

(Published in The Morning Sun on November 17<sup>th</sup>, 2017)

**ORDINANCE NO. G-1275**

AN ORDINANCE creating Sections 2-96 through and including 2-129 of the Pittsburg City Code in order to place the responsibility of the operation, supervision and maintenance of the Memorial Auditorium division under the responsibility of the City Manager.

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

Section 1. Section 2-96 of the Pittsburg City Code is created to read as follows:

**Sec. 2-96. - Creation.**

There is hereby created a Memorial Auditorium advisory board for the City. It shall consist of seven members who shall serve without compensation. They shall be appointed by the Governing Body; four of whom shall be appointed for a term of four years, and three of whom shall be appointed for a term of two years. However, after the terms of those appointed for two years expire, all appointees to the board shall be appointed for four-year terms.

**Sec. 2-97. - Eligibility for reappointment.**

No appointee to the board shall be eligible for reappointment after he has served two consecutive terms on the board.

**Sec. 2-98. - Composition.**

At least five of the appointees to the board shall be residents of the City. They shall be drawn from diverse segments of the public, and shall be selected for their wisdom, broad perspective, and ability to assist the Auditorium Manager in attracting events and groups to the auditorium.

**Sec. 2-99. - Officers; committees.**

The board at its organizational meeting and each annual meeting thereafter shall elect from its membership a chairperson, vice-chairperson, and a secretary. The chairperson, vice-chairperson and secretary shall have and perform such duties as are commonly associated with their respective titles. The board shall be further authorized to appoint

and fix the membership of such number of standing and temporary committees as it may find expedient for the performance of its duties.

**Sec. 2-100. - Meetings.**

The Memorial Auditorium advisory board shall meet at least quarterly at such time and place as shall be fixed by the board by its standing rules. Special meetings shall be called by the chairperson, vice-chairperson or upon the request of a majority of the members of the Memorial Auditorium advisory board. Such calls for special meetings shall state the purpose or purposes for such special meetings and notice shall be given at least 48 hours before the time of the meeting so called. The request shall be read and entered into the minutes of such special meeting, and no business shall be transacted except that stated in the call for such special meeting. The board shall prepare its own agenda for all meetings and adopt Robert's Rules of Order, Newly Revised, for the conduct of its meetings.

**Sec. 2-101. - Open to public.**

All meetings of the board shall be open to the public, with copies of the agenda available to all interested persons, the City Clerk, and the media at least 48 hours in advance of the meeting. It is the intent of the Governing Body for the board to encourage and promote public participation at all meetings of the board.

**Sec. 2-102. - Authority and duties of.**

The authority and duties of the board are to:

- (1) Advise the Auditorium Manager of groups which might be interested in using the Memorial Auditorium;
- (2) Advise the Auditorium Manager of what additional information and data should be gathered so as to attract conventions, touring companies, and other groups to use the Memorial Auditorium;
- (3) Advise the Auditorium Manager of additional attractions or events which might increase the utilization of the Memorial Auditorium;
- (4) Assist the Auditorium Manager in promoting the use of the Memorial Auditorium; and
- (5) Direct all inquiries from persons or groups desiring to use the Memorial Auditorium to the Auditorium Manager without delay.

**Sec. 2-103. - Memorial Auditorium Manager.**

The Memorial Auditorium Manager shall have the general responsibility for the use and operation of the Memorial Auditorium subject to the terms of this division and any written rules, regulations and policies promulgated by the Governing Body; further, the Memorial Auditorium Manager shall act for and on behalf of the City, and subject to the approval of the City Manager, or his or her designee.

**Sec. 2-104. - User fee schedule.**

The Governing Body shall establish a written user fee schedule setting forth the charges for usage of the Memorial Auditorium; which schedule shall be reviewed in December of each year by the Memorial Auditorium advisory board and the Governing Body.

**Sec. 2-105. - Form lease.**

The Memorial Auditorium Manager, subject to the approval of the City Attorney, shall prepare a form lease to be signed by all lessees of the Memorial Auditorium, which lease shall not conflict with any provisions of this division.

