

TITLE 2

ADMINISTRATION

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CHAPTER 1

BOARD OF DIRECTORS

2-1-1. Board meetings.

2-1-1.1. When held.

Hereafter all regular meetings of the board of directors of the city of Hot Springs, Arkansas, shall be held on the first and third Tuesdays of each month; except when such date falls on a holiday, the meeting may be held on the day following such holiday or at such other time and date as fixed by the board of directors. Provided, further, that when deemed necessary by the board of directors, the regular meeting time and date may be temporarily altered by motion of the board at a regular meeting.

2-1-1.2. Time and place.

Such meetings shall be held in the board chambers of the city of Hot Springs, at 7:00 p.m.

2-1-1.3. Effective date.

This ordinance shall be effective beginning with the regular meetings in July 2008.

(Ord. No. 5635, §1-3, 2-4-08)

2-1-2. Reserved.

2-1-3. Board - Procedure consideration of legislation.

(a) All legislation of a general or permanent nature shall be fully and distinctly read on three different days unless two-thirds (2/3) of the members composing the municipal council shall dispense with the rule (A.C.A. 14-55-202).

(b) Suspending of the rule shall mean that the legislation of a general or permanent nature shall be read fully and distinctly by title only.

(c) All bylaws or resolutions shall be read by title only unless requested to be read in its entirety by any member of the board.

Editor's note-Any reference to the city council or to committees of the city council in the ordinances, rules, regulations, policies and handbooks of the city shall be deemed to refer to the board of directors. All functions delegated or assigned to committees of the city council shall be assigned by the city manager to such municipal departments, employees boards, commissions or other municipal agencies as he may determine, for the purpose of making recommendations to the board of directors for final action. (Ord. No. 3855, § 1, 2, 7-7-86)

(d) Such other procedures for the board of directors, as may be deemed necessary, may be established by resolution.

(Ord. No. 4289, §§ 1--4, 2-22-93)

2-1-4. Board - Preparation of agenda; requirements for certain items.

(a) *It shall be the duty of the city manager or such department or office as he/she shall designate to prepare the agenda and supporting materials for all meetings of the Hot Springs board of directors. The city manager with the advice and consent of the mayor, as president of the board, shall control the arrangement of matters on said agenda. (Res. No. 2777, § 1, 2-22-93)*

(b) *All matters to come before the Board of Directors, including proposed ordinances, resolutions, leases, petitions, claims, contracts, reports, bid awards, and administrative matters, shall be in such form as prescribed by the city manager and shall be approved by the city attorney prior to submission to the office of the city clerk, which shall be no later than 12:00 noon on the Friday immediately preceding the agenda meeting of the Board of Directors. Such submissions shall include a certificate of availability when applicable, and shall be in a format and at a location designated by the city clerk. Board agenda packets shall be distributed to board members and available to the news media and public on the Thursday evening prior to the board meeting. Whenever either of these dates falls on a holiday, the filing deadline and distribution shall be the next work day. The deadlines for special called meetings must conform with the Freedom of Information Act and Ordinance 6078 of 2015. (Res. No. 8873, § 1, 2-16-2016)*

(c) *Any item not contained in the prepared agenda will only be accepted for consideration and added to the prepared agenda upon two-thirds (2/3) vote of the elected membership of the board of directors. Said two-thirds (2/3) shall be five of seven total members. (Res. No. 2777, § 4, 2-22-93)*

(d) *Any ordinance, resolution or other matter tabled by the board of directors without a date for future consideration shall expire as a matter of procedure and shall be deleted from the agenda unless such item is requested to be removed from the table by a director for consideration by the board within two regular meeting dates from the date tabled. (Res. No. 3113, § 2, 1-9-95)*

Editor's note-§2-1-4 was adopted by Resolution, but included in the Code of Ordinances due to its permanent nature.

2-1-5. Board-Travel policy.

The following policies shall apply to travel related to city affairs by the board of directors for which the costs will be paid by the appropriate city fund:

(a) *With the exception of out of state travel that is required for imminent city business under circumstances in which time is of the essence as determined by the City Manager, Out-of-state travel shall be as approved by the Board of Directors on a case-by-case basis. All out-of-state travel shall be subject to available funding in the Board of Directors' travel budget line item(s). Whenever possible, the attendance at the out-of-state events on behalf of the City of Hot Springs should be rotated among the individual members of the Board of Directors. (Res. No. 8626, § 1-20-2015)*

(b) *In-state travel, including lodging, shall be at the discretion of the individual Director(s) subject to available funding in the Board of Directors' travel budget line items; and*

(c) *Local travel costs and expenses (e.g., mileage for investigation of citizen complaints) shall be paid upon request of any individual director and presentation to the finance director documentation of the expenses or mileage incurred.*

(d) *Travel costs shall be paid at the rates and in accordance with the procedures established in the administrative policy entitled "Travel Procedures for City Employees and City Officials," as may now or hereafter be in effect*

(e) *Any and all such expenses and/or reimbursements paid by the Finance Director shall be subsequently reviewed for appropriateness on a monthly basis by a three (3) member committee of the Board, consisting of the Mayor, the Assistant Mayor, and the immediate past Assistant Mayor. In the event that the committee shall determine that the payment of any such expense and/or reimbursement is inappropriate, then the recipient thereof shall immediately refund same to the City. . (Res. No. 8496, 07-01-2014)*

Res. No. 7618, 02-15-2011

Editor's note-§2-1-5 was adopted by Resolution, but included in the Code of Ordinances due to its permanent nature.

2-1-6. Procedural guidelines for city board meetings.

2-1-6.1. Motions.

When a question is under debate, motions are entertainable in the following order:

- (a) *To fix the time at which the board will adjourn (**nondebatable**) (**majority of a quorum**).*
- (b) *To adjourn (**nondebatable**) (**majority of quorum**).*
- (c) *To take a recess (**nondebatable**) (**majority of quorum**). Must specify time.*
- (d) *To table or postpone temporarily until the next meeting (**nondebatable**) (**majority of a quorum**). To take from the table (**nondebatable**) (**majority of a quorum**).*
- (e) *Previous question or immediate consideration (**nondebatable**) (**2/3 of a quorum**). When a board member desires to call for the question, he or she shall motion for a call for the question. Such motion shall require a second. If a second is made and the original motion is voted on (either approved or disapproved), then the discussion on this item is concluded, and there shall be no further discussion on the motion.*
- (f) *Limit or extend debate (**nondebatable**) (**majority of a quorum**). Must specify time limitations.*

- (g) *Amend (**debatable**) (**majority of a quorum**). When an ordinance or resolution is under consideration, amendments are in order. Upon adoption, amendments are to become a part of the ordinance or resolution. Amendments to amendments may not be offered. Every amendment proposed must relate to the subject matter of the ordinance or resolution. Any amendment approved after the ordinance has received its second reading will have the effect of placing the ordinance back on its second reading.*
- (h) *Motion to suspend rules (**nondebatable**) (2/3 of entire membership).*
- (I) *Motion to adopt ordinance or resolution (**debatable**) (**majority of entire membership**).*
- (j) *Motion for emergency clause (**debatable**) (2/3 of entire membership).*
- (k) *When a proposition has been won or lost, any member of the prevailing side may, on the same day, move for a reconsideration thereof. If the motion to reconsider is again defeated, a second motion to reconsider may not be made (**debatable**) (2/3 of quorum). Once adopted or defeated a proposition may not again be considered at a subsequent Board meeting, as new business or otherwise, for a least 180 days from the date of adoption or defeat unless a motion to place the proposition on the agenda is approved (**debatable**) (2/3 of quorum).*
- (l). *Citizens/Guests. All guests and/or citizens signed up to speak regarding an agenda item will be limited to three (3) minutes for their presentation or comments regarding the subject agenda item. Should a guest or citizen arrive after the sign-up sheet has been retrieved but prior to an agenda item being called, such citizen or guest shall be afforded the opportunity to address the agenda item. Questions or comments from a member of the Board directed to the guest or citizen shall not be counted against the three (3) minute time limitation. (Res No. 7669, §1, 6-07-2011)*
- (m) *Effect of Table-Lack of Motion or Second. If an agenda item is tabled or fails for lack of a motion or second, no discussion will be permitted by the Board or members or the audience and the Board immediately proceeds to the next item on agenda.(Res No. 7669, §1, 6-07-2011)*
- (n) *Audience Conduct. At the beginning of the regular meetings, the presiding officer (Mayor) will caution the audience to not make verbal outbursts or any other disturbances to the order of the meeting. (Res No. 7669, §1, 6-07-2011)*
- (o) *Cell Phones. Cell phones are to be silenced during Board meetings.(Res No. 7669, §1, 6-07-2011)*
- (p) *Agenda Meeting - No Debate. Citizen or audience comments will not be allowed at Board agenda meetings. Furthermore, the purpose of an agenda meeting is not for debate, but rather to provide the Board with sufficient information from City staff to determine whether or not an item will be placed on the agenda for an upcoming Board business meeting. Should the Board request additional information from City staff, it shall be included in the packet compiled for the purpose of the business meeting. (Res No. 7669, §1, 6-07-2011)*

- (q) *Point Of Order.* If a Board member calls for point of order, all discussion will cease until order is restored.(Res No. 7669, §1, 6-07-2011)
- (r) *Public Commentary (Non-Agenda Items).* After adjournment of the business meeting, the Board will allow a twenty-one (21) minute period for Public Commentary in which each citizens/guests can speak for a total of three (3) minutes on any subject pertaining to city business including items for which they could not speak due to a failure of a motion. Persons will speak in the order in which they are recognized by the presiding officer (Mayor).(Res No. 7669, §1, 6-07-2011)
- (s) *Reference Material.* In addition to the forgoing procedural guidelines, the Board may refer to the "Procedural Rules for Municipal Officials" published by the Arkansas Municipal League (Res No. 7669, §1, 6-07-2011)

2-1-6.2. Voting.

Any member who is not present and at his or her seat, may not have his or her voted counted. In the event a member or members find it necessary to absent themselves from the board chambers for any reason, the quorum will be reduced accordingly. However, no business may be transacted by less than four (4) members of the board. In the event a member is absent from the board chambers, the mayor may call three distinct times for the member to return, after which the vote is to be immediately called. All ordinances are required to have a motion, second, and majority vote of the quorum to be placed on the floor for their appropriate reading.

