitting Section 109.6 Refunds of the IBC and amend by adding in lieu thereof a new Section 109.6 Refunds, which reads:

109.6 Refunds. The Building Official is authorized to refund a permit fee which was erroneously paid or collected. The Building Official may authorize refunding of not more than 80 percent of the permit fee paid when no work has been done under the permit issued, for any portion of the permit fee in excess of twenty-five dollars (\$25.00). No refund shall be made for any permit fee paid of twenty-five dollars (\$25.00) or less. The Building Official may authorize refunding of not more than 80 percent of the plan review fee paid when no plan review work has been done. The Building Official shall not authorize refunding of any fee paid except on written application filed by the original permittee, not later than 180 days after the date of fee payment.

Amend the IBC by adding a new Section 110.7 Final Inspection Report Required, which reads:

110.7 Final Inspection Report Required. It shall be unlawful for any building permit applicant or owner or party in possession of property described in the permit application, to fail to obtain a satisfactory final inspection report prior to the expiration of the building permit, unless an extension of the building permit is first granted prior to such expiration, in writing by the Building Official.

Amend the IBC by omitting Section 113.1, in its entirety, and adding a new 113.1, which reads:

113.1 General. In order to hear and decide appeals of orders, decision or determinations made by the Building Official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The Lake Quivira Planning Commission is hereby designated as the board of appeals. The board shall adopt rules of procedure for conducting its business.

Amend by omitting Section 305.2 Group E, Day Care Facilities of the IBC and amend by adding in lieu thereof a new Section 305.2 Group E, Day Care Facilities, which reads:

305.2 Group E, Day Care Facilities. This group includes buildings and structures or portions thereof occupied by more than five children older than 2 ½ years of age who receive educational, supervision or personal care services for fewer than 24 hours per day.

Exception: Daycare that is an accessory use for the dwelling unit principal residents, when conducted in compliance with applicable state and local regulations, shall comply with applicable requirements of the International Residential Code.

Amend the IBC by omitting Section 305.2.3 Five or Fewer Children in a Dwelling Unit.

Amend the IBC by omitting Section 310.4.1 Care Facilities within a Dwelling.

Amend the IBC by adding a new SECTION 429 RESIDENTIAL GROUP R-2 AND R-3 OCCUPANCIES, which reads:

SECTION 429 RESIDENTIAL GROUP R-2 AND R-3 OCCUPANCIES

429.1 Purpose. The purpose of this Section is to establish minimum standards that incorporate physical security to make dwelling units resistant to unlawful entry.

429.1.1 Scope. The provisions of this Section shall apply to all new residential structures that contain dwelling units.

429.2 Doors. Except for vehicular access doors, all exterior swinging doors of residential buildings and attached garages, including the doors leading from the garage into the dwelling, shall comply with sections 429.2.1 through 429.4.4. For purposes of this Section, doors leading from the garage area into the dwelling shall be deemed to be exterior doors.

429.2.1 Wood Doors. Where installed, exterior wood doors shall be of solid core construction such as high density particleboard, solid wood, or wood block core with a minimum thickness of one and three-fourths inches ($1\frac{3}{4}$ ") at any point. Doors with panel inserts shall be solid wood. The panels shall be a minimum of one inch (1") thick. The tapered portion of the panel that inserts into the groove of the door shall be a minimum of one-quarter inch ($1/4$ ") thick. The groove shall be a dado groove or applied molding construction. The groove shall be a minimum of one-half inch ($1/2$ ") in depth.

429.2.2 Steel Doors. Where installed, exterior steel doors shall be a minimum thickness of 24 gauge.

429.2.3 Fiberglass Doors. Fiberglass doors shall have a minimum skin thickness of one-sixteenth inch ($1/16$ ") and have reinforcement material at the location of the deadbolt.

429.2.4 Double Doors. Where installed, the inactive leaf of an exterior double door shall be provided with flush bolts having an engagement of not less than one inch (1") into the head and threshold of the doorframe.

429.2.5 Sliding Doors. Where installed, exterior sliding doors shall comply with all of the following requirements: 1. Sliding door assemblies shall be installed to prevent the removal of the panels and the glazing from the exterior with the installation of shims or screws in the upper track. 2. All sliding glass doors shall be equipped with a secondary locking device consisting of a metal pin or a surface mounted bolt assembly. Metal pins shall be installed at the intersection of the inner and outer panels of the inside door and shall not penetrate the frame's exterior surface. The surface mounted bolt assembly shall be installed at the base of the door.

