

ORDINANCE NO. 2015-05

AN ORDINANCE OF THE CITY OF ST. ANTHONY, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO; REPEALING SECTIONS 2.44.010, APPOINTMENT, 2.44.030, TERM OF OFFICE, 2.44.050 - DUTIES, 2.44.060, OTHER DUTIES, AND CHAPTER 2.66, PUBLIC HEARINGS, OF TITLE 2, ADMINISTRATION AND PERSONNEL, OF THE ST. ANTHONY MUNICIPAL CODE AND ADOPTING NEW SECTIONS 2.44.010, APPOINTMENT, 2.44.030, TERM OF OFFICE, 2.44.050 - DUTIES, 2.44.060, OTHER DUTIES, AND CHAPTER 2.66, PUBLIC HEARINGS, OF TITLE 2, ADMINISTRATION AND PERSONNEL; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ST. ANTHONY, IDAHO:

Section 1. Repeal of Sections 2.44.010, Appointment, 2.44.030, Term of Office, 2.44.050 - Duties, 2.44.060, Other Duties, and Chapter 2.66, Public Hearings, Title 2, Administration and Personnel of the St. Anthony Municipal Code.

Sections 2.44.010, Appointment, 2.44.030, Term of Office, 2.44.050 - Duties, 2.44.060, Other Duties, and Chapter 2.66, Public Hearings, Title 2, Administration and Personnel of the St. Anthony Municipal Code is hereby repealed in its entirety

Section 2. Adoption of Amendments to the following Sections and Chapter of Title 2, Administration and Personnel of the St. Anthony Administrative Code.

That the attached new Sections 2.44.010, Appointment, 2.44.030, Term of Office, 2.44.050 - Duties, 2.44.060, Other Duties, and Chapter 2.66, Public Hearings, Title 2, Administration and Personnel of the St. Anthony Municipal Code are hereby adopted.

Section 3. Severability.

This ordinance is hereby declared to be severable. Should any portion of this ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and shall be read to carry out the purpose(s) of the ordinance before the declaration of partial invalidity.

Section 4. Repeal of Conflicting Provisions:

All provisions of the ordinances of the County of Fremont which conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 10. Conflicting Regulations:

If conflicts occur between different regulations of this Ordinance, or between this ordinance and other regulations of Fremont County, the most restrictive regulation shall

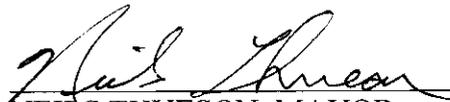
apply.

Section 5. Effective Date:

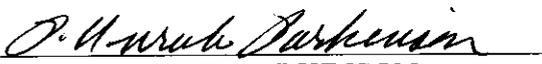
This ordinance shall be effective upon its passage and publication as provided by law.

Enacted by the City Council and Approved by the Mayor, on the 26th day of February, 2015

CITY OF ST. ANTHONY, IDAHO


NEILS THUESON, MAYOR

ATTEST:


PATTY UNRUH PARKINSON
CITY CLERK



Recommended changes in other Titles of the Codified ordinances of the City of St. Anthony.

Title 2 – Administration and personnel.

CHAPTER 2.44 PLANNING AND ZONING COMMISSION

2.44.010 – Appointment.

The mayor, subject to the confirmation by the council, shall appoint a planning and zoning commission consisting of not less than six nor more than twelve members, to be appointed to serve for the term provided in Section 2.44.030.

(Ord. 476 § 3-2-1, 1966).

2.44.020 – Qualifications. **Section 2. Membership on Commission.**

Not more than one-third of the members of the planning and zoning commission may be employees or officers of the city and all officers of the ~~planning~~ commission shall be residents and electors of the city or residents of the Area of City Impact (ACI); ~~provided, however, that one member of the commission may be a nonresident taxpayer.~~ Membership shall be proportionate to population in the city and the ACI.

2.44.030 - Term of office.

The term of office for the ex officio members of the ~~planning~~ commission shall correspond to their respective capacities. The term of office for the members of the ~~planning~~ commission shall be for six years, but not more than two terms shall expire in any one year. Vacancies shall be filled by the mayor, subject to the confirmation by the council, for the unexpired term of the preceding incumbent. Members may be removed for cause, as provided by state law, after a public hearing by a majority of the city council. Members shall be selected without respect to political affiliations and shall serve without compensation.