2-1-6.3. Changing of a vote.

Any director may, immediately after a vote and before the next order of business, ask that his or her vote be changed; but only so long as the change does not affect the outcome of the vote. In the event the requested change would affect the outcome of the vote, a motion of reconsideration by a prevailing member would be appropriate. A plurality shall never constitute a majority.

2-1-6.4. Consent agenda.

Noncontroversial items are to be placed on the consent agenda. If two (2) members object to an item on the consent agenda, the mayor shall remove same from the consent agenda and place it on the regular calendar.

2-1-6.5. Debate.

When a board member desires to speak, the member shall respectfully address himself or herself to the mayor and, upon recognition, he or she may address the board. No board member can proceed until recognized by the mayor, and the board member must confine himself or herself to the question on the floor. A five-minute time limit will be established for each board member to speak on each agenda item. However, such time limit will not include responses to questions posed by other board members and citizens.

2-1-6.6. Floor.

Where a board member desires to interrupt a member having the floor, he or she must first obtain recognition of the mayor and permission of the person having the floor; and where so recognized and such permission is granted, he or she may ask questions of the member occupying the floor but shall not interrogate or otherwise badger the member having the floor; a board member having the floor may not yield it to another for any purpose.

2-1-6.7. Decorum.

Normal conformity to good manners and taste is to be expected of each board member. Members are to avoid references to individual personalities and name calling. Members should extend to one another courtesies which they wish for themselves.

2-1-6.8. Seating.

All board of directors' regular meeting will include a seating arrangement in district order starting with district 1 and ending with district 6. The mayor shall sit in the middle of the seating arrangement with the city attorney and city manager seated on each side of the mayor and the city clerk adjacent to the city manager.

2-1-6.9. Agenda meetings.

The Mayor is responsible for establishing the agenda for each regular meeting of the Board of Directors. However, he/she shall solicit input from each Board Member at bi-monthly agenda meetings before finalizing the agenda. Board Members are not required to attend the agenda meetings. These meetings will be held on the Tuesday prior to each regular Board Meeting at 4 p.m. to discuss the draft agenda, which will be distributed at this meeting. To avoid confusion and misunderstanding, drafts of the agenda will not be distributed prior to the agenda meeting. The agenda meetings shall be video/audio recorded and broadcasted via tape-delayed on the following Thursday at 7:00 p.m., on Channel 15, Government Access Channel. (Res. No. 6655 (I), 8-6-07)(Res. No. 8114, §1, 12-18-2012)

2-1-6.10. Work sessions.

The Board shall hold work sessions on an as-needed basis to discuss items that may come before the Board in the future. These work sessions shall be informal meetings, and no vote shall be taken at these meetings. The dates for these meetings shall be determined by the Mayor after polling each Board Member to determine their availability. (Res. No. 6655 (J), 8-6-07)

(Res. No. 5909, 6-6-05, Res. No. 6655 (I), 8-6-07, Res No. 7669, §1, 6-07-2011)

Editor's note: §2-1-6 was adopted by Resolution, but included in the Code of Ordinances due to its permanent nature.

2-1-7 Special Called Meetings

- A. The Mayor or a majority of the membership of the Board may call special meetings of the Hot Springs Board of Directors at any time upon at least twenty-four (24) hours notice to the representatives of the newspapers, radio stations, and television stations, if any, located in Garland County and any news media located elsewhere that cover regular meetings of the Hot Springs Board of Directors and that have requested to be so notified of emergency or special meetings; provided further, that such notice shall be given as far in advance as possible, consistent with the nature and immediacy of the purpose requiring the calling of a special meeting.
- B. The manner of notification prescribed by this ordinance for the calling of such a special meeting of the Hot Springs Board of Directors shall be by telephone, voicemail, email, and/or text message (cellular phone); notice may also be given verbally at any regular or special meetings of the board. Provided further, absent board members shall be notified by one of the aforementioned methods, which shall constitute due and timely notice to the members.
- C. The notice of any special meeting of the Hot Springs Board of Directors shall specify the subject(s), date, time, and location of such meeting; only such business delineated in the notification may be considered at said special called meeting. Said notice shall have attached thereto a copy of all proposed ordinances or resolutions, if any, to be considered at such a special called meeting, without which the subject or subjects shall not be considered.

(Ord. No. 6078, §§1-3, 6-16-2015)

2-1-8. Reserved.

2-1-9. Filling a vacancy on the board of directors - Policy.

That whenever a vacancy shall occur, by any reason, in the office of director or mayor, the remaining directors (and mayor, as the case may be) shall consider applicants and elect a person to fill said vacancy in the following manner:

- (a) *All persons wishing to be considered for said vacancy shall be qualified electors of the jurisdiction being sought to represent (district in case of a director or citywide in the case of the mayor) and shall submit the following to the office of the city clerk within a time frame to be prescribed by the remaining board members at the time of the vacancy:*
 - (1) *An application in substantially the same form as that required for city boards, commissions, and advisory committees;*
 - (2) *A statement of financial interests and any other ethics forms required of elected candidates for the office of director or mayor, as the case may be;*
 - (3) *A petition, in substantially the same form as that required by A.C.A. § 14-47-110(a)(3)(B), signed by not less than fifty (50) qualified electors of the jurisdiction within which the vacancy exists; and*
 - (4) *A personal resume and any other information the applicant wishes to submit in support of his/her application.*
- (b) *Upon expiration of the established application deadline, the board shall meet in executive session to review the applications and determine one or more applicants to consider for personal interviews.*
- (c) *At a time set by the board of directors, the board shall meet and conduct personal interviews with those selected for such interviews.*
- (d) *Upon the conclusion of the personal interviews and at a time set by the board, the board shall vote by secret ballot(s) for a person to fill the vacancy, a majority of the remaining board members being necessary for appointment.*
- (e) *Upon conclusion of the balloting process, the city attorney shall prepare a resolution confirming the appointment of the person so selected and the board shall consider said resolution at the earliest possible board meeting being duly announced for such purpose. Once confirmed, the person so named shall take the oath of office required by the Arkansas Constitution, Article 19, §20, and thereafter take office immediately.*

It is the intention of the board to establish policies that are consistent with state law. To that end, any appointment confirmed under this resolution shall entitle the confirmed appointee to serve the remaining unexpired term of the previously vacated office. Furthermore, such appointee shall be at liberty to run to succeed himself/herself at the next regular election for said position.

(Res. No. 7236, §§1,2, 8-18-09)

Editor's note: §2-1-9 was adopted by Resolution, but included in the Code of Ordinances due to its permanent nature.

2-1-10. Authority of mayor-Imposing curfew in emergency; penalty.

(a) The mayor, any time a condition which in his judgment a civil disturbance, riot, insurrection or time of local disaster has arisen or is imminent, said mayor may declare a state of emergency and impose a curfew for such time and for such areas as he deems necessary to meet such emergency. Provided, however, such curfew shall not extend for over a period of forty-eight (48) hours unless extended by a majority vote of the members of the governing body.

(b) No person or persons shall congregate, operate any businesses or be upon the streets or other public ways, unless on official business for the city or state, in any area or areas designated by the mayor as curfew areas in the city during the time of any declared emergency. (Ord. No. 2922, §§ 1, 2, 9-11-67)

(c) The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors. (Ord. No. 4932, § 1, 12-18-00)

2-1-11. Mayor authorized to file a petition for annexation of city-owned property.

The mayor and city clerk are hereby authorized to execute and file a petition with the county court of Garland County, Arkansas, requesting annexation of any city-owned property, which may now or hereinafter be acquired, which is contiguous to the corporate limits of Hot Springs; provided, further, that the city manager or his/her designee is hereby appointed to act on behalf of the city of Hot Springs in presenting the petition to the county court. (Res. No. 2815, 5-24-93)

Editor's note-§2-1-11 was adopted by Resolution, but included in the Code of Ordinances due to its permanent nature.

2-1-12. Rotation of assistant mayor position.

(a) The position of assistant mayor shall be rotated among the membership of the board of directors as follows:

- (1) *Term.* The Assistant Mayor's term shall be for six months commencing on either the first day of January or the first day of July each year.

- (2) *Rotation order.* The Assistant Mayor's position shall be rotated among the directors in the following order: Ward 4, Ward 5, Ward 2, Ward 1, Ward 3, Ward 6. At the first regular board meeting in January and July of each year, the Mayor shall announce the Director who will be serving as Assistant Mayor for that term.
- (3) *Succession.* Should a director not desire or otherwise be unable to serve a term as Assistant Mayor, the next willing Director in the rotation order shall serve. A Director shall not serve two consecutive terms unless there is no other director willing to serve.
- (4) *Acting Mayor.* In the event that both the Mayor and the Assistant Mayor should be absent or disabled from performing their duties, the next willing Director in the rotation order shall serve as Acting Mayor during such absence or disability and no longer. This paragraph (d) shall have no effect on the provisions of (a), (b), or (c) above. (Ord. No. 6191, §1, 3-21-17)

(b) This ordinance shall be effective from and after August 1, 1997, and the first term (Ward 4) shall be from August 1, 1997, until December 31, 1997. (Ord. No. 4638, §§ 1, 2, 6-2-97)

2-1-13. Correspondence and communiques - Mayor authorized to sign.

That the mayor of the city of Hot Springs, as the chief elected official, is hereby authorized to sign certain correspondence and communiques on behalf of the city of Hot Springs upon request by the city manager. Such authority shall extend only to those matters as may be under the authority of the city manager or as not in conflict with the overall polices, procedures and directives of the board of directors. (Res. No. 4579, 1-22-01)

Editor's note-§2-1-13 was adopted by Resolution but included in the Code of Ordinances due to its permanent nature.

2-1-14. Key to the city - Policy.

