

CHARTER ORDINANCE NO. 32

A CHARTER ORDINANCE OF THE CITY OF ARKANSAS CITY, KANSAS, AMENDING PROVISIONS OF CHARTER ORDINANCES 17 AND 22, REGARDING THE NAME, COMPOSITION, AND LENGTH OF TERMS OF THE CONVENTION AND TOURISM COMMITTEE, AND AMENDING THE POSSIBLE USES OF THE CONVENTION AND TOURISM FUND.

WHEREAS, K.S.A. 12-1696 to 12-16,101, inclusive, authorizes a levy by cities of a transient guest tax, the provisions of which are not uniformly applicable to all cities; and

WHEREAS, Article 12, Section 5 of the Constitution of the State of Kansas (the “Act”) provides that cities may exercise certain home rule powers, including adopting charter ordinances which exempt such cities from enactments of the Kansas Legislature; and

WHEREAS, the Governing Body of the City previously adopted Charter Ordinances 9, 9-A, 9-B, 9-C, 17 and 22, modifying the application of Kansas statute and, most notably, establishing the composition and powers of the Convention and Tourism Committee, as well as listing the possible uses of the Convention and Tourism Fund; and

WHEREAS, the Governing Body desires, by charter ordinance, to provide substitute and additional provisions regarding the name, composition, and length of terms of the Convention and Tourism Committee, and to amend the possible uses of the Convention and Tourism Fund.

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

SECTION 1. *Election to exempt.* The City of Arkansas City, Kansas, a municipal corporation of the second class, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt itself from and make inapplicable to it the provisions of K.S.A. 12-1696 to 12-16,101, inclusive, except and deleting from the charter ordinance subsection (c) of K.S.A. 12-1697, subsections (a), (b), (c) of K.S.A. 12-1698, and where exempt to provide substitute and additional provisions as hereinafter set forth in this ordinance. The referenced provisions are either enactments or parts thereof which are applicable to this city, but are not applicable uniformly to all cities.

SECTION 2. The Governing Body of the City of Arkansas City hereby modifies Section Two of Charter Ordinance 17, and by further effect Municipal Code Section 54-162, to read as follows (additions to Municipal Code in italics; deletions to Municipal Code struck through):

SECTION TWO. As used in this Ordinance, the following words and phrases shall be defined as follows:

- (a) “Person” means an individual, firm, partnership, corporation, joint venture or other association of persons.

- (b) “Hotel or motel” means any structure or building ~~which~~ *that* contains rooms furnished for the purposes of providing lodging, which may or may not also provide meals, entertainment, or various other personal services to transient guests and which is kept, used, maintained, advertised, or held out to the public as a place where sleeping accommodations are sought for pay or compensation by transient or permanent guests.
- (c) “Transient guest” means a person who occupies a room in a hotel or motel for not more than 28 consecutive days.
- (d) “Hotel or motel business” means any person engaged in the business of renting, leasing, or letting quarters, sleeping accommodations, rooms, or a part thereof in connection with any hotel or motel.
- (e) “Tourism” means the practice of touring or traveling for recreation, business, or education.
- (f) “Touring” means a trip, excursion, or circular journey for business, recreation or education.

SECTION 3. The Governing Body of the City of Arkansas City hereby modifies Section Six of Charter Ordinance 17, and by further effect Municipal Code Section 54-165, to read as follows (additions to Municipal Code in italics; deletions to Municipal Code struck through):

SECTION SIX. The tax levied and collected pursuant to Section 3 of this ordinance shall become due and payable in a manner prescribed by K.S.A. 12-1698, and amendments thereto, except that all taxes remaining after the *two (2)* percent deduction for expenses of the *Kansas* Department of Revenue in administration and enforcement of the collection thereof shall be remitted to the City of Arkansas City, Kansas, and shall be credited to the “~~Tourism and~~ *Convention and Tourism* Fund” hereinafter established and shall only be expended out of said fund as hereinafter provided.

SECTION 4. The Governing Body of the City of Arkansas City hereby modifies Section Seven of Charter Ordinance 17, and by further effect Municipal Code Section 54-165, to read as follows (additions to Municipal Code in italics; deletions to Municipal Code struck through):

SECTION SEVEN. A “~~Tourism and~~ *Convention and Tourism* Fund” is hereby established to receive disbursements of money from the Secretary of Revenue of the State of Kansas, as provided in subsection (d) of K.S.A. 12-1698.