**Sec. 2-106. - Recording event.**

The lessee agrees that no recording, either visual or audio, of any kind will be made of the event covered by the lease agreement without prior written approval from the Memorial Auditorium Manager. The manager has the right to require payment for such privileges.

**Sec. 2-107. - Responsibilities of lessee.**

The lessee has the responsibility to arrange and pay for stage hands, motion picture operator, special security, tickets, ticket sellers, ticket takers, ushers, decorations, booth equipment, telephone service, permits, licenses, signs, extra electrical wiring and such other services incident to the event which are in addition to regular services. The lessee shall employ at its expense such City police officers and firefighters, or both, for any event as is required to protect life and property. The final decision regarding the number of police and firefighters needed will be made by the Memorial Auditorium Manager following consultation with the Chief of Police and the Fire Chief.

**Sec. 2-108. - Possession of food or beverages.**

No person shall bring, carry, or in any other manner transport on the premises, food or beverage of any kind whatsoever, unless prior written approval is obtained from the manager. No person, while in or upon the premises, shall possess any food or beverage

contained in a glass bottle or other container of breakable material unless prior written approval is obtained from the manager.

**Sec. 2-109. - Decorating.**

The City reserves the right to control all decorating through direct contract or through City personnel.

**Sec. 2-110. - Terms and conditions of lease.**

In addition to the form lease, the following terms and conditions shall apply to every lease:

- (1) All leases shall be in writing on forms furnished by the City and executed for and on behalf of the City by the manager with the required fees to be paid pursuant to the terms thereof. No verbal agreement shall be binding on either party.
- (2) A lessee by entering into such agreement shall thereby waive any claim against and shall indemnify, save and hold harmless the City and its Governing Body and its agents, officers, employees, and representatives against claims of any and all persons for injury to persons or damage to property occasioned by or in connection with the use of the premises by lessee.
- (3) The lessee may be required to furnish in writing, ten days before the performance, any information to determine facilities, arrangements, and any special services and equipment necessary to the staging and proper management of any event scheduled. In case of an exhibit presentation, drawings shall be furnished as to the exact location of all booths and equipment, and must have prior written approval of the manager.
- (4) The lessee may be required to have financial backing in escrow or cash surety for rentals, total ticket refund and stagehand expenses.
- (5) Prior written approval of the manager is required for a performance involving the invitation of members of the audience to the stage area or dressing rooms.
- (6) The lessee is responsible for compliance with the Federal Copyright Act and any royalty fee due and owing.
- (7) Doors will be opened to the public a minimum of one hour before the advertised performance time. If conditions warrant, doors will be opened earlier as

determined by the manager. In no instance will the judgement of the manager be replaced by the promoter, the performers or any outside agency.

**Sec. 2-111. - Procedures for collection of charges and fees.**

The following methods and procedures shall be used by the manager to collect charges and fees due for the usage of Memorial Auditorium:

- (1) Rental or other fees are due and payable in advance of the use of the building. To ensure a reservation, 25 percent or more of the rental shall be paid, and the lease agreement shall be executed with the balance of the rental, plus fees for any use of special equipment and services, to be paid no later than ten days in advance of the use of the building, or upon receipt of an invoice.
- (2) In cases where the lessee is required to pay a stipulated percentage of the gross receipts, and provided that the percentage is greater than the minimum rental, the amount due shall be paid before the close of the last performance.
- (3) If the lessee makes written surrender of any such reservation at least 45 days prior to the date reserved, or if compliance with the lease is deemed by the City impossible due to what is commonly understood to be "an act of God" or when a curfew is proclaimed by the City or when the City otherwise deems it necessary to protect life and property, then the advance deposit may be returned to the lessee and the lease cancelled, and no detriment will result to the City.
- (4) If the date reserved is contested by another promoter, to ensure the reservation, the lessee must deposit the full rental charge as would apply to the contracted use of the building and forfeit the cancellation clause stated in this Section for the contested time only.

**Sec. 2-112. - Unforeseen termination of lease.**

In the case of fire, casualty, civil disturbances, or other unforeseen occurrence which renders impossible the fulfillment of a lease by the City, such lease shall be immediately terminated. In such case, rental shall be paid only for the time the premises are actually used. The lessee shall waive any claims for damages in the event of such termination.

