

**TITLE I GENERAL PROVISIONS
CHAPTER 10: GENERAL PROVISIONS**

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CHAPTER 10: GENERAL PROVISIONS

10.01 Title Of Code

This codification of ordinances by and for the City of Fayetteville, shall be designated as the Code of Fayetteville and may be so cited.

(Code 1991, §10.01)

State law reference(s)--A.C.A. Authority to codify ordinances §14-55-701 et seq.

10.02 Interpretation

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this Code as those governing the interpretation of state law. Except as noted in the Unified Development Code, the Fayetteville Code shall be interpreted by the City Attorney.

(Code 1991, §10.02)

10.03 Application To Future Ordinances

All provisions of Title I compatible with future legislation, shall apply to ordinances hereafter adopted amending or supplementing this Code unless otherwise specifically provided.

(Code 1991, §10.03)

10.04 Captions

Headings and captions used in this Code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

(Code 1991, §10.04)

10.05 Definitions

(A) *General rule.* Words and phrases shall be taken in their plain, ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) For the purpose of this Code, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

City, municipal corporation or municipality. The City of Fayetteville, Arkansas.

Code, this Code or this Code of Ordinances. This Code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

County. Washington County, Arkansas.

May. The act referred to is permissive.

Officer, office, employee, commission, or department. An officer, office, employee, commission, or department of this municipality unless the context clearly requires otherwise.

Person. Extends to and includes person, persons, firm, corporation, co-partnership, trustee, lessee, or receiver. Whenever used in any clauses prescribing and imposing a penalty, the terms *person* or *whoever* as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

Preceding or following. Next before or next after, respectively.

Shall. The act referred to is mandatory.

State. The State of Arkansas.

Subchapter. A division of a chapter, designated in this Code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

(Code 1991, §10.05)

10.06 Rules Of Interpretation

The construction of all ordinances of this municipality shall be by the following rules, unless such construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance:

(A) *Acts by assistants.* When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, such requisition shall be satisfied by the performance of such act by an authorized agent or deputy.

(B) *Gender; singular and plural; tenses.* Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(C) *General term.* A general term following specific enumeration of terms is not to be limited to the

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class enumerated unless expressly so limited.

(Code 1991, §10.06)

10.07 Severability

If any part, provision, or section of this code is held invalid or unconstitutional, it shall be severed from the remainder which shall remain valid and enforceable.

(Code 1991, §10.07)

10.08 Reference To Other Sections

Whenever in one section reference is made to another section hereof, such reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

(Code 1991, §10.08)

10.09 Reference To Offices

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this municipality exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

(Code 1991, §10.09)

10.10 Errors And Omissions

If a manifest error is discovered consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express such intent, such spelling shall be corrected and such word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

(Code 1991, §10.10)

10.11 Official Time

The official time, as established by applicable state and federal law, shall be the official time within this municipality for the transaction of all municipal business.

(Code 1991, §10.11)

10.12 Reasonable Time

- (A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of such act or the giving of such notice.
- (B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day falls upon a weekend or holiday, the next regular business day shall be deemed the last day to do the act timely.

(Code 1991, §10.12)

10.13 Ordinances Repealed

This Code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this Code shall be deemed repealed from and after the effective date of this Code. The previously adopted Unified Development Code (Chapter 150-175) remain in full force and effect.

(Code 1991, §10.13)

10.14 Ordinances Unaffected

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this Code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

(Code 1991, §10.14)

10.15 Effective Date Of Ordinances

All ordinances passed by the City Council without an emergency clause shall take effect on the day next following the deadline fixed by 36.15 of the Code of Fayetteville for the filing of a referendum petition with the City Clerk. Ordinances passed with an emergency clause shall go into effect immediately, but shall not be effective to impose a fine, penalty, forfeiture or deprivation of liberty or property until after the ordinance has been published or posted as is otherwise required by law.

(Code 1991, §10.15; Ord. No. 4339, 9-18-01)

Cross reference(s)--Referendums, §36.15.

State law reference(s)--Publishing or posting requirements, A.C.A. §4-55-206; Voting requirements for passage, as amended by Act 1187 of 2001, Section 1, (c)(1),

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(2), and(3), A.C.A. §14-55-203.

