

**IN THE CIRCUIT COURT OF BOONE COUNTY, MISSOURI**

STATE OF MISSOURI, ex rel.                     )  
JEFFREY ANDERSON,                                 )

Relator,   )

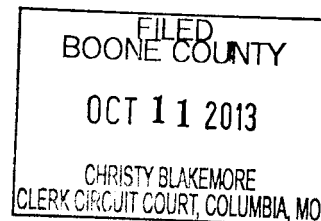
vs.   )

CITY OF ASHLAND, MAYOR GENE                 )  
RHORER, ALDERMAN DAVID                     )  
THOMAS, ALDERMAN LOUISE                    )  
MARTIN, ALDERMAN JOHN HILLS,               )  
ALDERMAN TONY TAGGART, and                 )  
ALDERMAN CARL LONG, in their                )  
Official capacity as Aldermen,                )

Respondents.   )

Case No.

**13BA-CV0 3768**



**PETITION IN MANDAMUS AND FOR INJUNCTIVE RELIEF**

**COMES NOW** Relator, Jeffrey Anderson, by counsel, and for his Petition in Mandamus and for Injunctive Relief against the City of Ashland, Mayor Gene Rhorer, and the Board of Aldermen of the City of Ashland, jointly and severally, states:

**STATEMENT OF FACTS**

1. Relator Jeffrey Anderson is an individual residing in Boone County, Missouri who was elected in April, 2013, as an Alderman for Ward 2 in Ashland, Missouri.
2. Respondents City of Ashland, Mayor Gene Rhorer, and the Board of Aldermen are residents of Boone County, Missouri.
3. Venue is proper in Boone County, Missouri.
4. On September 16, 2013, the Board of Aldermen and Ashland Mayor Gene Rhorer met in a closed session, outside the presence of Relator. The agenda from said meeting is attached hereto and incorporated by reference herein as Exhibit A.

5. After the closed session, Respondents wrote and signed a letter to Relator stating that he was suspended from his elected position. Said letter is attached hereto and incorporated by reference herein as Exhibit B.

6. The aforementioned letter was hand delivered by the police chief to Relator.

7. Relator has been prohibited from acting in his capacity as an elected official by Respondents.

8. Relator is not an employee of the City of Ashland.

9. Relator is not an appointed official of the City of Ashland.

10. Ashland is a Fourth Class City.

11. Section 79.240, RSMo. is applicable to the City of Ashland, Respondents, and is codified in the City Code under Chapter 2, Article II 2.110. The City Code, Chapter II – City Organization is attached hereto and incorporated by reference herein as Exhibit C.

12. Section 79.240 RSMo. requires due process by requiring a hearing and cause shown before an elected Alderman may be removed from office.

13. Relator did not receive a hearing, nor did Respondents show cause as to why Relator could be removed from office.

## **COUNT I**

### **PETITION IN MANDAMUS**

14. Relator restates and incorporates by reference the allegations of paragraphs 1 through 13, as if fully set out herein.

15. Relator is challenging the actions of Respondents in removing or “suspending” him from elected office without authority to do so. The City Code and Section 79.240, RSMo., provide

no authority to the Mayor or the Board of Aldermen of a fourth class city in Missouri to suspend an elected official. Further, the Mayor or Board of Alderman can only remove an officer after a show cause hearing affording due process. To allow a suspension or removal of an elected official without such fundamental and procedural due process is a violation of the guarantees and liberties afforded by the Missouri Constitution as well as the Constitution of the United States.

16. Relator seeks the following relief pursuant to Rule 94:

- i. Relator be reinstated as an Alderman for Ward 2, including but not limited to continuing his official obligations as an Alderman and immediate access to his e-mail account [janderson@ashlandmo.us](mailto:janderson@ashlandmo.us);
- ii. A public comment that any purported suspension was not valid and that Relator is an Aldermen for Ward 2 in good standing;
- iii. A formal retraction of any comment regarding Relator's purported suspension to any media outlet;
- iv. A declaration that the Board of Aldermen meetings of September 17, 2013, October 8, 2013, and any other Board of Alderman meetings where Ward 2 was not fully represented due to Relator's unauthorized suspension, as well as any decisions made therein, are null and void; and
- v. Relator's attorneys' fees and costs of litigation.

17. Relator seeks a date for trial no later than October 15, 2013.

**WHEREFORE**, Relator Jeffrey Anderson requests the above-detailed relief and any such further relief this Court deems just and proper under the circumstances.

**COUNT II**

**INJUNCTIVE RELIEF REQUIRING REINSTATEMENT OF RELATOR AS AN  
ALDERMAN AND ENJOINING RESPONDENTS FROM SUSPENDING  
OR REMOVING RELATOR WITHOUT DUE PROCESS**

18. Relator restates and incorporates by reference the allegations of paragraphs 1 through 17, as if fully set out herein.

19. Pursuant to Section 79.240, RSMo., Relator can only be removed after a show cause hearing.

20. No show cause hearing was ever held.

21. Unless commanded by this Court, Respondents will continue to prohibit Relator from conducting his duties as an elected official.

