TITLE 2

CLASSIFICATION, ADMINISTRATION AND PERSONNEL

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CHAPTER 2.04

CITY CLASSIFICATION

Sections:

2.04.01 Operation as a first class city

2.04.01 Operation as a first class city The city shall operate as a city of the first class under the laws of the state of Arkansas.

STATE LAW REFERENCE - For statutory provisions classifying municipal corporations, See A.C.A. 14-37-103.

CHAPTER 2.08

CITY AND WARD BOUNDARIES

Sections:

2.08.01 Map of city

2.08.01 Map of city The boundaries and limits of the city and of the various wards shall be set as forth and described on the official map of the city on file in the office of the City Clerk/Treasurer.

STATE LAW REFERENCE - For statutory provisions pertaining to wards, See A.C.A. 14-40-203 and 14-43-312

CHAPTER 2.08

HOLIDAYS

Sections:

2.09.01 Holidays

2.09.01 Holidays Section 2, Page 4 of the City of Atkins Employee Handbook is hereby adopted by reference which adds three holidays to the list of observed holidays the City currently observes, being Veterans Day, Presidents Day, and Dr. Martin Luther King, Jr.'s Birthday, said holidays shall be observed on the dates established and set by 5 U.S.C. 6103 as amended from time to time. (Ord. No. 2019-03, Sec. 1.)

CHAPTER 2.12

CITY COUNCIL

Sections:

2.12.01 Council meetings - regular
2.12.02 Council meetings - special
2.12.03 Order of business
2.12.04 Reading Ordinances

2.12.01 Council meetings - regular All regular meetings of the council shall be held at the municipal building on the second Tuesday of each month.

2.12.02 Council meetings – special Special meetings of the City Council shall be held upon the call of the Mayor or three (3) council members, by giving at least twenty-four (24) hours' notice of such special meeting to all council members, the Mayor, the City Attorney, and the City Clerk. The notice, whether written or oral, shall state the date, time, place and purpose of the meeting and name the person or persons calling the meeting. If available, the City Clerk shall be responsible for disbursing the notices after the City Clerk has been provided the pertinent information to be contained in the notices. In the event the City Clerk is not available, then the person or persons calling the meeting shall be responsible for disbursing the notices.

The notices shall be served personally, through the mail, by telefax, or by any other means reasonably certain to be received by the necessary City officials. Holidays and weekends shall be excluded for purposes of calculating the twenty-four (24) hour notice. For notices which are mailed, the twenty-four (24) hour period shall begin to run the day after the notice is placed in the mail. For notices which are personally delivered or telefaxed, the twenty-four (24) hour period shall begin to run from the time the notice is personally delivered or telefaxed. (Ord. No. 96-2 Sec. 1)

2.12.03 Order of business. At all meetings of the Council the following shall be the order of business unless the Council by a majority vote shall order otherwise:

1. Call to order
2. Roll call
3. Reading of minutes of the previous meeting
4. Reports of boards and standing committees
5. Reports of special committees
6. Unfinished business
7. New business
8. Announcements
9. Adjournment

2.12.04 Reading Ordinances That any proposed Ordinance presented to the City Council for consideration of passage may be read by title only and such reading by title only shall have the same force and effect as if the entire proposed Ordinance were read word for word. (Ord. No. 2019-05, Sec. 1.)

CHAPTER 2.16

CLERK/TREASURER

Sections:

2.16.01 Office created
2.16.02 Salary

2.16.01 Office created. The office of City Clerk/Treasurer is hereby created. The duties of this office shall be such as are fixed by the laws of the state and ordinances of the city for a city clerk/treasurer. (Ord. No. 264, Sec. 1; Adopted December 1, 1964)

2.16.02 Salary.

The rate of pay for the Clerk/Treasurer shall be determined by ordinance of the City Council from time to time.

STATE LAW REFERENCE-For statutory provisions pertaining to city clerks and treasurers, see Ark. Stats. 19-1015, 19-1018, 19-1031 and 19-1032

CHAPTER 2.20

CITY ATTORNEY

Sections:

2.20.01 Election of City Attorney
2.20.02 Duties
2.20.03 Salary

2.20.01 Election of City Attorney The City Attorney for the city of Atkins shall be elected on the Tuesday following the first Monday in November, 1978, and every four years thereafter for a term of four years. (Ord. No. 86-7, Sec. 1)

2.20.02 Duties It shall be the duty of the City Attorney to prosecute all criminal cases coming before any court operated and maintained by the city of Atkins; to represent the city in any appeal from such courts to the Circuit Court of Pope County, Arkansas; to consult with and give advice to city officials; to attend City Council meetings; and to prepare ordinances and other documents as necessary to conduct city business. (Ord. No. 86-7, Sec. 2)

2.20.03 Salary. The City Attorney shall receive a salary in the sum of Three Hundred Dollars ($300.00) per month provided, however, beginning January 1, 1987, the City Attorney's salary shall be Five Hundred Dollars ($500.00) per month. The City Attorney shall receive no additional compensation except that he shall receive payment at an agreed upon rate for services performed in prosecuting and defending civil lawsuits in which the city of Atkins is a party. (Ord. No. 86-7, Sec. 3)

CHAPTER 2.24

VOLUNTEER FIRE DEPARTMENT

Sections:

2.24.01 General rules
2.24.02 Command structure
2.24.03 Duties of the Chief
2.24.04 Duties of Assistant Chiefs
2.24.05 Duties of the Captains
2.24.06 Governing Committee
2.24.07 Appeals process
2.24.08 Appeal to the City Council

2.24.01 General rules

A. The Atkins Fire Department is hereby re-established consisting of voluntary members only. The Fire Department shall provide aid in the extinguishing of fires in the city of Atkins and in the Atkins Fire Protection District as provided for in Sec. 7.40.03 of the Atkins Municipal Code.

B. The rules and regulations herein provided for are intended for the general guidance of the officers and members of the Atkins Fire Department and not to cover every specific act of duty. A strict compliance with the rules, regulations, and careful attention to the orders of the officers will tend to secure the respect and good opinion of the public.

