

ORDINANCE NO. 2016-10-4419

AN ORDINANCE MODIFYING MUNICIPAL CODE PART II, CHAPTERS 2, 14 AND 38, CONCERNING GENERAL PROVISIONS FOR CITY ORGANIZATIONS, INCLUDING BOARDS, COMMISSIONS, COMMITTEES, COUNCILS AND TASK FORCES.

WHEREAS, current Municipal Code establishes the creation of City boards, councils, task forces and commissions, and governs their compensation, budgeting, attendance at meetings, minutes of meetings, number of members and service; and

WHEREAS, the Governing Body wishes to eliminate duplicative provisions of Code as part of an ongoing process to reform many of said boards, councils, task forces and commissions; and

WHEREAS, many such boards, councils, task forces, and commissions are governed by their own dedicated sections of Code that set out their methods of appointment, filling vacancies and electing officers, all such language that is duplicative of or occasionally in conflict with other similar sections; and

WHEREAS, the Governing Body desires to amend Municipal Code to eliminate such duplication and conflict by adding these provisions to the general provisions currently set forth for all City boards, councils, task forces and commissions, and applying them equally to committees.

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 PART II, CHAPTER 2, ARTICLE III, DIVISION 1.

The Governing Body of the City of Arkansas City hereby amends Part II, Chapter 2, Article III, Division 1 of the Arkansas City Municipal Code to read as follows (deleted provisions struck through, new provisions in italics):

ARTICLE III. - BOARDS, COMMISSIONS, COMMITTEES, ~~COMMISSIONS~~ COUNCILS, TASK FORCES

Charter ordinances reference— Public building commission, Charter Ordinance No. 18; library and library board, Charter Ordinance Nos. 19 and 20; hospital and hospital board of trustees, Charter Ordinance Nos. 7, 12, 15 and 21; ~~Cherokee Strip Land Rush Museum, Charter Ordinance No. 23.~~

DIVISION 1. - GENERALLY

Sec. 2-51. - City organizations—Appointments, meetings, officers, qualifications and vacancies.

- (a) Creation and appointments. All members of any board, council, task force, committee or commission created by and existing pursuant to this code (hereafter referred to generally as “board”) shall be appointed by the mayor with the consent of the board of city commissioners, unless otherwise specifically stated in this code.*
- (b) Regular and special meetings. Unless specifically authorized and exempted by this code or another controlling authority, every board shall meet regularly once a month at such time and place as designated by the chairperson. Special meetings may be called by the chairperson or upon written request signed by a majority of the members of the board. Notice of any special meeting must be given in accordance with K.S.A. 75-4317 through K.S.A. 75-4320f (the “Kansas Open Meetings Act,” hereinafter referred to as “KOMA”).*

- (c) *Cancellation of meetings. If there is no business before a board in a given month, the chairperson may elect to cancel that month's regular meeting. Multiple consecutive meetings may be canceled at one time with the consent of the board, such as in the case of a summer hiatus. Notice of cancellations must be made in accordance with KOMA.*
- (d) *Election of officers. Each board shall elect, by majority vote, one of its members as a chairperson, who shall serve for a term of one year or until a successor is elected by the board. Each board shall elect, in the same manner and for the same term, one of its members as a vice chairperson, who shall act as chairperson in the event of the chairperson's absence. The chairperson, or the vice chairperson in the chairperson's absence, shall preside at and be responsible for the conduct of all board meetings. Each board also shall designate a secretary, who may be a member of the board or an employee of the city, to record the minutes of its meetings.*
- (e) *Other offices. Unless specifically authorized and exempted by this code or another controlling authority, no board member may hold any other public office of the city, except membership on no more than one other board as appointed by the board of city commissioners. The planning commission and board of zoning appeals shall be counted as one board for the purposes of this subsection.*
- (f) *Vacancies and terms. In the event a vacancy shall occur during the term of any board member, the successor shall be appointed to the remainder of the unexpired term. Whenever possible, resigning board members shall serve until their successors have been appointed and qualified. The length of terms shall be set for each board within this code. All terms shall be staggered so that the terms of no more than half of the board's membership shall expire in the same calendar year.*

Sec. 2-52. - ~~City organizations~~Same—Compensation.