(a) *Each board member, including the mayor, shall have the opportunity to select up to six individuals each year (maximum of 42 per year) for award and presentation of a "Key to the City."*

(b) *Any individual selected for such a "Key to the City" shall not be related to the board member.*

(c) *Any individual shall be selected at least one week prior to presentation of the "Key to the City" and that all key presentations are open to the general public.*

(d) *The "Key to the City" program shall be evaluated on an annual basis as part of the City's budgetary process.*

(Res. No. 4851, §§1-4, 3-18-02)

Editor's note-§2-1-14 was adopted by Resolution but included in the Code of Ordinances due to its permanent nature.

CHAPTER 2

CITY ATTORNEY

2-2-1. Duty to represent city in court.

It shall be the duty of the city attorney to prosecute all cases before the municipal court; also to prosecute or defend all appeals from the municipal court to the circuit court, in behalf of the city, and to take charge of and represent the city in the civil suits in which it is a party at interest. (Code 1907, § 1)

2-2-2. Furnish legal advice to city and its officers upon request.

It shall be the duty of the city attorney to give such advice to the mayor, council, chief of police and aldermen as they may desire concerning the city ordinances and laws of the state influencing such matters and to perform all legal and professional services as he may be called upon to perform for the city. (Code 1907, § 2)

2-2-3. Ordinances and legal documents, drafting.

It shall also be his duty to draft all ordinances, bonds, contracts, leases, conveyances and other such instruments of writing as may be required by the business of the city, and to furnish written opinions upon subjects of a legal nature submitted to him by the council, and to conduct all law business in which the city may be interested, whenever called upon by the municipal judge in cases of special importance and represent the city in its municipal court. (Code 1907, § 4)

State law reference-A.C.A. 14-43-313, 407, 408.

2-2-4. Travel and Reimbursement

Policies related to City affairs by the City Attorney, for which the costs will be paid by the appropriate City Fund.

- (a) *Travel costs and miscellaneous expenses shall be paid at the rates and in accordance with the procedures established in the administrative policy and associated forms entitled, "Travel Procedures for City Employees and City Officials," as may now or hereafter be in effect (January 30, 2013, edition attached and incorporated herein by reference).*
- (b) *Any and all such expenses and/or reimbursements paid by the Finance Director shall be subsequently reviewed for appropriateness on a monthly basis by a three (3) member committee of the Board of Directors, consisting of the Mayor, the Assistant Mayor, and the immediate past Assistant Mayor. In the event that the committee shall determine that the payment of any such expense and/or reimbursement is inappropriate, then the recipient thereof shall immediately refund same to the City.(Res. No. 8496, §2, 7-1-2014)*

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CHAPTER 3**CITY MANAGER****2-3-1. Creation of position.**

The creation of the position of city manager is hereby confirmed. (Ord. No. 4047, § 1, 1-22-90)

2-3-2. Appointment.

The city manager shall be appointed by a majority vote of the board of directors for an indefinite term. The city manager shall be chosen by the board solely on the basis of executive and administrative qualifications with special reference to actual experience in or knowledge of accepted practice in respect to the duties of the office hereinafter set forth. At the time of this appointment, the appointee need not be a resident of the city or state but, during the manager's tenure of office, shall reside within the city. No member of the board of directors shall receive such appointment during the term for which the director shall have been elected or appointed nor within three (3) years after the expiration of the member's term of office as director. (Ord. No. 4047, § 2, 1-22-90)

2-3-3. Removal.

The board of directors may remove the city manager at any time by a majority vote of its members. Removal shall be in accordance with the terms and conditions of the city manager's employment agreement, if any, which may now or hereinafter be in effect at the time of said removal. (Ord. No. 4047, § 3, 1-22-90)

2-3-4. City manager-Powers and duties.

The city manager shall be chief administrative officer of the city, may head one (1) or more departments and shall be responsible to the board of directors for the proper administration of all affairs of the city. To that end, the city manager shall have power and shall be required as follows:

- (a) *Residence.* During his/her employment, the city manager shall reside in the city.
- (b) *Full-time employment.* During his/her employment, the city manager shall devote his/her full time to the business of the city.
- (c) *Fidelity bond.* The city manager shall furnish such fidelity bond or bonds as may be required by law, and the city shall pay all premiums therefor.

State law reference-A.C.A. 14-47-101 et seq; 14-61-101 et seq.

- (d) *Supervision of employees and organizational structure.* The city manager shall supervise and control all administrative departments, agencies, offices and employees of the city subject to such conditions and exceptions, if any, as may be determined from time to time by the board of directors. Said supervision and control shall include but is not limited to appointment and, when necessary for the good of the city, suspension and removal of all officers and employees of the city except as otherwise provided by any existing or future laws of the State of Arkansas and except authorizing the head of a department or officer to appoint, suspend or remove subordinates in such department or office. The city manager may also delete, reclassify, consolidate or combine positions, offices, units, sections, departments or divisions under his/her jurisdiction provided such action is within the budgeted funds available at the time of such action. The authorized number of employment positions shall be as established by the annual budget as approved by the board of directors or as otherwise established or amended by resolution of the board of directors.

State law reference-A.C.A. 14-42-110(b)

- (e) *Nomination and removal of appointed/elected officials.* The city manager shall nominate, subject to confirmation by the board of directors, persons to fill all vacancies at any time occurring in any office, employment, board, authority or commission to which the board of directors' appointed power extends by state law. The city manager may remove from office all officials and employees (including, without limiting the foregoing, members of any board, authority or commission) who, under existing or future laws of the State of Arkansas whether applicable to cities under the aldermanic or management form of government, may be removed by the city's legislative body provided such removal by the city manager is approved by the board of directors; but where, under the statute applicable to any specific employment or office, the incumbent may be removed only upon the vote of a specified majority of the city's legislative body, the removal of such person by the city manager may be confirmed only upon the vote of such specified majority of the members of the board of directors. However, the provisions of this section shall have no application to offices and employment controlled by any civil service lawfully in effect in the city; and the municipal judge of the city shall be elected and appointed in the manner now or hereafter prescribed by law.

Editor's note-Resolution 3112 adopted 1/9/95 directs the city manager to establish a procedure for the selection of nominees for various boards, committees and commissions.

- (f) *Inquiry into conduct of municipal offices.* The city manager shall inquire into the conduct of municipal offices, departments and agencies which are subject to the control of the board of directors, in which connection he/she shall be given unrestricted access to the records and files of any such office, department or agency and may require written reports, statements, audits and other information from the executive head of such office, department or agency.

(g) *Enforcement of obligations.* The city manager shall represent the board of directors in the enforcement of all obligations in favor of the city or its inhabitants, which are imposed by law or under the terms of any public utility franchise upon any public utility.

(h) *Purchases, payments, sales, exchanges and transfers.*

(1) *Purchases.* He/she shall contract for and purchase or issue purchase authorizations for supplies, material, and equipment for the various offices, departments, and agencies of the city government, and he/she may contract for, or authorize contracts for services to be rendered to the city or for the construction of municipal improvements. Provided that, before making any purchase of or contract for goods or services where the cost to the city of the transaction, excluding taxes and freight, exceeds sixty thousand dollars (\$60,000), opportunity for competitively bidding shall be given under such rules and regulations as the board of directors may, by ordinance, prescribe and the transaction must also be approved by the city manager and the board of directors. Under exceptional circumstances, the board may waive competitive bidding for contracts exceeding sixty thousand dollars (\$60,000) by ordinance. (Ord. No. 6149, § 1, 5-3-2016)

(2) *Claims.* He/she may approve for payment out of funds previously appropriated for that purpose or disapprove any bills, debts or liabilities asserted as claims against the city up to a maximum amount of sixty thousand dollars (\$60,000); and the payment or disapproval of each bill, debt or liability exceeding sixty thousand dollars (\$60,000) shall require the confirmation of the board or of a committee of directors created by the board for such purposes. (Ord. No. 6149, § 3, 5-3-2016)

Cross reference-§ 9-3-4, sewer backwater damage claims policy.

(3) *Sales and exchanges.* He/she may sell or exchange any municipal supplies, materials or equipment provided that no item or lot (to be disposed of as one [1] unit) of supplies, materials or equipment shall be sold without competitive bidding unless the city manager shall certify in writing that in his/her opinion the fair market value of such item or lot does not exceed sixty thousand dollars (\$60,000). (Ord. No. 6149, §4, 5-3-2016)

Cross reference-§ 2-6-9, disposal of real property.

- (4) *Transfer of material/equipment.* He/she may transfer to any office, department or agency or he/she may transfer from any office, department or agency to another office, department or agency any materials and equipment.
- (5) *Purchasing department.* There is hereby created a purchasing department to be comprised of personnel approved by the city manager to perform the duties outlined in this subsection on behalf of the city manager. Said department may be a subsection of an existing department or as otherwise established by the city manager.
- (i) *Budget.* The city manager shall prepare the municipal budget annually and shall submit it to the board of directors for its approval or disapproval, and he/she shall be responsible for its administration after adoption.
- (j) *Annual report.* The city manager shall prepare and submit to the board of directors within sixty (60) days after the end of each fiscal year a complete report on the finances and administrative activities of the city during such fiscal year.
- (k) *Advice of financial condition.* The city manager shall keep the board of directors advised of the financial condition and future needs of the city and make such recommendations as to him/her may seem desirable.
- (l) *Municipal warrants.* The city manager, together with either the city clerk or city treasurer, shall sign all municipal warrants. Whenever a vacancy shall occur in the office of the city manager, city clerk or city treasurer, municipal warrants may be signed by any two (2) of the following officials: city manager, city clerk, city treasurer, finance director, deputy city manager and acting city manager. (Ord. No. 5762, §1, 1-19-10)
- (m) *Other duties and powers.* The city manager shall perform such additional duties and exercise such additional powers as may by ordinance be lawfully delegated to him/her by the board of directors or which may be required of him/her by any applicable law, administrative regulation or judicial decision of the city, the State of Arkansas or the United States of America. Also, he/she shall have all powers (except those involving the exercise of sovereign authority and those specifically delegated by statutes to the mayor under the city manager form of government) which, under statutes applicable under the aldermanic form of government or under ordinances and resolutions of the city in effect at the time of its reorganization, may be vested in the mayor.
- (n) *Recommendations.* The city manager shall recommend to the governing body (from time to time) adoption of such measures as may be deemed necessary or expedient for the health, safety or welfare of the community or for the improvement of administrative services.