C. All Fire Department personnel accepted after the adoption of these rules and regulations shall live within ten (10) road miles of the Fire Department station. Members living outside this area already on the department shall be grandfathered into the department. (Ord. No. 2011-1, Sec. 1.)

D. All members must be at least eighteen years of age.

E. Persons interested in becoming a member must complete an application which includes consenting to a background check and must attend a Fire Department meeting for the purpose of being interviewed as a potential probationary member. Any person previously convicted of a felony will not be considered for membership. To become a probationary member, the applicant must be approved by a majority vote of the membership of the Atkins Fire Department and approved by the Atkins City Council. If denied, an applicant must wait six (6) months before reapplying. (Ord. No. 2011-1, Sec. 1.)

F. All members of the Fire Department in good standing shall be compensated at rates as determined from time to time by the Atkins City Council.

G. Probationary members will be considered for permanent membership after completing a one-year probationary period during which the applicant will be evaluated quarterly by the Governing Committee. During the probationary period, each probationary member must complete the following courses: "Introduction to Fire Protection," "Protective Equipment," and "Wildland Fire." during the probationary period, at the end of each quarter, the Governing Committee will evaluate each applicant in terms of job performance, attendance at fire calls, and attendance and completion of the courses described herein. If at the end of any quarterly evaluation, the Governing Committee deems it in the best interest of the Atkins Fire Department to determine at that time whether or not to continue or terminate the membership of any probationary member, then at that

time the continuation of the probationary membership of any probationary member shall be approved or disapproved by a majority vote of the entire membership of the Atkins Fire Department. Otherwise, at the end of the one (1) year probationary period, a majority vote of the Atkins Fire Department membership will determine whether probationary members will be dismissed or retained. (Ord. No. 2011-1, Sec. 1.)

H. New members must pass a physical examination, including a drug screen test, performed by a doctor chosen by the Atkins Fire Department. The expense of the examination and drug screen test will be paid for by the Atkins Fire Department. (Ord. No. 2011-1, Sec. 1.)

I. Each permanent member of the Atkins Fire Department shall attend fifty percent (50%) of the meetings each year, obtain and complete a minimum of six (6) hours training each quarter and obtain the minimum amount of training required by the state of Arkansas for certified firefighters. Failure of a permanent member to attend the exquisite number of meetings over any consecutive twelve (12) month period or failure to obtain and complete the required minimum hourly training over any quarterly or annual period shall cause that permanent member to be subjected to disciplinary action which may include expulsion. (Ord. No. 2015-3, Sec. 1.)

J. Each member must attend no less than thirty percent (30%) of all fire calls. Failure of a member to attend the requisite number of fire calls over any consecutive twelve (12) month period shall cause that member to be subjected to disciplinary action which may include expulsion. (Ord. No. 2015-3, Sec. 1.)

K. Members will conduct themselves in a professional and safe manner when on department duty. (Ord. No. 2015-3, Sec. 1.)

L. No department member while on duty shall possess, ingest or be under the influence of any intoxicating liquor, narcotics or illegal drugs of any kind. Any member suspected of such will be removed from the call by the officer in charge. All members agree to submit to a drug or alcohol test upon request while on duty. Any member violating any provision of this rule shall be referred to the Governing Committee for disciplinary action. (Ord. No. 2015-3, Sec. 1.)

M. Officers will be appointed or removed by the Fire Chief at his discretion, but such appointment or removal must be approved by a majority vote of the members. (Ord. No. 2015-3, Sec. 1.)

N. The Mayor of the city of Atkins will appoint the Chief of the Fire Department. (Ord. No. 2015-3, Sec. 1.)

O. A member in good standing may take a leave of absence without pay for any reason for a period of not exceeding one (1) year, and upon request made within that one (1) year period, the person will be returned to active duty when the first available position becomes open. (Ord. No. 2015-3, Sec. 1.)

P. A member in good standing may take a leave of absence without pay for any reason for a period of not exceeding one (1) year, and upon request made within that one (1) year period, the person will be returned to active duty when the first available spot becomes open. (Ord. No. 2011-1, Sec. 2.)

2.24.02 Command structure The Fire Department shall be comprised of the following officers and members:

A. Chief
B. Assistant Chief
C. Captains (3) (Training Officer, Secretary/Fire Marshal, and Vehicle Officer)
D. Governing Committee
E. Firefighters (Ord. No. 2011-1, Sec. 3.)

2.24.03 Duties of the Chief

A. The Chief of the Department shall be the executive head of the department and shall devote his time to the discharge of the duties of his office and shall exercise supreme command at any fires he attends and at all times when on duty.

B. The Chief shall designate members of any ranks to perform temporarily the duties of higher ranking officers. (Ord. No. 2003-6, Sec. 4.)

C. The Chief will be responsible for supervising the other officers and assuring that the other officers properly complete and perform the duties to which they have been assigned. (Ord. No. 2011-1, Sec. 4.)

D. The Chief shall have the authority to remove any firefighter from duty for any reason at any time and shall refer any disciplinary matter to the Governing Committee for final resolution. The Chief shall report any disciplinary concern to the Mayor. (Ord. No. 2011-1, Sec. 5.)

2.24.04 Duties of Assistant Chief

A. The Assistant Chief shall rank immediately below the Chief in authority and shall exercise the powers of the Chief in his absence or inability to act.

B. The Assistant Chief shall otherwise devote his time to matters concerning the safety of the public, the Fire Department members and the safety and maintenance of the equipment used by the Fire Department. (Ord. No. 2011-1, Sec. 6.)

2.24.05 Duties of the Captains

A. Secretary/Fire Marshal Captain

1. It shall be the duty of the Secretary/Fire Marshal Captain to keep records and minutes of all the proceedings and meetings and records of attendance at all meetings and fire calls of the department, to keep all other necessary records for the Fire Department, and to provide up-to-date current information to the National Incident Management Records System.

