

**TITLE III ADMINISTRATION  
CHAPTER 33: DEPARTMENTS, BOARDS, COMMISSIONS, AND  
AUTHORITIES**

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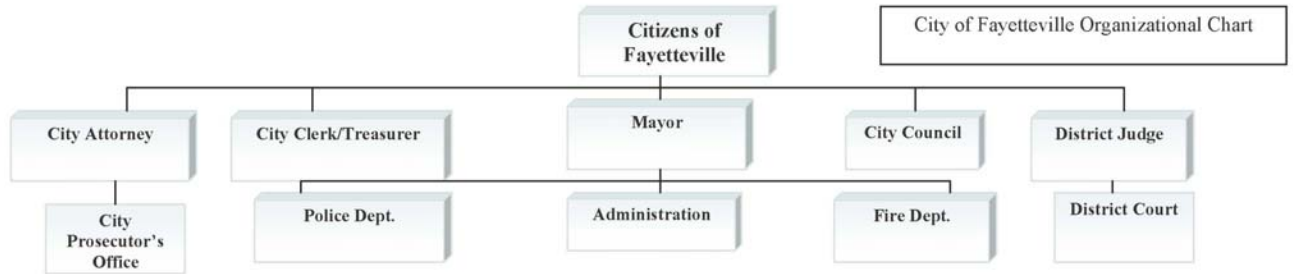
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**CHAPTER 33: DEPARTMENTS, BOARDS,  
COMMISSIONS, AND AUTHORITIES**

**ARTICLE I  
GENERAL PROVISIONS**

**33.001 City Organizational Chart**

The basic City Organizational Chart shown below is hereby adopted. The Mayor shall further detail the organization of the Administration in a chart that shall be available to the citizens of Fayetteville through the city's web page and other media.



(Ord. 4476 04-01-03; Ord. 5232, 4-7-09)

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**33.002-33.004 Reserved**

**ARTICLE II  
DEPARTMENT OF FINANCE**

**33.005 Establishment**

There is hereby established the Department of Finance of the city.

(Code 1965, §2-33; Ord. No. 1381, 1-13-64; Code 1991, §33.005)

**33.006 Subdivision Into Offices**

The Department of Finance, may be, at the discretion of the City Council, subdivided into offices having specific areas of responsibility, such as but not restricted to collecting, disbursing, and internal auditing.

(Code 1965, §2-35; Ord. No. 1381, 1-13-64; Code 1991, §33.006)

**33.007 Duties**

It shall be the duty of the Department of Finance to:

- (A) Collect, record, and issue receipts for all funds legally levied by the municipal government of the city and to perform this service in accordance with the rules and regulations governing collection, recording, and receiving, as approved by the City Council.
- (B) Disburse money in accordance with the rules and regulations governing the disbursement of funds, as approved by the City Council.
- (C) Advise the City Council at stated intervals of the status of all funds, as well as the general fiscal status of the municipal government.
- (D) Present to the City Council suggested rules and regulations or changes in current rules and regulations that would improve systems for collecting, disbursing, or budgeting funds.
- (E) Recommend to the City Council the investment of surplus funds.
- (F) Assist and advise with the mayor, other elected officials, department heads and the City Council in the construction of the annual budget and in long range projects requiring either the acquisition of new funds or the build-up of retained funds to achieve a capital outlay not feasible in the annual budget.

- (G) Supervise the spending of the funds allocated by the City Council in the annual budget in order that each item of disbursement will be in compliance with the rules and regulations adopted by the City Council governing budgetary expenditures.

(Code 1965, §2-35; Ord. No. 1381, 1-13-64; Code 1991, §33.007)

**33.008-33.014 Reserved**

**ARTICLE III  
DEPARTMENT OF PARKS AND  
RECREATION**

**33.015 Establishment**

There is hereby established the Department of Parks and Recreation of the city.

(Code 1965, §2-95; Ord. No. 1526, 1-3-67; Code 1991, §33.015)

**33.016 Administration**

The Department of Parks and Recreation shall be administered and directed by a person appointed by the mayor, who shall be known as the Director of Parks and Recreation. Said director shall have one or more assistants and such staff as the City Council from time to time shall authorize.

(Code 1965, §2-96; Ord. No. 1526, 1-3-67; Code 1991, §33.016)

**33.017 Duties**

It shall be the duties of the Department of Parks and Recreation to:

- (A) Develop and coordinate all recreation activities of the city;
- (B) Prepare development plans for present parks and for future park areas;
- (C) Investigate all federal programs for park and recreation development and prepare necessary forms;
- (D) Supervise swimming pool operations;
- (E) Develop and supervise a park maintenance program;
- (F) Coordinate city wide beautification efforts; and
- (G) Perform such other duties and conduct such

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other activities in connection with the park, recreation and cultural needs of the inhabitants of the city, as the City Council shall from time to time provide.

(Code 1965, §2-97; Ord. No. 1526, 1-3-67; Code 1991, §33.017)

**33.018 Parks And Recreation Advisory Board**

(A) *Composition.*

(1) The Parks and Recreation Advisory Board shall be composed of nine members appointed by the City Council for terms of three years. Such terms shall be staggered so that three members will be appointed each year.

(2) All members of the Parks and Recreation Advisory Board shall serve without compensation.

(B) *Meetings of advisory board and responsibilities.* The Parks and Recreation Advisory Board shall meet monthly with the director of parks and recreation. The advisory board shall advise and recommend to the director of parks and recreation, mayor and City Council on all aspects of parks and recreation activities. Annually, the advisory board shall develop a suggested work program and operating budget to be submitted to the city by November of each year for the subsequent year. The advisory board shall also recommend priorities for capital improvements and means for financing same, and shall prepare an annual progress report on parks and recreation activities.

(Code 1965, §§2-98, 2-99; Ord. No. 1526, 1-3-67; Ord. No. 3058, 12-18-84; Ord. No. 3074, 3-19-85; Ord. No. 4290, 2-20-01; Code 1991, §33.018; Ord. 5023, 6-5-07; Ord. 5158, 8-5-08; Ord. 5446, 10-4-11)

**33.019-33.029 Reserved**

**ARTICLE IV  
POLICE DEPARTMENT**

**33.030 Appointment Of Chief Of Police**

The mayor is hereby authorized to appoint the chief of police, subject to the approval of the City Council.

(Code 1965, §16-1; Ord. No. 884, 3-5-45; Code 1991, §33.030)

**Cross reference(s)**--Payment for unused sick leave, §37.03.

**State law reference(s)**--Municipal police departments generally, A.C.A. §14-52-101 et seq.; Appointment and removal of department heads, A.C.A. §14-42-110.

**33.031-33.044 Reserved**

**ARTICLE V  
FIRE DEPARTMENT**

**33.045 Separate Office Of Chief Of Fire Department Created**

The separate office of chief of the fire department of the city is hereby created, to be filled in the manner provided by law.

(Code 1965, §9-1; Ord. No. 909, 3-3-47; Code 1991, §33.045)

**State law reference(s)**--Municipal fire departments, - A.C.A., §14-53-101 et seq.; Appointment and removal of department heads, A.C.A. §14-42-110.

**33.046 Providing Fire Protection Services Outside City**

The city fire department shall not provide fire protection services beyond the corporate limits and shall not combat any fire located outside the corporate limits except pursuant to:

(A) A mutual aid agreement, approved by the City Council, with another municipal corporation or with a duly and legally organized fire department which operates in Washington County.

(B) The city fire department shall have the right to refuse to respond to any fire located outside the city's corporate limits if, in the judgment of the fire chief, or authorized representative, fire protection within the city would be impaired by such a response.

(Code 1965, §9-6; Ord. No. 1018, 3-24-52; Ord. No. 2737, 7-21-81; Ord. No. 3019, 7-17-84; Code 1991, §33.046; Ord. No. 3537, 3-19-91; Ord. No. 3697, §1, 4-20-93; Ord. No. 4030, §1, 3-23-99; Ord. No. 4297, 3-20-01; Ord. No. 4391, 5-7-02; Ord. 4715, 6-21-05)

**State law reference(s)**—Fire fighting beyond municipal limits, A.C.A. §14-53-102.

**33.047 Interfering With Firefighters**

It shall be unlawful for any person to molest or otherwise interfere with any firefighter in the

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performance of his duties.

(Code 1965, §9-2; Ord. No. 240)

**Cross reference(s)**--Penalty, §10.99.

**State law reference(s)**--Operation of vehicles and streetcars on approach of authorized emergency vehicles, A.C.A. §27-51-901(b).

