

**ORDINANCE NO. 931**

**AN ORDINANCE AMENDING THE CODE OF THE CITY OF EDWARDSVILLE, KANSAS, (“CODE”), CHAPTER 1; CREATING A NEW CHAPTER ENTITLED PUBLIC WAYS AND PROPERTIES; AMENDING AND RENUMBERING ARTICLES 1.11 PARKS AND RECREATION, 1.12 CEMETERY, AND 1.13 TREES AND SHRUBS; AND REPEALING ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE.**

**WHEREAS**, certain changes have occurred requiring admendments the Code of the City of Edwardsville, Kansas (“Code”); and

**WHEREAS**, such changes require the addition of a new chapter to be entitled Public Ways and Properties and the amending and renumbering of certain articles to be included in the new chapter; and

**WHEREAS**, such amendments may conflict with other ordinances or parts of ordinances.

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EDWARDSVILLE, KANSAS:**

**Section 1.** Chapter 1 of the Code of the City of Edwardsville is hereby amended as follows:

**Sec. 1.01.004, Definitions and rules of construction, is hereby amended to add the following definitions:**

*Public official* shall refer to any public official of the city, including but not limited to the mayor, councilmembers and officials appointed by the governing body.

*Public employee* shall refer to any employee of the city.

**Sec. 1.01.004, Definitions and rules of construction, is hereby amended as follows:**

*Sidewalk.* The word “sidewalk” shall mean that portion of a street between the curblineline/edge of street and the adjacent property line intended for the use of pedestrians.

**Sec. 1.03.007, Designation of administrative authority, is hereby amended as follows:**

The governing body may designate whether the administration of a policy or the carrying out of any order shall be performed by a committee, an appointive officer, or the mayor. If no administrative authority is designated, it shall be vested in the city manager.

**Sec. 1.03.011, Rules and order of business, is hereby amended as follows:**

The following shall constitute guidelines for the rules and order of business of the city:

Rule 1. Adjourned meetings. Adjourned meetings of the governing body may be held at such time and place as the governing body may determine in the motion to adjourn.

Rule 2. Special meetings. Special meetings may be called by the mayor or acting mayor, on the written request of any three members of the council, specifying the object and purpose of such meeting, which request shall be read at the meeting, and entered at length on the journal.

Rule 3. Order of business. At the hour appointed for meeting, the governing body shall be called together by the mayor, and in his or her absence by the acting mayor (president of the council). The city clerk shall call the roll and note the absentees and announce whether a quorum be present. Upon the appearance of a quorum the governing body shall proceed to business, which shall unless otherwise directed by the governing body be conducted in accordance with the approved agenda.

Rule 4. Order. The mayor shall preserve order and decorum and shall decide questions of order subject to an appeal to the council.

Rule 5. Decorum. Every member previous to his or her speaking shall address himself or herself to the chair and shall not proceed until recognized by the chair. He or she shall indulge in no personal comments against another member and confine his or her remarks to the matter under debate.

Rule 6. Point of order. A member called to order shall immediately suspend until the point of order raised is decided by the chair.

Rule 7. Certain motions in writing. Every motion except to adjourn, postpone, reconsider, commit, lay on the table, or for the previous question shall be reduced to writing if the chair or any member requires it; when made and seconded, it shall be stated by the chairperson or being written shall be read by the clerk, and may be withdrawn before decision or amendment, or any disposition thereof has been made, or a vote thereon had.

Rule 8. Resolutions. All resolutions must be in writing.

Rule 9. Motions during debate. When a question is under debate no motion shall be entertained except:

- (1) To adjourn;
- (2) To lay on the table;
- (3) To take the previous question;

(4) To postpone;

(5) To amend;

which several motions shall have precedence in the order in which they are named, and the first three shall be decided without debate.

Rule 10. Division. Any member may call for a division of a question when the same will admit thereof.

Rule 11. Voting; abstaining from voting. When a question is put by the chair, every member present shall vote unless for special reasons the chair shall excuse him or her. For those questions for which an abstention is permitted, such a vote shall be counted as a vote cast in favor of the position taken by the majority of those persons present and voting. In doubtful cases the chair may direct, or any member call for, a division. The yeas and nays shall be called upon a requisition of the chair or any member, and upon the final passage of all ordinances in which case the names of the members voting and their votes shall be recorded in the minutes.

Rule 12. Precedence of questions. All questions shall be put in the order in which they are moved, except in case of privilege questions, and in filling blanks the longest time and the largest sum shall be first.