2. The duties of the Fire Marshal shall include providing fire prevention programs to the public, promoting fire safety of the Atkins Fire Department and the Atkins community, conducting fire inspections on all necessary businesses, schools, daycares, nursing homes and other similar places, update and maintain necessary pre-fire plans, enforce national, state and local fire and building codes and standards, and supervise and conduct investigations to determine the cause of fires.

3. The Fire Marshal may recruit any available firefighter to assist him in performing his duties.

B. Training Officer Captain

1. It is recommended that the Training Officer Captain be certified by the Arkansas Fire Academy as an instructor. (Ord. No. 2015-3, Sec. 2.)

2. His job duties shall include being responsible for maintaining all training records of firefighters, and he shall schedule and provide all necessary training for members of the Fire Department each month. (Ord. No. 2015-3, Sec. 3.)

3. He shall be responsible for offering certified classes for all probationary members at least once each twelve (12) month period in "Introduction to Fire" and "Protective Equipment." If such classes are not attended by probationary members of the department, it shall be their responsibility to become certified in these areas within their one (1) year probationary period.

C. Vehicle Officer Captain

1. It is the duty of the Vehicle Officer Captain to assure all vehicles are in safe working order and ready for duty. If a vehicle is not in safe working order and ready for duty, it is the responsibility of the Captain to visibly label the vehicle as not safe or not in working order, and to remove the vehicle from service until the vehicle is properly repaired.

2. His duty shall also include being responsible for determining that all small engine equipment located on the trucks are in safe working order.

3. This officer shall be responsible for making sure that all fire trucks have successfully passed the annual pump test. (Ord. No. 2011-1, Sec. 7.)

2.24.06 Governing Committee

A. The Governing Committee shall consist of the Chief, Assistant Chief, and all three Captains.

B. All disciplinary matters, except those in 2.24.01(G) shall be dealt with in hearings conducted by the Governing Committee which shall have the authority to: place on probation, caution, reprimand, suspend, or terminate a member of the department for violations of the rules and regulations of the department. The Committee shall promptly report any disciplinary decisions to the Mayor. (Ord. No. 2015-3, Sec. 4.)

C. Any decision by the Governing Committee shall be in writing clearly stating the decision made and the reason or reasons for the decision. It shall provide the names of those members voting for and against the decision. One member voting in the majority shall be assigned to write the decision and other members desiring to write a concurring or dissenting opinion shall be permitted to do so.

D. The member who is the subject of the decision shall be provided a copy of the decision and any concurring or dissenting opinions. The decision will be delivered to the affected member by certified mail, addressee only. (Ord. No. 2003-6, Sec. 7.)

2.24.07 Appeals process

A. Any member who is the subject of disciplinary action shall have ten (10) days from receipt of the decision to file a written appeal with the Captain Secretary/Treasurer. If the tenth day shall fall on a weekend or holiday, then the member shall have until the next business day to perfect his or her appeal.

B. A hearing will be held after notice to the affected member. The hearing will be presided over by the Chief and any one may testify or offer into evidence any relevant matter at the hearing.

C. A new decision in writing will be issued by the Governing Committee within a reasonable time after the conclusion of the hearing pursuant to the same procedure as provided for after the original decision. The new decision will either affirm, reverse, or modify the original decision. (Ord. No. 2003-6, Sec. 8.)

2.24.08 Appeal to the City Council

A. The affected member may appeal the new decision in writing to the City Council by filing a written notice of appeal with the City Clerk within ten (10) days of receiving the written decision. The City Council will be furnished with copies of the original decision and opinions and the second decision and opinions, along with any physical evidence previously received by the Governing Committee.

B. A hearing will be conducted by the City Council at which the City Council will review the prior decisions and opinions, evidence, and hear any relevant testimony from any person including the affected member. The City Council shall then issue an oral decision or retire into executive session for the purpose of discussing the case. Upon reconvening in public, the City Council will vote and publish its findings. (Ord. No. 2003-6, Sec. 9.)

CHAPTER 2.28

POLICE DEPARTMENT

Sections:

2.28.01 Appointment and removal of Police Chief
2.28.02 Duties of Police Chief
2.28.03 Rate of pay of personnel
2.28.04 Rescue Grant

2.28.01 Appointment and removal of Police Chief The Police Chief shall be appointed by the Mayor and approved by a majority of the City Council. (Ord. No. 293; Adopted November 4, 1969)

STATE LAW REFERENCE-For appointment of Police Chief see Ark. Stats. 19-1014

2.28.02 Duties of Police Chief The Police Chief shall be the head of the Police Department and shall be fully responsible for the operation of the department, and the equipment of the department, except the expenditures of city funds therein. He shall make such reports and perform such duties as determined necessary by the City Council.

2.28.03 Rate of pay of personnel The City Council shall from time to time fix the number of employees and the rate of pay within the Police Department.

STATE LAW REFERENCE-For statutory provisions generally pertaining to the Police Department, see Ark. Stats. 19-1701, et seq

2.28.04 Rescue Grant

- The City hereby appropriates from the City's portion of the American Rescue Plan Act Grant a total amount of $228,806.69 to claim police salaries and employer payroll contribution expenses from the date range of January 1, 2022, to July 1, 2022.(Ord. No. 22-04, Sec. 1)

- The City Council directs the Mayor and/or the City Clerk to move the expenditures for the police salaries and the applicable employer contributions from the city budget to Rescue Grant and to pay the city general fund for the expenses from the Rescue Grant. The City's 2022 budget is hereby amended by decreasing the expenditures in the amount of $228,806.69 and the 2022 grant budget is hereby amended by increasing the budget in the amount of $228,806.69 for the police expenses. (Ord. No. 22-04, Sec. 2)

- On the mandatory Annual Reports, these police expenses shall be reported under the Expenditure Category (EC) number 6.1 entitled Revenue Replacement. (Ord. No. 22-04 Sec. 3)

CHAPTER 2.32

UNCLAIMED PROPERTY

Sections:

2.32.01 Disposal
2.32.02 Sale
2.32.03 Proceeds of sale to owner
2.32.04 Proceeds remaining after six months

2.32.01 Disposal The Police Chief under the direction hereinafter set out is hereby authorized and directed to dispose of at public auction all unclaimed personal property rightfully coming into the hands of his office and to dispose of other confiscated property confiscated under the orders of the District Court with the exception of confiscated liquor.