(Ord. 476 § 3-2-3, 1966).

2.44.040 - Organization—Rules and meetings.

The Commission shall select a Chairman and Vice-Chairman annually at the initial meeting in any calendar year and create and fill any other office(s) that it may deem necessary. ~~The commission shall elect its own chairman and create and fill such other offices as may be determined necessary.~~ One regular meeting shall be held each month for not less than nine months each year. Additional meetings may be held upon the call of a meeting by the chairman or by written notice from any two members of the ~~planning~~ commission. A majority of the appointive members of the commission shall be necessary

to constitute a quorum at any meeting. All meetings shall be open to the public. Written rules consistent with this chapter and the laws of the state for the transaction of the business of the commission shall be adopted and a written record of the resolutions, findings and determinations shall be kept, which record shall be a public record. The Commission may establish subcommittees, advisors, etc. to assist in carrying out the responsibilities of the Commission. Any such committees, subcommittees or advisory committees shall comply with the open meeting laws and shall maintain records of their activities as required by law.

(Ord. 578 § 1, 1974: Ord. 476 § 3-2-4, 1966).

2.44.050 - Duties.

The ~~planning~~ commission shall examine all proposals, applications, and petitions for the original or first zoning of all areas newly annexed or to be annexed, and shall make recommendations to the council in respect thereto. It shall also be the duty of the ~~planning~~ commission to investigate and make recommendations to the council respecting the comprehensive plan for the orderly physical development of the city. The commission may make suggestions for such changes as the commission feels to be desirable in the zoning regulations, and shall study and make recommendations for the laying out, widening, extending and locating of streets, roads and highways for the relief of traffic, the future development, growth and beautification of the city in respect to its public buildings, streets, parks, grounds and lands, in order to promote the public health, morals, safety and welfare of the inhabitants thereof.

(Ord. 476 § 3-2-5(part), 1966).

2.44.060 - Other duties.

The ~~planning~~ commission shall have such other duties as are provided to be performed by ~~the commission~~ by the zoning regulations of the city including **acting in an advisory capacity of the board of adjustment on zone changes**. Any and all maps, plats, and replats of land which require the approval of the council shall be first submitted to the ~~planning~~ commission for its recommendations in respect to the same.

The ~~planning~~ commission shall also perform such other duties and functions as the council may from time to time direct.

(Ord. 476 § 3-2-5 (part), 1966) .

2.44.070 - Conflict of Interest.

A member of the Commission, or a employee, shall not participate in any proceeding or

action when the person, or his employer, business partner, business associate, or any person related to him by affinity or consanguinity within the second (2nd) degree, has an economic interest in the procedure or action. Any actual or potential interest in any proceeding or legally significant *ex parte* contact should be disclosed at or before any meeting at which the action is being heard or considered. Any such disclosure shall be noted in the minutes.

The City Council doesn't need an additional title of board of adjustment to carry out this responsibility, and further the proposed / working draft ordinance now grants responsibility for review of variances to the Planning and Zoning Commission. (see Chapter 3. Section 2. B.).

Therefore references made to the Board of adjustment should be stricken from all sections of the ordinances where it occurs. Including the following reference which will be removed when a new zoning ordinance is adopted.

~~Chapter 17.56 – BOARD OF ADJUSTMENT – [f84](#)~~

~~Board of Adjustment. A board of adjustment is created for the purpose of hearing all requests for variances to the zoning ordinance,~~

~~The board of adjustment shall be the responsibility of the city council. The mayor shall preside and, in his absence, the president of the council shall assume that responsibility.~~

Chapter 2. - PUBLIC HEARINGS

2.66.010 - COMPLIANCE REQUIRED.

All public hearings conducted by the city shall comply with the requirements of this chapter, or as is otherwise required by law for specific procedures for which public hearings are held.

(Ord. 91-1 § 1, 1991).

2.66.020 - Notice.

Prior to conducting a public hearing, proper notice shall be given as is otherwise required by law for specific procedures for which public hearings are held, but in any case such notice shall require that:

- A. Notice of the time, place, and issue to be discussed shall be published in one issue of the official newspaper at least fifteen days prior to the hearing;
- B. Notice of the time, place, and issue to be discussed shall be posted in the City Building at least fifteen days prior to the hearing.