### 33.048 Damaging Or Tampering With Fire Apparatus

It shall be unlawful for any person to damage, injure, tamper with, or interfere with any hose, hose connection, vehicle, or other equipment or apparatus belonging to the fire department. It shall likewise be unlawful for any person to remove any such equipment or apparatus from any fire station or other place where it is used or kept, without authority of the official in charge thereof.

(Code 1965, §9-3; Ord. No. 80; Ord. No. 240; Code 1991, §33.048)

**Cross reference(s)**--Penalty, §10.99, Penalty, A.C.A. §27-51-1001(a)(1)(A)(i).

**State law reference(s)**--Following fire apparatus, A.C.A. §27-51-902; Crossing unprotected fire hose prohibited, A.C.A. §27-51-903.

### 33.049 Unauthorized Riding On Fire Vehicles

It shall be unlawful for any person, except in limited circumstances as described in the Fayetteville Fire Department policies, to ride or attempt to ride upon any fire truck or other vehicle belonging to the fire department.

(Code 1965, §9-4; Ord. No. 240; Ord. No. 4105, §1, 7-7-98; Code 1991, §33.049)

**Cross reference(s)**--Penalty, §10.99.

### 33.050 Response To Hazardous Materials Incidents

(A) The Fayetteville Fire Department is hereby authorized to respond to hazardous materials incidents inside the city, outside the city where contracts for fire protection with the city exist and outside the city upon a call for assistance from another fire department within Washington or Benton Counties which is serviced by the Northwest Arkansas Regional Hazardous Materials Response Team.

(B) As used in this section, "hazardous materials incident" shall mean any incident involving the release, spill, leak or other undesirable accumulation of any substance for which a Material Safety Data Sheet (MSDS) is required under §311 of the Emergency Planning and Community Right-To-Know Act of 1986 (Public Law 99-499).

(C) Rates, reimbursements, collections and records.

(1) The Fayetteville Fire Department is hereby authorized to bill and collect from recipients of services for all costs incurred by the fire department responding to a hazardous materials incident, including but not limited to:

(a) A charge of \$200.00 for the first hour and \$100.00 for each additional hour for each major piece of fire apparatus which responds to the incident;

(b) An hourly charge equivalent to the regular hourly pay for each hour that each on-duty employee of the fire department spends in response to and/or on the scene of the incident, and the regular time and one-half rate of pay for each hour that each off-duty employee of the fire department spends in response to and/or on the scene of the incident;

(c) The replacement costs of all expendable equipment and supplies used by the fire department in managing and mitigating the incident including any equipment damaged or made unusable by contamination; and

(d) All costs incurred by the fire department for any labor, materials, or supplies provided by third parties at the request of the Fayetteville Fire Department, including but not limited to, the Northwest Arkansas Regional Hazardous Materials Emergency Response Team, local government entities, business and industrial facilities, specialists, consultants, and utilities and any other costs necessary to manage and mitigate the incident.

(2) The fire chief, or his designated representative, shall collect charges due the

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city for the provision of hazardous materials incident services and shall:

- (a) Prepare and issue statements for charges to persons, corporations, partnerships or any other entities, who are provided hazardous materials incident services under this section;
- (b) File suit to collect delinquent charges due within a reasonable time after the service is provided;
- (c) Maintain adequate records, which shall contain the following information:
  - (i) Date;
  - (ii) Funds collected for services rendered;
  - (iii) Accounts receivable;
  - (iv) Unpaid charges; and
  - (v) Such other information as may be required by officials of the city.

(Ord. No. 3490, 7-3-90; Code 1991, §33.050)

**33.051-33.064 Reserved**

**ARTICLE VI  
PUBLIC FACILITIES BOARD**

**33.065 Findings**

The City of Fayetteville hereby finds and determines:

- (A) There exists within and near the city, including the city's projected growth areas and the city's extraterritorial planning areas, a shortage of decent, safe and sanitary residential housing facilities available for rehabilitation, construction, or purchase on terms that persons and families of low and moderate income can afford to pay.
- (B) Existing economic conditions including high rates of interest on residential mortgage loans, and a shortage of funds within lending institutions in the state for residential mortgage loans are operating to: Further restrict the rehabilitation, construction, and purchase of residential housing by persons of low and moderate income at reasonably affordable costs; create unemployment and hardship within the residential construction

industry, adversely affecting residents of the city; and reduce and limit the value of property within the city; all of which adversely affect the city's tax revenues and which, if not alleviated, will lead to further urban blight and decay and result in disproportionately large expenditures for services by the city.

- (C) The availability of mortgage financing to assist such persons and families in the rehabilitation, construction or purchase of decent, safe, and sanitary residential housing facilities will be aided by the providing of funds for mortgage financing of residential housing facilities by the creation of a Public Facilities Board pursuant to the provisions of Act No. 142 of the General Assembly of 1975.
- (D) The providing of financial assistance in order to enable persons and families of low and moderate income to finance the costs of decent, safe and sanitary residential housing facilities is a proper public purpose as declared by the act, and by this determination of the City Council.
- (E) The public purpose of financing residential housing facilities may best be served by establishing a Public Facilities Board to purchase mortgages on such residential housing facilities or make loans to mortgage lenders to provide financing for residential housing facilities as provided in the act.
- (F) In addition to all other findings and public purposes stated in this ordinance, the development of housing, health care, and related facilities for elderly persons, regardless of income, serves a substantial public purpose and there is a significant need in the city for such facilities.

(Code 1965, §2-111; Ord. No. 2485, 11-21-78; Ord. No. 2991, 3-20-84; Ord. No. 4021, §1, 2-18-97; Code 1991, §33.065)

**State law reference(s)**--Public Facilities Board Act, A.C.A. §14-137-101 et seq.

**33.066 Establishment**

Pursuant to A.C.A. §14-137-107 there is created and established the city Public Facilities Board (hereinafter known as "facilities board") with authority as hereinafter provided to accomplish, finance, contract or purchase mortgage loans concerning, and otherwise act in such manner as may be permitted by the act to provide decent, safe, and sanitary

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residential housing facilities within or near the city, including the city's projected growth areas and the city's extraterritorial planning areas.

Additional authority has been granted the facilities board by Ordinance No. 2708 and Ordinance No. 2991 and the facilities board's authority may vary as allowed by statute and as provided by further amending ordinances which may be passed by the city in the future.

(Code 1965, §2-112; Ord. No. 2485, 11-21-78; Ord. No. 4021, §2, 2-18-97; Code 1991, §33.066)

**33.067 Members Of The Board; Term Of Office; Duration Of The Board**

The facilities board shall consist of five persons. The initial members shall, as provided in A.C.A. §14-137-107, be appointed by the mayor of the city to serve for terms of one, two, three, four and five years, respectively. The members of the facilities board shall be residents of the city and shall take and file with the City Clerk the oath of office prescribed by the act.

(Code 1965, §2-113; Ord. No. 2485, 11-21-78; Ord. No. 2991, 3-20-84; Code 1991, §33.067)

**State law reference(s)**--Creating ordinance-Authority, A.C.A. §14-137-107; Board members, A.C.A. §14-137-108.

**33.068 Powers Of The Board**

(A) The facilities board is empowered, from time to time, to loan, acquire, construct, reconstruct, extend, equip, improve, sell, lease, and contract concerning (which shall include the purchase of mortgage loans and the making of loans to mortgage lenders) residential housing facilities as shall be determined by the facilities board to be necessary to effect the purposes of this article to provide decent, safe and sanitary residential housing facilities within or near the city, including the city's projected growth areas and the city's extraterritorial planning areas. In addition, the facilities board shall have each of the powers set forth in A.C.A. §14-137-111, as amended, and appropriate to the purposes for which the board is created unless otherwise restricted herein. The board may enter into which contractual or cooperative agreements with such persons as may in its discretion be advisable to accomplish the purposes of this article, including, without limitation, departments, agencies, or instrumentalities of the United States of America,

the state or the city; for example, the Department of Housing and Urban Development, the Federal Housing Administration, the Veterans' Administration and the Arkansas Housing Development Agency. Prior to the issuance of any such bonds, the facilities board must submit to the City Council for its approval the following information:

(1) The size of the proposed bond issue and all related details, including, but without limitation:

- (a) principal amount;
- (b) date of the bonds;
- (c) interest payment dates;
- (d) principal payment dates;
- (e) numbers;
- (f) denominations;
- (g) rates of interest;
- (h) a schedule reflecting the annual principal maturities;
- (i) the semiannual interest requirements and the total requirements; and
- (j) applicable redemption provisions.

(2) Recommendations for person to serve as underwriter, trustee, and custodian for any such bonds and the mortgage lenders and servicing institutions with which the facilities board shall contract, which the City Council reserves the right to select or approve. The trustee and the custodian shall be institutions located within the city, if such institutions are qualified and such appointments do not otherwise adversely affect the rating of the bonds (if submitted for rating).