429.3 Door Frames. The exterior door frames shall be installed prior to a rough-in inspection. Door frames shall comply with Sections 429.3.1 through 429.3.3 for the type of assembly installed.

429.3.1 Wood Frames. Wood door frames shall comply with all of the following requirements: 1. All exterior door frames shall be set in frame openings constructed of double studding or equivalent construction, including garage doors, but excluding overhead doors. Door frames, including those with sidelights shall be reinforced in accordance with ASTM F 476-84 Grade 40. 2. In wood framing, horizontal blocking shall be placed between studs at the door lock height for three (3) stud spaces or equivalent bracing on each side of the door opening.

429.3.2 Steel Frames. All exterior door frames shall be constructed of eighteen (18) gauge or heavier steel, and reinforced at the hinges and strikes. All steel frames shall be anchored to the wall in accordance with manufacturer specifications. Supporting wall structures shall consist of double studding or framing of equivalent strength. Frames shall be installed to eliminate tolerances inside the rough opening.

429.3.2 Door Jambs. 1. Door jambs shall be installed with solid backing in a manner so no void exists between the strike side of the jamb and the frame opening for a vertical distance of twelve inches (12") each side of the strike. Filler materials shall consist of a solid wood block. 2. Door stops on wooden jambs for in-swinging doors shall be of one-piece construction. Jambs for all doors shall be constructed or protected so as to prevent violation of the strike.

429.4 Door Hardware. Exterior door hardware shall comply with Sections 429.4.1 through 429.4.6.

429.4.1 Hinges. Hinges for exterior swinging doors shall comply with the following: 1. At least two (2) screws, three inches (3") in length, penetrating at least one inch (1") into wall structure shall be used. Solid wood fillers or shims shall be used to eliminate any space between the wall structure and door frame behind each hinge. 2. Hinges for out-swinging doors shall be equipped with mechanical interlock to preclude the removal of the door from the exterior.

429.4.2 Strike Plate. Exterior door strike plates shall be a minimum of eighteen (18) gauge metal with four offset screw holes. Strike plates shall be attached to wood with not less than three inch (3") screws, which shall have a minimum of one inch (1") penetration into the nearest stud. Note: For side lighted units, refer to Section 429.8.6.

429.4.3 Escutcheon Plates. All exterior doors shall have escutcheon plates or wrap-around door channels installed around the lock protecting the doors edge.

429.4.4 Locks. Exterior doors shall be provided with a locking device complying with one of the following: Single Cylinder Deadbolt shall have a minimum projection of one inch (1"). The deadbolt shall penetrate at least three-fourths inch (3/4") into the strike receiving the projected bolt. The cylinder shall have a twist-resistant, tapered hardened steel cylinder guard. The cylinder shall have a minimum of five (5) pin tumblers, shall be connected to the inner portion of the lock by solid metal connecting screws at least one-fourth inch (1/4") in diameter and two and one-fourth inches (2 1/4") in length. Bolt assembly (bolt housing) unit shall be of single piece construction. All deadbolts shall meet ANSI grade 2 specifications.

429.4.5 Entry Vision and Glazing. All main or front entry doors to dwelling units shall be arranged so that the occupant has a view of the area immediately outside the door without opening the door. The view may be provided by a door viewer having a field of view of not less than one-hundred eighty (180) degrees through windows or through view ports.

429.4.6 Side Lighted Entry Doors. Side light door units shall have framing of double stud construction or equivalent construction complying with Section 429.3.1 through 429.3.3. The door frame that separates the door opening from the side light, whether on the latch side or the hinge side, shall be double stud construction or equivalent construction complying with Sections 429.3.1 and 429.3.2.

Double stud construction or construction of equivalent strength shall exist between the glazing unit of the side light and wall structure of the dwelling.

429.5 Street Numbers. Street numbers shall be provided for all new buildings, and shall be positioned so as to be visible and plainly legible from the street or road fronting the property. Street numbers shall be subject to approval of the Fire Marshall.