- (o) *Board meetings.* The city manager shall attend all meetings of the board of directors unless excused therefrom and take part in the discussion of all matters coming before the board. The city manager shall be entitled to notice of all regular and special meetings of the board.
- (p) *Enforcement.* The city manager shall see that all laws and ordinances are duly enforced. (Ord. No. 4047, § 4, 1-22-90)
- (q) *Emergencies.* In case of accident, disaster or other circumstance creating an emergency, the city manager may award contracts and make purchases for the purpose of meeting said emergency. Whenever an emergency purchase or contract is required or made, the city manager shall execute a certificate describing the nature of the emergency and the necessity for such action together with an itemized account of all expenditures. If the amount of the emergency purchase or contract does not meet the requirements for competitive bidding as established by Section 4.8.1, city manager shall distribute a copy of the certificate to the board of directors for informational purposes. If the amount of the emergency purchase or contract requires competitive bidding as established by Section 4.8.1, the city manager shall submit the certificate and an ordinance waiving competitive bidding to the board of directors for consideration at a regular board meeting as soon as practical following the emergency. (Ord. No. 6149, §2, 5-3-2016)

2-3-5. Board inquiries.

Neither the board of directors nor any member thereof shall give directives to any subordinates of the city manager either publicly or privately; however, the board of directors reserves the right to inquire into the conduct of any city office or department. (Ord. No. 4391, § 1, 5-16-94)

2-3-6. Compensation.

The city manager shall receive such compensation as the board of directors shall fix from time to time and in accordance with any employment agreement which may now or hereinafter exist. (Ord. No. 4047, § 6, 1-22-90)

2-3-7. Acting city manager.

Should the city manager be temporarily absent from the city, the deputy city manager or such other city employee, as designated by the city manager, shall act as city manager during such temporary absence. If the city manager is otherwise absent or is unable to perform his or her duties, if the board of directors suspends the city manager, or if there is a vacancy in the office of city manager, the board, by resolution, may appoint an acting city manager to serve until the city manager returns, until his or her disability or suspension ceases, or until another city manager is appointed and qualified, as the case may be. (Ord. No. 5761, §3, 1-19-10)

2-3-8. Travel and Reimbursement

Policies related to City affairs by the City Manager, for which the costs will be paid by the appropriate City Fund.

- (a) *Travel costs and miscellaneous expenses shall be paid at the rates and in accordance with the procedures established in the administrative policy and associated forms entitled, "Travel Procedures for City Employees and City Officials," as may now or hereafter be in effect (January 30, 2013, edition attached and incorporated herein by reference).*
- (b) *Any and all such expenses and/or reimbursements paid by the Finance Director shall be subsequently reviewed for appropriateness on a monthly basis by a three (3) member committee of the Board of Directors, consisting of the Mayor, the Assistant Mayor, and the immediate past Assistant Mayor. In the event that the committee shall determine that the payment of any such expense and/or reimbursement is inappropriate, then the recipient thereof shall immediately refund same to the City. (Res. No. 8496, §2, 7-1-2014)*

2-3-9. Reserved**2-3-10. Negotiation Of The Disposal Of Improvement District Tax Delinquent Properties.**

(a) *The city manager, with the advice and consent of the city attorney, is hereby authorized to negotiate the disposal of certain properties owned or upon which the city has a lien due to the nonpayment of improvement district taxes following the closure of said districts. In this regard, the city manager may accept offers from persons desiring to redeem said improvement district tax-delinquent properties in any amount deemed reasonable by the city manager given the assessed value of the property, the amount of property tax redemption paid by the person(s) making the offer and other factors relevant to the offer or the overall value of the property.*

(b) *The mayor is hereby authorized to execute a quitclaim deed on behalf of the City of Hot Springs upon payment of the delinquent improvement district taxes as negotiated.*

(c) *Any funds received from the settlement of improvement district taxes shall be paid to the water fund in the case of water improvement districts and to the sewer fund in the case of sewer improvement districts.*

(Res. No. 4604, §§1-3, 3-5-01)

Editor's note-§2-3-10 was adopted by Resolution but included in the Code of Ordinances due to its permanent nature.

CHAPTER 4

CITY CLERK/CITY TREASURER

2-4-1. City Clerk/City Treasurer - Duties.

2-4-1.1. City Clerk - Duties.

(a) The office of city clerk shall be held by such individual as designated by the city manager. The duties of such position shall include:

- (1) All duties imposed by statute upon the city clerk;
- (2) Such other duties and responsibilities as assigned by the city manager, including, but not limited to, the supervision of such municipal departments or offices and employees as may be determined by the city manager; and
- (3) The position of city clerk may be combined with such other position or office as may be determined by the city manager.

2-4-1.2. City Treasurer - Duties.

The office of city treasurer shall be held by such individual as designated by the city manager. The duties of such position shall include:

- (1) All duties imposed by statute upon the city treasurer;
- (2) Such other duties and responsibilities as assigned by the city manager, including, but not limited to, the supervision of such municipal departments or offices and employees as may be determined by the city manager; and
- (3) The position of city treasurer may be combined with such other position or office as may be determined by the city manager.

(Ord. No. 5761, §§1, 2, 1-19-10)

Cross reference-City clerk's duty in preparation of board meeting agenda, § 2-1-4(b).

State law references-A.C.A. 14-43-313, 14-43-506, 14-43-507, 14-43-508, A.C.A. 14-43-406.

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CHAPTER 5

PUBLIC FINANCE

2-5-1. Petty cash fund.

The Finance Department is hereby authorized to establish and maintain a petty cash fund in the amount of eight thousand dollars (\$8,000.00) in accordance with the provision of A.C.A. §14-59-106. (Ord. No. 5177, § 1, 4-7-03)

Cross reference-Purchasing procedures, § 2-6-2 et seq.

2-5-2--2-5-5. Reserved.

Editor's note-"Longevity pay" formerly codified in § 2-5-2 has been moved to § 2-11-3. The public document fee schedule previously codified in § 2-5-5 has been moved to § 2-12-1.

2-5-6. Investment policy.

2-5-6.1. Investment policy - Purpose.

The purpose of this policy is to provide guidelines for investment of city of Hot Springs operating funds to preserve the safety of principal, to maintain adequate cash flow, and to maximize interest earnings.

2-5-6.2. Investment policy - Scope.

This policy applies to the investment of city of Hot Springs operating funds not needed for immediate expenditures. This policy does not govern the investment of employee retirement or pension funds or proceeds of bond issues.

2-5-6.3. Investment policy - Standards and objectives.

Investments will be made within the constraints of applicable state laws and this policy, taking into consideration liquidity needs of the city. Investment decisions will be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived. Investment of the funds of the city of Hot Springs shall be directed to the primary objective of safety of principal; the secondary objective shall be maintaining adequate cash flow; and the final objective shall be maximizing investment yield.

Except for cash in certain restricted and special funds, the city may consolidate moneys from individual funds to maximize interest earnings. Investment income will be allocated to the various funds based on each fund's participation.

2-5-6.4. Investment policy - Delegation of authority and responsibility.

Management of the investment of city funds regulated by this policy shall be the responsibility of the city treasurer as directed by the city manager. In the absence of the city treasurer, the finance director, deputy city manager and/or the city manager are hereby authorized to act as the city treasurer. The city may contract for the services of an independent investment advisor, or other expert advisor(s) to invest all or a portion of city funds regulated by this policy. The independent investment advisor shall be required to have an office within the city of Hot Springs.

The city treasurer is hereby authorized to: open and close accounts with financial institutions in the name of the city; make electronic transfers of funds for the city; make deposits of funds for the city; execute collateral, depository and investment agreements for the city; and take any other such actions needed to carry out their responsibilities for the depositing and investing of the city's funds as authorized by state statutes and this policy.

The city treasurer, acting within the intent and scope of this investment policy, shall be relieved of personal responsibility for an individual securities credit risk or market risk. Officers and employees involved in the investment process shall refrain from personal business activities that conflict with proper execution of the investment program or impair their ability to make impartial investment decisions.

The city manager shall establish operating procedures to implement this investment policy.

2-5-6.5. Investment policy - Authorized investments.

- (a) *The city will invest only in book entry securities.*
- (b) *The city may, without limitation, invest in the following instruments, provided, however, that at no time shall assets of the city be invested in any instrument or security not authorized for investment by A. C. A. § 14-58-309 (Act 1341 of 1999), and further defined in A.C.A. § 23-47-401 (Investment Powers and Limitations), copy attached or by the Local Government Joint Investment Trust Act, A. C. A. § 19-8-301 et seq., (Local Government, Trusts) as they may from time to time be amended:*
 - (1) *Direct obligations of the United States Government;*
 - (2) *Obligations of agencies and instrumentalities created by act of the United States Congress and authorized thereby to issue securities or evidences of indebtedness, regardless of guarantee of repayment by the United States Government;*
 - (3) *Obligations the principal and interest of which are fully guaranteed by the United States Government or an agency or are instrumentality created by an act of the United States Congress and authorized thereby to issue such guarantee;*

- (4) *Obligations the principal and interest of which are fully secured, insured, or covered by commitments or agreements to purchase by the United States Government or an agency or are instrumentality created by an act of the United States Congress and authorized thereby to issue such commitments or agreements;*
 - (5) *General obligations of the states of the United States and of the political subdivisions, municipalities, commonwealths, territories or insular possessions thereof (general obligation bonds);*
 - (6) *Obligations issued by the Arkansas State Board of Education under authority of The State Constitution or applicable statutes;*
 - (7) *Pre-refunded municipal bonds, the principal and interest of which are fully secured by the principal and interest of a direct obligation of the United States Government;*
 - (8) *Certificates of deposit with banks authorized by state law to receive deposits of public funds and with which the city has both a depository agreement and a collateral agreement;*
 - (9) *Repurchase agreements that are fully collateralized by direct obligations of the United States Government, provided that any such repurchase agreement shall provide for the taking of delivery of such collateral directly or through an authorized custodian;*
 - (10) *Securities of, or other interest in, any open-end type investment company or investment trust registered under the Investment Company Act of 1940, and which is defined as a "money market fund" under 17 CFR § 770.2a-7, provided that the portfolio of such investment company or investment trust is limited principally to United States Government obligations and to repurchase agreements fully collateralized by United States Government obligations, and, provided further that any such investment company or investment trust shall take delivery of such collateral either directly or through an authorized custodian; and*
 - (11) *Local government trusts.*
- (c) *The city may invest no more than twenty percent (20%) of the pooled investments in the following investment types and in accordance with certain limitations described in Section 2-5-6.7, Investment Parameters:*
- (1) *Corporate debt obligations (including commercial paper) of any corporation, with the following credit ratings: investment of city funds in corporate bonds will be limited to those rated as Single A minus or better by both Moody's Investor Service and Standard and Poor's; investment of city funds in commercial paper will be rated A-1/P-1;*

