

## CHARTER ORDINANCE NO. 29

**A CHARTER ORDINANCE OF THE CITY OF ARKANSAS CITY REGARDING ITS FORM OF GOVERNMENT, BY EXEMPTING ITSELF FROM THE PROVISIONS OF L. 2015, CHAPTER 88, SECTION 71; AMENDING CHARTER ORDINANCE NO. 27; REAFFIRMING THE COMMISSION-MANAGER FORM; AND PROVIDING PROVISIONS FOR THE ELECTION OF OFFICERS, TERMS OF OFFICE, TRANSITIONS TO NOVEMBER ELECTIONS, FILLING OF GOVERNING BODY VACANCIES AND NOMINATION PETITIONS.**

**WHEREAS**, on the 4th day of November, 1930, the citizens of the City of Arkansas City, Kansas, adopted by a majority vote the commission-manager form of government; and

**WHEREAS**, the Kansas Legislature adopted laws in 2015 regarding the commission-city manager form of government, moving City elections to November and providing provisions regarding appointment of vacancies in the Governing Body; and

**WHEREAS**, the City of Arkansas City, Kansas, wishes to provide its own provisions for the transition to November elections and the filling of its vacancies.

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

**Section 1.** The City of Arkansas City, Kansas, hereby re-affirms it shall follow all provisions of the City Commission-City Manager plan as directed by the citizens of Arkansas City by public vote on November 4, 1930. The City of Arkansas City, Kansas, continues to operate under the commission-manager form of government, and pursuant to all existing ordinances and charter ordinances relating to its form of government: The City Governing Body shall appoint a City Manager to be responsible for the administration and affairs of the City. The City Manager shall serve at the pleasure of the Governing Body. The City Manager shall see that all laws and ordinances are enforced. The City Manager shall appoint and remove all heads of departments, and all subordinate officers and employees of the City. All appointments shall be made upon merit and fitness alone.

**Section 2.** (a) The governing body consists of five commissioners. The commissioners shall be residents and qualified electors of the City of Arkansas City, Kansas. Every two years, an election shall be held for three commissioners. The two candidates receiving the highest number of votes shall hold their offices for four years, and until their successors are elected and qualified; the candidate receiving the third-highest number of votes shall hold his or her office for two years, and until his or her successor is elected and qualified.

(b) Those positions that would have expired in April 2017, shall expire on the second Monday in January of 2018, when the city officials elected in the November 2017 general election take office.

(c) Those positions that would have expired in April 2019, shall expire on the second Monday in January of 2020, when the city officials elected in the November 2019 general election take office.

**Section 3.** All elections for the City of Arkansas City, Kansas shall be nonpartisan.

**Section 4.** The next general election shall take place on the Tuesday succeeding the first Monday in November 2017, and succeeding elections will be held every two years for all such Governing Body positions whose terms have expired. Primary elections shall be held pursuant to Kansas law.

**Section 5.** In accordance with K.S.A. 25-205 and K.S.A. 25-2110, and amendments thereto, any person may become a candidate for city office elected at large by having had filed, on their behalf, a nomination petition or a declaration of candidacy accompanied by any fee required by law. The nomination petition must be signed by qualified electors residing within the City of Arkansas City equal in number to not less than 4% of the current total of qualified electors of the City, and in no case to be signed by not less than 25 nor more than 5,000 qualified electors.

**Section 6.** The City of Arkansas City, by virtue of the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects and does exempt itself and make inapplicable to it L. 2015, Chapter 88, Section 71, relating to the filling of Governing Body vacancies, which enactment applies to this City, but does not apply uniformly to all cities.

**Section 7. Exemption-K.S.A. 14-1305.** The City, by the power vested in it by the Act, reaffirms its election to exempt itself from and make inapplicable to it the provisions of K.S.A. 14-1305, and does hereby provide the following substitute and additional provisions in place thereof (additions to Charter Ordinance 27 in italics; deletions struck through):

In case of any vacancy from any cause in the office of mayor or any commissioner, the ~~remaining~~ members of the Board of Commissioners, *including the outgoing member if available*, within ~~20~~ *30* days after ~~the occurrence of notice of~~ the vacancy shall appoint some suitable person to fill the vacancy ~~for the shorter of (a) the balance of the unexpired term of such office; or (b) until the next regular City election.~~ In the *event there are more than three vacancies to be filled at ease of appointment* to the next regular City election, the candidates in that election receiving the *fourth-largest (and fifth-largest, in the event of five vacancies) and second-largest* number of votes; ~~respectively, in that election shall be elected for a four-year term; and the candidates receiving the third and fourth largest number of votes, respectively, in that election shall be elected for a two-year term, and until his or her successor is elected and qualified.~~

If the ~~remaining~~ voting members, *including the outgoing member if available*, cannot agree by majority vote upon some such suitable person, then they shall call ~~in~~ on the City Attorney, who shall cast the decisive vote for such appointment. The resignation of the mayor or any commissioner elected shall be made in writing for their action thereon, *and shall become effective upon appointment of a successor.* If the mayor or any commissioner shall remove from the territorial limits of the city, such removal shall ipso facto be deemed to create a vacancy in such person's office.

**Section 8. Severability.** If any provision or section of this Charter Ordinance is deemed or ruled unconstitutional, or otherwise illegal or invalid, by any court of competent jurisdiction, such illegality or invalidity shall not affect any other provision or section of this Charter Ordinance. In such instance, this Charter Ordinance shall be construed and enforced as if such illegal or invalid provision or section had not been contained herein.

**Section 9. Effective Date.** This Charter Ordinance shall be published once a week for two consecutive weeks in the official City newspaper, and shall take effect sixty-one (61) days after final publication, unless a petition signed by a number of electors of the City equal to not less than ten percent (10%) of the number of electors who voted in the last preceding regular City election shall be filed in the office of the City Clerk, demanding that this Charter Ordinance be submitted to a vote of the electors, in which event this Charter Ordinance shall take effect when approved by a majority of the electors voting at an election held for such a purpose.

**PASSED AND ORDAINED** by the Governing Body of the City of Arkansas City, Kansas, with not less than two-thirds of the members elect voting in favor thereof, this 21st day of June, 2016, with City officials being authorized and directed to execute any and all documents necessary to consummate the purposes and

intents as expressed in this Charter Ordinance, and if executed by the Mayor (or other person authorized by law to act in the event of the absence or inability of the Mayor to act), the City Clerk is directed to attest to and affix the official seal of the City thereon.

Duane L. Oestmann, Mayor

ATTEST:

Lesley Shook, City Clerk

APPROVED AS TO FORM:

Tamara L. Niles, City Attorney