429.6 Exterior Lighting. Exterior lighting shall comply with Sections 429.6.1 through 429.6.2.

429.6.1 Front and Street Side Exterior Lighting. All front and street side door entrances should be protected with a minimum of one light outlet having a minimum of sixty (60) watts of lighting (or energy efficient equivalent) installed so that the light source is not readily accessible. 429.6.2 Rear Exterior Lighting. Homes with windows or doors near ground level below eight feet (8') on the rear side of the house shall be equipped with a minimum of one light outlet having 100 watt lighting (or energy efficient equivalent) and shall be of the flood light type. Those fixtures placed below eight feet (8') shall be fixtures manufactured such that the light source is not readily accessible.

429.7 Alternate Materials and Methods of Construction. The provisions of this Section are not intended to prevent the use of any material or method of construction not specifically prescribed by this Section, provided any such alternate has been approved by the enforcing authority, nor is it the intention of this Section to exclude any sound methods of structural design or analysis not specifically provided for in this Section. The materials, methods of construction, and structural design limitations provided for in this Section shall be used, unless the enforcing authority grants an exception. The enforcing authority is authorized to approve any such alternate provided they find the proposed design, materials and methods of work to be at least equivalent to those prescribed in this Section in quality, strength, effectiveness, burglary resistance, durability and safety.

Amend by omitting Chapter 11 of the IBC in its entirety, and to amend by adding in lieu thereof a new Chapter 11, to read:

CHAPTER 11 ACCESSIBILITY

Section 1101 General. Modifications to existing buildings or sites, and construction of new buildings and sites shall comply with all applicable federal and state laws governing access and usability by individuals with disabilities. The permit applicant of record shall obtain certification from a registered architect that both the project design and the finished construction comply with applicable federal and state regulations governing accessibility. The permit applicant of record shall submit the design certification to the building official prior to the issuance of a building permit. The finished construction certification shall be submitted to the building official prior to the issuance of a certificate of occupancy for the project. A single registered architect shall certify the entire scope of the project design documents and the finished construction project. The building official may waive submission of proof of certification for minor projects. The waiver of certification submission shall not relieve the requirement that the permit applicant of record obtain an architect's certification as described above. Appeals to accessibility requirements, where allowed by federal or state law, shall be heard by the board of appeals.

Amend by omitting Section 1202.1 General., of the IBC, and to amend by adding in lieu thereof a new Section 1202.1 General., which reads:

1202.1 General. Buildings shall be provided with natural ventilation in accordance with Section 1203.5, or mechanical ventilation in accordance with the International Mechanical Code.

Amend Section 1612.3 Establishment of flood hazard areas of the IBC by replacing “[INSERT NAME OF JURISDICTION]” with “City of Lake Quivira, Kansas” and by replacing “[INSERT DATE OF ISSUANCE]” with “June 17, 2002.”

Amend the IBC by adding a new Section 2902.7 Drinking fountains and service sinks, which reads:

2902.7 Drinking Fountains and Service Sinks. The Building Official is authorized to accept equivalent means for providing drinking water and cleaning facilities besides requiring drinking fountains and service sinks, such as bottled water, or cleaning equipment that can be used without a service sink.

Amend the IBC by adding a new SECTION 3009 INSPECTION OF EXISTING ELEVATORS which reads:

SECTION 3009 INSPECTION OF EXISTING ELEVATORS

3009.1 Scope. This section governs the maintenance, testing and inspection, of existing elevators and conveying systems and their components.

3009.2 Certificates of Inspection Required. It shall be unlawful to operate any elevator, dumbwaiter, escalator or moving walk without a current certificate of inspection issued by the Building Official. Such certificate shall be issued upon payment of prescribed fees and the presentation of a valid inspection report from a qualified individual, indicating that the conveyance is safe and that the inspections and tests have been performed in accordance with ASME A- 17.1/CSA 844. Certificates shall not be issued when the conveyance is posted as unsafe.

3009.3 Application for Certificates of Inspection. Application for a certificate of inspection shall be made by the owner of an elevator, dumbwaiter, escalator or moving walk. Applications shall be accompanied by an inspection report as described in

Section 3009.2. Fees for certificates of inspection shall be as specified in this section.

3009.4 Fees. A fee for each certificate of inspection shall be paid to the City of Lake Quivira as follows:

Annual certificates of inspection:

For each elevator	\$25.00
For each escalator or moving wall	\$15.00
For each commercial dumbwaiter	\$10.00

3009.5 General. The owner shall be responsible for the safe operation and maintenance of each elevator, dumbwaiter, escalator or moving walk installation and shall cause periodic inspections, tests and maintenance to be made on such conveyances as required in this section.