- (2) *Securities of, or other interests in, an open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, provided that the portfolio of such investment company or investment trust is limited to the United States Government obligations and to repurchase agreements collateralized by the same type of collateral used to collateralize other city deposits, and provided further that any such investment company or investment trust shall take the delivery of such collateral either directly or through an authorized custodian.*
- (d) *Other Provisions.*
- (1) *The city treasurer may establish an account with the Federal Reserve Bank to purchase U. S. Government Securities directly from the U. S. Treasury.*
- (2) *Any Arkansas state legislative action that provides for additional investment vehicles or further restricts investment vehicles will be incorporated into the city's investment policy and will supersede any previous language.*
- (3) *The city will be allowed to hold to maturity any investments existing at the time of enactment of this policy. Reinvestment of such funds will be in accordance with this policy.*
- (4) *The city manager may set additional limitations on the parameters for various types and concentration of investments. Operating procedures will define requirements to implement this policy.*

2-5-6.6. Investment policy - Investments not authorized.

The following investment vehicles, authorized by Act 1341 Of 1997 are not considered suitable investments for city of Hot Springs funds:

- (a) *Warrants of political subdivisions of the State of Arkansas and municipalities thereof having maturities not exceeding one (1) year.*
- (b) *The sale of federal funds with a maturity of not more than one (1) business day.*
- (c) *Industrial development bonds for corporate obligators issued through any state of the United States or any political subdivision thereof.*
- (d) *Revenue bond issues of any state of the United States or any municipality or any political subdivision thereof.*

- (e) *Securities or other interests issued, assumed or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the European Bank for Reconstruction and Development, the Asian Development Bank or the African Development Bank.*
- (f) *Uninsured, or otherwise unsecured, demand, savings, or time deposits or accounts of any depository institution chartered by the United States, any state of the United States, or the District of Columbia.*

2-5-6.7. Investment policy - Investing parameters.

- (a) *Diversification. The city investments regulated by this policy shall be diversified by:*
 - (1) *Limiting investments to avoid over concentration in securities from a specific issuer to five percent (5%) of the cost basis of the city's portfolio at the time of purchase, a limit of fifteen percent (15%) of the cost basis of the city's portfolio will apply to each business sector as defined by any recognized rating agency (excluding U.S. Treasury securities and collateralized certificates of deposit);*
 - (2) *Investing in securities with varying maturities, and*
 - (3) *Continuously investing a portion of the portfolio in readily available funds to ensure that appropriate liquidity is maintained.*
- (b) *Maximum Maturities. The city will attempt to match investment maturities with cash flow requirements and will utilize investments in readily available funds, when needed, to meet ongoing obligations. The city anticipates a range of maturities of thirty (30) days to five (5) years. The city will invest in securities maturing more than five (5) years from the date of purchase only when the funds are easily defined to be used after five (5) years.*

2-5-6.8. Investment policy - Allowed institutions.

Authorized investments and security transactions on behalf of the city by an investment advisor, or the city itself, will be conducted only with financial institutions and broker/dealers who have offices within Garland County unless otherwise authorized in writing by the city manager. A list of authorized financial institutions and broker/dealers to be used by an investment advisor, or the city itself, will be maintained by the city treasurer and provided to such investment advisor on a mutually agreed upon basis. Security broker/dealers on the list will meet or exceed the capital adequacy standards set by the Federal Reserve Bank of New York and may include dealers designated as primary dealers by the Federal Reserve Bank of New York or regional dealers that qualify under Securities and Exchange Commission (SEC) Rule 15C3-1 (Uniform Net Capital Rule).

2-5-6.9. Investment policy - Safekeeping and collateralization.

- (a) *Investment of city funds, including cash held for investment, managed under contract of services by an investment advisor, or other expert advisor(s), will be placed with a third party custodian approved by the city. All trades, where applicable, will be executed by Delivery vs. Payment (DVP) to ensure that securities are deposited in an eligible financial institution prior to the release of funds.*
- (b) *The custodian will make reports as requested by the city or advisor(s) and will be accountable for the assets held by the custodian for the city's account. The custodian will be required to maintain an office in Garland County, Arkansas.*
- (c) *Collateralization will be maintained as required by state law and procedures established by the city. Demand deposits, time deposits, repurchase agreements, and any other investments requiring collateralization shall be collateralized at a level of 102 percent of the market value of principal and accrued interest, less the amount insured by the FDIC.*

2-5-6.10. Investment policy - Reporting.

Reports will be prepared monthly, or as may be deemed necessary, by the city manager. Reports shall illustrate the results of the investment activity. Such reports shall be made available for review to the board of directors, any investment advisory or ad hoc committee which may be established and other interested parties upon request.

(Res. No. 4691, § 1, 6-18-01)

State law reference-This policy shall be used in conjunction with the following state statutes: A.C.A §14-58-309, A.C.A §19-8-101 et. seq., and A.C.A §23-47-401.

Editor's note-§2-5-6 was adopted by Resolution, but included in the Code of Ordinances due to its permanent nature.

2-5-7. Financial management policies.

The following financial management policies are adopted effective January 1, 1998. Provided, further, that the city manager is hereby authorized to revise said policies as necessary during the course of day-to-day operations. Any such revisions made by the city manager shall be distributed to the board of directors. Revisions which amount to a material change to the overall intent or spirit of the following policies shall be submitted to the board of directors.

2-5-7.1. Financial management policies - Purpose.

The following guidelines are hereby established to assist management and the board of directors when making financial decisions about the future of Hot Springs. In this manner, the board of directors will be able to view the present approach to financial management from an overall, long-range vantage point.

Many financial policies have been established in various written documents over the years. Consolidating these policies into one document avoids conflicting, inconsistent or incomplete policies.

2-5-7.2. Financial management policies - Operating budget policies.

The city will use a decentralized operating budget process. All departments will be given an opportunity to participate in the budget preparation process. Once the budget is adopted, each department is responsible for controlling expenses so that the budget is not exceeded.

Annual fixed budgets will be adopted for all operating funds. The budget must be balanced for all budgeted funds. Total anticipated revenues plus that portion of beginning fund balance in excess of the required fund balance reserve must equal total estimated expenditures for all budgeted funds.

The city will attempt to maintain an unreserved fund balance in the general fund to pay expenditures caused by unforeseen emergencies and for cash flow purposes. The unreserved fund balance shall be maintained at an amount which represents the approximate equivalent of 16.5% of annual operating expenses.(Res. No. 8009, 8-21-2012)

All appropriations lapse at year-end. Any encumbered appropriations for major capital projects and capital assets at year-end may be reappropriated by the board of directors in the subsequent year.

All budgets shall be adopted on a basis consistent with generally accepted accounting principles as promulgated by the Governmental Accounting Standards Board. Revenues are budgeted when they become measurable and available and expenditures are charged against the budget when they become measurable, a fund liability has been incurred, and that liability will be liquidated with current resources.

The budget shall be adopted at the legal level of control which is major classification by department within each individual fund. However, the finance director shall have the authority to transfer appropriations within a department within the same fund from one line item to other line items within the same major classification. Transfers from one major classification to another major classification (i.e., from personnel to services) must be approved by the city manager. Transfers from one department to another within the same fund must also be approved by the city manager. (Res. No. 8309 §2, 9-17-2013)

Transfers from the General Fund into the Police Fund, Fire Fund and Street fund must be approved by the City Manager, provided the transfers are in compliance with local, state and federal regulations. (Res. No. 8309 §3, 9-17-2013)

The finance department will maintain a budgetary control system to ensure adherence to the budget and will prepare timely expenditures and encumbrances with budgeted amounts.

No new or expanded services shall be implemented without implementing trade-offs of expenses or revenues at the same time. This applies to personnel, equipment and any other peripheral expense associated with the service.

The enterprise operations of the city are to be self-supporting. Budgets should be based on sound long range financial planning. Each year's budget should properly incorporate approved rates, operating expenses, debt service coverage (where applicable), a capital improvement plan, depreciation and adequate reserves. (Res. No. 8309 §4, 9-17-2013)

The city will maintain its physical assets at a level adequate to protect the city's capital investment and minimize future maintenance and replacement costs. The budget will provide for the adequate maintenance and the orderly replacement of the capital plan and equipment from current revenues where possible.

The city will recover indirect costs from all grants, contracts and reimbursements where allowable and appropriate. The plan for cost recovery shall be in accordance with generally accepted accounting principles. (Res. No. 3841, 12-15-97)

The city will use a consolidated cash accounting for all operating funds. Banking services for the consolidated cash fund and other banking services will be secured through a formal competitive request for proposals process. Any banking services contract resulting from the RFP selection process shall be approved by the board of directors. The contract term shall be one year with an option for four additional one-year terms, subject to annual approval by the board of directors. (Res. No. 4274, 10-4-99)

2-5-7.3. Financial management policies - Policy waiver.

The board of directors reserves the right to waive any provisions of this policy in unusual or unique circumstances when strict adherence would not be in the best interest of the public generally. (Res. No. 3841, 12-15-97)

2-5-7.4. Financial management policies - Capital assets.

The city will set a threshold of \$5,000 and a minimum life of two years for capitalization of fixed assets in accordance with the recommended practices established by the Governmental Finance Officers Association (GFOA). The financial accounting for fixed assets does not relieve department heads from the responsibility of controlling materials and equipment that are valued under \$5,000. (Res. No. 5678, 11-1-04)

Editor's note-§2-5-7 was adopted by Resolution, but included in the Code of Ordinances due to its permanent nature.