(B) The board is expressly authorized to issue revenue bonds for the purpose of financing residential housing, health care and related facilities to serve elderly persons; provided said facilities are owned by nonprofit corporations or associations. The issuance of such revenue bonds shall be accomplished by resolution duly adopted by the city Public Facilities Board and ratified by the City Council.

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(Code 1965, §2-114; Ord. No. 2485, 11-21-78; Ord. No. 2991, 3-10-84; Code 1991, §33.068)

**State law reference(s)**--Powers generally-bidding and appraisal procedure, A.C.A. §14-137-111.

### 33.069 Bond Proceeds; Investments

- (A) Any agreements made by the facilities board with mortgage lenders must contain a provision to the effect that such mortgage lenders may only loan the proceeds provided to them to finance housing located within the city's corporate limits and to finance housing located within the city's projected growth area and extraterritorial planning area. A minimum of 75% of the bond proceeds shall be available to finance housing located within the city's corporate limits; and a maximum of 25% of the bond proceeds shall be available to finance existing housing located within the city's projected growth area and extraterritorial planning area. The facilities board shall have the authority, after prior approval of the City Council, to reallocate such percentages.
- (B) This section shall apply only to bonds issued for the purpose of financing owner-occupied housing.
- (C) The facilities board shall offer bond proceeds not otherwise required to be deposited with the custodian to financial institutions which have their principal place of business located within the city and which are qualified for such investments. This section shall apply only to the proceeds of bonds issued for the purpose of financing owner-occupied housing.

(Code 1965, §2-115, 2-116; Ord. No. 2485, 11-21-78; Ord. No. 2991, 3-20-84; Code 1991, §33.069)

**State law reference(s)**--Use of funds and revenue-bonds, A.C.A. §14-137-115.

### 33.070 Issuance Of Revenue Bonds

- (A) The facilities board is authorized and is limited to issue this initial series of revenue bonds, in accordance with the conditions set forth in §33.068, and to use the proceeds, either alone or together with other available funds and revenues, to accomplish the purposes for which the facilities board is created as the same relates to the providing of decent, safe, and sanitary residential housing facilities. Such revenue bonds shall be obligations only of the facilities board and shall

not constitute an indebtedness for which the faith and credit of the city or any of its revenues are pledged, and the principal and interest on the bonds shall be payable from and secured by a pledge of revenues derived from residential housing facilities financed, in whole or in part, from bond proceeds and as authorized by, and in accordance with the provisions of law, together with such other collateral as may properly be pledged under the act and as the facilities board in its discretion may determine.

- (B) This section shall apply only to the issuance of bonds for the purpose of financing owner-occupied housing. The board is expressly authorized to issue bonds for the purpose of financing housing, health care, and related facilities to serve elderly persons, provided said facilities are owned by nonprofit corporations or associations.

(Code 1965, §2-117; Ord. No. 2485, 11-21-78; Ord. No. 2991, 3-20-84; Code 1991, §33.070)

**\*Note**--It should be noted that Ord. No. 4021, adopted Feb. 18, 1997, provided in the preamble and §3 that §9 of Ord. No. 2485 provided for the appointment of a bond counsel for the issuance and sale of residential housing facility bonds, and said appointment is only for the residential housing facilities bonds first authorized on Ord. No. 2485 prior to the amendments thereto.

### 33.071 Organization; Reports

As soon as practicable after the adoption of this article the facilities board shall meet and elect such officers as shall be required by law. The facilities board may adopt such bylaws and other rules and regulations as shall be necessary for the conduct of its business and consistent with the provisions of the act. The facilities board shall cause to be filed with the City Clerk of the city the annual report.

(Code 1965, §2-118; Ord. No. 2485, 11-21-78; Code 1991, §33.071)

**State law reference(s)**--Annual reports, A.C.A. §14-137-123.

### 33.072-33.104 Reserved

## ARTICLE VII PLANNING COMMISSION

### 33.105 Establishment

There is hereby created a city Planning Commission.

(Code 1965, §2-80; Ord. No. 956, 9-12-49)

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**State law reference(s)**--Municipal planning commissions generally, A.C.A., §15-56-401 et seq.

### 33.106 Composition

The Planning Commission ("commission") shall consist of nine members, all of who shall be citizens of Fayetteville, and at least two-thirds of whom shall not hold any municipal office or appointment. No two members of the commission ("commissioners") shall be related by blood or marriage in the third degree, nor shall any two commissioners have direct financial involvement. All commissioners must disclose annually all real estate holdings in Fayetteville and the Fayetteville planning area, and any business or financial interest which could affect, or be affected by, decisions of the commission. All commissioners shall have a demonstrated interest, experience, or expertise in land use planning.

(Code 1965, §2-81; Ord. No. 956, 9-12-49; Ord. No. 3872, §1, 2-21-95; Code 1991, §33.106)

**State law reference(s)**--Appointment of members, A.C.A. §14-56-405.

### 33.107 Terms Of Members

Each commissioner, unless appointed to fill an unexpired term, shall be appointed to serve a term of three years. Such terms shall be staggered, with three commissioners being appointed each year. All terms shall begin on April 1.

(Code 1965, §2-82; Ord. No. 1126, 3-25-57; Ord. No. 2404, 12-6-77; Ord. No. 3872, §1, 2-21-95; Code 1991, §33.107)

### 33.108 Compensation

The members of the Planning Commission shall serve without compensation.

(Code 1965, §2-83; Ord. No. 956, 9-12-49; Code 1991, §33.108; Ord. No. 4892, 06-20-06; Ord. 5295, 12-15-09)

**State law reference(s)**--Compensation of members, A.C.A. §15-56-409.

### 33.109 Powers And Duties

The Planning Commission shall have such powers and duties as are now or hereafter prescribed or granted by state statute.

(Code 1965, §2-84; Ord. No. 956, 9-12-49; Code 1991, §33.109)

**State law reference(s)**--Powers and duties of commission, A.C.A. §14-56-412.

### 33.110 Appointment Procedures

When vacancies on the Planning Commission occur because of resignation or term expiration, the city shall follow the following procedure:

- (A) The Rules of Order and Procedure, Fayetteville City Council, Revised and Adopted March 4, 2003, Section H, Citizens committees, as may be amended from time to time, shall be incorporated and made a part hereof as if set forth word for word.
- (B) The application form for appointment to city boards, commissions, and committees, as may be amended from time to time, is herein incorporated and made a part of this ordinance. Applicants shall describe their philosophy and approach to land use planning issues as they impact the City of Fayetteville.
- (C) Applicants shall disclose all real estate holdings in Fayetteville and the Fayetteville planning area, and any business or financial interest which could affect, or be affected by, decisions of the Planning Commission.

(Ord. No. 3872, §2, 2-21-95; Code 1991, §33.110)

**State law reference(s)**--Appointment of members, A.C.A. §14-56-405.

### 33.111 Removal of Planning Commissioners

By a vote of two-thirds of the City Council, any Planning Commissioner may be removed from the office for cause. Cause shall include, but not be limited to, the following:

- (A) Chronic discourteous behavior to other commissioners, staff, or members of the public.
- (B) Ongoing lack of familiarity with staff-prepared material.
- (C) Planning Commissioners must attend at least 60% of Agenda setting sessions and tours unless that commissioner is currently on the Subdivision Committee. If job requirements do not permit a member to attend agenda meetings or tours prior to 5:00 P.M., the meetings and tours will be scheduled for after normal working hours or such member shall be excused from the requirements of attending the agenda meetings and tours.
- (D) Planning Commissioners shall serve on the Subdivision Committee for one-third of their

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service on the Planning Commission when requested by the Chairman of the Planning Commission.

- (E) During the second quarter of each year, Planning Staff shall designate and all Planning Commissioners shall attend one evening training and review session to ensure the legal and proper functioning of the Planning Commission.

(Code 1991, §33.204; Ord. No. 3872, §2, 2-21-95; Ord. 4544, 2-17-04; Ord 5023, 6-5-07; Ord. 5446, 10-4-11)

State Law Reference(s)—Rules and Regulations §14-56-408.

**ARTICLE VIII  
SEWER COMMITTEE**

**33.112 Sewer Committee**

- (A) There is hereby established a Sewer Committee pursuant to state law. The Sewer Committee shall be composed of four aldermen who serve at the pleasure of the entire City Council. The mayor may appoint, subject to City Council approval, all members, (including replacement members) of the Sewer Committee.
- (B) The Sewer Committee shall have all powers, duties and responsibilities provided to such committee in A.C.A. §14-235-207, et. seq. All actions and recommendations of the Sewer Committee must be ratified and approved by the City Council to become effective. The City Council expresses its intent to exercise its control of the Sewer Committee to the maximum extent possible pursuant to state law.
- (C) The Sewer Committee is also designated advisory authority over the clean water system of the city."