3009.6 Periodic Inspections and Tests. Routine and periodic inspections and tests shall be made as required by A-17.1.

3009.7 Alterations, Repairs and Maintenance. Alterations, repairs and maintenance shall be made as required by A-17.1.

3009.8 Inspection Costs. All costs of such inspections and tests shall be paid by the owner.

Amend by omitting Section 3109 Swimming Pools, Spas and Hot Tubs of the IBC and amend by adding in lieu thereof new Section 3109 Swimming Pools, Spas, and Hot Tubs., which reads:

SECTION 3109 SWIMMING POOL ENCLOSURES AND SAFETY DEVICES 3109.1 General. Swimming pools shall comply with the requirements of Sections 3109.2 through 3109.5 and other applicable sections of this code.

3109.2 Definition. The following term is defined in Chapter 2: SWIMMING POOLS.

3109.3 Public Swimming Pools. Public swimming pools shall be completely enclosed by a fence not less than 4 feet (1290 mm) in height or a screen enclosure. Openings in the fence shall not *permit* the passage of a 4-inch- diameter (102 mm) sphere. The fence or screen enclosure shall be equipped with self-closing and self-latching gates. 3109.4 Residential Swimming Pools. Residential swimming pools shall comply with Sections 3109.4.1 through 3109.4.3. 3109.4.1 Barrier Height and Clearance. The top of the barrier shall be not less than 48 inches (1219 mm) above grade measured on the side of the barrier that faces away from the swimming pool. The vertical clearance between grade and the bottom of the barrier shall be not greater than 2 inches (51 mm) measured on the side of the barrier that faces away from the swimming pool. Where the top of the pool structure is above grade, the barrier is authorized to be at ground level or mounted on top of the pool structure, and the vertical clearances between the top of the pool structure and the bottom of the barrier shall be not greater than 4 inches (102 mm).

3109.4.1.1 Openings. Openings in the barrier shall not allow the passage of a 4- inch-diameter (102 mm) sphere.

3109.4.1.2 Solid Barrier Surfaces. Solid barriers which do not have openings shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.

3109.4.1.3 Closely Spaced Horizontal Members. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches (1143 mm), the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall be not greater than 1 ¾ inches (44 mm) in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall be not greater than 1 ¾ inches (44 mm) in width.

3109.4.1.4 Widely Spaced Horizontal Members. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches (1143 mm) or more, spacing between vertical members shall be not greater than 4 inches (102 mm). Where

there are decorative cutouts within vertical members, spacing within cutouts shall be not greater than 1 ¾ inches (44 mm) in width.

3109.4.1.5 Chain Link Dimensions. Mesh size for chain link fences shall be not greater than 2 ¼ inch square (57 mm square) unless the fence is provided with slats fastened at the top or the bottom which reduce the openings to not more than 1 ¾ inches (44 mm).

3109.4.1.6 Diagonal Members. Where the barrier is composed of diagonal members, the opening formed by the diagonal members shall be not greater than 1 ¾ inches (44 mm). 3109.4.1.7 Gates. Access doors or gates shall comply with the requirements of Sections 3109.4.1.1 through 3109.4.1.6 and shall be equipped to accommodate a locking device. Pedestrian access doors or gates shall open outward away from the pool and shall be self-closing and have a self-latching device. Doors or gates other than pedestrian access doors or gates shall have a self-latching device. Release mechanisms shall be in accordance with Sections 1008.1.9 and 1109.13. Where the release mechanism of the self-latching device is located less than 54 inches (1372 mm) from the bottom of the door or gate, the release mechanism shall be located on the pool side of the door or gate 3 inches (76 mm) or more, below the top of the door or gate, and the door or gate and barrier shall be without openings greater than ½ inches (12.7 mm) within 18 inches (457 mm) of the release mechanism.

3109.4.1.8 Dwelling Wall as a Barrier. Where a wall of a *dwelling* serves as part of the barrier, one of the following shall apply:

1. Doors with direct access to the pool through that wall shall be equipped with an alarm that produces an audible warning when the door and/or its screen, if present, are opened. The alarm shall be *listed* and labeled in accordance with UL 2017. In dwellings not required to be *Accessible units, Type A units* or *Type B units*, the deactivation switch shall be located 54 inches (1372 mm) or more above the threshold of the door. In dwellings required to be *Accessible units, Type A units* or *Type B units*, the deactivation switch shall be located not higher than 54 inches (1372 mm) and not less than 48 inches (1219 mm) above the threshold of the door.
2. The pool shall be equipped with a power safety cover that complies with ASTM F 1346.
3. Other means of protection, such as self-closing doors with self-latching devices, which are *approved*, shall be accepted so long as the degree of protection afforded is not less than the protection afforded by Section 3109.4.1.8, Item 1 or 2.