Rule 13. Previous question. The previous question shall be put in these words: "Shall the main question now be put?" It shall be admitted on demand of any member and until decided shall preclude all amendments and debate of the main question.

Rule 14. Passing of ordinances. No ordinance, unless required by law, will be read or requested to be read by the council. Prior to voting on ordinances, any amendment may be offered and considered by the governing body. If amendments are made, the chair shall so report. The vote on the final passage of an ordinance shall be taken by yeas and nays, which shall be entered on the journal by the clerk; and no ordinance shall be valid unless a majority of (or otherwise as required by law) the members of the council vote in favor thereof. Provided that no ordinance shall contain more than one subject, which shall be clearly expressed in its title, and no section or sections of an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections amended shall be repealed.

Rule 15. Signing and engrossing ordinances. After an ordinance shall have passed it shall be correctly entered in the original ordinance book and the original shall be signed by the mayor, or in the absence of the mayor by the acting mayor, and attested by the clerk, who shall secure publication of the ordinance as required by law.

Rule 16. Robert's Rules of Order. In all points not covered by these rules, the governing body shall be governed in its procedure by Robert's Rules of Order.

**Sec. 1.04.003, Publication of ordinances, is hereby amended as follows:**

No ordinance, except those appropriating money, shall be in force until published in the official city newspaper by the city clerk. One publication of any such ordinance shall be sufficient unless additional publications are required by statute or ordinance. The publisher of the newspaper shall prefix published ordinances by a line in parentheses stating the month, day and year of such publication. In lieu of full publication of an ordinance pursuant to this section, a summary of the ordinance may be published in accordance with K.S.A. 12-3007.

**Sec. 1.05.002, Interference with conduct of public business, is hereby amended as follows:**

- (a) Interference with the conduct of public business in public buildings is:
- (1) Conduct at or in any public building owned, operated or controlled by the city or any of its political subdivisions so as to willfully deny to any public official, public employee, or any invitee on such premises the lawful rights of such official, public employee, or any invitee to enter, to use the facilities, or to leave any such public building;
  - (2) Willfully impeding any public official or employee in the lawful performance of duties or activities through the use of restraint, abduction, coercion, or intimidation or by force and violence or threat thereof;
  - (3) Willfully refusing or failing to leave any such public building upon being requested to do so by the mayor or his or her designee, charged with maintaining order in such public building, or police officer, if such person is committing, threatens to commit, or incites others to commit any act which did, or would if completed, disrupt, impair, interfere with, or obstruct the lawful missions, processes, procedures, or functions being carried on in such public building;
  - (4) Willfully impeding, disrupting, or hindering the normal proceedings of any meeting or session conducted by any judicial or legislative body or official at any public building by any act of intrusion into the chamber or other areas designated for the use of the body or official conducting such meeting or session, or by any act designed to intimidate, coerce or hinder any member of such body, or any official engaged in the performance of duties at such meeting or session; or
  - (5) Willfully impeding, disrupting or hindering, by any act of intrusion into the chamber or other areas designed for the use of any executive body or official, the normal proceedings of such body or official.
- (b) Interference with the conduct of public business in public buildings is an offense punishable under [section 1.01.009](#).

**Sec. 1.05.003, Returned check fee, is hereby amended as follows:**

A fee provided for in the fee schedule found in the appendix shall be assessed and charged to any payor who draws a check or negotiable instrument for payment, if the instrument thereafter is returned unpaid for insufficient funds or otherwise dishonored.

**Art 1.06, Boards, Commissions and Committees, Div. 2, Planning Commission, is hereby deleted in its entirety.**

**Art 1.06, Boards, Commissions and Committees, Div. 3, Teen Advisory Council, is hereby deleted in its entirety.**

**Sec. 1.07.001, Payments and purchases, is hereby amended as follows:**

(a) All payments of claims or other indebtedness by the city shall be in accordance with K.S.A. 12-105a et. seq. and purchasing policy adopted by the city council.

(b) The mayor shall have authority to initiate purchases in an emergency or disaster in order to arrest, alleviate, or prevent injury to people or damage to property; to establish an orderly physical environment; or to protect the public health, safety or welfare. The bill shall subsequently be submitted at a council meeting, at which time the council shall approve the bill.

(c) The designation of an emergency or disaster by the mayor for purposes of this section shall continue as long as the mayor determines or until the next meeting of the council, whichever is shorter, at which time the council will determine whether the emergency or disaster is continuing.