(Ord.4561, 4-20-04)

**33.113-33.204 Reserved**

**ARTICLE IX  
TELECOMMUNICATIONS BOARD**

**33.205 Purpose And Intent**

It is the purpose and intent of the City Council of the City of Fayetteville to redefine the scope of the current Telecommunications Board to advise the City Council on telecommunications issues and to coordinate and

oversee telecommunications franchise systems and use of the public rights of way designated for public access, educational, and governmental (PEG) use in the City of Fayetteville as part of the city's telecommunications infrastructure.

- (A) *Definitions.* For the purposes of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) *Education Channels.* Education channels shall provide programming that is educational and informational, with an emphasis on locally-produced programming. Programs may also be instructional, with learning potential for all audiences.

(2) *Government Channels.* Government channels provide citizens with convenient access to the city government. The station shall be operated in an unbiased manner. The goal is to create an informed and involved citizenry. Content will generally be created or acquired by local government employees, elected officials, and volunteers, and will typically provide information about services provided by local, State, and regional governments, issues faced by local governments, and public meeting coverage.

(3) *Public Access Channels.* Public access channels provide a forum for local residents to express themselves. Content may include video and other electronic information produced, directed and engineered by community members. These productions focus on many aspects of community life, ranging from the services and activities of community organizations to the opinions, beliefs and artistic expressions of individuals in the community, or outside productions requested and introduced by community members.

(4) *Telecommunications Infrastructure.* Telecommunications infrastructure means the shared portions of the telecommunications transmission facilities used by the city, including public rights of way, all transmission mechanisms, and associated equipment and software components necessary for the management and control of the city's information network. Telecommunications facilities include, but are not necessarily limited to: terrestrial radio, optical fiber cables, satellite communications, radio and

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television stations (traditional broadcast as well as cable and satellite broadcast), and public switched telephone network.

(Ord. No. 3549, 5-21-91; Ord. No. 4219, 2-1-00; Code 1991, §33.205; Ord. 4504 07-15-03)

### 33.206 Creation And Composition

The Fayetteville Telecommunications Board shall consist of seven members appointed by the City Council. Members shall have experience in any one of the following areas: telecommunications infrastructure management, public policy development regarding communication and telecommunications issues, television, or other appropriate expertise. Members shall be registered voters and residents of the City of Fayetteville, and shall have resided therein for at least six (6) months prior to their appointment. Members shall serve staggered four-year terms. Vacancies in an unexpired term shall be filled by the City Council for the remainder of the term.

(Ord. No. 3549, 5-21-91; Ord. No. 3986, §1, 7-16-96; Ord. No. 4219, 2-1-00; Code 1991, §33.206; Ord. 4504 07-15-03)

### 33.207 Officers

The Telecommunications Board shall elect from its members a chairperson, who shall serve a one-year term and shall be eligible for re-election to a subsequent term or terms. Further, the Telecommunications Board may elect such additional officers and establish any committees as it deems necessary for the proper performance of its duties.

(Ord. No. 3549, 5-21-91; Ord. No. 4219, 2-1-00; Code 1991, §33.207; Ord 4504, 07-15-03)

### 33.208 Staff Support

The Mayor shall designate city employees to assist the Telecommunications Board in performing its duties and carrying out its responsibilities under this ordinance.

(Ord. No. 3549, 5-21-91; Ord. No. 4219, 2-1-00; Code 1991, §33.208; Ord. 4504, 07-15-03)

### 33.209 Procedures

(A) The Telecommunications Board shall meet at least once each month and may meet more frequently if necessary to carry out its duties. Four members shall constitute a quorum.

(B) The Telecommunications Board shall establish rules and regulations governing its procedures.

(C) The Telecommunications Board's meetings and records shall be subject to the provisions of the Arkansas Freedom of Information Act, A. C.A. §§25-19-101 *et seq.*, as it may be from time to time amended.

(D) The Telecommunications Board shall provide the City Council an annual report briefly summarizing its previous year's activities, and outlining its goals for the next.

(Ord. No. 3549, 5-21-91; Code 1991, §33.209; Ord. No. 4219, 2-1-00; Ord. 4504, 07-15-03)

### 33.210 Duties

(A) The Telecommunications Board shall advise the City Council and make recommendations on telecommunications infrastructure issues, including but not limited to the following:

(1) Use and administration of cable TV channels designated for public access, educational, and governmental (PEG) use;

(2) Use and administration of telecommunications facilities and use of public rights of way for telecommunications infrastructure;

(3) Establishment and use of the City's PEG facility;

(4) Any reports submitted to the City by a cable TV operator, PEG channel user, telecommunications agency, or other entities regarding telecommunications matters;

(5) Funding for public access, educational, and governmental (PEG) operations;

(6) Funding for the development and maintenance of the city's telecommunications infrastructure;

(7) Performance of any cable or telecommunications operator serving the city, with regard to rates, customer service, technical standards, programming, and requirements of the applicable franchise agreement; and

(8) Renewal of any franchise agreement between a telecommunications agent and the City.

(B) Further, the Telecommunications Board shall have

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the following duties and responsibilities:

- (1) Oversee the administration of the City's PEG facility;
- (2) Oversee the administration of any cable television channels or other telecommunications facilities designated for public access, educational, or governmental (PEG) use, unless the City Council enters into a contract with another entity or institution for such administration. If the city enters into a contract with another entity for administration of a PEG channel, the Telecommunications Board shall ensure contract compliance. Whether administered by the city or contracted, the Telecommunications Board shall facilitate the creation of policies regarding cablecast material selection, time guidelines for cablecast material, viewer and facility user complaint/feedback practices, and other such policies regarding the use and administration of the channels.
- (3) Perform periodic evaluations of contract compliance for all contracts relating to telecommunications. A summary of all evaluations shall be forwarded to the City Council quarterly for their review.
- (4) Facilitate dispute resolution concerning PEG channels, including but not limited to operations, program content, etc.; track the complaints filed by citizens to assure that telecommunications providers are responding to complaints in an effective and timely manner.
- (5) Promote public awareness, use and viewership of PEG channels;
- (6) Identify telecommunications needs and solutions in the City and define innovative approaches to the use of expanding digital capacity;
- (7) Promote public awareness of telecommunications policy issues; and,
- (8) Forward a report to the City Council recommending either renewal or replacement of any cable or telecommunications agent no less than 45 days before the contract's expiration.

(C) The Telecommunications Board shall have

authority to establish and disseminate such guidelines and regulations as are necessary to carry out the duties and responsibilities set forth in this section.

(Ord. No. 3549, 5-21-91; Ord. No. 4219, 2-1-00; Code 1991, §33.210; Ord. 4504, 7-15-03)

**33.211-33.225 Reserved**

(Ord. No. 3549, 5-21-91; Code 1991, §33.212; Ord. No. 4219, 2-1-00)

**ARTICLE X  
HISTORIC DISTRICT COMMISSION**

**33.226 Established**

There is hereby established a historic district commission for the City of Fayetteville, Arkansas. Said commission shall have those powers delegated to such a commission by Act Number 484 of 1963, as amended, of the Acts of the General Assembly of the State of Arkansas.

(Ord. No. 2509, § 1, 3-1-79)

**33.227 Membership**

The commission shall consist of seven members appointed by the mayor, subject to confirmation by the city council. Each member of the commission shall be an elector of the city holding no salaried or elective municipal office. Members shall be appointed for terms of three years. Vacancies shall be filled in like manner for the unexpired term.

(Ord. No. 2509, § 2, 3-1-79; Ord. No. 3836, § 1, 10-18-94)

**33.228 Purpose**

(A) The purpose of the Commission shall be as follows:

- (1) effect and accomplish the protection, enhancement, and perpetuation of such areas and improvement of districts which represent or reflect elements of the City's cultural, social, economic, political, and architectural history;

(2) safeguard the City's historic, aesthetic and

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cultural heritage, as embodied and reflected in such areas;

- (3) stabilize and improve property values in such districts;
- (4) foster civic pride in the beauty and accomplishments of the past;
- (5) protect and enhance the City's attractions to tourists and visitors as well as residents;
- (6) strengthen the economy of the City; and
- (7) promote the use of historic districts and landmarks for the education, pleasure, and welfare of the people of the City.