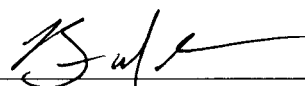
22. Immediate and irreparable injury, loss, and damage will result to Relator by not allowing him to represent the constituents who elected him.

23. Relator has no other adequate remedy at law.

24. Relator requests his attorneys' fees, costs, and expenses of this action.

**WHEREFORE**, Relator Jeffrey Anderson requests the above-detailed relief and any such further relief this Court deems just and proper under the circumstances.

**CALL & GENTRY LAW GROUP, LLC**

By:   
Charles A. "Chip" Gentry #46388  
Blake I. Markus #61755  
3218 Emerald Lane, Ste. C  
Jefferson City, MO 65109  
(573) 644-6090  
(573) 644-6922 (fax)  
[chip@callgentry.com](mailto:chip@callgentry.com)  
[blake@callgentry.com](mailto:blake@callgentry.com)  
ATTORNEYS FOR RELATOR

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**CITY OF ASHLAND  
109 EAST BROADWAY  
BOARD OF ALDERMEN SPECIAL MEETING  
MONDAY, SEPTEMBER 16, 2013 AT 6.00 P.M**

POSTED: SEPTEMBER 13, 2013 AT 3:30 P.M.

REPOSTED: SEPTEMBER 13, 2013 AT 3:34 P.M.

NOTICE IS HEREBY GIVEN THAT THE CITY OF ASHLAND BOARD OF ALDERMEN WILL CONDUCT A SPECIAL MEETING ON MONDAY, SEPTEMBER 16, 2013 AT 6:00 P.M. AT ASHLAND CITY CHAMBERS LOCATED AT 109 EAST BROADWAY.

THE TENTATIVE AGENDA OF THIS MEETING INCLUDES A VOTE TO CLOSE PART OF THIS MEETING PURSUANT TO CHAPTER 610.021 (1) LEGAL ACTIONS, POSSIBLE LITIGATION (3) PERSONNEL MATTERS.

GO INTO CLOSED SESSION.

OPEN MEETING AND REPORT ANY ACTION TAKEN.

VOTE TO ADJOURN MEETING.

POSTED BY: Darla Sapp, City Clerk



**THE CITY OF ASHLAND, MISSOURI**

September 17, 2013

**VIA HAND DELIVERY**

Jeff Anderson  
409 Tandy Ct.  
Ashland, MO 65010

Dear Alderman Anderson:

Please be advised at last night's Special Meeting, the Board of Aldermen voted to place you on suspension pursuant to Section 79.240 RsMo., effective immediately, for attempts to circumvent the Board and for acting in a way inconsistent with your role as an Alderman and in a way which is not consistent with the best interests of the City of Ashland.

As state above, this suspension shall become effective immediately.

Sincerely,

Gene Rhorer  
Mayor  
City of Ashland, Missouri

109 E. BROADWAY ~ P.O. BOX 135 ~ ASHLAND, MO 65010 (573) 657-2091

POLICE DEPT: (573) 657-9062 FAX: (573) 657-7018 WWW.ASHLANDMO.US

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**(UPDATED 7-14-08)**

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## **CHAPTER 2 CITY ORGANIZATION**

### **Article I. General**

#### **2.005. Incorporation and Classification**

The City of Ashland, Missouri is incorporated and classified as a Fourth Class City. The City boundaries are set forth in Appendix A-1.

#### **2.010. Wards established**

There are established within the City of Ashland three wards. Each ward is represented by two Aldermen, one elected each year to serve a two-year term. (State law reference-79.060 RSMo.)

#### **2.015. Ward boundaries**

The boundaries of each ward shall be as set forth in Appendix A-2.

#### **2.020. Wards, amended**

The number and boundaries of the wards may be amended from time to time, as provided by state statutes.

### **Article II. Officers**

#### **2.100. Officers of the City of Ashland**

The officers of the City of Ashland shall consist of the following elected officers:

1. The Mayor
2. Two Aldermen from each ward

The officers of the City of Ashland shall consist of the following appointed officers:

1. City Attorney
2. City Prosecutor
3. Chief of Police
4. City Clerk
5. Deputy City Clerk/Treasurer

The City of Ashland may employ other personnel as may be deemed necessary by the Mayor and Board of Aldermen.