All members of any board, ~~council, task force, or commission created by and existing pursuant to this Code~~ shall serve without compensation, unless the board of city commissioners or another controlling authority specifically authorizes otherwise.

Sec. 2-53. - ~~Same~~—Budgeting.

No board, ~~council, task force, or commission created by and existing pursuant to this Code~~ shall be budgeted funding or otherwise receive funding from the city, unless the board of city commissioners, this code, or another controlling authority specifically *authorizes or* requires otherwise.

Sec. 2-54. - ~~Same~~—Attendance at meetings.

- (a) *Absenteeism. Any member of any board, ~~council, task force, or commission created by and existing pursuant to this Code~~ who is absent without prior excuse for three consecutive regular meetings or six regular meetings within a one-year period of his or her respective board, ~~council, task force, or commission within one year~~ shall be deemed to have resigned and shall be replaced through the procedure for appointing new members to that ~~organization~~ board, unless extenuating circumstances warrant otherwise; or the board of city commissioners or another controlling authority specifically ~~allows~~ authorizes otherwise. Nothing herein prohibits the mayor from reappointing the resigning member at a future time.*
- (b) *Determination of absence. Absences that shall be considered excused shall include, but shall not necessarily be limited to, those arising due to emergencies, medical conditions or military leave of less than two months, or when circumstances arise that warrant a special exception, in the judgment of the board chairperson. Other situations, such as an unavoidable work conflict, bereavement or vacation, shall be designated as excused*

absences only with the consent of the board chairperson. Any absence by a board member who has not previously notified the board chairperson about the absence shall be considered unexcused. The secretary of the board shall note any absence on a city-provided form, along with the reason for the absence, and the board chairperson shall sign said form after noting whether it is an excused or unexcused absence. Forms shall be submitted on a monthly basis to the city freedom of information officer or the city public records custodian.

~~(b)~~ (c) *Quorum.* A majority of the ~~appointed~~ *total* members of any board shall be considered a quorum, *in accordance with KOMA. A quorum shall be required to be present for any meeting to occur.* The board of city commissioners may consider disbanding any board, council, task force, or commission created by and existing pursuant to this Code if a quorum fails to be present at three consecutive *regular* meetings of that ~~organization~~ board.

Sec. 2-55. - Same—Minutes of meetings.

The secretary of every board, council, task force, or commission created by and existing pursuant to this Code or a designated city employee shall submit the minutes of every meeting of that ~~organization~~ board to the board of city commissioners *upon request.*

Sec. 2-56. - Same—Number of board members.

No board, council, task force, or commission created by and existing pursuant to this Code shall have *less than five or more than nine* voting members, unless the board of city commissioners, this code, or another controlling authority specifically *authorizes or* requires otherwise.

Sec. 2-57. - Same—Service.

~~Despite~~ *Regardless* of the length of any term ~~contained~~ *of appointment specified* within this code, members of all boards, councils, task forces, and/or commissions created by and existing pursuant to ordinance and/or this Code serve at the pleasure of the board of city commissioners, and may be removed *from their offices at any time*, with or without cause, ~~upon~~ by a vote of at least four ~~members of the board of~~ city commissioners.

Sec. 2-58—2-87. - Reserved.

SECTION TWO: AMENDMENT TO MUNICIPAL CODE PART II, CHAPTER 2, ARTICLE III, DIVISION 2.

The Governing Body of the City of Arkansas City hereby amends Part II, Chapter 2, Article III, Division 2, Sec. 2-88 and Sec. 2-90 of the Arkansas City Municipal Code to read as follows (deleted provisions struck through, new provisions in italics):

DIVISION 2. - ~~CITY~~ BEAUTIFICATION AND TREE ADVISORY BOARD

Sec. 2-88. - Creation; *and* term of office.