STATE LAW REFERENCE-For procedure relating to liquor, see Ark. Stats. 48-926 - 48-929.1

2.32.02 Sale All unclaimed personal property coming into the hands of the Police Chief will be held by the Police Chief for a period of six (6) weeks or longer and the Police Chief, if property remains unclaimed, shall periodically advertise such property in some newspaper of general circulation in the city once each week for three (3) consecutive weeks setting forth in notice the time for the sale which shall not be earlier than five (5) days after the last publishing of the notice and later than ten (10) days thereafter, designating an easily accessible place for the sale thereof, and giving a complete list and description of unclaimed articles to be sold. The police chief shall have the right to refuse any and all bids not satisfactory and will then proceed to advertise these items for sale at a later date. Terms of such sale shall be for cash only. Nothing in this chapter shall prohibit any person who properly identifies any of the property as being their own before the sale from claiming and having property restored to them.

2.32.03 Proceeds of sale to owner The Police Chief shall deposit the receipt from the aforesaid sale of unclaimed property in the city treasury and the Treasurer is to keep these funds in a special account for a period of six (6) months and any person identifying as his own any of such property within the six (6) month period shall upon the presentation of satisfactory proof be paid by city warrant out of the special account the amount of which the property is sold. The Police Chief or some person designated by him shall keep in a well bound book an accurate record and description of each piece of unclaimed property passing through the Police Chief's office and the price for which it was sold and the date, the name and address of those who purchased same, as well as a complete record of those who identified and claimed any of the property before it is sold.

2.32.04 Proceeds remaining after six months All proceeds from the sale remaining in the special fund for a period of six (6) months shall by the City Treasurer be transferred to the city's general fund and no further payment shall be made therefrom to anyone who thereafter claims ownership.

CHAPTER 2.36

SOCIAL SECURITY COVERAGE

Sections:

2.36.01	Contract
2.36.02	Withholding taxes from wages
2.36.03	City to match amount withheld

2.36.01 Contract The Mayor and City Clerk/Treasurer are authorized and directed to enter into an agreement with the State of Arkansas for the purpose of obtaining insurance coverage for all the non-uniform employees of the city under the terms and provisions of the Federal Social Security Act.

2.36.02 Withholding taxes from wages Each employee's insurance contribution shall be deducted from his salary check in accordance with the terms and provisions of the said Social Security Act.

2.36.03 City to match amount withheld Commencing from January 1, 1955, retroactive, there is hereby appropriated from the General Fund of the city, the sums of money necessary to pay the city's share of the insurance tax in accordance with the terms and provisions of the said Social Security Act. (Ord. No. 248; Adopted June 7, 1955)

CHAPTER 2.40

CEMETERY

Sections:

2.40.01 Establishment of Cemetery Commission
2.40.02 Cemetery revenues and establishment of accounts
2.40.03 ownership of lots and interment
2.40.04 Headstones and other structures
2.40.05 Care, maintenance, improvements and operations
2.40.06 General rules and regulations and enforcement

2.40.01 Establishment of Cemetery Commission

A. There is hereby established a Cemetery Commission to be composed of three citizens who are qualified electors of the city of Atkins, provided, however, that the City Council may increase the membership of the Cemetery Commission by two additional members, if the City Council determines that an enlarged commission could better serve the citizens of the city of Atkins.

B. The Commissioners shall be appointed by the Mayor and confirmed by a majority vote of the duly elected and qualified members of the City Council and shall hold office for a term of three years, provided, however, that those Commissioners first appointed and confirmed after the passing of this ordinance shall serve for terms of one, two and three years each, to be designated by the Mayor and City Council, and thereafter, upon the expiration of their respective terms, Commissioners appointed by the Mayor and approved by a majority vote of the City Council shall be appointed for a term of three years.

In the event of a vacancy occurring on the Commission, it shall be filled by appointment by the Mayor subject to the approval of a majority vote of the duly elected and qualified members of the City Council. Each Commissioner shall file the oath required by the state of Arkansas for public officials. Provided, however, that in the event the City Council votes to increase the membership of the Cemetery Commission from three to five members, then in said event, the two additional members of the Commission shall be appointed in the manner provided hereinabove, and shall serve terms of three years. Provided further, however, that the first additional members appointed to the Commission shall determine by lot their respective terms in order that the term of one member shall be for one year and the term of the other member shall be for three years. Their successors shall be appointed for three year terms. Such members shall qualify in the same manner as provided hereinabove for other Commission members, and vacancies in either of such additional member positions shall be filled in the manner provided hereinabove.

C. Any Commissioner appointed by the provisions of this ordinance may be removed for cause by a two-thirds vote of the duly elected qualified members of the City Council.

D. The Commissioners hereinunder appointed shall have full and complete authority to deal, manage, operate, maintain, and keep in a good state of repair any municipal buildings and grounds deemed necessary to carry on the operation of the Atkins Cemetery for the city of Atkins. The Commission shall have full and complete charge of such buildings and grounds, including the right to control and permit, or refuse to permit such public gatherings or other meetings or affairs as the Commissioners shall see fit and deem to be in the best interest of the city. The Commissioners shall have the right to employ or remove professionals, janitors, grounds keepers and other employees of whatsoever nature, kind or character, and to fix, regulate and pay their salaries, it being the intention of this ordinance to vest in the Commissioners authority to build, operate, manage, maintain and control all municipal improvements located in the Atkins Cemetery, and have full and complete charge thereof, provided, Commissioners shall not have authority or power to sell, mortgage, or encumber such property, unless otherwise authorized by the City Council.

E. The property presently comprising the Atkins Cemetery is described as follows:

TRACT ONE: Beginning at the Southwest Corner of the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of Section 20, Township 7 North, Range 18 West, and running north 417 feet; thence East 33 feet; thence in a Southeasterly direction to the south line of said forty acre tract at a point 85 feet east of the Southwest Corner; thence west to place of beginning.

