

## Job Description CAPC Commissioner

The Commission's job duties are delineated in the Chapter 2.56 of the City Code and Title 26, Subtitle 6, Chapter 75, Subchapter 6 of the Annotated Code of Arkansas.

The following Job Description is designed to help Commissioners, the tax collectors and the public we serve understand those duties.

### The Commissioners

Seven City Advertising and Promotion Commissioners are selected by and serve at the will of the governing body, or the Eureka Springs City Council. All members must be residents of the city. Four Commissioners are owners or managers of businesses in the tourism industry. At least three of those four Commissioners shall be owners or managers of hotels, motels, or restaurants, and they serve a four year staggered terms. They are appointed by the remaining members of the Commission, with the approval of the City Council. Two Commissioners are members of the City Council who are selected by the City Council, and serve a one year term. One At-Large Commissioner is a qualified voter appointed by the Commission. Whether resulting from expiration of a regular term or otherwise, any vacancy in the four tourism positions or the one at-large position shall be replaced by a like member by appointment by the remaining commissioners, with approval of the City Council.

Commissioners conduct regularly scheduled meetings, as well as special meetings as called by the Chairman, who is elected by a majority vote of the Commission at their first meeting each calendar year. In the event of a vacancy of the chair, the members shall elect a new Chairman from the remaining Commissioners.

### The Commission

As an individual, Commissioners have no authority over Commission affairs other than through their vote at meetings, or as authorized by a vote of the Commission.

As a Commission, they govern the operation of the Advertising and Promotion Commission by adopting and amending the commission's rules and regulations.

They hire and provide direction to the Executive Director and staff. They have the authority to contract for professional services, and purchase supplies. They designate the bank accounts in which the Commission funds are deposited. These funds may be used for advertising and promoting the city and its environs and/or for the construction, reconstruction, extension, equipment, improvement, maintenance, repair and operation of a convention center in the city, and facilities necessary for, supporting or otherwise pertaining to, a convention center, or for the payment of the principal of, interest on and fees and expenses in connection with bonds as authorized by state law.

These funds may also be used to acquire sites for, construct, reconstruct, extend, equip, improve, maintain and operate convention centers and facilities necessary for, supporting or otherwise pertaining to, convention centers, or to pay for bonds authorized by the City Council to provide funds for accomplishing convention center projects (which include auditorium and parking facilities that support a convention center project), and to pledge all or any part of the revenues from the tax levied pursuant to this article, to pay the principal of, interest on, and fees and expenses in connection with such bonds.

The Commissioners can also use the revenue to pay for the establishment and operation of other tourist-oriented facilities, including, but not limited to, theme parks and other family entertainment facilities.

The Commissioners are required to make quarterly reports to the Mayor and City Council. That report shall include a full accounting of receipts and disbursements, and other information as requested by the City Council. They also are required to have a Certified Public Accountant submit an annual audit of the Commission's operations to the Mayor and City Council.

They will also prepare an annual budget at the beginning of each fiscal year, and submit that budget to the Mayor and City Council at the first meeting after the budget is approved. The budget must reflect anticipated revenue, proposed itemized expenditures, the names of the banks at which the Commission funds are deposited, and the amount deposited in each account.

The Commission also administers the Advertising & Promotion Tax Ordinance, and makes and amends the rules and regulations that enforces the collection of the Advertising & Promotion tax. The Commission will maintain a list of all businesses subject to the A&P tax. They assign A&P tax permits to all applicable businesses, and when necessary due to violations of the ordinance, shall issue notices of intent to revoke those permits. If requested by a person who receives such notice, the Commission will conduct a hearing to determine if the person's permit should be revoked.

The Commission can examine and investigate the place of business, property, accounting books, and other records of any tax permit holder no more than once each taxable year. They can compel production of those records by summons, and serve that summon directly or through a designated representative. They can administer oaths, conduct hearings, and compel by summons the attendance of witnesses, testimony, and the production of any books, records, papers, or other data of any person or taxpayer. They can examine under oath any person regarding the business of any taxpayer concerning any matter incident to the administration of this ordinance. They will give a taxpayer notice of any assessment, demand, decision, or hearing before the Commission or its designated representative which directly involves that taxpayer.

The Commission will collect all A&P taxes imposed by law, and can impose interest and penalties. They can make assessments when a taxpayer fails to file a timely and

accurate return, and they will consider requests for relief from those assessments. These assessments are also subject to review by the City Council and the courts upon request by the delinquent taxpayer. With due process, the Commission can issue liens and certificates of indebtedness and levy judgements against all real and personal property of the delinquent taxpayer.

The Commission may take appropriate action to collect any debt in the same way as a personal debt of the taxpayer. They can take action to enjoin delinquent taxpayers from continuing operations until the delinquency is satisfied. They can agree to settle or compromise any controversy relating to the A&P tax when the controversy is over the amount due, or the inability results from the insolvency of the taxpayer. They may waive any interest and penalty, or portion thereof if the taxpayer's failure is adequately explained, results from a mistake of either the law or the facts subjecting him to such tax, or the inability to pay due to insolvency or bankruptcy. They can release any lien they have imposed.

It is important to remember that all of these powers are given to the Commission as a whole, not to any one individual Commissioner, unless the Commission as a whole conveys a specific power to an individual Commissioner or group of Commissioners through a majority vote, such as assigning the negotiation of an agreement or research of an issue to a Commissioner or a Committee. Commissioners do, however, the power of persuasion in meetings and workshops, and a vote on every issue.

#### Freedom Of Information Act (FOIA)

Commissioners must make certain public records available upon request as required by the FOIA. If someone makes a FOIA request to you personally, it should be referred to the official custodian of records of the Commission to determine the applicability of the request and to compile the records necessary to fulfill the request. Some examples of records subject to a FOIA request are emails, financial records, and reports.

However, Commissioners must also keep certain information confidential, including the consideration of the employment applications or potential employees, and the appointment, investigation, promotion, demotion, disciplining, or resignation of any public officer or employee. These are all items that the law exempts from a FOIA request.