## **2.103. City Administrator**

1. The Mayor, with the approval of a majority of the Board of Aldermen, shall appoint a qualified person to be City Administrator for the City of Ashland. In doing so, the City does not adopt a City Administrator form of government as authorized in 77.048 RSMo. (State law reference-77.042 RSMo.)
  - A. Appointment and Tenure: The City Administrator shall be an employee at will, and serve for a period of one year. His or her term shall automatically be renewed for an additional year upon the approval of a majority of the Board of Aldermen. In the event his or her term is not renewed, the former City Administrator shall serve as interim City Administrator until his or her successor is appointed or until his or her term is renewed.
  - B. Qualifications: The person appointed to the office of City Administrator shall be a graduate of an accredited University or College, majoring in public or municipal administration, or shall have the equivalent qualifications and experience in financial, administration and/or public relations field.
  - C. Compensation: The City Administrator shall receive such compensation as may be determined from time to time by the Board of Aldermen.
  - D. Removal of City Administrator: The City Administrator shall serve at the pleasure of the Board of Aldermen. The Mayor, with the consent of a majority of the Board of Aldermen, may remove the City Administrator from office at will, and such City Administrator may also be removed by for the reasons set forth in the Personnel Manual.
2. Duties:
  - A. Administrative office: The City Administrator shall be the Chief Administrative Assistant to the Mayor, and as such shall be the administrative officer of the City Government. Except as otherwise specified by ordinance, or by the Law of the State of Missouri. The City Administrator shall coordinate and generally supervise the operation of all departments of the City of Ashland.
  - B. Purchasing: The City Administrator shall be the purchasing agent for the City of Ashland and all purchases amounting to less than twenty-five hundred dollars (\$2,500.00) shall be made under his or her direction and supervision, and all such purchases shall be made in accordance with purchasing rules and procedures approved by the Board of Aldermen. (amended Council Bill No. 2008-007, 2-19-08)

- C. Budget: The City Administrator of the City of Ashland shall assemble estimates of the financial needs and resources of the City for each ensuing year and shall prepare a program of activities within the financial power of the City. The City Administrator is solely responsible for preparing a proper supporting schedules and an analysis to be proposed to the Mayor and Board of Aldermen for their final approval.
- D. Financial Reports: The City Administrator shall make monthly reports to the Mayor and Board of Aldermen relative to the financial condition of the City. Such reports shall show the financial condition of the City in relation to the budget.
- E. Annual Report: The City Administrator shall prepare and present to the Mayor and Board of Aldermen an annual report of the City's affairs. Included in such a report shall be a summary of reports by department heads, and such other reports as the Mayor and Board of Aldermen may require.
- F. Personnel System: The City Administrator shall act as the Personnel Officer of the City, and shall make recommendations to the Mayor and Board of Aldermen for amendments, changes, and updates to the City's Personnel Manual. The City Administrator shall have the power to appoint and remove (in accordance with Personnel Manual) all subordinate employees of the City of Ashland with advice of the Board of Aldermen. The City Administrator shall make recommendations of appointment of department heads to the Board of Aldermen. (amended Council Bill No. 2008-007, 2-18-08)
- G. Policy Formulation: The City Administrator shall recommend to the Mayor and Board of Aldermen adoption of such measures, as his or her may deem necessary; or expedient for the health, safety, or welfare of the City, or for the improvement of administrative services for the City.
- H. Board of Aldermen Agenda: The City Administrator shall submit to the Mayor and Board of Aldermen a proposed Agenda for each Council meeting at least Forty-eight (48) hours before the time of the regular Council meeting.
- I. Boards and Committees: The City Administrator shall work with all City Boards and Committees to help coordinate the work of each.
- J. Attend Board of Aldermen Meetings: The City Administrator shall attend all meetings of the Board of Aldermen.

- K. Bid Specifications: The City Administrator shall supervise the preparation of all bid specifications for services and equipment, and receive sealed bids for presentation to the Board of Aldermen.
- L. County, State, and Federal Aid Programs: The City Administrator shall coordinate all applications for aid, grants, and oversee the City's involvement with all Federal, State, and County programs which may have application to the City of Ashland.
- M. Conference Attendance: The City Administrator shall attend State and Regional conferences and programs applicable to his or her office, and the business of the City of Ashland, whenever such attendance is directed and approved by the Board of Aldermen and Mayor.
- N. Press Releases: The City Administrator shall be responsible for keeping the public informed in the purposes and methods of City Government through all available news media.
- O. Record Keeping: The City Administrator shall keep full and accurate records of all action taken by him/her in the course of his/her duties. He/she shall safely and properly keep all records and papers belonging to the City of Ashland and entrusted to his/her care. All such records shall be and remain the property of the City of Ashland and be open to inspection by the Mayor and Board of Aldermen at all times.
- P. Miscellaneous: In addition to the foregoing duties, the City Administrator shall perform any and all duties or functions prescribed by the Mayor and Board of Aldermen.

### 3. POWERS:

- A. City Property: The City Administrator shall have responsibility for all real and personal property of the City of Ashland. He/she shall have responsibility for all inventories of such property and for the upkeep of all such property. Personal property may be sold by the City Administrator only with approval of the Board of Aldermen. Real property may be sold only with the approval of the Board of Aldermen by resolution or ordinance.
- B. Set Administrative Policies: The City Administrator shall have the power to prescribe such rules and regulations, as he/she shall deem necessary or expedient for the conduct of administrative agencies, subject to his/her authority. He/she shall have the power to revoke, suspend, or amend any rule or regulation of the Administrative service except those prescribed by the Board of Aldermen.