TRACT TWO: Block Six (6) in the Matthews Addition to the city of Atkins, Arkansas.

TRACT THREE: Lots Six (6), Seven (7), Eight (8), Nine (9), Ten (10), Sixteen (16), Seventeen (17), Eighteen (18), Nineteen (19), and Twenty (20), all in Block Five (5), Matthews Addition to the city of Atkins, Arkansas.

TRACT FOUR: All that part of the West Half (WI-2) of Block Two (2) of the Matthews Addition to the city of Atkins, Arkansas, lying south of the ditch running approximately east and west across said block. The tract of land above described is approximately 200 feet north and south and 140 feet east and west. All lying in Pope County, Arkansas.

F. The Commissioners hereunder shall have in addition to all other powers enumerated herein the exclusive right and power to make purchases of all supplies, apparatus and other property and things requisite and necessary for the management and operation of the Atkins Cemetery, including the construction of same and repairs and additions thereto, provided the Commissioners shall not have authority or power to sell, mortgage or encumber such property unless otherwise authorized by the City Council.

G. The Commissioners may propose from time to time to the City Council for adoption any alterations, changes or amendments to this ordinance as they may deem necessary and expedient for the proper operation and management of the Atkins Cemetery.

H. The Commissioners shall submit quarterly reports beginning three months after they take their oath of office and each three months thereafter reporting in full on the operations of the Atkins Cemetery, including providing an accounting of receipts and disbursements to the Mayor and City Council and furnishing such other and further reports, data and information as may be requested by the Mayor and City Council. The quarterly report to the Mayor and City Council with respect to receipts and disbursements shall be certified by the Commissioners as correct, and the Commissioners shall further submit an annual audit of the operations of the Atkins Cemetery to the Mayor and City Council.

I. Upon each quarterly report being made to the Mayor and City Council by the Commissioners, the City Council may appropriate funds from the general revenue fund of the city or from such other funds as the city may have available to make up any deficit or to provide such funds as may be necessary to carry on the operations of the Atkins Cemetery. The city council may at any time other than when a quarterly report is filed, appropriate such funds, as it deems necessary, from the general revenue fund or such other funds as the city may have available for the purpose of maintaining and operating the Atkins Cemetery.

J. The price of cemetery lots shall be set in an amount to be determined by the Cemetery Commission and may be changed from time to time by the Commissioners. The fee for opening and closing a grave shall be set by the Cemetery Commission and may be changed from time to time by the Commissioners.

K. The Commissioners shall elect from their number a chairman, vice chairman and secretary-treasurer. It shall be the duty of the chairman to preside at all meetings of the Cemetery Commission. The vice chairman shall preside in the absence of the chairman. It shall be the duty of the secretary-treasurer to keep a record of the minutes of all meetings, to file and record in the books of the Cemetery Commission all instruments of sale or transfer of a lot; to record all deposits to the perpetual care trust fund; to record all disbursements made from the income derived from the principal of said fund, and to record all deposits and withdrawals from the checking account in the name of the Cemetery Commission.

L. The Commissioners shall receive no salary for their services, but shall be reimbursed for actual expenses incurred in the performance of their duties.

M. All members of the cemetery Commission shall be notified of the time and place of all Cemetery Commission meetings. No business in any Cemetery Commission meeting shall be conducted unless a quorum of the membership shall be present. A quorum shall consist of a majority of the Cemetery Commission membership. No measure may be voted on, and no action may be taken by the Cemetery Commission unless approved by a majority of the duly appointed Commissioners. (Ord. No. 83-1, Sec. 1)

2.40.02 Cemetery revenues and establishment of accounts

A. The Commissioners hereunder appointed shall have the authority to utilize all revenues derived from the operation of the Atkins Cemetery. All funds derived from the operation of the Atkins Cemetery shall be used exclusively in the operation and the maintenance of the Atkins Cemetery by the Commissioners, and such funds shall not be mingled with other funds of the city.

B. The Commissioners shall furnish the city a surety bond in the sum of Twenty-Five Thousand ($25,000) Dollars for each Commissioner to insure the city against any misappropriation or mishandling of funds by the Commissioners. The surety on such bond shall be a reputable surety corporation. The premiums of the bonds shall be paid for from monies derived from the operation of the Atkins Cemetery or from monies appropriated for such purposes by the City Council from the general revenue fund of the city.

C. No one other than the authorized personnel of the city of Atkins shall have authority to withdraw funds from any of the accounts or funds containing revenues derived from the operation of the Atkins Cemetery. Withdrawals from any of such accounts or funds shall be made only upon the signature of any two (2) of the personnel whose names appear on the signature cards for said accounts or funds, after approved by the Commissioners. The Commissioners shall establish two (2) accounts or funds with the revenues derived from the operation of the Atkins Cemetery. One account shall be known as the "Atkins Cemetery Operation and Maintenance Account", which shall be a checking account to be used for paying day-to-day expenses incurred in the operation of the Atkins Cemetery. The second fund or account shall be known as the "Atkins Cemetery Perpetual Care Trust". Fund hereinafter referred to as the Perpetual Care Fund to be established, used and operated under the following terms and conditions:

Any monies deposited in the Perpetual Care Fund shall be placed in an account or accounts bearing interest or invested in a manner deemed prudent and advisable by the Cemetery Commissioners. Any monies not deposited in the Perpetual Care Fund shall be deposited in the operation and maintenance account, to be used for paying expenses incurred in the daily operation of the Atkins Cemetery. Any income received from the Perpetual Care Fund shall also be deposited in the Operation and Maintenance Account and used for the day-to-day expenses incurred in the operation of the Atkins Cemetery. The Commissioners shall determine from time to time what percentage, if any, of the revenue generated from the sale of cemetery lots shall be placed in either of these two accounts. In no event shall the principal of the Perpetual Care Fund be withdrawn. This amendment shall be retroactive to January 1, 2008. (Ord. No. 2008-3 Sec. 1.)