2-5-8. Funding criteria - Outside agency contracts.

The following criteria shall be considered for an award of contract and receipt of funds from the city of Hot Springs.

- (a) *Requests for the upcoming budget year (January – December) shall be received in the office of the city manager each year at such time as established by the city manager as part of the budget preparation process.*
- (b) *The city manager will present funding requests to the board of directors during the annual budget preparation process for the upcoming budget year. Contracts will be awarded to only those agencies or organizations as may be included in each annual city budget as approved by the board of directors.*
- (c) *The request must comply with the Arkansas Constitution (Article 12, Section 5) which states:*

“No county, city, town or other municipal corporation shall become a stockholder in any company, association or corporation; or obtain or appropriate money for, or loan its credit to, any corporation, association, institution or individual.”
- (d) *The services or activities to be performed must be services or activities of a legitimate governmental nature (services which the city might otherwise choose to perform from its own resources).*
- (e) *Any agency considered for funding must:*
 - (1) *Be of a non-profit nature and controlled by a board of directors, the majority of whom must reside in the Hot Springs/Garland County area. A list of the names and addresses of the board of directors and executive director shall be submitted with the application for funding;*

- (2) *Provide with their request current audited financial statements, unless such statements are already on file with the city;*
 - (3) *Provide the name and address of the agency's external auditor with the request for funding, along with a statement of intent and ability to comply with the audit requirement and to operate in a financially sound manner;*
 - (3) *File with the office of the city clerk, an audited financial statement as soon as such statement becomes available following the close of the agency or organization's fiscal year for any year in which city funding is received ; and*
 - (4) *The request must clearly state the services or activities to be performed by the requesting agency on behalf of the city with the funding requested.*
- (f) *Funding for outside agencies shall be divided into two budget categories; economic development agencies and other non-profit agencies as follows:*
- (1) *Economic development agencies shall:*
 - a. *be considered based on an ability to produce new or retain current jobs or offer other economic impact in the Hot Springs/Garland county area;*
 - b. *be funded from year-to-year at a level to be established by the board of directors; and*
 - c. *shall have priority over other agencies in the allocation of budget funds.*
 - (2) *"Other non-profit agencies" shall:*
 - a. *be considered based on a demonstrated benefit to the community and to the taxpayers of Hot Springs;*
 - b. *use city funds for the provision of direct programs or activities and not for administrative or maintenance costs; and*
 - c. *not be funded in an amount exceeding 25% of the organization's total budget.*
- (g) *All agencies receiving funding from the city of Hot Springs shall be subject to the Freedom of Information Act.*
- (h) *All agencies approved for funding must execute a contract or agreement which:*

- (1) *clearly defines the services or activities to be performed by the agency on behalf of the city;*
- (2) *includes the terms and conditions stated herein (audit requirement, FOIA, etc.); and*
- (3) *requires the submission of an annual report indicating the results of the funded program or activities.*

(i) All awards shall be subject to an annual appropriation of funds by the board of directors.

(Res. No. 7524, §1, 9-21-10)

Editor's note-§ 2-5-8 was adopted by Resolution, but included in the Code of Ordinances due to its permanent nature.

Editor's note- Garland County Beautification Commission was repealed by Ord. No. 6192 on April 18, 2017.

2-5-9. Debt policy.

The following debt policy for the City of Hot Springs is hereby adopted.

2-5-9.1. Debt policy - Purpose.

To utilize debt financing which will provide needed capital equipment and infrastructure improvements while minimizing the impact of debt payments on current revenues.

2-5-9.2. Debt policy - Use of debt financing.

Debt financing, to include general obligation bonds, property tax supported bonds, sales tax supported bonds, revenue bonds, lease purchase agreements, and other obligations permitted to be issued or incurred under Arkansas law, shall only be used to purchase capital assets that cannot be acquired from either current revenues or fund balance/retained earnings and to fund infrastructure improvements and additions. The useful life of the asset or project shall exceed the payout schedule of any debt the city assumes.

2-5-9.3. Debt policy - Assumption of additional debt.

The city shall not assume general purpose debt without conducting an objective analysis as to the community's ability to assume and support additional debt service payments. When appropriate, self-supporting revenue bonds shall be issued before general purpose debt.

2-5-9.4. Debt policy - Affordability targets.

(a) *General Obligation and Property Tax Bonds.* The city shall use an objective analytical approach to determine whether it can afford to assume new general purpose debt. This process shall compare generally accepted standards of affordability to the current values for the city. These standards shall include debt per capita, debt as a percent of taxable value, debt service payments as a percent of current revenues and current expenditures, and the level of overlapping net debt of all local taxing jurisdictions. The process shall also examine the direct costs and benefits of the proposed expenditures. The decision on whether or not to assume new debt shall be based on these costs and benefits, the current conditions of the municipal bond market, and the city's ability to "afford" new debt as determined by the aforementioned standards. The city shall strive to achieve and/or maintain these standards at a low to moderate classification. Under no circumstances will the general obligation and property tax supported debt exceed the amount prescribed by Arkansas Statutes.

(b) *Revenue and Sales Tax Bonds.* For the city to issue new revenue bonds, projected revenues, as defined in the ordinance authorizing the revenue bonds in question, shall be a minimum of 125% of the average annual debt service.

2-5-9.5. Debt policy - Debt structure.

The useful life of an asset acquired with debt financing shall equal or exceed the average principal maturity of the debt amortization schedule. The overall structure of a fund's debt should approximate level debt service for revenue bonds. There shall be no "balloon" bond repayment schedules which consist of low annual payments and one large payment of the balance due at the end of the term. There shall typically be at least interest paid in the first fiscal year after a bond sale and principal starting no later than the second fiscal year after the bond issue.

2-5-9.6. Debt policy - Call provisions.

Call provisions for bond issues shall be made as short as possible consistent with the lowest interest cost to the city. When possible, all bonds shall be callable only at par.

2-5-9.7. Debt policy - Sale process.

The city prefers to use a competitive bidding process in the sale of general obligation and property tax supported debt, unless the nature of the issue warrants a negotiated sale. The city shall attempt to award the bonds based on a true interest cost (TIC) basis. For revenue and sales tax bonds, the city has historically used negotiated sale.

2-5-9.8. Debt policy - Rating agencies presentations.

Full disclosure of operations and open lines of communication shall be made to the rating agencies. City staff, with assistance of financial advisors, shall prepare the necessary materials and presentation to the rating agencies. Credit rating will be sought from Moody's or Standard & Poor's as recommended by the city's investment banker and/or financial advisor.

2-5-9.9. Debt policy - Continuing disclosure.

The city is committed to continuing disclosure of financial and pertinent credit information relevant to the city's outstanding securities and will abide by the provisions of Securities and Exchange Commission (SEC) Rule 15c2-12 concerning primary and secondary market disclosure.

2-5-9.10. Debt policy - Debt refunding.

City staff and the financial advisor shall monitor the municipal bond market for opportunities to obtain interest savings by refunding outstanding debt. As a general rule, the present value savings of a particular refunding should exceed 5% of the refunded maturities.

2-5-9.11. Debt policy - Interest earnings.

Interest earnings received on the investment of bond proceeds shall be used to assist in paying the interest due on bond issues, unless otherwise needed to support project requirements or fund debt service reserves, to the extent permitted by law.

2-5-9.12. Debt policy - Lease/Purchase agreements.

Over the lifetime of a lease, the total cost to the city will generally be higher than purchasing the asset outright. As a result, the use of lease/purchase agreements in the acquisition of vehicles, equipment and other capital assets shall typically be used for items that cost \$100,000 or more. Generally, capital asset(s) costing less than \$100,000 will be purchased on a "pay-as-you-go" basis.

(Res. No. 4838, 3-4-02)

Editor's note-§2-5-9 was adopted by Resolution, but included in the Code of Ordinances due to its permanent nature.

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CHAPTER 6

PURCHASING PROCEDURES

2-6-1. Hot Springs Purchasing Ordinance.

2-6-1.1. Purpose.

The purpose of the purchasing ordinance is to establish the rules and regulations for competitive bidding as required by A.C.A § 14-47-138.

2-6-1.2. Purchasing responsibility.

The city manager or such officer(s) and employee(s) as he/she shall designate shall be responsible for the administration of this ordinance. Such officer(s) and employee(s) shall hereinafter be termed Purchasing Agent or Purchasing Division.

2-6-1.3. Purchases Requiring Competitive Bidding

Per A.C.A. §14-47-120 (Powers and duties of city manager), the board is required to establish by ordinance a maximum amount, and each purchase exceeding that amount so established shall be effected after competitive bidding as we have established in this ordinance.

Where the amount of expenditure for any purchase or contract exceeds \$60,000 (excluding taxes and freight) the city manager or his authorized agent shall invite competitive bidding thereon by advertisement in any local daily newspaper or by posting it on the City's website. Bids shall be publicly opened no less than seven (7) days following the posting or advertisement. All bids that exceed the aforementioned threshold shall be transmitted to the board by the city manager and the board shall, by resolution duly passed, authorize the purchase or contract. The city manager or the board may reject any and all bids.

2-6-1.4. Methods of Competitive Bidding

- A. *Invitation to bid* - This method is used when the good or services is focused on pricing and not on ideas or concepts. The selection is based on the lowest responsible and responsive bidder.
- B. *Request for Proposals* - This method is used when the selection of goods or services is based on several factors, including price. The bid documents spell out the factors to be considered and attach a weight to each factor. The city manager or his agent selects a committee to evaluate the proposals and the proposal with the highest ranking is submitted to the board for acceptance.