(a) The ~~city~~ *beautification and tree advisory board* shall consist of at least five members ~~appointed by the mayor with the approval of the board of city commissioners, for each~~ *serving* a three-year term.

~~(b) In the event a vacancy shall occur during the term of any member, the successor shall be appointed to the unexpired term.~~

Sec. 2-90. - ~~Operation~~ Reserved.

~~The board shall choose its own officers, establish its own rules and regulations, and keep a record of its meetings.~~

SECTION THREE: AMENDMENT TO MUNICIPAL CODE PART II, CHAPTER 2, ARTICLE III, DIVISION 3.

The Governing Body of the City of Arkansas City hereby amends Part II, Chapter 2, Article III, Division 3, Sec. 2-109 of the Arkansas City Municipal Code to read as follows (deleted provisions struck through, new provisions in italics):

DIVISION 3. - *RETIRED* CITIZENS ~~RETIREMENT~~ ADVISORY COUNCIL

Sec. 2-109. - *Creation; and membership; officers.*

~~(a) The city retired citizens retirement advisory council shall consist of seven members, appointed by the mayor with the approval of the board of city commissioners. Members shall be drawn from diverse segments of the community, and selected for their objectivity, ability, and broad community interest in regarding the retired and senior citizens of the city. None of the members may hold any other public office of the city except membership on other city advisory boards, committees and commissions appointed by the board of city commissioners. All members must be residents of the city.~~

~~(b) Officers of the council shall be a chairperson and a vice chairperson, who shall serve for a one year term or until their successors are elected. The council may select a secretary to keep minutes of its meetings, who may be a member of the council or an employee of the city.~~

~~(c) The chairperson, or the vice chairperson in the absence of the chairperson, is responsible for the conduct of the meetings, appointment of appropriate committees and preparation of reports to be presented to the board of city commissioners on the activities and concerns of the council.~~

SECTION FOUR: AMENDMENT TO MUNICIPAL CODE PART II, CHAPTER 2, ARTICLE III, DIVISION 4.

The Governing Body of the City of Arkansas City hereby amends Part II, Chapter 2, Article III, Division 4, Sec. 2-134 and Sec. 2-135 of the Arkansas City Municipal Code to read as follows (deleted provisions struck through, new provisions in italics):

DIVISION 4. - EQUAL OPPORTUNITY AND ACCESSIBILITY ADVISORY BOARD

Sec. 2-134. - *Creation; and membership; officers.*

(a) The equal opportunity and accessibility advisory board shall consist of no less than five and no more than seven voting members, ~~appointed by the mayor with the consent of the board of city commissioners.~~ Members shall serve staggered terms of three years. ~~In the event a vacancy shall occur during the term of any member, the successor shall be appointed to the unexpired term.~~

(b) The members of the equal opportunity and accessibility advisory board shall be drawn from diverse segments of the public, and selected for their objectivity, ability and broad community interest. Membership shall at all times include no less than two members with a disability, or *who are* a relatives or primary caretakers of a persons with a disability*ies*. Those with experience in working with the disabled ~~and those~~ *or* with expertise in accessibility issues will be given preference for appointment.

- ~~(c) The officers of the equal opportunity and accessibility advisory board shall be a chairperson, vice chairperson and secretary, who shall be the city manager or his designee.~~
- ~~(d) The board shall elect one of its members as chairperson for the term of one year or until a successor is elected by the board. The chairperson shall preside at all meetings of the board. The board shall elect, in the same manner and for the same term, one of its members as vice chairperson, who shall act as chairperson in the absence of the chairperson.~~

Sec. 2-135. – Meetings*Duties of chairperson.*

- ~~(a) The equal opportunity and accessibility advisory board shall meet once a month at such time and place designated by the chairperson or by special call of the chairperson, or upon written request signed by a majority of the members of the board. If there is no business before the board in a given month, the chairperson may elect to cancel that month's meeting.~~
- ~~(b) The chairperson, or the vice chairperson in the absence of the chairperson, is responsible for the conduct of the meetings, appointment of appropriate committees, and the preparation of an annual report to be presented to the board of city commissioners on regarding the activities and concerns of the board.~~

SECTION FIVE: AMENDMENT TO MUNICIPAL CODE PART II, CHAPTER 14, ARTICLE VII, SEC. 14-199.