SECTION 5. The Governing Body of the City of Arkansas City hereby modifies Section Eight of Charter Ordinance 17, and by further effect Municipal

Code Section 54-166, to read as follows (additions to Municipal Code in italics; deletions to Municipal Code struck through):

SECTION EIGHT. Moneys in the “~~Tourism and~~ *Convention and Tourism Fund*” shall only *shall* be expended as follows:

- (a) The Convention and ~~Tourism Committee~~ *Visitors Bureau Board of Directors* hereinafter established shall ~~annually~~ *annually* consider *annually* all requests for expenditure of transient guest tax funds; and shall prepare a budget of expenditures for each year to be submitted to the Governing Body for its approval.
- (b) The Governing Body shall consider the expenditures proposed from the ~~Tourism and~~ *Convention and Tourism Fund* by the Convention and ~~Tourism Committee~~ *Visitors Bureau Board of Directors*, and shall adopt a budget of such expenditures which may vary from the proposal of the Convention and ~~Tourism Committee~~ *Visitors Bureau Board of Directors* in the discretion of the Governing Body. The Governing Body may at any time seek further advice and recommendations from the Convention and ~~Tourism Committee~~ *Visitors Bureau Board of Directors* regarding such expenditures, but reserves the exclusive authority to make final decisions ~~of them~~.
- (c) Such funds may be used:
 - (1) To operate or contract with any agency, organization, or group of firms to operate a bureau to promote conventions and tourism within the City and its environs;
 - (2) To provide for the operation, maintenance, expansion or development of City facilities connected with conventions and tourism;
 - (3) To defray the cost of providing municipal services to convention and tourism functions, including police, fire *and emergency medical services*, ~~street department~~ *public works* or parks and *facilities* functions; *and/or*
 - (4) To create innovative projects and activities promoting conventions and tourism;
 - ~~(5) To promote the general economic welfare of the City and its environs, including the attraction of industry.~~
- (d) All expenditures of such funds shall be paid to vendors of services or materials through the City offices in the same manner as other City operating accounts.

SECTION 6. The Governing Body of the City of Arkansas City hereby modifies Section Nine of Charter Ordinance 17, and by further effect Municipal Code Section 54-168, to read as follows (additions to Municipal Code in italics; deletions to Municipal Code struck through):

SECTION NINE. A “~~Convention and Tourism Committee~~ *Visitors Bureau Board of Directors*” is hereby established to advise the Governing Body, and make recommendations concerning programs and expenditures for conventions and tourism. The ~~committee~~ *Board* shall consist of ~~seven (7)~~ *six (6)* members, ~~appointed by the Mayor and confirmed by the City Commission~~ *each serving a term of three years. The seventh member shall be a member of the Governing Body, with full voting privileges. Initially, the City Commission shall appoint three (3) members for a 2 year term and four (4) members for a 1 year term, in order that only four (4) positions on the committee shall be vacated in any one year.*

~~Any vacancies in the membership of the committee shall be filled by the appointment of a new member as in the case of the original appointment, to fill the unexpired term of the member whose office is vacant.~~

SECTION 7. The Governing Body of the City of Arkansas City hereby modifies Section Ten of Charter Ordinance 22, and by further effect Municipal Code Section 54-168, to read as follows (additions to Municipal Code in italics; deletions to Municipal Code struck through):

SECTION TEN. Membership on the ~~committee~~ *Board* shall be as follows:

One (1) Member	A Member of the City Commission <i>Governing Body</i>
Three (3) Members	Public at Large
1 Member	Chamber of Commerce Representative
Three (3) Members	Owners or Operators of Hotels, Motels, Related Businesses or Tourist Attractions

~~The Convention and Tourism Committee shall hold regular monthly meetings at a time and place to be established by them, subject to approval of the Governing Body. All meetings shall be open to the public. No member of the committee shall receive any compensation for service thereon. Any member who is absent without excuse for three consecutive regular meetings shall be deemed to have resigned and a successor shall be appointed.~~

SECTION 8. The Governing Body of the City of Arkansas City hereby modifies Section Eleven of Charter Ordinance 17, and by further effect Municipal

Code Section 54-167, to read as follows (additions to Municipal Code in italics; deletions to Municipal Code struck through):

SECTION ELEVEN. That the City of Arkansas City shall have authority to contract for the expenditure ~~moneys~~ *monies* from the ~~Tourism~~ *and Convention and Tourism* Fund.

SECTION 9. *Repeal.* To the extent this Charter Ordinance conflicts with any prior legislation adopted by the City, including any provision contained in Charter Ordinances 9, 9-A, 9-B, 9-C, 17 and/or 22, conflicting provisions of any and all prior legislation are hereby repealed. Otherwise, any provision not repealed herein or by any other charter ordinance is hereby ratified and confirmed.

SECTION 10. *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 ruling shall not affect or otherwise invalidate any other provision contained within this Ordinance.

SECTION 11. *Further Amendment.* Municipal Code provisions created or amended by this Charter Ordinance, or the Charter Ordinances referenced herein, may be amended by regular ordinance, as adopted by a majority of a quorum of the Governing Body.

SECTION 12. *Publication and 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 (60) 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 at 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. Once this Charter Ordinance becomes effective, a certified copy of this Charter Ordinance shall be sent to the Kansas Secretary of State.

PASSED AND ORDAINED by the Governing Body of the City, with not less than two-thirds of the members-elect of the Governing Body voting in favor thereof, this 15th day of November 2016, and signed by the Mayor.

Duane L. Oestmann, Mayor

ATTEST:
Lesley Shook, City Clerk

DRAFTED AND APPROVED AS TO FORM:
Tamara L. Niles, City Attorney