C. *Statements of qualifications* – A.C.A § 19-11-801 thru 19-11-805 define the policy to be followed when procuring professional services. The City of Hot Springs further defines professional services to include the following:

1. Medical services
2. Medical and pharmaceutical consulting services
3. Ambulance services
4. Appraisal services
5. Real estate procurement services
6. Geotechnical investigations
7. Traffic Studies
8. Environmental studies and mitigation services
9. Records retention consulting
10. Graphic design
11. Interior design
12. Grant writing and coordination services
13. Training services
14. Project management services
15. Code development services
16. Landscape architecture
17. Land planning services
18. Communication consulting
19. Information system services consultants
20. Recruitment services
21. Employee benefit plan consultants
22. Historic preservation consultant
23. Veterinarian services

2-6-1.5. State and Federal Regulations

To the extent that state or federal regulations applicable to a particular purchase (e.g. grant projects) are more restrictive than the procedures set forth in this ordinance, the state or federal regulations shall apply. In this regard, any required state or federal contract clauses shall be included in all contracts or purchasing orders for items procured with state or federal funding to the extent such clauses are required by the state or federal funding agency. A.C.A. §22-9-203 governs the advertising and bidding of public improvement projects exceeding \$20,000 and will be followed in those cases.

To the extent that state law authorizes certain purchasing practices such as cooperative purchasing, reverse internet auctions, purchasing cards, etc., those practices shall be allowable.

2-6-1.6. Disadvantaged and minority business enterprises and anti-discrimination policy

The city will attempt to use disadvantaged business enterprises and minority business enterprises when possible.

The city passed Ordinance 6074 which established an anti-discrimination policy for the city and that policy will be followed for all purchasing activities.

2-6-1.7. Standards of Conduct

When appropriate, and excluding purchases and contracts for construction projects and materials, the purchasing agent is hereby authorized to utilize reverse internet auctions pursuant to A.C.A. § 14-58-303(c) and this section.

- a. *Conflict of interest.* No city employee, officer, agent, or member of the board of directors or immediate family member of any such person shall participate in the selection, award or administration of a procurement or contract if a conflict of interest, real or apparent would be involved except as may be permitted by ordinance of the board of directors pursuant to A.C.A §14-47-115 and A.C.A §14-47-137. Such a conflict would arise when any of the following has a financial or other interest in the firm selected for award: the employee, officer, agent or board member; any member of his/her immediate family; or his/her business partner; or an organization that employs, or is about to employ, any of the above.
- b. *Prohibition against gratuity and contingent fees.* The officers, employees, members of the board of directors, or agent of the city shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to sub-agreements. Provided, however, that unsolicited promotional items of nominal intrinsic value and minimal meal costs incurred as a result of business meetings with contractors are hereby exempt. Said promotional items may not exceed twenty-five dollars (\$25) per item and said meals may not exceed the Internal Revenue Service (IRS) per diem rate per meal.
- c. *Disciplinary action.* Appropriate disciplinary action shall be taken by the city manager or in the case of the city manager or a member of the board of directors, by the board of directors, for any violation of these standards of conduct.

2-6-1.8. Purchasing Reviews

- a. *Contract Review.* All contracts and contract amendments shall be reviewed by the City Attorney prior to execution.
- b. *Terms and Conditions.* All contracts shall include the standard terms and conditions for purchases.
- c. *Payment Verification.* All invoices submitted for payment shall be audited for accuracy and correctness including submission of complete documentation supporting the invoiced amount. Prior to approval for payment, invoices shall be reviewed for verification that all work was performed as invoiced; that all products or services were received or provided as invoiced; and that the contract terms and conditions were met.

2-6-1.9. Change Orders

This section is effective for those original contracts which required competitive bidding and board approval. Any change order, when totaled with previous change orders, which exceeds ten (10) percent of the original contract shall be submitted to the board of directors for approval. Change orders of less than ten (10) percent of the original contract must be approved by the city manager; provided, however, than change orders of less than five (5) percent of the original contract amount may be approved by the managing department head. For change orders approved by the city manager or department head, funds must have been appropriated for that purpose. All change orders must be within the original scope of the work or additional services as identified in the original contract and the costs thereof must be based on the prices as stated in the original contract for similar work

2-6-1.10. Emergencies.

In case of accident, disaster, or other circumstance creating an emergency, the city manager may award contracts and make purchases for the purpose of meeting said emergency. Whenever an emergency purchase or contract is required or made, the city manager shall execute a certificate describing the nature of the emergency and the necessity for such action together with an itemized account of all expenditures. If the amount of the emergency purchase or contract exceeds \$60,000 the city manager shall submit the certificate and an ordinance waiving competitive bidding to the board of directors for consideration at a regular board meeting as soon as practical following the emergency. If the amount does not exceed \$60,000 the city manager shall distribute a copy of the certificate to the board of directors for informational purposes.

(Ord. No. 4148, §1, 5-3-2016)

2-6-11. Sale of surplus real property.**2-6-11.1. Purpose.**

The purpose of this policy is to establish procedures for the disposition of city-owned real property which is no longer needed for public purposes.

2-6-11.2. Procedure.

(a) *Property review. Periodically, but not less than every two (2) years, the city manager and appropriate departments shall review all city-owned real property to determine if there are any parcels which are no longer needed for public purposes. Whenever the city manager shall consider it advisable and in the best interest of the city to sell and convey any such real property, he shall present said property to the board of directors for disposition. Prior to the recommendation for disposition of surplus property, the city manager shall direct the planning & development director to prepare a report to determine the status of the property with regard to the comprehensive plan. This report shall include, at a minimum, a review of the future land use, thoroughfare, housing, economic development and utilities plans components of the comprehensive plan, and recommendations for compliance with the comprehensive plan, such as rezoning, rights-of-way dedication, etc.*

(b) *Board declaration. Prior to the disposition of any real property, the board of directors shall declare, by resolution, that said real property is surplus and no longer needed for public purposes. Such declaration shall be by two-thirds (2/3) vote of the elected membership of the board of directors. The resolution shall include a description of the property to be sold, the reason for the sale, the current value as stated in the county tax assessor records, any special conditions of sale as may be required by the Board. The method of sale shall be by competitive bid unless some other method is otherwise directed by the board (e.g., public auction, negotiated sale, etc.). The board may also, at its discretion, require that a current fair market appraisal be obtained by a qualified fee appraiser. The board of directors may, at its own initiative, declare any city-owned property as surplus and order the sale thereof. Should a change in the land use be in order as recommended by the city manager and planning director, the board shall consider such change prior to enactment of the declaration as surplus property.*

(c) *Notice of sale. Once a property has been declared surplus, the city manager shall dispose of the property by receipt of competitive bids on a date certain. Notice of the sale of surplus real property shall be placed in a newspaper having a general circulation in Garland County. The notice shall be published at least one time not less than ten days prior to the bid opening date. The notice shall specify the location and a general description of the property to be sold, the time and place for submitting written bids, and the assumed value of the property. The city manager, or his designee, will take such other actions as he deems appropriate to promote the sale of said property including placement of "for sale" signs on the subject property, and notice to adjacent addresses.*

(d) *Bid award.* All bids received by the city manager shall be presented to the board of directors. The board of directors may award the sale of the property, by resolution, to the bidder whose proposal is in the best interest of the city, all factors considered. If a majority of the board approves the sale, the mayor and city clerk shall be authorized to sell and convey the real property on behalf of the city of Hot Springs subject to the approved terms of sale. The board reserves the right to reject any and all bids received and to retain any property previously declared surplus. Upon closing, the proceeds shall be credited to the fund that carried the asset at the time of sale.

(e) *Minimum bid required.* No surplus real property shall be sold for less than three-fourths ($\frac{3}{4}$) of its value as stated in the records of the tax assessor or as determined by a fee appraisal if a fee appraisal was required.

(f) *Policy waiver.* The board of directors reserves the right to waive any provisions of this policy in unusual or unique circumstances when strict adherence would not be in the best interest of the public generally. Provided, further, that this policy is not intended to prohibit the granting of property to any other entity, as may be allowed by law and under such terms and conditions as may be approved by the board of directors.

(Res. No. 3997, 7-20-98)

Editor's note-§2-6-9 was adopted by Resolution, but included in the Code of Ordinances due to its permanent nature.

State law reference- A.C.A. §14-54-301 et seq, real and personal property; A.C.A. §22-4-501 et seq, property dedicated for public parks.

2-6-12. Reserved

Editor's note-§2-6-10 previously codified in this section was adopted by Resolution, but included in the Code of Ordinances due to its permanent nature. It was removed from this section due to it being included in §2-6-1.6.

CHAPTER 7**AFFIRMATIVE ACTION/NON-DISCRIMINATION****2-7-1. Equal Employment Opportunity Plan.**

The attached Equal Employment Opportunity Plan, dated January 1995, is hereby adopted as the Equal Employment Opportunity Plan for the City of Hot Springs, Arkansas. (Ord. No. 4465, § 1, 2-21-95)

Editor's note-The Equal Employment Opportunity Plan is on file in the Office of the City Clerk.

2-7-2. Americans with Disabilities Act (ADA) Policy.

The city manager is hereby directed to develop such policies and procedures and to take such actions as necessary to carry out the various activities required pursuant to the ADA regulations including, but not limited to, the appointment of an ADA contact staff person and citizens technical advisory group as needed, the creation of a grievance procedure, publication of appropriate notices, review of existing personnel policies and procedures, evaluation of existing facilities and programs, development of self-evaluation and transition plans and to make necessary changes as are reasonable, affordable and do not cause an undue hardship. (Res. No. 2665, 1-27-92)

Editor's note-The ADA policy is on file in the Office of the City Clerk;. §2-7-2 was adopted by Resolution, but included in the Code of Ordinances due to its permanent nature.

2-7-3. Establishing an Anti-Discrimination Policy

(a) The City of Hot Springs shall not discriminate against vendors because of the race, color, creed, religion, sex, national origin, age, disability, marital status, sexual orientation, gender identity, genetic information, political opinions or affiliation of the vendors' owners. All City departments, divisions, commissions and offices that contract with vendors shall adopt a written policy that reflects such non-discrimination in contracting.

(b) Employees of the City of Hot Springs in providing City services to the public and public accommodations shall not discriminate because of race, color, creed, religion, sex, national origin, age, disability, marital status, sexual orientation, gender identity, genetic information, political opinions or affiliation. All City departments, divisions, commissions and offices shall adopt a written policy that reflects such non-discrimination in providing City services.

(c) All contracts providing goods and services to the City of Hot Springs shall contain a clause stating that the contracting party shall not discriminate on the basis of race, sex, color, national origin, gender, sexual orientation, gender identity, or disability. All bid and proposal requests for such contracts from the City of Hot Springs shall include notification of such a clause and the requirement that it be agreed to and followed.