- C. Coordinate Departments: The City Administrator shall have the power to coordinate the work of all the departments of the City, and, at times of an emergency, shall have authority to assign the employees of the City to any department where they are needed for the most effective discharge of the functions of City Government.
- D. Investigate and Report: The City Administrator shall have the power to investigate, examine, or inquire into the affairs or operation of any department of the City under his or her jurisdiction, and shall report any condition or fact concerning the City Government requested by the Mayor or Board of Aldermen.
- E. Coordinate Officials: The City Administrator shall have the power to overrule any action taken by a department head; any may supersede him/her in the functions of his/her office.
- F. Appear before the Board of Aldermen: The City Administrator shall have the power to appear before and address the Board of Aldermen at any meeting.
- G. Limitations: At no time shall the duties or powers of the City Administrator supersede the actions taken by the Mayor or Board of Aldermen.
- H. Interference by Members of the Board of Aldermen: No member of the Board of Aldermen shall directly interfere with the conduct of any department or duties of employees subordinate to the City Administrator, except at the express direction of the Board of Aldermen, or with the approval of the City Administrator.

#### **2.105. Indemnification of officers and employees**

Each member of the Board of Aldermen, and every other elected or appointed official, officer and employee of the City of Ashland, including members of any boards or commissions, and their legal representatives, shall be indemnified by the City against liabilities, expenses, counsel fees, and costs reasonably incurred by him or her estate in connection with or arising out of any action, suit, proceeding or claim in which he or she is made a party by reason of his having served the City in any such capacity; provided that such indemnity shall not apply with respect to any such matter, claim, suit, or proceeding where the person to be indemnified hereunder has valid, collectible insurance coverage for such liability, loss, cost, or expense; and, provided further, that the City shall not indemnify any such person with respect to any matters as to which he or she shall be finally adjudged in any such action, suit or proceeding to have been liable for negligence or misconduct in the performance of his duties as such member, officer, official, or employee, nor shall such indemnity apply in any such suit action or

proceeding where said person or persons shall be found to have acted illegally or acted so as to attempt to circumvent a legally required or mandated action.

#### **2.110. Removal of officers**

The Mayor may, with the consent of a majority of all the members elected to the Board of Aldermen, remove from office, for cause shown, any elective officer of the city, such officer being first given opportunity, together with his witnesses, to be heard before the Board of Aldermen sitting as a board of impeachment. Any elective officer, including the Mayor, may in like manner, for cause shown, be removed from office by a two-thirds vote of all members elected to the Board of Aldermen, independently of the Mayor's approval or recommendation. The Mayor may, with the consent of a majority of all the members elected to the Board of Aldermen, remove from office any appointive officer of the city at will, and any such appointive officer may be so removed by a two-thirds vote of all the members elected to the Board of Aldermen, independently of the Mayor's approval or recommendation. The Board of Aldermen may pass ordinances regulating the manner of impeachments and removals. The removal of members from commissions and boards shall be as prescribed in the individual chapters of this Code and in accordance with state statutes. (State law reference-79.240 RSMo.)

#### **2.115. Term of appointive officers**

All appointive officers shall be appointed by the Mayor with the advice and consent of the Board of Aldermen annually to serve for a period of one year. Each year, following the City elections, the appointed officers of the City shall be reappointed or new officers shall be appointed to fill their positions. If any officer is not reappointed and no successor is appointed, the previous officer shall continue to serve until his or her successor is appointed.

#### **2.120. Vacancies**

If a vacancy occurs in any elective office, the Mayor or the person exercising the duties of the Mayor shall cause a special meeting of the Board of Aldermen to convene where a successor to the vacant office shall be selected by appointment by the Mayor with the advice and consent of a majority of the remaining members of the Board of Aldermen. If the vacancy is in the office of Mayor, nominations of a successor may be made by any member of the Board of Aldermen and selected with the consent of a majority of the members of the Board of Aldermen. The Board of Aldermen may adopt procedures to fill vacancies consistent with this section. The successor shall serve until the next regular municipal election. If a vacancy occurs in any office not elective, the mayor shall appoint a suitable person to discharge the duties of such office until the first regular meeting of the Board of Aldermen thereafter, at which time such vacancy shall be permanently filled. (State law reference-79.280 RSMo.)

#### **2.125. Administration of oaths**

The Mayor and City Clerk are hereby empowered and authorized to administer oaths or affirmations in the following cases:

1. The Mayor, to witnesses or other persons concerned with any subject under consideration by the Board of Aldermen in which the interest of the City is involved.
2. The City Clerk, to any person certifying to any demand or claim against the City concerning the correctness of the same.

#### **2.130. Commission to be delivered**

The Mayor shall sign the commissions and appointments of all city officers elected or appointed in the City, and shall approve all official bonds unless otherwise prescribed by ordinance. (State law reference-79.190 RSMo.)