D. In order to accomplish the foregoing purposes, the Commissioners shall have the following powers:

To receive and administer funds and properties of all kinds, for the above purposes, and to that end to take and hold by bequest, devise, gift, purchase, loan or lease, either absolutely or in trust, for said purposes or any of them, any property, real, personal or mixed, without limitation as to amount of value, except

such limitations, if any, as may be imposed by law or by the provisions of this ordinance; to authorize the city of Atkins to sell, convey and dispose of any such property and to invest and reinvest the principal thereof and to deal with and authorize the expenditure of such principal or the income therefrom for any of the purposes of the Cemetery Commission, either by direct action of the Cemetery Commission or by means of trusts created by it, without limitation, except such limitation, if any, as may be contained in the instrument under which such funds or property are received; to receive any property, real, personal or mixed, in trust, under the terms of any deed, will, deed of trust, or other trust instrument for the purpose of the Cemetery Commission, and in administering the same, to carry out the directions and exercise the powers contained in the instrument under which the property is received, including the authorizing of the expenditure of the principal, as well as the income for one or more of such purposes,, if authorized or directed in the instrument under which it is received; to receive, take title to, hold and use the proceeds and income of real estate, personal estate, stocks, bonds, obligations or other securities of any person or persons, corporation or corporations, domestic or foreign, for the purpose of the Cemetery Commission, and in general to exercise such other powers as the Commissioners may deem requisite to promote the purpose of the Cemetery Commission, and as are permitted by law to Commissions of its class and to have all other powers with which such Cemetery Commissions are endowed.

To employ such assistance, including professional personnel, as may be reasonable and necessary to discharge their duties in managing, preserving and properly using the fund.

To do all and everything necessary and proper for the accomplishment of the purposes enumerated hereinabove or any amendment hereto or necessary and incidental to the protection and benefit of the Atkins Cemetery and in general to carry on any lawful business necessary or incidental to the attainment of the objectives and purposes of the Cemetery Commission. (Ord. No. 90-4)

2.40.03 Ownership of lots and Internment

A. When a lot has once been purchased within the Atkins Cemetery, it cannot be taken for debt or sold for secular purposes and the grounds cannot be encroached upon for any purpose other than as provided in this ordinance or any amendment thereto.

B. A lot in Tracts One and Two shall measure five (5) feet in width and ten (10) feet in length. A lot in Tracts Three and Four shall measure five (5) feet in width and twelve (12) feet in length. Heretofore, a lot in Tracts One and Two has consisted

of eight grave spaces. Hereafter, each grave space in Tracts One and Two shall be renumbered using the original lot number and a consecutive letter of the alphabet, beginning with the letter "A". For instance, Lot One shall be renumbered to be Lot One-A, Lot One-B, Lot One-C, Lot One-D, Lot One-E, Lot One-F, Lot One-G, and Lot One-H. Heretofore, a lot in Tracts Three and Four has consisted of two (2) grave spaces. Hereafter, each grave space in Tracts Three and Four shall be renumbered, using the Section in which the grave spaces are located, the original lot number and a consecutive letter of the alphabet beginning with the letter "A". For instance, Section A, Lot One shall be renumbered to be Section A, Lot One-A, and Section A, Lot One-B. Henceforth, in Tracts One and Two, no less than two (2) consecutively numbered lots which must have the same numerical beginning may be purchased by any person or persons,, and in Tracts Three and Four, no less than two (2) consecutively numbered lots, which must have the same numerical beginning may be purchased by any person or persons. Ownership of a lot may be obtained by paying the lot price as set by the Cemetery Commission. ownership of a lot includes the right of internment. The lot can be used for no other purpose and cannot be divided into smaller lots. Should a lot owner die without devising said lot, or without any known kindred, said lot shall revert to the city of Atkins after five (5) years after the death of the lot owner, unless application is made for a change in the ownership as otherwise provided in this ordinance within the five (5) year period.

C. A deed or certificate of ownership shall be issued to each lot holder on full payment of the purchase price for said lot or lots. The deed or certificate of ownership shall be signed by the Mayor of the city of Atkins and attested to by the City Clerk. Every lot and lot owner shall be subject to the ordinances of the city of Atkins and the rules and regulations of the Cemetery Commission, pertaining to the governing of lot owners, visitors to the cemetery, ownership of lots and burial of the dead.

D. It shall be the duty of the lot owner to notify the Cemetery Commission of any change in the lot owner's address. Any notice sent to a lot owner at the lot owner's last known address on file in the office of the secretary of the Cemetery Commission shall be considered sufficient and proper legal notification. The certificate of ownership or deed and this ordinance and any amendments thereto shall constitute the sole agreement between the city of Atkins and the lot owner.

E. No easement or right of interment is granted to any lot owner in any road, drive, alley or walk within the cemetery, but such road, drive, alley or walk may be used as a means of access to the cemetery or buildings in the cemetery as long as the city of Atkins devotes it to that purpose.

F. In the event of error involving the interment of the remains of any person in the wrong lot, the Cemetery Commission reserves and shall have the right to remove and reinter the remains in such other lot of equal value in a similar location as may be substituted and conveyed in lieu of the mistaken lot.

G. The owner of any lot may sell such lot if the owner first shall have offered its transfer in writing to the Cemetery Commission at the purchase price then being charged by the Cemetery Commission for similar lots, and the Cemetery Commission shall have refused such offer within thirty (30) days after the offer has been made. Such conveyances shall be signed by the Mayor of the city of Atkins and the City Clerk after the surrender or cancellation of the original certificate of ownership or cemetery deed.

H. The Cemetery Commission may refuse to consent to a sale or the transfer of a lot as long as there is any indebtedness due the Cemetery Commission from the record lot owner.

I. Removal by the heirs of a body or cremated remains so that the lot may be sold for profit, or removal contrary to the expressed or implied wishes of the original lot owner, is absolutely forbidden, without first obtaining a Court order from a Court of record permitting such removal.