**Sec. 2-113. - Damages to premises.**

Damages to the premises shall be at the expense of the lessee. No decorative or other material shall be attached to any part of the building so as to damage the building. Users may be required to deposit a cash damage deposit to reimburse the City for any

damage to the building, furniture, fixtures, equipment, plantings, decorations or rental incurred.

**Sec. 2-114. - Materials delivered to or stored on premises.**

The City, its officials, agents, employees, or representatives shall not be liable for any loss, damage, or injury to properties of any kind that are shipped or otherwise delivered to or stored in or on the building or adjacent premises. Properties shall not be received until the lessee has made proper arrangements for receiving, handling, and storage of such material.

**Sec. 2-115. - Consumption and use of cereal malt beverages and alcoholic beverages.**

The consumption and use of cereal malt beverages and alcoholic beverages is permitted inside the Memorial Auditorium and in specifically designated areas on the north lawn in conformance with City ordinances and state laws, as well as in accordance with the following special rules and regulations:

- (1) No lessee shall possess or transport any cereal malt beverage or alcoholic beverage in the Memorial Auditorium without having first received the express written approval of the manager. Such approval shall be given upon a showing that there will be compliance with all applicable laws and ordinances, and a further showing that such activity will not interfere with any other event being staged at the facility and will not interfere with the right of the public to use the facilities.
- (2) No lessee shall possess or transport any cereal malt beverage or alcoholic beverage on the north lawn of Memorial Auditorium without having first received the express written approval of both the manager and the chief of police, or his or her designee. Such approval shall be given upon a showing that there will be compliance with all laws and ordinances, and a further showing that such activity will not interfere with any other event being staged at the facility and will not interfere with the right of the public to use the facilities.
- (3) The lessee shall be responsible for any person whose conduct is objectionable, disorderly or disruptive and shall further be financially responsible for any loss, damage or injury to persons or property during the term of the lease.
- (4) The lessee is prohibited from selling or requiring consideration in exchange for any guest receiving a cereal malt beverage or alcoholic beverage. If cereal malt beverages or alcoholic beverages are to be provided to guests of the lessee, the same must be provided at no cost to the guest.

- (5) Memorial Auditorium reserves the right to sell cereal malt beverages and alcoholic beverages in conformance with City ordinances and state laws.

**Sec. 2-116. - Obstruction.**

No portions of the sidewalks, entries, passageways, doors, aisles, elevators, vestibules, windows, ventilators or lighting fixtures, or ways of access to public utilities of the premises shall be obstructed or caused to be obstructed, or caused to be used for any purpose other than ingress and egress.

**Sec. 2-117. - Posting of signs.**

The lessee shall not post or permit to be posted any sign upon the premises or anything that will tend to deface the building. Signs may only be posted on billboards provided for such use, and all signs, advertisements, show cards and posters must relate to the performance or exhibition to be given in the building. The City reserves the right to assign billboard space to the lessee.

**Sec. 2-118. - Consequence of over issuance of tickets.**

Persons will not be admitted into either the upper or lower levels of the Memorial Auditorium in excess of the capacity regardless of whether or not such persons have a valid ticket. The consequences of an over issuance of tickets is and shall remain with the lessee, and any additional costs or expenses will be paid by the lessee.

**Sec. 2-119. - Assignment of lease.**

No lessee shall assign any lease on the building, or any portion thereof, or any rights under such lease, without the prior written approval of the manager.

**Sec. 2-120. - Uses contrary to sound public policy.**

Any use of the building which is contrary to sound public policy shall be denied and any lease previously consummated may be revoked for such cause. Any person whose conduct is objectionable, disorderly or disruptive to the building's use shall be refused entrance or shall be ejected from the premises. A further, but not exclusive, definition of the term "objectionable" shall mean the producing, presenting, directing or participating in an obscene performance. Such performances may be discontinued at any time by the City, and the lessee shall hold the City harmless from any claim for such actions.