10.16 Repeal Or Modification Of Ordinance

- (A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the ordinance repealing or modifying it becomes effective.
- (B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance, given, secured, or accrued under any ordinance previous to its repeal shall in anywise be affected, released, or discharged, but may be prosecuted, enjoined, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.
- (C) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

(Code 1991, §10.16)

State law reference(s)--Publishing or posting requirements, A.C.A. §14-55-206; Code prima facie evidence, A.C.A. §14-55-703.

10.17 Ordinances Which Amend Or Supplement Code

- (A) If the City Council shall desire to amend any existing chapter, section, or subsection of this Code, the chapter, section, or subsection shall be specifically repealed and a new chapter, section, or subsection containing the desired amendment, substituted in its place.
- (B) Any ordinance which is proposed to add to the existing Code a new chapter, section, or subsection shall indicate, with reference to the arrangement of this Code, the proper number of such chapter, section, or subsection. In addition to such indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.
- (C) A statutory reference following the text of the section indicates that the reader should refer to that statute for further information.

(Code 1991, §10.17)

10.18-10.98 Reserved

10.99 General Penalty

- (A) *Maximum penalties permitted.*
 - (1) The city shall not inflict any fine or penalty, by ordinance or otherwise, to a greater sum than \$500.00 for any one specified offense or violation of a bylaw or ordinance, or double that sum for each repetition of such offense or violation.
 - (2) If a thing prohibited or rendered unlawful is, in its nature, continuous in respect to time, the fine or penalty for allowing the continuance thereof, in violation of the bylaw or ordinance, shall not exceed \$250.00 for each day that it may be unlawfully continued.
 - (3) If any bylaw or ordinance provides for any greater fine, penalty or forfeiture than is provided in this section, it shall and may be lawful, in any suit or prosecution for the recovery thereof, to reduce it to such amount as shall be deemed reasonable and proper and to permit a recovery or render a judgment for such amount as authorized.
- (B) *Imprisonment to enforce fine.*
 - (1) When a fine has been imposed for the violation of any of the ordinances of the city and is not paid, the party convicted shall, by order of the Fayetteville District Judge or other proper authority or on process issued for the purpose, be committed until the fine and costs of prosecution shall be paid, or the party discharged by due course of law.
 - (2) Any person convicted of a repeated and willful violation of any ordinance, who shall refuse or neglect to pay the fine imposed and the cost of prosecution, by like order or process, shall be imprisoned and kept in confinement for any term not exceeding 30 days.
 - (3) All persons imprisoned in the Fayetteville City Jail shall be under the charge of the Chief of Police. All persons imprisoned in the County Jail shall be under the charge of the County Sheriff. The Chief of Police or County Sheriff shall receive and discharge the person in such manner as shall be prescribed by the ordinances of the city and state statutes by due course of law.

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(C) *Working out of fines.* Fines imposed for violation of ordinances may be discharged by the offender voluntarily working out the fine upon the streets or facilities of the city. The Chief of Police shall give credit to such offenders at rates no less than those in A.C.A. §16-90-108.

(D) *Suit for recovery of fines, etc.*

(1) Fines, penalties, and forfeitures, in all cases and in addition to any other mode provided, may be recovered by suit or action before any court of competent jurisdiction, in the name of this city and for its use.

(2) In all cases of violation of any of its ordinances, this city, in addition to any other provided by law, shall have the right to recover in a civil action the amount of the lowest penalty or fines provided in the ordinance for each violation or, where the offense is in its nature continuous in respect to time, for each day's violation thereof, and also the amount of any license which the person guilty of the violations was required by any such ordinance to take out.

(E) *Disposition of fines.*

All fines and penalties imposed by the city, police, or district court in this city shall be paid into the city treasury.

(Code 1991, §10.99)

State law reference(s)--Fixing of punishment-Misdemeanor, A.C.A. §16-90-108; Maximum penalties, A.C.A. §14-55-504; Power to enforce penalty, A.C.A. §14-55-601; Imprisonment for fine, A.C.A. §14-55-602; Working out fines, A.C.A. §14-55-604; Suit for recovery of fines, etc., A.C.A. §14-55-605; Additional remedies of cities of the first class, A.C.A. §14-55-606; Disposition of fines, A.C.A. §14-55-608.