**Sec. 1.07.043, Reports and recommendations by finance manager, is hereby amended as follows:**

The finance manager shall periodically report to the governing body the amount of money available for investment and the period of time such amounts will be available for investment, and shall submit such recommendations as deemed necessary for the efficient and safe management of city finances. The recommendations of the finance manager shall provide for an investment program which shall limit the amounts invested and schedule the maturities of investments so that the city will, at all times, have sufficient moneys available on demand deposit to assure prompt payment of all city obligations.

**Sec. 1.07.046 Disposition of interest, is hereby amended as follows:**

The finance manager shall deposit the interest earned on invested idle funds to the general fund, unless otherwise required or authorized by law.

**Sec. 1.09.006 Appointment of record custodians, is hereby amended as follows:**

The city clerk is hereby appointed as the official custodian for purposes of the Kansas Open Records Act and is hereby charged with responsibility for compliance with that act. Further, the city clerk is designated as the local Freedom of Information Officer.

**Sec. 1.09.007 Designation of additional record custodians, is hereby amended as follows:**

(a) The city clerk is hereby authorized to designate other officers or employees to serve as record custodian. Such record custodians shall have such duties and powers as are set out in the Kansas Open Records Act.

(b) Whenever the city clerk shall designate another person as a record custodian, he or she shall maintain a register of all such designations.

**Sec. 1.09.010, Fee Administration, is hereby deleted in its entirety.**

**Sec. 1.09.011, Fee schedule, is hereby amended as follows:**

When a request has been made to inspect an open record, for a copy thereof, or both, the person requesting the same shall pay a research fee as provided for in the fee schedule found in the appendix for city personnel to research the request, to locate the records requested, and to copy the same. Time actually spent shall be recorded and billed to the requestor in increments of not less than six minutes. Additional fees shall be as assessed as provided for in the fee schedule found in the appendix.

**Sec. 1.09.012, Written requests; response time; fee policies, is hereby amended as follows:**

(a) Written requests. The city may require any request for access or copies to be in writing so as to adequately document the request, to clarify exactly what records are sought, and to determine the requestor's right to access. Such written request shall state the requestor's name and address, information necessary to ascertain the records to which the requestor desires access, and the requestor's right to access. (For public records which are not confidential or may not be discretionarily closed pursuant to K.S.A. 45-221 or other law, it will be sufficient to state "Kansas Open Records Act, K.S.A. 45-215 et seq." as the requestor's right to access.) Identification of records sought must be as specific as possible to aid in identifying the record sought. Requests will be honored for documents in existence at the time of the request. Documents may not be requested prospectively. Optionally, to aid in contacting the requestor, a daytime phone number should be provided.

(b) Response time. The city will act on requests as soon as possible; however, if it appears it will take some time to provide records, or notification of fees is required, a response will be provided within three business days of the request, estimating fees and providing further information regarding the city's ability and plans to provide the requested records.

(c) Search charge. The copy charge is a per-page charge which is principally assessed to reimburse the city for routine costs of retrieving records which are requested with specificity and are held within the city's current file system. It does not include the cost of more than one-tenth of an hour of research or access time required to determine the location of records not readily accessible, to determine what specific records meet request criteria, to segregate public from non-public information, to access records from archives and other similar necessary services. For such services in providing access or copies, the per hour search charge may be assessed, to be billed by the tenth of an hour.

(d) Mail charge. The mail charge may be assessed in addition to the copy charge when mail service is requested..

(e) Fax charge. The fax charge includes those services required in copying a record, in addition to all domestic fax transmission costs. No additional copy charge is assessed.

(f) Computer time charge. The computer time charge, also billed in tenths of an hour, is for staff time, including associated computer connect and processing time, for providing copies of records in available electronic format, or for production of special computer-generated reports. The official custodian will be the sole judge of the ability of the city to comply with any request for records in specific electronic format or the ability to produce any special computer-generated reports.

(g) Estimate of fees. The city will provide an estimate of fees to be charged prior to providing records, and, where such estimate is provided, fees actually charged shall not exceed such estimate. The city reserves the right to require any estimated charge for access to or copies of records be received before work is performed to produce the records, at the discretion of the custodians, in order to insure payment. Any fees may be waived at the discretion of the city clerk. Criteria for waiver include but are not limited to the size and clarity of the request, availability of records, and difficulty and time required to access the records.