**Sec. 2-121. - Expiration of lease.**

The City reserves the right to remove all equipment and effects of any lessee immediately after the expiration of the lease, at the expense of the lessee or, in the alternative, to charge rental thereon after the expiration of the lease.

**Sec. 2-122. - Keys to auditorium; control by City.**

The Memorial Auditorium, including the keys thereto, shall at all times be under the control of the City, and no person may duplicate such keys without prior written approval. The City reserves the right to enter at all times any and all portions of the leased premises and to require a reasonable number of admission tickets without charge.

**Sec. 2-123. - Condition of stages.**

Each lessee shall take the stages as it finds them, and if any lessee desires to remove or change the stage rigging or equipment, such changes shall be made at the lessee's own expense, and they will be returned to the original condition.

**Sec. 2-124. - Custody and disposition of articles; losses suffered by lessee.**

The City shall have the right to collect and have the custody of all articles left in or on the building or adjacent premises and to provide for the disposition thereof. The City shall assume no responsibility for losses suffered by the lessee, its agents or employees, which are occasioned by theft or disappearance of equipment, articles and other personal property.

**Sec. 2-125. - Commercial use of auditorium.**

In connection with any commercial use, the City shall have the right to prescribe the form of tickets, passes, accounts, records and reports that shall be used by the lessee and in the accounting for the gross receipts thereof. The City may make such investigation or inspection of the tickets, accounts, records and reports as may be required for the purpose of verifying the amount of such gross receipts. The number of complimentary tickets must be approved by the manager, or they will otherwise be computed at full ticket price in verifying the gross receipts. The lessee shall secure all tickets from a bonded ticket printing company or such other company receiving prior written approval, who shall transmit the ticket manifest directly to the manager. The manager may require the lessee to employ a specific ticket taker or ticket agency, and may require no release of any ticket receipts until the final accounting.



**Sec. 2-126. - Collection of contributions or donations.**

No person, agent, firm or corporation shall attempt to collect contributions or donations, whether for charity or other purposes on the premises without first receiving the prior written approval of the manager. Such approval shall be given upon a showing that there will be compliance with all laws and ordinances, and a further showing that the activity will not interfere with the event being staged at the facility and will not interfere with the right of the public to use the facilities.

**Sec. 2-127. - Public liability insurance.**

The lessee, if so directed by the manager, shall furnish a public liability insurance policy issued by an insurance company authorized to do business in the state, in which the lessee is named insured, and the City and their representatives are named as additional insureds, for public liability insurance in the sum of \$500,000.00 for the benefit of one or more persons on account of any one occurrence, together with a property liability for a sum of \$100,000.00. The policy shall also provide for a ten-day written notice to the manager prior to cancellations. The policy shall be written for the entire time lessee has contracted to use the auditorium and shall be deposited with the manager within 60 days of the execution of the lease agreement.

**Sec. 2-128. - Workers' compensation insurance.**

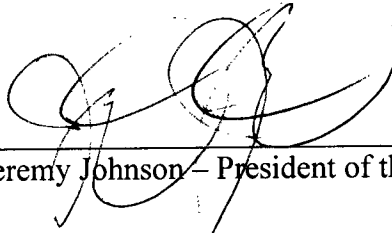
The lessee, if so directed by the manager, shall furnish a workers' compensation insurance policy issued by an insurance company authorized to do business in the state with limits and coverages required by the laws of the state to the manager within 60 days of the execution of the lease agreement.

**Sec. 2-129. - Compliance with laws by lessee.**

Any lessee of the Memorial Auditorium shall comply with all the laws of the United States and of the state and with all ordinances of the City, including any written policies and rules and regulations adopted by the Governing Body that apply to the use of the building and adjacent premises. Violations by a lessee may result in cancellation of the lease and discontinuance of the Memorial Auditorium use unless satisfactory compliance is ensured.

Section 2. This Ordinance shall take effect upon its passage and publication in the official city newspaper.

PASSED AND APPROVED this 14<sup>th</sup> day of November, 2017.

  
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Jeremy Johnson – President of the Board

ATTEST:

  
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Tammy Nagel - City Clerk