The Governing Body of the City of Arkansas City hereby amends Part II, Chapter 14, Article VII, Sec. 14-199 of the Arkansas City Municipal Code to read as follows (deleted provisions struck through, new provisions in italics):

Sec. 14-199. - 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 general contractors doing business in the city;
 - (4) Two heating, *ventilation and* air-conditioning or refrigeration contractors (*either* two master mechanical specialists or one master mechanical specialist and one journeyman mechanical specialist); and
 - (5) One citizen or layman familiar with the requirements of the city building code.

The code enforcement officer and the fire chief of the city, or their designees, shall be ex officio board members, without voting privileges. The code enforcement officer, or his or her designee, *also* shall serve as secretary to the board.

- ~~(c) *Appointment and terms.* The board shall be appointed by the mayor with approval of the board of city commissioners, and shall hold office at the pleasure of the board of city commissioners. Appointments shall be for a period of two years except the initial~~

~~appointments shall be staggered to sustain continuity upon the board so that one master electrician and one journeyman or citizen shall be appointed for a one year term and one master plumber and the remaining board members shall be appointed for a two year term and shall be staggered in such a way that the terms of no more than one electrician, plumber, general contractor or mechanical specialist shall expire in any given year.~~

(d) *Procedure:*

(1) *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 applicant with a duplicate copy to the code enforcement officer.

~~(2) *Attendance.* Except for emergency absences, medical condition absences and absences resulting from military leave of less than two continuous months, no board member shall miss more than three meetings in any 12 month period. Upon any fourth absence within 12 months, other than for an emergency, medical condition or military leave of less than two months as determined by the chairperson, the board member shall be deemed to have resigned from the board, and the mayor shall appoint a replacement. Nothing herein prohibits the mayor from reappointing the resigning member under this subsection.~~

~~(3) *Quorum and voting.* A quorum shall consist of four voting members, and a decision of a majority of the members of the board shall control.~~

~~(4) *Officers.* The board shall annually elect a chairperson from its number who shall preside over all hearings and proceedings of the board. A vice chairperson elected annually by the board shall assume the chairperson's duties in the chairperson's absence.~~

~~(5) (2) *Meetings.* The board shall hold meetings at regularly scheduled intervals, but shall meet at a minimum of four times a year. Minutes shall be kept of all board proceedings.~~

(e) *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 the code.

SECTION SIX: AMENDMENT TO MUNICIPAL CODE PART II, CHAPTER 38, ARTICLE II, SEC. 38-21.

The Governing Body of the City of Arkansas City hereby amends Part II, Chapter 38, Article II, Sec. 38-21 of the Arkansas City Municipal Code to read as follows (deleted provisions struck through, new provisions in italics):

Sec. 38-21. - Creation, operation and responsibilities of ~~historic preservation board.~~

(a) ~~*Creation and composition and qualifications.*~~ The board of city commissioners hereby creates a historic preservation board ~~to~~ shall consist of five members. ~~All members of the board shall be appointed by the mayor with the consent of the board of city commissioners.~~ The mayor shall make every reasonable effort to appoint persons with a demonstrated interest, knowledge or training in fields closely related to historic preservation, such as history, architecture, landscape architecture, architectural history, archeology, planning, engineering, real estate, law, finance, building trades, urban design or geography. At least two members shall be in a preservation-related profession, such as archeology, architectural history, conservation, cultural anthropology, curatorship, engineering, folklore, historic architecture, historic landscape architecture, historic preservation planning, historic preservation or history, unless the board of city commissioners provides written documentation to the state

historic preservation office that it has been unsuccessful, despite reasonable efforts, in appointing such members. The state historic preservation office shall be provided with the résumé and/or qualifications of all board members.