3109.4.1.9 Pool Structure as Barrier. Where an aboveground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps, then the ladder or steps either shall be capable of being secured, locked or removed to prevent access, or the ladder or steps shall be surrounded by a barrier which meets the requirements of Sections 3109.4.1.1 through 3109.4.1.8. Where the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch- diameter (102 mm) sphere. 3109.4.2 Indoor Swimming Pools. Walls surrounding indoor swimming pools shall not be required to comply with Section 3109.4.1.8.

3109.4.3 Prohibited Locations. Barriers shall be located so as to prohibit permanent structures, equipment or similar objects from being used to climb the barriers.

3109.5 Entrapment Avoidance. Suction outlets shall be designed and installed in accordance with ANSI/APSP-7. Section 15.04.30 Copies on File.

C. Presumptions.

For purposes of this Section and the enforcement of the provisions thereof, there shall be a prima facie presumption that the owner of the real property shall be that Person reflected on the most recent evidence of ownership for the real property filed of record with the County wherein such real property is situated. The prima facie presumption of ownership shall be effective upon affidavit of an authorized agent or employee of the County wherein such property is located, attesting that deed or deeds attached thereto are a true and accurate copy of the official record, and are the most recent evidence of ownership for the described real property.

For purposes of this Section and the enforcement of the provisions thereof, there shall be a prima facie presumption that the Person who owns or controls property on which a violation occurs, has caused or permitted such violation.

D. Copies on File.

Not less than three (3) copies of the code hereinbefore incorporated by reference shall be marked or stamped "Official Copy as Adopted by Ordinance No. _____ (IBC Incorporating Ordinance)" and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Municipal Judge, and all administrative departments of the city charged with the enforcement of this Section shall be supplied, at the cost of the city, such number of official copies of such code as may be deemed expedient.

E. Penalty.

Any person or entity violating any provisions of this Section shall, upon conviction, be punished by a fine of not less than fifty dollars and no more than two thousand five hundred dollars. Each day that any violation occurs or continues shall constitute a separate offense. The imposition of a penalty for any violation or noncompliance shall not excuse any violation, permit a violation to continue, or excuse any obligation to remedy any violation. The imposition of a penalty shall not prohibit any action to enforce compliance, prevent a violation, or remedy a violation, nor shall it prohibit the imposition of liens or assessments necessary to remedy a violation.

SECTION TWO.

The previously existing provisions of Title V, Section 4, of the Code of the City of Lake Quivira, Kansas shall be hereby repealed upon the effective date of this Ordinance.

SECTION THREE.

If any part or parts of this Ordinance shall be held to be invalid, such invalidity shall not affect the validity of the remaining parts of this ordinance. The Governing Body hereby declares that it would have passed

the remaining parts of this Ordinance if it had known that such part or parts thereof would be declared invalid.

SECTION FOUR.

Neither the adoption of this Ordinance, nor the future repeal or amendment of any section or part or portion thereof, shall in any manner affect the prosecution for violation of this Ordinance or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations there under shall continue in full force and effect.

SECTION FIVE.

This Ordinance shall take effect and be in full force and effect July 1, 2019 from and after publication in an official city newspaper as provided by law.

PASSED by the Governing Body this ____ day of _____, 2019.

APPROVED AND SIGNED by the Mayor this ____ day of _____, 2019.

Ben Kalny, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Ellis Rainey, City Attorney

CITY OF LAKE QUIVIRA, KANSAS

Summary of Ordinance No. ____

On the ____ day of _____ 2019, the Governing Body of the City of Lake Quivira, Kansas passed Ordinance No. ____, to amend Title V, Section 4 of the Code of the City of Lake Quivira, Kansas to adopt the 2018 Edition of the International Building Code, with additions and omissions.

A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk or at www.cityoflakequivira.org.

The undersigned hereby certifies as prescribed by KSA 12-3007 that the foregoing Summary of Ordinance No. _____ is legally accurate and sufficient.

Dated: the ____ day of _____ 2019.

CITY ATTORNEY

Ellis Rainey, City Attorney