(h) Faxing policy; air express delivery. Generally, records may be faxed if the request is for fewer than 15 pages and fax time and facilities are readily available at the time. Whether and to what extent records will be faxed is at the sole discretion of the custodians. If air express delivery is requested, it shall be up to the requestor to arrange for such pickup and packaging of the records by the air express delivery service and to pay all fees for such delivery to the air express delivery service.

**Sec. 1.09.014, Disposition of fees, is hereby amended as follows:**

All fees charged under this article shall be paid to the custodian of the records inspected and/or copied unless the requester has established an account, for purposes of billing and payment, with the city.

**Sec. 1.10.032, Definitions, is hereby amended as follows:**

The following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Chief executive (chief executive officer). The city manager or any person designated by the city council to act in that capacity.

Discriminatory housing practice. An act that is unlawful under [section 1.10.034](#), [1.10.035](#), or [1.10.036](#).

Dwelling. Any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

Family. Includes a single individual.

Person. Includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers, and fiduciaries.

To rent. Includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant.

**Sec. 1.10.038, Administration, is hereby amended as follows:**

- (a) The authority and responsibility for administration of this division shall be in the city manager.
- (b) The city manager may delegate any of these functions, duties and powers to employees of the city or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter under this division. The city manager shall by rule prescribe such rights of appeal from the decisions of his or her hearing examiners to other hearing examiners or to other officers in the city, to boards of officers or to the city manager, as shall be appropriate and in accordance with law.
- (c) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purpose of this division and shall cooperate with the city manager to further such purposes.

**Sec. 1.10.040, Complaints, is hereby amended as follows:**

- (a) Any person who claims to have been injured by a discriminatory housing practice or who believes he or she will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter “person aggrieved”) may file a complaint with city administrator. Complaints shall be in writing and shall contain such information and be in such form as the city administrator requires. Upon receipt of such complaint, the city administrator shall furnish a copy of the same to the person or persons who allegedly committed or were about to commit the alleged discriminatory housing practice. Within 30 days after receiving a complaint, or within 30 days after the expiration of any period of reference under subsection (c), the city administrator shall investigate the complaint and give notice in writing to the person aggrieved whether he or she intends to resolve it. If the city administrator decides to resolve the complaints, he or she shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this division without the written consent of the persons concerned. Any public employee who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable under [section 1.01.009](#)
- (b) A complaint under subsection (a) shall be filed within 180 days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him or her and with the leave of the city administrator, which shall be granted whenever it would be reasonable and fair to do so, and may amend his or her answer at any time. Both complaints and answers shall be verified.
- (c) If, within 30 days after a complaint is filed with the city administrator, the city administrator has been unable to obtain voluntary compliance with this division, the person aggrieved may, within 30 days thereafter, file a complaint with the Secretary of Department of Housing and Urban Development. The city administrator will assist in this filing.
- (d) If the city administrator has been unable to obtain voluntary compliance within 30 days of the complaint, the person aggrieved may, within 30 days thereafter, commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this division, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

- (e) In any proceeding brought pursuant to this section, the burden of proof shall be on the complainant.
- (f) Whenever an action filed by an individual shall come to trial, the city administrator shall immediately terminate all efforts to obtain voluntary compliance.

**Sec. 1.10.044, Penalty for interference or intimidation, is hereby amended as follows:**

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with:

- (a) Any person because of his or her race, religion, color, sex, familial status, age, disability, national origin or ancestry, and because he or she is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any services or organization or facility relating to the business of selling or renting dwellings;
- (b) Any person because he or she is or has been, or in order to intimidate such person or any other person or any class of persons from:
  - (1) Participating, without discrimination on account of race, religion, color, sex, familial status, age, disability, national origin or ancestry, in any of the activities, services, organizations or facilities described in subsection (1) of this section; or
  - (2) Affording another person or class of persons opportunity or protection so to participate; or
- (c) Any citizen because he or she is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, religion, color, sex, familial status, age, disability, national origin or ancestry, in any of the activities, services, organizations or facilities described in subsection (1) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate;

Any person found in in violation of this division shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable under [section 1.01.009](#)

**Article 1.11, Parks and Recreation, Division 1, Generally, is deleted in its entirety**

**Sec. 1.11.045, Officers, is hereby amended as follows:**

The board shall, at its first meeting in January of each year, annually elect a president, vice-president, secretary, and other officers as may be deemed necessary for the conduct of its business.