- (b) *Term of office.* Each member of the historic preservation board shall be appointed for a three-year term. ~~Such terms shall be staggered. In the event a vacancy shall occur during the term of any member, the successor shall be appointed to serve the remainder of the unexpired term.~~
- (c) *Operation. Ex officio members.* ~~The historic preservation board shall choose its own officers, establish its own rules and regulations, and keep a record of its meetings. Three appointed members shall be considered a quorum for the transaction of any business.~~ City commissioners or their designees shall be considered *ex officio members of the historic preservation board* entitled to attend all meetings and have an opportunity to provide input, but *they* shall not have the authority to vote.
- (d) *Continuing education.* The historic preservation board shall participate in continuing education as required by the board of city commissioners.
- (e) *Duties and responsibilities.* All of the powers and duties enumerated herein are subject to approval, denial or modification by the board of city commissioners. Further, all funds necessary to carry out the purpose of this article shall be approved and appropriated by the board of city commissioners. In addition to other responsibilities specified in this article, the historic preservation board may:
 - (1) Adopt its own bylaws and procedures related to the conduct of meetings subject to the laws of the state, the policies and ordinances of the city, and the policies of the state historic preservation office.
 - (2) Recommend to the board of city commissioners that the city conducts an ongoing survey to identify historically and architecturally significant properties, structures, and areas that exemplify the cultural, social, economic, political, or architectural history of the nation, state or city.
 - (3) Identify historic structures, historic sites and historic districts eligible for listing in the city register of historic places.
 - (4) Make recommendations to the board of city commissioners on applications for designation and the adoption of ordinances designating properties having historic, community, or architectural value as historic structures, historic sites or historic districts.
 - (5) Research and recommend to the board of city commissioners an appropriate system of markers for designated historic structures, historic sites and historic districts.
 - (6) Review all proposed national register of historic places and state register of historic places nominations for properties within the city, pursuant to the guidelines established by the state historic preservation office.
 - (7) Recommend that the board of city commissioners inform and educate the citizens of Arkansas City concerning the historic and architectural heritage of the city, and advise and assist owners of designated historic structures, historic sites, or historic districts of physical and financial aspects of preservation, rehabilitation, and restoration by publishing appropriate maps, newsletters, brochures and pamphlets, and by holding programs, workshops and seminars.
 - (8) Review applications for certificates of appropriateness pursuant to this article.

- (9) Make recommendations to the board of city commissioners regarding funding for the purpose of carrying out the duties and powers of the historic preservation board, and the purposes of this article.
- (10) Make recommendations to the board of city commissioners regarding retaining such specialists or consultants, or recommend appointing such citizen advisory committees, as may be required from time to time.
- (11) Advise other city boards on any matter affecting significant historic structures, historic sites and historic districts.
- (12) Periodically make recommendations to the board of city commissioners regarding actions it deems appropriate for the protection and continued use of significant historic structures, historic sites, and historic districts.
- (13) Recommend to the board of city commissioners that board members be encouraged to participate in a historic preservation-related educational program each year.
- (14) Undertake any other action or activity necessary or appropriate to the implementation of its powers and duties, or to the implementation of the purpose of this article.
- (15) Review and make recommendations upon all actions requiring building or demolition permits on properties listed on the national, state and/or city register of historic places.

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

SECTION EIGHT: 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 said publication.

PASSED AND ORDAINED by the Governing Body of the City of Arkansas City, Kansas, on this 18th day of October, 2016.

(Seal)

Duane L. Oestmann, Mayor

ATTEST:

Lesley Shook, City Clerk

APPROVED AS TO FORM:

Tamara L. Niles, City Attorney