**33.229 Powers And Duties**

(A) The Commission shall:

- (1) adopt design review guidelines to be used when considering Certificate of Appropriateness applications. These guidelines will be based upon the Secretary of Interior's Standards for Rehabilitation and adapted specifically to Fayetteville's local ordinance historic districts;
- (2) conduct surveys and studies of neighborhoods, areas, places, structures, objects and improvements within the City of Fayetteville for the purpose of determining those of distinctive historic, community, architectural, or archeological interest or value;
- (3) nominate buildings, structures, objects and historic districts to the National Register of Historic Places;
- (4) recommend to the City Council the adoption of ordinances designating areas as having special historic community or architectural value as "historic district" and add these historic districts to the provisions of this Ordinance;
- (5) keep a register of all properties and structures that have been designated as historically significant including all information required for each designation;
- (6) obtain the services of qualified persons to direct, advise and assist the Historic District

Commission;

- (7) advise and assist owners of historic properties within historic districts on physical and financial aspects of preservation, renovation, rehabilitation, and reuse, and on procedures for inclusion on the National Register of Historic Places;
- (8) hold public hearings to review applications for certificates of appropriateness; and
- (9) cooperate with the Arkansas Historic Preservation Program, historical associations and other agencies and organizations devoted to the history of this city and state;

**33.230 Proceedings Of Historic District Commission**

- (A) The Historic District Commission shall adopt rules necessary to conduct its affairs, and in keeping with the provisions of the City Code of Ordinances. Meetings shall be held at the call of the chairperson and at such other times as the Historic District Commission may determine.
- (B) The Historic District Commission shall keep minutes of its proceedings and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the city planner.

**33.231 Certificate Of Appropriateness**

- (A) No qualifying building or structure, which may include but not be limited to masonry walls, fences, light fixtures, steps and paving, other appurtenant fixtures, or other elements set forth in design guidelines shall be erected, altered, restored, moved, or demolished within said local ordinance Historic District until after an application for a Certificate of Appropriateness as to the exterior architectural features has been submitted to and approved by the HDC.
  - (1) No building permit or other permit shall be granted for purpose of constructing or altering structures until an application for a Certificate of Appropriateness as to the exterior architectural features has been submitted to and approved by the HDC.
  - (2) A Certificate of Appropriateness shall be required whether or not a building permit is

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required.

- (3) In its deliberations under this Ordinance, said HDC shall not consider interior arrangement or use.

**33.232 Work Not Requiring A Certificate Of Appropriateness**

- (A) Ordinary Maintenance and Repairs. Nothing in these regulations shall be construed to prevent ordinary maintenance and/or repair of any exterior architectural feature of a property within a historic district.
- (B) Public Safety. This Ordinance shall not prevent the restoration, rehabilitation, renovation, preservation, alteration, construction, or demolition of any such feature that the City shall certify is required for the public safety. In emergency situations, threatening life, limb or significant property damage, work may be authorized without a Certificate of Appropriateness. Such work shall be done in accordance with the principles and specific criteria adopted under this Ordinance.
- (C) Visibility from the Public Right-of-Way. Work not visible from any public right-of-way shall not require a Certificate of Appropriateness.

**33.233 Determination On An Application**

- (A) Within a reasonable amount of time, not to exceed thirty (30) days after the filing of an application for a Certificate of Appropriateness, the applicant shall promptly send by mail, postage prepaid, to the applicant and to the owners of all adjoining properties, a notice of hearing to be held by the HDC on said application. A notice of the public hearing shall be published at least one (1) time in a newspaper having circulation throughout the City of Fayetteville a minimum of fifteen (15) days prior to the hearing.
- (1) All persons desiring to present information regarding the application shall be heard at the hearing.
- (2) The HDC shall determine whether the restoration, rehabilitation, renovation, preservation, alteration, construction, moving or demolition of buildings, structures, or appurtenant fixtures involved will be appropriate to the preservation of the Historic District within 90 days.

- (3) If the HDC determines that a certificate of appropriateness should not be issued, it shall place upon its records the reasons for such determination. The HDC shall immediately notify the applicant of its determination.

- (B) In making its determination, the HDC shall consider without being limited to the following criteria:
- (1) The purpose of this Ordinance;
- (2) The architectural or historic value or significance of a building and its relationship to the surrounding area;
- (3) The general compatibility of proposed changes; and
- (4) Any other factor, including visual and aesthetic, considered pertinent.
- (C) No change shall be made in the scope of work for any building permit after issuance of a Certificate of Appropriateness without resubmitting to the Commission and receiving approval in the same manner as provided above.

**33.234 Demolition**

- (A) Inappropriate demolition. If the application for a Certificate of Appropriateness involves the demolition of a building which the Commission initially determines to be an inappropriate demolition, then the Commission may defer the matter until such time as it has had an opportunity to consider the following alternatives to the demolition of subject property:
- (1) Sources of funding for preservation and restoration activities if lack of such funds is the reason for the request to demolish.
- (2) Adaptive use changes.
- (3) The feasibility of moving the building to another appropriate location.

**33.235 Economic Hardship**

- (A) Definition. Economic hardship shall refer to an owner's inability to see a reasonable return for an investment that will comply with the ordinance's standards to preserve the property. Evidence of

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economic hardship is generally limited to instances when the cost of preservation exceeds the value of the building, or preservation will deprive the owner of reasonable use of the property. An owner's personal financial status is not an issue the commission may consider.

(B) Application for economic hardship. If a certificate of appropriateness is denied, the applicant may submit an application for a certificate of economic hardship within fifteen (15) calendar days from the date of the notice of denial by the Commission. The application for a certificate of economic hardship shall be subject to the hearing schedules and notice provisions applicable to applications for certificates of appropriateness.

(1) It shall be the incumbent on the applicant to demonstrate economic hardship to the Commission. The applicant for a certificate of economic hardship should submit the following information before the commission makes a determination on the application:

- (a) Estimates of the cost of the proposed construction, alteration, demolition or removal and an estimate of any additional cost that would be incurred to comply with the recommendations Commission;
- (b) A report from a licensed engineer or architect about structures on the property and their suitability for rehabilitation;
- (c) Estimated market value of the property;
- (d) An estimate from a licensed architect or contractor or appraiser, as to the economic feasibility of rehabilitation or reuse of the existing structure;
- (e) Amount paid for the property, the date of purchase, and the party from whom purchased and any terms of financing between seller and buyer;
- (f) If the property is income-producing, the annual gross income from the property for the previous two (2) years;
- (g) All appraisals obtained within the previous two (2) years;
- (h) Any listing of the property for sale or

rent, price asked and offers received, if any, within the previous two (2) years;

- (i) Assessed value of the property according to the two (2) most recent assessments;
- (j) Real estate taxes for the previous (2) years;
- (k) Form of ownership or operation of the property; and
- (l) Information about plans prepared for the property if a building or structure is demolished.

(2) The Commission may seek expert testimony on the foregoing and may request the submission of any other information reasonably considered necessary to make a determination as to whether the property does yield or may yield a reasonable economic return to the owner.

(3) The Commission shall review all the evidence and information submitted. The commission shall make a determination, within thirty-one (31) calendar days of the public hearing, whether a Certificate of Economic Hardship should be granted based on the information submitted. If the Commission makes a finding of economic hardship, it shall grant a Certificate of Economic Hardship and give its approval for the work as proposed by the applicant.

**33.236 Demolition by Neglect**

(A) No owner or person with an interest in real property designated as an historic landmark or within an historic district shall permit said property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Commission, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself.

(B) Complaints. Upon any citizen's complaint or upon the City's own initiative and determination that demolition by neglect is occurring with respect to any property in one of the City's local ordinance historic districts, the City shall conduct a preliminary investigation and prepare a staff

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report. Such a complaint must include a clear description of the property and the nature of the deterioration claimed to constitute demolition by neglect.

(1) If the City finds that the complaint has a basis in fact, it will notify the property owner that a complaint has been received. A staff report will be brought before the Historic District Commission (HDC) in no fewer than 30 days. If the preliminary investigation does not substantiate the complaint, the complaint is resolved and no further action will be taken. The first letter of notice to the property shall include:

- (a) A description of the process;
- (b) How the property owner or others having legal possession, custody or control can resolve the issue immediately, and
- (c) Reports documenting the violations.