#### **2.135. Oath of office; bond generally**

1. Every officer of the City and his assistants, and every Alderman before entering upon the duties of his office shall take and subscribe to an oath or affirmation before some person authorized to administer oaths, that he possesses all qualifications prescribed for his office by law; that he will support the Constitution of the United States and of this state, the provisions of all laws of this state affecting the City and the Code of Ordinances and other ordinances of the City; and faithfully demean himself while in office, which oath or affirmation shall be filed with the City Clerk.
2. Every officer of the City, when required by this Code or other law or ordinance, shall, within fifteen (15) days after his appointment or election, and before entering upon the discharge of the duties of his office, give bond to the City in such sum and with such sureties as may be designated by this Code or other ordinance, conditioned upon faithful performance of his duty, and that he will pay over all money belonging to the City and fully account for the same, as provided by law, that may come into his hands.
3. If any person elected or appointed to any office shall fail to take and subscribe such oath or affirmation, or to give bond as herein required, his office shall be deemed vacant. For any breach of condition of any such bond, suit may be instituted thereon by the City, or by any person in the name of the City to the use of such person. (State law reference 79.260. RSMo.)

#### **2.140. Officers to be voters and residents-exceptions**

All officers elected to offices or appointed to fill a vacancy under the city government shall be voters under the laws and constitution of this state and the



ordinances of the city except that appointed officers need not be voters of the city. No person shall be elected or appointed to any office who shall at the time be in arrears for any unpaid city taxes, or forfeiture or defalcation in office. All officers, except appointed officers, shall be residents of the city. (State law reference-79.250 RSMo.)

### **Article III. Board of Aldermen**

#### **2.200. Qualifications of Aldermen**

1. Qualifications of Aldermen, Terms of Office. No person shall be an Alderman unless he or she is at least twenty-one years of age, a citizen of the United States, and an inhabitant and resident of the City for one year next preceding his or her election, and a resident, at the time he or she files and during the time he or she serves, of the ward from which he or she is elected; nor shall any person be elected an Alderman who is in arrears for any tax, lien, forfeiture, or defalcation in office. All members of the Board shall hold their office for a term of two years. (State law reference-79.250 RSMo.)
2. Oath. Before entering upon the discharge of the duties of his or her office, each Alderman shall take and subscribe an oath or affirmation before the City Clerk that he or she possesses all the qualifications prescribed for his office by the laws of the State and this Code or other ordinances of this City; that he or she will support the Constitution of the United States and of this State, and this Code and other ordinances of this City, and that he will faithfully demean himself or herself in office.
3. Representation. The members of the Board of Aldermen shall be two in number from each ward of the City.
4. Duties.
  - A. Aldermen shall attend all regular and special meetings of the Board unless excused by the Mayor for good cause.
  - B. The Board of Aldermen shall cause to be kept a journal of its proceedings, and the ayes and nays shall be entered on any question at the request of any member.
  - C. The Board of Aldermen may by resolution prescribe and enforce such rules as it may find necessary for the expeditious transaction of its business, but such rules shall not contravene the requirements of this Code or other ordinances.
  - D. The Board of Aldermen shall have power to compel the attendance of witnesses and the production of papers and records relating to any subject under consideration in which the interest of the City is

involved and shall have power to call on the proper officers of the City, or of the county in which such City is located, to execute such process. Such officer (other than a city officer) shall receive therefore such fees as are allowed by law in the circuit court for similar services, to be paid by the City. The Mayor or Mayor Pro-tem in the absence of the Mayor shall have power to administer oaths to witnesses.

- E. The Board of Aldermen shall semi-annually each year, at times to be set by the Board of Aldermen, make out and spread upon their records a full and detailed account and statement of the receipts and expenditures and indebtedness of the City for the half year ending with the last day of the month immediately preceding the date of such report, which account and statement shall be published in some newspaper in the city.

## **2.210. Qualifications for Mayor**

1. Qualifications. No person shall be mayor unless he or she shall be at least twenty-five years of age, a citizen of the United States and a resident of the city at the time of and for at least one year next preceding his election.  
(State law reference-79.080 RSMo.)
2. Duties and powers of the office.
  - A. The Mayor and Board of Aldermen of each city governed by this chapter shall have the care, management and control of the city and its finances, and shall have power to enact and ordain any and all ordinances not repugnant to the constitution and laws of this state, and such as they shall deem expedient for the good government of the city, the preservation of peace and good order, the benefit of trade and commerce and the health of the inhabitants thereof, and such other ordinances, rules and regulations as may be deemed necessary to carry such powers into effect, and to alter, modify or repeal the same.
  - B. The Mayor shall have power to remit fines and forfeitures, and to grant reprieves and pardons for offenses arising under the ordinances of the city; but this section shall not be so construed as to authorize the mayor to remit any costs which may have accrued to any officer of said city by reason of any prosecution under the laws or ordinances of such city.
  - C. The Mayor shall, from time to time, communicate to the Board of Aldermen such measures as may, in his opinion, tend to the improvement of the finances, the police, health, security, ornament, comfort and general prosperity of the city.