J. A plot shall exist when one owner owns more than one individual lot and said lots are adjacent to or bordering each other in succession, unless separated by an alley, walkway or road, in which event the lots so separated shall be considered adjacent to or bordering each other. The total of all said lots shall constitute a plot.

K. The spouse of an owner of any plot which contains more than one interment space has a vested right of interment of his or her remains in the plot, and any person thereafter becoming the spouse of the owner has a vested right of interment of his or her remains in the plot if more than one interment space is unoccupied at the time the person becomes the spouse of the owner. Provided, however, a final decree of divorce between the spouse and the lot owner terminates the vested right of interment of the spouse unless otherwise provided in the decree.

L. No conveyance or other action of the owner without the written consent or joinder of the spouse of the owner shall divest the spouse of the vested right of interment except that a final decree of divorce between them terminates the vested right of the interment of the spouse unless otherwise provided in the decree.

M. If no interment is made in an interment lot which has been transferred by deed or certificate of ownership to an individual owner or if all remains previously

interred are lawfully removed, upon the death of the owner, unless he has disposed of the lot either in his will or by a specific devise or by a written declaration filed and recorded in the office of the Cemetery Commission, the lot descends to the heirs-at-law of the owner subject to the rights of interment of the decedent and surviving spouse. Subject to these rights, the heirs may be interred in the order of their death.

N. As soon as possible after the death of the owner of the lot the Cemetery Commission shall be given the name and address of the new owner together with satisfactory evidence of the new ownership, or if the original owner or subsequent owner died intestate, then an acknowledged statement by someone satisfactory to the Cemetery Commission should be given to the Commission giving the names and addresses of all the lot holders, heirs and next of kin. A new deed or certificate of ownership may then be issued, signed by the Mayor and City Clerk upon the surrender or cancellation of the prior certificate of ownership or cemetery deed to the Cemetery Commission. The provisions of this paragraph are subject to the other provisions of this ordinance concerning the rights of heirs and spouses rights of interment.

O. A vested right of interment may be waived and is terminated upon the interment elsewhere of the remains of the person in whom vested.

P. Not more than one body or the remains of more than one body shall be interred in one lot.

Q. When the instructions from the lot owner regarding the location of an interment lot in a plot cannot be obtained, or are indefinite, or when for any reason the interment lot cannot be opened or specified, the Commissioners may, in their discretion, open a lot in such location in the plot as they deem best and proper so as not to delay the funeral, and the Cemetery Commission and the City of Atkins shall not be liable for damages for any error so made.

R. The Cemetery Commission and the city of Atkins shall not be held responsible for any order given by telephone or any mistake occurring from the want of precise and proper instructions as to a particular lot in a plot where interment is desired.

S. No disinterment from any lot shall be made except on the express permission of the Cemetery Commission.

T. The Cemetery Commission shall exercise due care in making a disinterment and removal but neither the Cemetery Commission nor the city of Atkins shall assume any liability for damage to a casket or burial case or urn incurred in making a

disinterment or removal. All interments, disinterments and removal must be made at the time and in the manner and subject to the payment of such charges as may be fixed from time to time by the Commissioners. No interment, disinterment or removal may be effected without first obtaining a permit from the Cemetery Commission for such purpose. The permit shall indicate the lot owner's name, the name of the person to be interred, disinterred or removed, the lot number and the time and date of the interment, disinterment or removal.

U. The Cemetery Commission shall maintain a map of the cemetery indicating the names of all persons known to be buried in the Atkins Cemetery, and the Commissioners shall maintain a separate list showing the names and addresses of all lot owners. (Ord. No. 83-1, Sec. 3)

2.40.04 Headstones and other structures

A. All markers, headstones and other structures in the Atkins Cemetery shall be put up in a proper and substantial manner under the direction and supervision of the Cemetery Commission.

B. The Cemetery Commissioners have the right to correct any errors made by placing an improper inscription, including an incorrect name or date, on the memorial or on the container for cremated remains.

C. Every person to be interred may designate the type of marker or headstone he or she desires. No marker or headstone may be placed above ground level, provided, however, a family monument may be erected on lots purchased by a lot owner if the monument and the location of the monument are approved by the Cemetery Commission. Any installation of such a monument shall be under the direction and supervision of the Cemetery Commission. (Ord. No. 83-1, Sec. 4)

2.40.05 Care, maintenance, improvements and operations

A. The owners and proprietors of lots are prohibited from raising or depressing the surface of the same above or below the surrounding ground without first obtaining the consent of the Cemetery Commission.

B. All improvements or alterations of individual lots in the cemetery shall be under the direction of and subject to the written consent and approval of the Cemetery Commission. Should any such improvements or alterations be made without first obtaining the written consent and approval of the Cemetery Commission, the Commissioners shall have the right to remove, alter or change such improvements or alterations at the expense of the lot owner.

C. The Cemetery Commission reserves the right to prevent the removal of any flowers, floral designs, trees, shrubs, plants, or herbage of any kind unless it gives its consent.

D. The Cemetery Commission shall have authority to remove all floral designs, flowers, weeds, trees, shrubs, plants, or herbage of any kind in the cemetery as soon as in the judgment of the Commissioners they become unsightly, dangerous, detrimental or diseased, or when they do not conform to the standards otherwise maintained in the cemetery. Neither the Cemetery Commission nor the city of Atkins shall be liable for floral pieces, baskets or frames in which or to which such floral pieces are attached. (Ord. No. 83-1, Sec. 5)

2.40.06 General rules and regulations and enforcement

A. No signs, notices or advertisements of any kind shall be allowed in the cemetery unless placed by the Cemetery Commission or the city of Atkins.

B. Motor vehicles and bicycles shall not be driven through the cemetery grounds at a speed greater than fifteen (15) miles per hour, and must always be kept on the right-hand side of the cemetery road-way. Motor vehicles and bicycles shall not come to a full stop in front of an open grave unless the operators of such motor vehicles or bicycles are in attendance at a funeral at the grave site.

C. No bicycles or motorcycles shall be admitted to the Atkins Cemetery except such as may be in attendance at funerals or on business.