(2) The Director of Long Range Planning will forward the complaint and staff report to the HDC at its next regularly scheduled meeting after the 30 days have elapsed

- (a) The Commission will review complaints and staff reports and accept information from the owner and other interested persons. Based on the information received, the Commission may file a decision. If the HDC determines there are specific defects with the subject property it will notify the Director of Long Range Planning and Building Official to act under the procedures set out below to require the correction of deterioration or making of repairs to the historic structure;
  - (i) The written finding shall identify the specific condition(s) of the property which have led to that determination, and shall contain a notice that a hearing will be held before the Historic District Commission not less than thirty (30) nor more that forty-five (45) days after the serving of such order;
  - (ii) The written finding shall also state that the owner and/or parties in

interest shall be given a right to answer and to give testimony at the hearing; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Historic District Commission (HDC). The purpose of the hearing is to receive evidence concerning the charge of demolition by neglect;

(iii) If after such finding and hearing, the Commission determines that the structure is undergoing demolition by neglect because it is deteriorating, or if its condition is contributing to deterioration, the Director of Long Range Planning shall state in writing the findings of fact in support of such determination and shall issue and cause to be served upon the owner and/or other parties in interest therein an order to repair within a time to be specified in the written decision those elements of the structure that are deteriorating, contributing to deterioration, or deteriorated.

(b) Complaints or orders issued by the City shall be served upon persons either personally or by certified mail. If the whereabouts of such persons are unknown and the same cannot be ascertained by reasonable diligence, City staff shall make an affidavit to that effect, stating the steps taken to determine and locate the persons in interest, then the serving of such complaint or order may be made by publishing the same once each week for two (2) successive weeks in a newspaper of general circulation within the City. Where such service is by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

### 33.237 Appeals

(A) Any applicant aggrieved by the determination of the Commission may appeal the determination of the Commission to the Circuit Court of Washington County, Arkansas, in accordance

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with Rule 9 of the Arkansas District Court Rules.

**33.238 Enforcement**

- (A) In the event that work being performed is found not to be in accordance with the Certificate of Appropriateness or upon notification of such fact by the Historic District Commission and/or City staff, the building inspector shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect. Stop work orders and penalties for non-compliance with such will be enforced according to other applicable laws. A decision shall be made by the Commission concerning the stop work order within five (5) business days.
- (B) Any person who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be fined ten dollars (\$10) to five hundred dollars (\$500) per day after a 30-day period in which the person may correct the violation, in accordance with the Arkansas Historic Districts Act. Each day that a violation continues to exist constitutes a separate offense.

(Ord. 5177, 9-16-08)

**ARTICLE XI  
ENVIRONMENTAL ACTION COMMITTEE**

**33.239 Established; Meetings**

The City Council hereby establishes a committee to be known as the Environmental Action Committee which shall meet a minimum of six times per year.

**33.240 Purpose And Duties**

- (A) The purpose of the committee shall be as follows:
- (1) To address environmental concerns.
  - (2) Promote a safe and healthy environment.
  - (3) Maintain the natural beauty of the environment within the city.
- (B) The Environmental Action Committee shall make recommendations to other city committees and to the City Council on matters concerning the environment.

- (C) The Environmental Action Committee may

coordinate all City efforts to obtain and maintain an annual community wildlife habitat designation through the National Wildlife Federation subject to City Council approval.

(Ord. 5473, 12-20-11)

**33.241 Membership; Terms**

- (A) Membership:
- (1) Such Committee membership shall be composed of the following:
    - One (1) City Council Member
    - One (1) Member from Local Industry
    - One (1) Member from a science discipline
    - Eight (8) citizens-at-large
- (B) Terms of Membership:
- (1) The City Council member shall be appointed by the Mayor and shall serve until replaced.
  - (2) Terms of all other members shall be three years and shall be staggered so that each year either three or four members' terms shall be available for appointment by the Nominating Committee.
  - (3) Members of the Environmental Action Committee serving at the time of the adoption of this ordinance shall continue to serve their terms (or a shortened term) without needing to be reappointed by the Nominating Committee due to enactment of this ordinance.

(Ord. 5291, 12-15-09)

**33.242 Conduct Of Meetings**

The Environmental Action Committee shall promulgate rules and regulations necessary for the conduct of committee meetings and other business.

**33.243-33.249 Reserved**

(Ord. No. 3922, §1(D), (E), 9-5-95; Code 1991; Ord. No. 4462, 2-04-03; Ord. 5260, 7-21-09)

**ARTICLE XII  
BOARD OF ADJUSTMENT**

**33.250 Composition; Membership**

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The Board of Adjustment shall consist of seven members with its members to be appointed by the City Council, each for a term of five years. Appointments shall be staggered. A majority of the membership of the Board of Adjustment shall constitute a quorum. Members of the Board of Adjustment may be removed from office by the City Council for cause upon written charges and after public hearing. Vacancies shall be filled by resolution of the City Council for the unexpired term of the member affected.

(Code 1965, App. A, Art. 12(1); Ord. No. 1747, 6-29-70; Code 1991, §160.170; Ord. No. 4099, §1, 6-16-98)

**33.251 Proceedings Of Board Of Adjustment**

(A) The Board of Adjustment shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of the unified development ordinance. Meetings shall be held at the call of the chairperson and at such other times as the Board of Adjustment may determine. The chairperson, or in his absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

(B) The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating the fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the city planner.

(Code 1965, App. A, Art. 10(i); Ord. No. 1747, 6-29-70; Code 1991, §160.174; Ord. No. 4099, 6-16-98)

**33.252 Administrative Review**

The Board of Adjustment shall hear and decide appeals where it is alleged there is error or ambiguity in any order, requirement, decision, interpretation, or determination made by the city planner in the enforcement of Zoning, Chapters 160 through 164.

(Ord. No. 4099, 6-16-98)

**Cross reference(s)**--Appeals, Ch.155; Variances, Ch. 156.

**33.253-33.259 Reserved**

**ARTICLE XIII  
PLAT REVIEW COMMITTEE**

**33.260 Composition; Membership**

The Plat Review Committee shall consist of the following City Division Heads or their representatives:

- Building Safety Director;
- Transportation Manager;
- City Engineer;
- Solid Waste Operations Supervisor;
- Fire Chief;
- Transportation Superintendent;
- Zoning and Development Administrator;
- City Planning Consultant;
- All affected utility companies may send representatives.

The Plat Review Committee shall have advisory capacity only. Its duty shall be to advise the developer of technical problems, to recommend solutions of such problems, and to advise the developer of mandatory requirements.

(Ord. No. 4099, 6-16-98)

**33.261-33.269 Reserved**

**ARTICLE XIV  
SUBDIVISION COMMITTEE**

**33.270 Composition; Membership**

The Subdivision Committee shall consist of three or more members of the Planning Commission appointed by the chairman of said commission.

(Code 1965; App. A, Art. IV, §J; Ord. No. 1998, 5-7-74; Ord. No. 2724, 5-19-81; Ord. No. 2935, 8-2-83; Ord. No. 3302, 10-20-87; Code 1991, §154(3); Ord. No. 4099, 6-16-98)

**33.271-33.279 Reserved**

**ARTICLE XV  
URBAN FORESTRY ADVISORY BOARD**

**33.280 Purposes and Definitions**

(A) It is the purpose and intent of the City Council of the City of Fayetteville to redefine the scope of the former Tree and Landscape Advisory Committee as the new Urban Forestry Advisory Board to advise the City Council on urban forestry and arboricultural related issues as an integral part of the City's green infrastructure.

(B) It is also the purpose and intent of the City

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Council of the City of Fayetteville to have the Urban Forestry Advisory Board sit as the Wildland-Urban Interface: Firewise Advisory Board to advise the City Council on wildland and urban development related issues as an integral part of the City's fire protection program and green infrastructure.

- (C) For the purposes of this Article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

*Arboriculture.* The art, science and technology of cultivating and maintaining trees, shrubs and other woody plants.

*Firewise.* The process of making a structure, developed parcel, subdivision or community within or on the edge of the wildland-urban interface less at risk for wildfire.

*Urban Forestry.* The art, science and technology of sustained planning and managing trees, greenspaces and forest resources in and around urban community ecosystems for the physiological, sociological, economic, and aesthetic benefits trees provide society.

*Wildland-Urban Interface.* The line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuel.

(Ord. No. 4099, §1, 6-16-98; Ord. 5426, 8-2-11)

### 33.281 Establishment

There is hereby created a board to be known as the Urban Forestry Advisory Board which shall also sit as the Wildland-Urban Interface: Firewise Advisory Board. Said board shall be a continuation and renaming of the previously existing Tree and Landscape Advisory Committee.

(Ord. No. 3699, §4, 4-20-93; Ord. No. 3901, §1, 7-5-95; Ord. No. 3963, §2, 4-16-96; Code 1991, §§162.04 (A), 162.04 (C); Ord. No. 4099, 6-16-98; Ord. 5426, 8-2-11)

### 33.282 Powers and Duties

- (A) The board shall:

- (1) Adopt rules to govern the conduct of its business. Said rules shall be consistent with the provisions of the Arkansas Freedom of Information Act, A.C.A. §25-19-101 et seq.