- D. The Mayor shall sign the commissions and appointments of all city officers elected or appointed in the city, and shall approve all official bonds unless otherwise prescribed by ordinance.
- E. The Mayor shall be active and vigilant in enforcing all laws and ordinances for the government of the city, and he shall cause all subordinate officers to be dealt with promptly for any neglect or violation of duty; and he is hereby authorized to call on every male inhabitant of the city over eighteen years of age and under fifty, to aid in enforcing the laws.
- F. The Mayor shall have the authority to sign all orders, drafts and warrants drawn on the City treasury for money and to cause the clerk to attest the same. (State law reference-79.110 RSMo.)

#### **2.215. Mayor Pro-tem**

- 1. Election. At the first meeting following the annual election the Board shall elect one of their own number to act in the absence of the Mayor who shall be styled "acting president of the Board of Aldermen" and who shall serve for a term of one year. (State law reference-79.090 RSMo.)
- 2. Duties. When any vacancy shall happen in the office of Mayor by death, resignation, removal from the City, removal from office, refusal to qualify, or from any other cause, the Mayor Pro-tem shall, for the time being, perform the duties of Mayor, with all the rights, privileges, powers, and jurisdiction of the Mayor, until such vacancy is filled or such disability is removed; or, in case of temporary absence, until the Mayor's return. (State law reference-79.100 RSMo.)

#### **2.220. Aldermen and Mayor to serve without compensation**

The Board of Aldermen of the City of Ashland, Missouri and each of them, and the Mayor shall not receive compensation for their services. Members of the Board of Aldermen and the Mayor shall be entitled to reimbursement for all expenses and mileage incurred or expended by them in the performance of their duties to the City of Ashland.

### **Article IV. Appointed Officials**

#### **2.300. City Attorney**

- 1. Qualifications, Term, Appointment. The Mayor, with the advice and consent of the Board of Aldermen, at the first meeting after each annual election shall appoint a suitable person as City Attorney who shall hold office for one (1) year, unless sooner removed from office, and until his successor is appointed

and qualified. No person shall be appointed to the office of City Attorney unless he is a licensed and practicing attorney at law in this State. (State law reference-79.230 RSMo.)

2. Duties, Generally. The City Attorney shall provide legal advice to the Mayor and the Board of Aldermen. The City Attorney shall, in addition to his other duties which are or may be required by this Code or other ordinance, when ordered by the Mayor or Board of Aldermen to do so, prosecute or defend all suits and actions originating or pending in any court of this State, to which the City is a party, or in which the City is interested.

#### **2.305. City Prosecutor**

1. Qualifications, Term, Appointment. The Mayor, with the advice and consent of the Board of Aldermen, at the first meeting after each annual city election shall appoint a suitable person as City Prosecutor who shall hold office for one (1) year, unless sooner removed from office, and until his successor is appointed and qualified. No person shall be appointed to the office of City Prosecutor unless he is a licensed and practicing attorney at law in this State.
2. Duties, Generally. The City Prosecutor shall, in addition to his other duties which are or may be required by this Code or other ordinance, prosecute all persons charged with a violation of this Code or other ordinance of the City, when the same be a contested case. Additionally, the City Prosecutor shall give his opinion to all city officials as to Code or ordinance violations when authorized by the Board of Aldermen to do so.

#### **2.310. Chief of Police**

1. The Mayor, with the consent and approval of a majority of the members of the Board of Aldermen, may appoint a Chief of Police upon such terms and conditions as the Board shall deem appropriate, who shall perform all duties previously or currently required to be performed by the City Marshall, and such additional duties as the Mayor or Board may prescribe. The Chief of Police shall be twenty-one years of age or older. (State law reference-79.050 RSMo.)
2. The Board of Aldermen shall appoint any other police officers found by the Board of Aldermen to be necessary for the safety and benefit of the city.

#### **2.315. City Clerk**

1. Qualifications, Term, Appointment. The Board of Aldermen shall elect a City Clerk for a term of office which shall end on December 31 of each year, regardless of when said appointment shall take place, subject, however, to the

power of the Mayor and the Board of Aldermen to remove any person appointed to serve as City Clerk.

2. Duties. Among other things, the City Clerk shall keep a journal of the proceedings of the Board of Aldermen. He shall safely and properly keep all the records and papers belonging to the city which may be entrusted to his care; he shall be the general accountant of the city; he is hereby empowered to administer official oaths and oaths to persons certifying to demands or claims against the city. (State law reference-79.320 RSMo.)

#### **2.320. Appointment of Deputy City Clerk**

1. Qualifications, Term, Appointment. The Mayor shall with the advice and consent of the Board of Aldermen appoint an individual to serve as Deputy City Clerk. This appointee shall serve at will of the Board of Aldermen.
2. Duties of Deputy City Clerk. The duties of the Deputy City Clerk shall include performing all those duties established for the City Clerk in the City Clerk's absence as permitted by law and performing such other duties as may be assigned by the City Clerk or Mayor. (State law reference-79.320 RSMo.)