D. No firearms shall be permitted within the cemetery except on special permit from the city of Atkins or those worn by duly constituted law enforcement authorities.

E. Boisterous or unseemly conduct will not be permitted in the cemetery or any of the buildings.

F. No person will be permitted to loiter in the cemetery or any of the buildings.

G. The throwing of rubbish on the drives or paths or on any part of the grounds or in the buildings of the cemetery is prohibited.

H. The Cemetery Commissioners shall have charge of the cemetery grounds and buildings, and at all times shall have supervision and control of all persons in the cemetery.

I. The Commissioners and such other employees as the Cemetery Commission shall designate are hereby empowered to enforce this ordinance and all amendments thereto or other laws pertaining to the operation and maintenance of the Atkins Cemetery through lawful means and to exclude from the Atkins Cemetery any person violating the same.

J. Any violation of Section 2.40.06 of this ordinance shall constitute a misdemeanor and shall be punishable by a fine not to exceed One Thousand ($1,000.00) Dollars or imprisonment in the county jail for a period of time not to exceed one (1) year, or both. (Ord. No. 83-1, Sec. 6)

CHAPTER 2.44

RETIREMENT

Sections:

2.44.01 Mayor
2.44.02 City Attorney
2.44.03 City Clerk and Clerk/Treasurer

2.44.01 Mayor

A. Any person who shall serve as Mayor of the city of Atkins, Arkansas for a period of not less than ten (10) years, upon reaching age sixty (60), shall be entitled to retire at an annual retirement benefit during the remainder of that person's natural life, payable at the rate of one-half of the salary payable to such Mayor at the time of his retirement. Any Mayor of the city of Atkins who has served not less than fifteen (15) elected years as Mayor, without regard to age, shall be entitled to retire at an annual retirement benefit during the remainder of that person's natural life, payable at the rate of the salary received as Mayor at the time of his retirement. Such retirement payments shall be paid monthly, and shall be paid from the City General Fund, provided that the benefits provided for in this section shall not exceed the annual salary prescribed for the Mayor of the city of Atkins on January 1, 1975; provided further, that the retirement benefits established pursuant to this section shall be applicable only to a person or persons who are serving as Mayor of the city of Atkins on the date this ordinance is passed, or thereafter serves as Mayor of the city of Atkins, Arkansas.

B. Any person who shall serve as Mayor of the city of Atkins for a period of not less than eight (8) years, as an elected Mayor, and not less than four (4) years as an elected City Clerk, thereby having a total of twelve (12) years of elected city service, upon reaching age sixty (60), shall be entitled to retire at an annual benefit during the remainder of that person's natural life, payable at the rate of one-half of the salary payable to such Mayor at the time of his retirement, provided, that if such person has not reached age sixty (60) at the time of retirement, that person shall be entitled to receive the benefits provided in this section upon reaching age sixty (60). Such retirement payments shall be paid monthly and shall be paid from the City General Fund, provided the salary on which the benefits are to be computed as provided in this section, shall be the salary received by the Mayor at the time of his retirement, or at the time of his last service as elected Mayor.

C. Any person who has served as an elected Mayor of the city of Atkins for not less than fifteen (15) years, and who has served not less than fourteen (14) years as an elected City Clerk, thereby having a total of twenty-nine (29) years of elected city service, shall be entitled to retire at an annual retirement benefit during the remainder of that person's natural life equal to one-half the salary received by such Mayor at the time of that person's retirement, or at the time of that person's last service as elected Mayor. Such retirement payments shall be paid monthly and shall be paid from the City General Fund. (Ord. No. 84-7, Sec. 1)

2.44.02 City Attorney Any City Attorney of the City of Atkins who shall have served in office as City Attorney for a period of not less than twenty (20) years, shall be entitled to retire at an annual retirement benefit during the remainder of that person's natural life, payable at the rate of one-half of the salary payable to such City Attorney at the time of his retirement. All payments of retirement benefits shall be payable monthly and shall be paid from the City General Fund. (Ord. No. 84-7, Sec. 2)

2.44.03 City Clerk and Clerk/Treasurer Any City Clerk or Clerk/Treasurer of the city of Atkins who shall have served twenty (20) years or more as City Clerk, Clerk/Treasurer or City Treasurer, or shall have accumulated twenty (20) years service as City Clerk, Clerk/Treasurer or City Treasurer, and who shall retire from office or be succeeded by another City Clerk or Clerk/Treasurer, shall receive for the remainder of that person's natural life, retirement benefits equal to one-half of the monthly salary received by that person during the last year of that personas service. All payments of retirement benefits shall be payable monthly and shall be paid from the City General Fund. (Ord. No. 84-7, Sec. 3)

CHAPTER 2.48

INDEPENDENT CANDIDATES

Sections:

2.48.01 Filing deadline

2.48.01 Filing deadline All independent candidates for municipal office in the city of Atkins, Arkansas, are hereby required to file petitions for nomination as independent candidates with the Pope County Board of Election Commissioners no later than noon on the day before the preferential primary election of the year during which such municipal office election is to be hold. (Ord. No. 87-16, Sec. 1.)

CHAPTER 2.52

MAYOR

Sections:

2.52.01 Mayor's salary

2.52.01 Mayor's salary Effective June 1, 2015, the salary of the Mayor for the city of Atkins shall be One Thousand Dollars ($1,000.00) per month. (Ord. No. 2015-5, Sec. 1.)

CHAPTER 2.56

ALDERMEN

Sections:

2.56.01 Aldermen's salary

2.56.01 Aldermen's salary Effective January 1, 1997, the salary of an alderman for the city of Atkins shall be One Hundred Dollars ($100.00) per month. (Ord. No. 96-7, Sec. 1.)

CHAPTER 2.60

DISTRICT COURT

Sections:

2.60.01 Collection of fines

2.60.01 Collection of fines The District Court Clerk is hereby designated as the person primarily responsible for the collection of fines assessed in Pope County District Court Atkins, Arkansas division. (Ord. No. 2015-4, Sec. 1.)