**Sec. 1.11.046, Advisory duties, is hereby amended as follows:**

- (a) To the governing body and the city manager, the board may initiate, review and recommend proposals and propositions for city construction, reconstruction, and improvement of public parks and recreational facilities, including the acquisition of land for park purposes, the acquisition of recreational equipment and facilities and the institution of new recreation programs.
- (b) The board shall make reports and recommendations to the governing body and manager on all matters referred to it and such further recommendations as deemed advisable.
- (c) The park and recreation advisory board shall initiate recommendations to the governing body and manager concerning recreation and/or parks as deemed desirable from time to time.
- (d) Conduct studies to advise the city concerning ways to increase recreational activities and revenue.
- (e) Perform any other duties as deemed necessary by the governing body pertaining to park and recreational programs and facilities.

**Sec. 1.11.047, Operational Duties, is hereby deleted in its entirety.**

**Sec. 1.11.083, Police jurisdiction, is hereby amended as follows:**

The city shall have police regulation governing any public parks belonging to the city, and the police department shall have full power to enforce city laws governing parks and shall maintain order therein.

**Sec. 1.11.084, Park hours, is hereby amended as follows:**

The hours of operation of city parks are from 6:00 a.m. to 11:00 p.m., but may be changed by majority vote of the park and recreation advisory board after consultation with the mayor, administrator or governing body. Any such new hours of operation shall be posted by the park and recreation advisory board. It shall be unlawful for any person to be within the park except during posted hours of operation. (2005 Code, sec. 12-304)

**Sec. 1.11.096, Rental fee for shelter facility, is hereby amended as follows:**

Charges for the rental of shelter facilities shall be assessed as provided for in the fee schedule found in the appendix.

**Sec. 1.12.004, Staking of graves and gravestone sites, is hereby amended as follows:**

All graves and gravestone sites shall be staked only by a person authorized by the city through its cemetery board and shall be so requested by anyone opening a grave or placing a stone.

**Sec. 1.12.006, Disposition of memorials and gifts, is hereby amended as follows:**

All memorials and gifts to the cemetery for use in connection with the cemetery, unless specifically otherwise designated, shall be deposited with a local banking institute at any deposit or investment-bearing arrangement determined by the city through its cemetery board and allowed under state law. Further, the interest shall be used for cemetery purposes, but the principal shall be left intact, from year to year, and not spent.

**Sec. 1.12.010, Price of lots, is hereby amended as follows:**

The sale of each full-size grave lot in the city cemetery sold by the city shall be assessed as provided for in the fee schedule found in the appendix.

**Sec. 1.12.054, Organization; officers; bylaws, rules and regulations, is hereby amended as follows:**

Said directors shall, immediately after their appointment, meet and organize by the selection of one of their number as president and the election of such other officers as they may deem necessary, who shall hold office for one year. They shall make and adopt such bylaws, rules and regulations for their own guidance and for the regulation and government of the city cemeteries.

**Sec. 1.12.056, Appointment of sexton; maintenance of cemeteries, is hereby amended as follows:**

The board of directors shall have power to appoint a suitable sexton and necessary assistants. The sexton and necessary assistants may be compensated as the governing body shall fix, and shall also have the power to remove such appointees, and in general maintain the cemeteries in proper and suitable condition.

**Sec. 1.12.057, Annual report, is hereby amended as follows:**

The board of directors shall, on or before the 15th day of February of each year, make an annual report to the governing body stating the conditions of the trust on the 31st day of December preceding, the various sums of money received from the cemetery fund and other sources, and how such money has been expended, and with such other information and suggestions as they may deem of general interest. Such report shall be verified by affidavit of the president and secretary.

**Section 2.** The Code will be amended to include a new chapter entitled “Public Ways & Property”.

**Section 3.** Articles 1.11 Parks and Recreation, 1.12 Cemetery, and 1.13 Trees and Shrubs shall be amended in accordance Section 1 of this ordinance and included in the chapter entitled “Public Ways & Property”, and numbered accordingly.

**Section 4.** All other ordinances or parts of ordinances in conflict with the provisions of this ordinance shall be and are hereby repealed.

**Section 5.** This Ordinance shall take effect and be in force from and after its passage and publication as required by law.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EDWARDSVILLE, KANSAS ON THIS 24<sup>th</sup> DAY OF MARCH, 2014.**



ATTEST:

  
\_\_\_\_\_  
John McTaggart, Mayor

  
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Tamara A. Harris, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
David K. Duckers, City Attorney