- (2) Advise the Mayor, City Council, and the director(s) of the department(s) managing the urban forestry program on issues related to urban forestry and arboriculture.

- (3) Organize and administer an ongoing program of public education designed to increase public awareness of urban forestry and arboriculture.

- (4) Advise the Urban Forester on all city tree planting projects on city rights-of-way and/or medians.

- (5) Review and recommend revisions to the Unified Development Code Chapter 167 Urban Forestry Technical Manual at least once every three (3) years to reflect changes in chapter 167, city policies or arboricultural and horticultural practices with a focus on improvements in plant science, arboricultural practices, technology, construction methods and long range planning.

- (6) Plan and administer an annual Arbor Day celebration.

- (7) Advise the Urban Forester on expenditures from the Tree Escrow Funds.

- (8) Develop and administer a recognition program for individuals, businesses, institutions or non-profits who have demonstrated exceptional efforts in tree preservation, protection and/or tree planting.

- (9) Have authority to create an action plan to accomplish the objectives of the board.

- (10) Have authority to establish committees of the board which shall be chaired by a member of the board, but which may consist of non-board members who are citizens of the City or owners or managers of a business located in the City.

- (B) The board sitting as the Wildland-Urban Interface: Firewise Advisory Board shall:

- (1) Advise the Mayor, City Council, and the director(s) of the department(s) involved in managing the Firewise Community program on issues related to fire-safe building practices, wildland fire management, and urban development related issues.

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- (2) Assist the Fire Department with an ongoing program of public education designed to increase public awareness of Firewise practices.
- (3) Plan and administer an annual Firewise Project.
- (4) Plan and administer an annual Firewise Day.

(Ord. 5426, 8-2-11)

**33.283 Composition and Terms**

- (A) The board shall consist of seven (7) members who shall be appointed by the City Council.
  - (1) One (1) position shall be filled by a representative from the land development community; one (1) position shall be filled by a representative of the tree service community; one (1) position shall be filled by a representative from the University of Arkansas with knowledge of urban forestry or arboriculture practices; and four (4) positions shall be filled by citizens of the City at large with an interest in urban forestry or arboriculture
  - (2) In the event no application for a position as a representative from a specified discipline is received, the position may be filled by any citizen of the City.
  - (3) Vacancies in an unexpired term shall be filled by the City Council for the remainder of the term at the next Council nominating process after the vacancy shall have occurred.
  - (4) Members of the former Tree and Landscape Advisory Committee serving at the time of the adoption of this Article shall continue to serve their respective terms as members of the Urban Forestry Advisory Board. Terms of membership on the board shall be for a period of two (2) years with staggered terms carried over from the former Tree and Landscape Advisory Committee.
  - (5) The Mayor may designate city staff to assist the board in the conduct of its business.

(Ord. 5426, 8-2-11; Ord. 5446, 10-4-11)

**33.284 Officers**

At the first regularly scheduled meeting after the effective date of this Article, the board shall elect from among its members a chairperson and vice-chairperson, who shall each serve a term of one (1) year. Further, the board may elect such additional officers as it deems necessary for the proper performance of its duties.

(Ord. 5426, 8-2-11)

**33.285 Meetings**

The Urban Forestry Advisory Board shall meet at least once each month and may call special meetings if necessary to carry out its duties. The Urban Forestry Advisory Board sitting as the Wildland-Urban Interface: Firewise Advisory Board shall meet at least twice each year. Special meetings may be called as needed to carry out the board's duties. A majority of the voting membership of the board shall constitute a quorum.

(Ord. 5426, 8-2-11)

**33.286-33.289 Reserved**

**ARTICLE XVI  
CITY COUNCIL  
STREET COMMITTEE**

**33.290 Composition**

There is hereby established and continued a City Council Street Committee which shall be composed of four aldermen, one from each ward who shall be appointed annually by the Mayor, subject to City Council approval. The members shall elect a Chair at its first annual meeting."

**33.291 Purpose, Duties and Powers**

- (A) The Street Committee shall examine, consider, and recommend any changes, additions, or deletions to the Master Street Plan to the City Council."
- (B) All street plans for new or enlarged collector or arterial streets will be provided to the Street Committee during the initial or conceptual planning stage for its input and recommendations. Final plans for such streets shall be considered and recommended for approval or rejection to the City Council.

**33.292-33.300 Reserved**

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(Code 1965, §§17B-11.2(a), (b), (d); Ord. No. 2109, 6-3-75; Ord. No. 2585, 12-4-79; Ord. No. 3153, 11-19-85; Ord. No. 3340, 3-15-88; Ord. No. 3587, §1, 1-7-92; Ord. No. 4099, 6-16-98; Ord. No. 4652, 12-07-04; Ord. 5041, 7-17-07)

**ARTICLE XVII  
TRANSPORTATION DIVISION**

**33.301 Establishment**

The Transportation Division (formerly known as the Street Department) has long been established in Fayetteville to maintain and improve city streets, curbs, gutters and sidewalks and to perform related services for our citizens. The Transportation Division works under the supervision of the Mayor and the budgetary authorization of the City Council.

**33.302 City Overlay Program**

- (A) In the early 1990s, the City began its in-house overlay program with a stated goal to pave every City street for which public right-of-way existed. Later, the overlay program also began milling and overlaying various important, but deteriorating city streets.
- (B) In the early 2000s, the Mayor and City Council enlarged the overlay program to maintain and overlay city streets on a regular and rotating basis so that city streets would not deteriorate to such an extent that a full reconstruction would be necessary.
- (C) The procedure to determine which city streets will be funded to be overlaid and/or have curb and gutter work shall be as follows:
  - (1) The Transportation Division shall report to the City Council Street Committee during its first meeting of the year the results of the previous year's overlay program and propose a recommended list of sections of streets to be overlaid (and any planned curb or gutter work) during the new year.

- (2) The Street Committee can propose additions or deletions to this list and will recommend it to the City Council.
- (3) The City Council after consideration and any amendments shall approve by Resolution the approved overlay, curb and gutter program.
- (4) If the administration wishes to amend the overlay, curb and gutter program during the construction year to add an additional project, it shall request the Street Committee to approve such additional project and the City Council to amend the Resolution with possible necessary budget adjustment to allow any such addition to the program.

**33.303-33.310 Reserved**

(Ord. No. 3875, 2-21-95; Ord. No. 4304, 3-20-00; Ord. No. 4438, 11-19-02; Ord. 5047, 8-07-07; Ord. 5173, 9-2-08)

**ARTICLE XVIII  
ADVERTISING AND  
PROMOTION COMMISSION**

**33.311 Advertising And Promotion  
Commission Established**

- (A) There is hereby created the city Advertising and Promotion Commission ("the commission"). The commission shall have the powers and duties prescribed by Act 185, as now or hereafter amended. The commission shall be composed of seven members as follows:
  - (1) Four members shall be owners or managers of business in the tourism industry, at least three of whom shall be owners or managers of hotels, motels, or restaurants, and who shall serve for staggered terms of four years.
  - (2) Two members of the commission shall be members of the governing body of the city and selected by the governing body and shall serve at the will of the governing body.
  - (3) One member shall be from the public at large and shall serve for a term of four years.
- (B) The hotel and restaurant members (except those

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appointed to complete an unexpired term) shall serve a term of four years.

(Code 1965, §18A-1 (f), (g); Ord. No. 2310, 3-1-77; Ord. No. 2648, 7-15-80; Ord. No. 2711, 3-24-81; Ord. No. 2869, 10-19-82; Code 1991, §35.23)

**State law reference(s)**--Advertising and Promotion Commission Act, A.C.A. §26-75-601 et seq.

**Cross reference(s)**--Advertising and Promotion Fund, §35.23.

**Note**--This section has been included herein and designated as §33.311 to be consistent with the placement of boards, commissions and authorities in Chapter 33 by this codifier.

**33.312-33.319 Reserved**

**ARTICLE XIX  
PUBLIC TRANSIT BOARD**

**33.320 Establishment**

The Fayetteville Public Transit Board is hereby established. Said board shall consist of the City Council for the purpose of administering the provisions of Chapter 117.

(Code 1965, §20-17(b); Ord. No. 1910, 4-3-73; Ord. No. 2716, 4-21-81; Code 1991, §117.31)

**Cross reference(s)**--Vehicle Related Business, Ch. 117

**Note**--This section has been included herein and designated as §33.320 to be consistent with the placement of boards, commissions and authorities in Chapter 33 by this codifier.