#### **2.325. City Treasurer**

1. Qualifications, Term, Appointment. The Mayor, with the advice and consent of the Board of Aldermen, at the first meeting after each annual City election shall appoint a suitable person as City Treasurer who shall hold office for one (1) year and until a successor is appointed and qualified.
2. The Treasurer shall receive and safely keep all moneys, warrants, books, bonds and obligations entrusted to his care, and shall pay over all moneys, bonds or other obligations of the City on warrants or orders, duly drawn, passed or ordered by the Board of Aldermen, and signed by the Mayor and attested by the City Clerk, and having the seal of the city affixed thereto, and not otherwise; and shall perform such other duties as may be required of him by ordinance. Before entering upon the duties of his office he shall give bond in such sum as may be required by ordinance. (State law reference-79.300 RSMo.)

#### **2.330. City Collector**

The Mayor and the Board of Aldermen of the City of Ashland have chosen to appoint the Boone County Collector to serve as City Collector. The collector shall, annually, at such times as may be designated by ordinance, make a detailed report to the Board of Aldermen, stating the various moneys collected by him during the year, and the amounts uncollected and the names of the persons from which he failed to collect and the causes therefore. (State law reference-79.310 RSMo.)

#### **2.335. City Administrator**

The Mayor with the consent and advice of the Board of Aldermen shall appoint a professional City Administrator to serve as a City employee in accordance with the City Personnel Manual.

#### **2.340. Out of pocket expenses**

Appointed officers and all other municipal officers and employees of the City of Ashland, Missouri, are authorized payment for their necessary out-of-pocket expenses, including a mileage allowance of twenty-eight cents (.28) per mile for privately owned automobiles utilized in connection with City business.

### **Article V. City Employees**

#### **2.405. Compensation set for employees**

The Mayor is authorized to make recommendations of employment and hire personnel at their respective salaries, subject to a vote of approval by the Board of Aldermen. All persons serving as officers and employees shall serve at the will of the Board of Aldermen under the terms and conditions of appointment established by the Ashland, Missouri, City Code, and other lawful ordinances. All officers and employees of the City of Ashland shall be entitled to receive reimbursement for all out-of-pocket expenses as authorized by other ordinances of the City of Ashland, Missouri, and shall receive such salary as may be designated by the Board of Aldermen by ordinance.

#### **2.408. Written Contracts**

The duties and compensation for every City employee shall be set forth in a written contract. All employees shall be considered at will employees.

#### **2.410. Annual review of salaries**

The Mayor and Board of Aldermen shall annually review the salaries of City employees to provide increases or decreases in their salary based upon the cost of living and merit.

#### **2.415. Personnel manual**

The City Administrator with assistance and input from City Department Heads shall create, maintain and regularly update a City of Ashland Personnel Manual, which shall consist of job descriptions and other personnel regulations as may be deemed necessary. All changes to the City of Ashland Personnel Manual shall be made by consent of the Board of Aldermen. Nothing in the personnel manual shall be interpreted as to imply that the City is bound to follow any specific procedures.

## **Article VI. City Business**

### **2.500. Public meetings**

All regular and special meetings of the Board of Aldermen shall be open to the public; except when and provided that the Board may vote (at a public meeting when prior notice has been given) to hold a closed meeting for those purposes authorized by law.

### **2.505. Regular meetings**

The Board of Aldermen of this City shall meet in regular session in the Council Chambers of the City Hall at the hour of 7:00 p.m. on the first and third Tuesday of each month, unless so amended by the Board of Aldermen. (amended Ord. 2002-54, 12-30-2002)

1. When any such meeting day is a holiday, the regular meeting shall be held at such time as may be provided by the Board on motion at the previous meeting.
2. The Board may, by motion, dispense with any regular meeting, but at least one meeting, regular or special, must be held in each calendar month.
3. At the first regular meeting after each municipal election, the Board of Aldermen shall establish its meeting schedule for that year.
4. Should, for lack of a quorum or any other reason, the Board of Aldermen be unable to conduct business at the time and date set by ordinance for its regularly scheduled monthly meetings, the Mayor and the Aldermen who are present at said meeting may adjourn said meeting to reconvene said meeting at a date certain by publicly announcing at the time of adjournment, the date, place, and time said regular monthly meeting shall be reconvened. Should the Mayor and Aldermen present be unable to agree upon such date or be unable to determine when a quorum will be available, the meeting shall be reconvened seven days from the date of the adjourned meeting at 7:00 p.m. and at the same place as the adjourned meeting.
5. A quorum of the Board of Aldermen shall consist of a majority of the full membership (including vacancies and the Mayor of the City.) In case a lesser number than a quorum shall convene at a regular or special meeting of the Board of Aldermen, the majority of the members present are authorized to direct the Chief of Police or other city officer to send for and compel the attendance of any or all absent members upon such terms and conditions and at such time as such majority of the members present shall agree.

6. No member of the Board of Aldermen may leave the Board chamber while in regular or special session without permission from the presiding officer.
7. Voting. Every member of the Board shall vote upon every question and when requested by any member the vote upon any question shall be taken by “ayes” and “nays” and be recorded, except that every Board member who has a substantial personal or private interest, as defined by state law, in any bill shall disclose on the records of the Board of Aldermen the nature of his interest and shall disqualify himself from voting on any matters relating to this interest.