(Ord. 91-1 § 2, 1991).

2.66.030 - Records.

The respective clerks or other designees of the governing board holding public hearings shall maintain records of those proceedings in the following manner:

- A. If otherwise required by law, transcribable verbatim recordings of the proceedings shall be maintained;
- B. If otherwise required by law, originals of written submittal to the hearing record and copies of applications shall be maintained;
- C. If otherwise required by law, minutes which catalog the occurrences at the public hearing shall be maintained;
- D. All records, so maintained, shall be maintained for three years from the date of the hearing. At the expiration of the three-year period, the records may be discarded after consultation with the city attorney.

50-907. Classification and retention of municipal records. (1) "Permanent records" shall consist of:

(a) Adopted meeting minutes of the city council and city boards and commissions; Permanent records shall be retained by the city in perpetuity, or may be transferred to the Idaho state historical society's permanent records repository upon resolution of the city council.

(Ord. 91-1 § 3, 1991).

2.66.040 - Order of conduct.

Public hearings shall follow the order of events set forth in this section:

- A. Explanation of subject of the hearing by a presiding officer designated by governing board;
- B. Presentation by applicant;
- C. Testimony from audience in favor of and/or against proposal;
- D. Questioning of those testifying by members of governing board;
- E. Closure of oral testimony from applicants and audience;
- F. Discussion of hearing subject by governing board;
- G. Conclusion of hearing process.

(Ord. 91-1 § 4, 1991).

2.66.050 - Time limitations on hearing testimony.

The presiding officer may limit the time allotted to presentation of oral testimony in a public hearing. The allocation of time shall provide for a reasonable opportunity for proponents and)opponents of an issue to be heard.

2.66.060 - Standards for oral testimony.

A. Oral testimony made at a public hearing shall comply with the following standards:

1. Testimony should directly address the subject at hand;
2. Testimony should not be repetitious with other entries into the record;
3. Testimony should not be personally malicious;
4. Testimony shall comply with time restrictions established by the presiding officer.

B. If oral testimony fails to comply with the aforementioned standards, the presiding officer may declare such testimony out of order and require it to cease.

(Ord. 91-1 § 6, 1991).

2.66.070 - Standards for written testimony.

A. Written testimony to be admitted at a public hearing shall comply with the following standards:

1. Written testimony containing more than two single-spaced typewritten pages must be submitted at least five days prior to the date of the pertinent public hearing. Copies in a

number equal to number of members of the governing board, or if required by law the number of hearing notices mailed for the hearing, whichever is greater, shall be provided to the clerk of the governing board holding the hearing. Copies of prefiled written testimony shall be made available to recipients of mailed notice, if any, upon their request;

2. Written testimony shall include the signature and address of the submitter;
3. Written testimony should address the issue at hand;
4. Written testimony should not be personally malicious;
5. Written testimony of less than two single-spaced pages may be submitted at the public hearing; the presiding officer may require an oral reading of such written testimony if deemed beneficial or if requested by a party interested in the proceedings.

B. If written testimony fails to comply with the aforementioned standards, the presiding officer may declare such testimony inadmissible.

(Ord. 91-1 § 7, 1991).

2.66.080 - Written response to question raised at hearing.

A. Parties to a public hearing may be allowed to submit written responses to questions raised at the public hearing after the hearing has been closed to oral comment, if requested by the presiding officer.

B. Such written comment shall conform to the following standards:

1. The response or comment must be specifically requested by the presiding officer;
2. The response must directly address the inquiry raised by the presiding officer;
3. The response must be submitted to the governing board in compliance with time limits established by the presiding officer.

(Ord. 91-1 § 8, 1991).

2.66.090 - Copies of official record—Availability.

Copies of material submitted for inclusion in the official record of a public hearing shall be available to interested parties for the usual charges for research and duplicating made by the city.

(Ord. 91-1 § 9, 1991).

2.66.100 - Overrule of rulings by majority vote.

All rulings made by the presiding officer of any governing board conducting a public hearing may be overruled upon a majority vote of the governing board members present.

(Ord. 91-1 § 10, 1991).