**ARTICLE XX  
OFF-STREET PARKING  
DEVELOPMENT DISTRICT NO. 1**

**33.321 Establishment And Purpose**

(A) The Off-Street Parking Development District No. 1 was established on December 7, 1976, by Ordinance No. 2292 with its commissioners appointed by the Fayetteville City Board of Directors. The District encompasses the property described in Exhibit A to Ordinance No. 2292.

(B) The Off-Street Parking Development District was created for the purpose of constructing facilities

for the off-street parking of vehicles on lands to be purchased by the District.

(Ord. 5142, 5-6-08)

**33.322 Membership Of The Board,  
Terms Of Office**

(A) The City Council shall appoint five owners of real property located within the District to be commissioners for the Off-Street Parking Development District Board.

(B) The three current commissioners shall continue in their office for the remainder of their normal six year terms and may be reappointed. One new appointment shall be for an initial four year term of office. The other new appointment and all reappointments shall thereafter be for six year terms.

(Ord. 5142, 5-6-08)

**33.323 Powers And Responsibilities**

(A) The District Board shall have the power to acquire real property and construct facilities for off-street parking of vehicles on lands it owns. The District Board shall generally have the statutory power of a municipal improvement district pursuant to Subtitle 5 **Improvement Districts Generally** of Title 14, **Local Government** of the Arkansas Code.

(B) The District Board shall comply with all responsibilities and restrictions for boards of improvement districts mandated by Subtitle 5, **Improvement Districts Generally** of Title 14, **Local Government** of the Arkansas Code.

(Ord. 5142, 5-6-08)

**33.324-33.328 Reserved**

**ARTICLE XXI  
RULES OF CONDUCT FOR ALL  
FAYETTEVILLE BOARDS,  
COMMISSIONS AND COMMITTEES.**

**33.329 Eligibility of Citizen Volunteers To  
Serve On City Boards, Commissions and  
Committees**

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(A) All registered voters within the corporate limits of Fayetteville shall be entitled to apply and, if selected by the City Nominating Committee and approved by the City Council, shall be entitled to serve on a City board, committee or commission. A citizen who moves out of Fayetteville or violates the Rules of Conduct or Attendance Requirements shall no longer be eligible to serve.

within 20 days after notification that the Citizen's position has been declared vacant and explaining why extenuating circumstances justify reinstating the applicant to his or her former position.

(Ord. 5446, 10-4-11)

**33.332-33.339 Reserved**

(B) Any person who has served two consecutive full terms on any City commission, board, or committee is not eligible for reappointment to the same committee until one term of office has expired, unless there is an insufficient number of applicants to fill all vacancies.

**ARTICLE XXII ARTS COUNCIL**

**33.340 Arts Council Established; Membership**

(Ord. 5446, 10-4-11)

**33.330 Rules of Conduct For Citizens And Members For All Boards Commissions and Committees**

(A) The establishment of the Fayetteville Arts Council by Resolution No. 60-07 is affirmed by this code section. The Arts council shall have nine members appointed by the City Council and serve three year staggered terms.

(A) During all meetings for all City boards, commissions and committees, all members of such board, commission and committee and all citizens addressing such body shall accord the utmost courtesy to each other, to city staff and to members of the public appearing before such body. All members of such body and the public speaking at the meeting shall refrain at all times from rude or derogatory remarks, reflections as to integrity, abusive comments and statements as to motives and personalities.

(B) The members of the Fayetteville Arts Council shall be arts professionals or citizens of diverse backgrounds with strong links to the Fayetteville arts and cultural community. At least four members shall be artists working professionally in their field.

(Ord. 5332, 7-6-10)

(B) Any members of a board, commission or committee appointed by the Mayor and/or City Council who violates the rule of conduct stated above may be removed from such board, commission or committee by City Council Resolution.

**33.341 Purpose**

The purpose of the Arts Council shall be to promote and to encourage the appreciation and enhancement of the arts and culture resources of Fayetteville. The continued vitality of the arts in the City of Fayetteville is a vital part of the future of the City as well as of its citizens. The arts are an important part of the cultural and economic life of the entire community of Fayetteville and enrich the participants in the arts as well as those who observe them. Several organizations which exist in Fayetteville are active in the arts and provide leadership to the community on arts related matters. The Fayetteville Arts Council assists those organization and individuals.

(Ord. 5084, 11-20-07)

**33.331 Attendance Requirements**

(A) Any citizen volunteer member of any City board, commission or committee who fails to attend at least 70% of all meetings of that committee within a twelve month period of service shall be deemed to have resigned from the board, commission or committee and that person's position shall be deemed vacant.

(Ord. 5332, 7-6-10)

**33.342 Powers and Duties**

(B) Such citizen may petition the City Council for reinstatement by filing a letter with the City Clerk

(A) The Arts Council shall be specifically responsible for, but not limited to, the following:

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(1) The Arts Council shall review all public art to be located on public property with a value greater than \$5,000 that has been donated to the City of Fayetteville. Donated art located on public property valued less than \$5,000 shall be approved by the City through an administrative review process.

**33.344-33.349 Reserved**

(Ord. 5332, 7-6-10)

**ARTICLE XXIII ACTIVE  
TRANSPORTATION ADVISORY  
COMMITTEE**

(2) The Arts Council shall review all permanent public art that is to be located on City-owned property or right-of-way with a value greater than five thousand dollars (\$5,000).

**33.350 Purpose and Establishment**

There is hereby established (as a continuance of the former Sidewalk and Trails Advisory Board) the Active Transportation Advisory Committee. This committee shall review public comments and advise City Staff and City Council on the prioritization and land acquisition/easements for sidewalks and trails within our city. The Active Transportation Advisory Committee is also responsible for recommending the adoption of Sidewalk and Trails Master Plans to the City Council. Recommendations relating to trails shall be forwarded to the Parks and Recreation Advisory Board. Recommendations relating to sidewalks shall be forwarded to the Transportation Division.

(Ord. 5343, 8-3-10)

(3) The Arts Council may review temporary public art or public art that has a value of less than five thousand dollars (\$5,000) and is to be located on City-owned property or right-of-way.

**33.351 Composition**

The Active Transportation Advisory Committee shall be comprised of eight (8) voting members, and seven (7) non-voting staff/support members, as follows:

(4) The Arts Council may assist the City Council, the Fayetteville Parks and Recreation Advisory Board, Historic District Commission and the Planning Commission in using public art to enhance existing development.

(5) The Arts Council may be involved with the planning of capital improvement projects undertaken by the City where there is potential for aesthetic involvement and where the arts may be incorporated into the final design of the project. This may include streets, trails, structures and infrastructure improvements.

(Ord. 5332, 7-6-10)

**33.343 Public Art Approval Process**

(A) The Arts Council within 30 days from the date on which a complete application is submitted to the City shall review and make a recommendation on the public art to be purchased by, or donated to, the City of Fayetteville. This process shall respect the diversity of art and give consideration to the efforts of a potential donor to the City.

(A) One (1) voting members of the Committee shall be a member of the City Council;

(B) One (1) voting member shall be a member of the Planning Commission;

(C) One (1) voting member shall be a member of the Parks and Recreation Advisory Board;

(D) Five (5) voting members shall be private citizens, who are qualified electors residing in the City of Fayetteville, and appointed by the City Council, at least one (1) of whom shall represent a bicycle advocacy organization;

(E) Five (5) non-voting members shall represent the City of Fayetteville staff, with one member each from the Transportation Division, Parks and Recreation Division, Fayetteville Police Department, Planning Division, and Information Technology Division;

(Ord. 5332, 7-6-10)

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(F) One (1) non-voting member shall represent the Washington County Planning Staff;

(G) One (1) non-voting member shall represent the Northwest Arkansas Regional Planning Commission.

(Ord. 5343, 8-3-10)

**33.352 Terms Of Office**

Private citizen members shall serve two year terms, with no limit to the number of terms they may serve. City Council, Planning Commission, and Parks and Recreation Advisory Board representatives may serve as long as they retain membership on their sponsoring body.

(Ord. 5343, 8-3-10)

**33.353 Officers**

At the first regularly scheduled committee meeting of each calendar year, the voting members of the committee shall, by a simple majority, elect from among themselves a Chair and Vice Chair.

(Ord. 5343, 8-3-10)

**33.354 Meetings**

The Active Transportation Advisory Committee shall meet at least once per quarter to conduct regular business, at a time and place that is mutually convenient to the membership. The Active Transportation Advisory Committee may meet more frequently if needed.

(Ord. 5343, 8-3-10)

**33.355 Selection Process**

The City Council shall appoint the private citizen members through the normal Nominating Committee process. All other members of the Active Transportation Advisory Committee shall be appointed by their respective organizations.

(Ord. 5343, 8-3-10)

**33.356-33.999 Reserved**

(Ord. 5343, 8-3-10)