#### **2.510. Rules of order**

Except as otherwise provided by law or ordinance, the proceedings of the Board of Aldermen shall be controlled by Robert’s Rules of Order, most current version.

1. The established rules of parliamentary procedure shall govern the proceedings of the Board except when otherwise provided by ordinance and any questions pertaining thereto shall be determined by the Mayor subject to appeal to the Board.

#### **2.515. Special Meetings**

The Mayor or any two members of the Board of Aldermen may call a special meeting of the Board of Aldermen by directing the City Clerk to provide written notice to each member of the Board of Aldermen and the Mayor of the date and time of said special meeting and of the matters to be considered there at. The notice shall be given at least 24 hours prior to the meeting and posted at City Hall. If an emergency prevents the City Clerk from conforming with the notice requirements of this section, the minutes of the meeting shall specify the nature of the emergency and the actual notice provided.

#### **2.520. Procedure as to ordinances, resolutions, etc.**

All ordinances and resolutions shall be introduced to the Board of Aldermen in written form. All proposed ordinances shall be prepared by the City Attorney or bear his certification that they are in correct form.

1. Whenever this Code shall be amended, the title of each amendatory ordinance, adapted to the particular circumstances and purposes of the amendment, shall be substantially as follows:

A. To amend any section:

“AN ORDINANCE TO AMEND SECTION \_\_\_\_\_(or SECTIONS \_\_\_\_\_AND \_\_\_\_\_) OF THE CODE OF THE CITY OF ASHLAND.”



B. To insert a new section, subchapter, chapter, or title:

“AN ORDINANCE TO AMEND THE CODE OF THE CITY OF ASHLAND BY ADDING A NEW SECTION (or NEW SECTIONS, A NEW SUBCHAPTER, A NEW CHAPTER, or A NEW TITLE, (as the case may be) WHICH NEW SECTION (SECTIONS, SUBCHAPTER, CHAPTER, OR TITLE) SHALL BE DESIGNATED AS SECTION \_\_\_\_ (or SECTIONS \_\_\_\_ AND \_\_\_\_ ) OF CHAPTER \_\_\_\_ OF TITLE \_\_\_\_ (or proper designation if a chapter or title added) OF SAID CODE.

C. To repeal a section, chapter, or title:

“AN ORDINANCE TO REPEAL SECTION (SECTIONS \_\_\_\_ AND \_\_\_\_\_, CHAPTER \_\_\_\_\_, TITLE \_\_\_\_\_, etc. as the case may be) OF THE CODE OF THE CITY OF ASHLAND.”

2. Any bill shall be subject to amendment until the vote upon final passage.
3. Ordinances introduced shall be read for the first time and then referred to the proper committee, if such committee exists or the Mayor may appoint a special committee. The ordinance may be read two times and acted upon at one meeting. Copies of the proposed ordinance shall be made available for public inspection prior to the time the bill is under final consideration by the Board of Aldermen.
4. On the final passage of every ordinance, the “ayes” and “nays” shall be recorded in the record.

#### **2.525. Style of ordinances**

The style of the ordinances of the City shall be: “Be it ordained by the Board of Aldermen of the City of Ashland, as follows.” No ordinance shall be passed except by bill, and no bill shall become an ordinance unless on its final passage a majority of the members elected to the Board of Aldermen shall vote for it, and the ayes and nays be entered on the journal. Every proposed ordinance shall be introduced to the Board of Aldermen in writing and shall be read by title or in full two times prior to passage; both readings may occur at a single meeting of the Board of Aldermen. If the proposed ordinance is read by title only, copies of the proposed ordinance shall be made available for public inspection prior to the time the bill is under consideration by the Board of Aldermen. No bill shall become an ordinance until it shall have been signed by the Mayor or person exercising the duties of the Mayor’s office or shall have been passed over the Mayor’s veto, as herein provided.

## **Article VII. Transaction with the City of Ashland**

### **2.600. Form of Payment**

- a. Whenever any provision in this Code calls for payment by any person or entity, such payment may be in the form of cash or check.
- b. Payments in cash may be made in bills (Federal Reserve Notes) or silver coins of the United States, provided, however, that no person shall have the right to pay, upon any one debt, dimes and half dimes to an amount exceeding ten dollars, or of twenty and twenty-five cent pieces exceeding twenty dollars, or pennies, not to exceed one dollar. (Authorized by 408.010 RSMo.)
- c. Payments may be made by money order, cashiers check, or other negotiable instruments approved in advance by the City.
- d. Payments may be made by check under such conditions as the City Administrator may prescribe. For any check which is returned, payment is stopped, or the check is dishonored, the maker thereof shall pay the city an additional Twenty-Five and no/100 Dollars (\$25.00) which shall be deducted first from any subsequent payment to the city for any purpose. (amended Ord. 2003-040, 9-02-03)