(d) This Ordinance shall not be applicable to Federal, State and Local government entities or their respected agencies, political subdivisions or non-profit organizations so designated by the Internal Revenue Service. (Ord. No. 6074, §§1-4, 5-5-15)

2-7-4—2-7-5. Reserved.

2-7-6. Fair housing policy.

It is hereby declared to be the policy of the city of Hot Springs, Arkansas, to assist in the provision, within constitutional limitations, of fair housing throughout the city. No person shall be subjected to discrimination because of race, color, religion, sex, handicap, familial status or national origin in the sale, rental or advertising of dwellings, in the provision of brokerage services or in the availability of residential real estate-related transaction. In this regard, the city manager shall assign to a staff member(s) the duties of Fair Housing Officer. The Fair Housing Officer shall provide information regarding fair housing to all interested parties including information regarding the Federal Fair Housing Act and assisting individuals in seeking assistance provided for by said Act. (Ord. No. 4054, § 1, 2-20-90)

Editor's note-Ord. No. 4054 adopted Feb. 20, 1990, repealed Ord. No. 3619 of 1981, which established a Fair Housing Code, due to revision in the Federal Fair Housing Act of 1988.

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CHAPTER 8**BOARDS AND COMMISSIONS**

- Art. I. General Policies and Procedures, §§ 2-8-1--2-8-9
 Art. II. Boards and Commissions, §§ 2-8-10--2-8-29
 Art. III. Advisory Committees, §§ 2-8-30--2-8-40

ARTICLE I. GENERAL POLICIES AND PROCEDURES

2-8-1. Board, Commission and Committee Nomination Policy and Procedures.

The purpose of this policy is to establish the practice and procedure for appointment of volunteer citizens to the various City boards, commissions and committees. It is critical to the effective operation of municipal government that qualified citizens be appointed to the various boards, commissions and committees. In this regard, this policy shall serve as a guideline in the selection of nominees for consideration by the Board of Directors. It is expressly understood that this policy may be altered or superseded when circumstances dictate, as determined by the City Manager, City Attorney or Board of Directors.

2-8-1.1 Practice

The Office of the City Clerk, under the direction of the City Manager, shall be the responsible for the administration of this policy. Support and assistance shall be provided by the Public Information Department. For purposes of this policy, the term “committee” may mean any volunteer board, commission or advisory committee, as established by the Board of Directors. “Applicant” or “candidate” shall mean such individuals as may apply to be considered for appointment, whether or not such person is considered for nomination or appointment.

2-8-1.2 Procedure

The following procedure may be utilized in the selection of candidates for appointment by the Board of Directors.

- (a) **Applicant Solicitation.** *The Office of the City Clerk shall solicit applications for the various committees from interested citizens. An application acceptance period shall be provided through normal media outlets by the Public Information office. [Note: Applications may be submitted by interested citizens at any time and will be maintained on file until vacancies occur or further appointments are required.] The Office of the City Clerk will develop application forms and committee descriptions, as necessary.*

- (b) **Applicant Verification.** *The Office of the City Clerk will review the applications received to insure that complete information has been provided, to verify resident status based on voter registration records, verify any special qualifications required by ordinance or state law, as well as verifying that basic qualifications have been met including attendance of one regular meeting of the committee for which the applicant is applying to serve.*
- (c) **Residence Requirement Exception.** *Upon the expiration of any given term or vacancy, should a residence specific position remain vacant following diligent effort to seek a qualified candidate for a period of not less than six (6) months, the position may then be extraordinarily filled as an at-large position. Any person so appointed as an extraordinary at-large member may not be reappointed unless no other applications are again received from otherwise residence qualified candidates.*
- (d) **Applicant Review.** *To the extent feasible, the following process will be followed to review and determine applicants:*
- (1) **BI-ANNUALLY**
- a. **Application Distribution.** *Once all applications have been verified, the Office of the City Clerk will copy and provide said applications to the Board of Directors, along with a form listing the available positions on each committee, and a fact sheet outlining the purpose of each committee in which applicants have applied. During this review period, the City Clerk, or his designee, shall also provide the applications to the various department heads who serve as staff liaison to the various committees. The City Clerk, or his designee shall forward all staff liaison comments, including the attendance record of any committee members seeking reappointment, to the Board of Directors for consideration in the appointment process.*
- b. **Interviews.** *Following the application review period, a date for interviews will be established by the Board. Interviews will occur on a workday at a specific time agreed upon by members of the Board. The City Clerk, or his designee will contact all verified applicants and will inform them of the date set. Interviews will be conducted, with Board Members asking questions to the applicants present.*
- c. **Selection.** *The next regularly scheduled Agenda Meeting following the applicant interviews, the Board shall convene a duly announced "Executive Session" to review the applications. Ballots will be presented. In the case of ties or lack of consensus, the process shall be repeated until a consensus is reached. Immediately following the Executive Session, the Board shall submit their individual preference forms to the City Clerk, or otherwise assigned staff, who shall tally the preferences and report to the Mayor.*

(2) **EMERGENCY SITUATIONS, RESIGNATIONS, REMOVALS**

- a. **Application Distribution.** *Once all applications have been verified, the Office of the City Clerk will copy and provide said applications to the Board of Directors, along with a form listing the available positions on each committee, and a fact sheet outlining the purpose of each committee in which applicants have applied. During this review period, the City Clerk, or his designee, shall also provide the applications to the various department heads who serve as staff liaison to the various committees. The City Clerk, or his designee shall forward all staff liaison comments, including the attendance record of any committee members seeking reappointment, to the Board of Directors for consideration in the appointment process.*
- b. **Interviews and Selection.** *Once a date for interviews has been established by the Board, the City Clerk, or his designee will contact all verified applicants and will inform them of the date set. Interviews will be conducted, with Board Members asking questions to the applicants present. Following interviews, the Board shall convene a duly announced "Executive Session" to review the applications. Ballots will be presented. In the case of ties or lack of consensus, the process shall be repeated until a consensus is reached. Immediately following the Executive Session, the Board shall submit their individual preference forms to the City Clerk, or otherwise assigned staff, who shall tally the preferences and report to the Mayor.*
- (e) **Board Confirmation.** *The City Clerk shall cause to be prepared a resolution for Board confirmation for those candidates determined to be eligible and selected pursuant to this policy. The resolution of appointment shall be presented at the next regular meeting in accordance with the Board's agenda preparation policy.*
- (f) **Post Appointment.** *Once appointments have been made by the Board, the Office of the City Clerk shall insure that Oaths of Office and Code of Ethics statements are completed and filed for record. The department liaison shall prepare orientation materials for each new member consisting of all policies, procedures, ordinances and regulations pertaining to the function of the particular committee.*
- (g) **Attendance Policy.** *When any appointed municipal board, commission or advisory committee member misses three (3) consecutive meetings, that position shall be declared vacant and the procedures for replacement shall be instituted. The former member, as well as all other qualified applicants, shall be eligible to apply for the vacant position.*

(Res. No. 8623, 1/20/2015)

2-8-2--2-8-9. Reserved.

Amendment note-Resolution Nos. 4647, 6568 and 6815 which established district residency requirements for certain boards, commissions and committees, and previously codified in §2-8-3, was repealed on May 19, 2009, by Resolution No. 7157.

2-8-10

HOT SPRINGS CODE
BOARDS AND COMMISSIONS

2-8-11.2

ARTICLE II. BOARDS AND COMMISSIONS

2-8-10. Advertising and Promotion Commission.

Cross reference - See §5-2-1.

2-8-11. RESERVED

Editor's note- Garland County Beautification Commission was repealed by Ord. No. 6192 on April 18, 2017.

2-8-12. Board of adjustments and appeals.

Cross reference- Ord. 5530, Board of Adjustments and Appeals, previously codified in this section, has been moved to §15-1-10.

2-8-13. Board of zoning adjustment.

Cross reference - See §16-2-13.

2-8-14. Central Business Improvement District Commission No. 3.

Editor's note - The C.B.I.D. No. 3 was formed pursuant to Ordinance 5311, which is on file in the Office of the City Clerk

2-8-15. Civil Service Commission.

Cross reference - See §10-3-1.

2-8-16. Downtown Business District¹ (Ord. No. 3906, §1, 16-15-1987, Ord. No. 5876, §1, 5-15-2012, Ord. No. 5877, §1, 05-15-2012 and Ord. No. 5922, §1, 2-5-2013)

¹*Editor's note:* The C.B.I.D. No. 2 was formed pursuant to Ordinance No. 3906, Dissolved by Ordinance No. 5876, Regulations maintained by Ordinance No.5877, and area renamed as the Downtown Business District by Ordinance No. 5922.

2-8-17. Historic District Commission.

Cross reference - See §16-7-21.

2-8-18. Hot Springs Housing Authority.

Editor's note - The Hot Springs Housing Authority was formed pursuant to Resolution 434, which is on file in the Office of the City Clerk.

2-8-19. Occupation Tax Board of Review.

Cross reference - See §5-3-14.

2-8-20. Planning Commission.

Cross reference - See §16-1-1.

2-8-21. Public Facilities Board.**2-8-21.1. Public Facilities Board created; general powers of board, city.**

(a) There is hereby created a public facilities board pursuant to the provisions of the Public Facilities Board Act (Act 142 of 1975, as amended) (A.C.A. 14-137-101 et seq.), to be known as the "Public Facilities Board of the City of Hot Springs."

(b) Said board shall have the powers provided for by A.C.A. 14-137-106. The governing body of this city may, at its sole discretion and at any time, alter or change the structure, organization, programs or activities of the board, including the power to terminate the board, but no such valid action shall be effective to alter or impair contracts entered into by the board prior to the effective date of such action. (Ord. No. 3461, § 1, 7-3-78; Ord. No. 3832, § 1, 12-16-85)

2-8-21.2. Membership; terms; qualifications; vacancies.

(a) The board shall consist of five (5) members who shall be appointed by the mayor of this city, subject to confirmation by the board of directors.

(b) The initial board shall serve for terms of one (1), two (2), three (3), four (4) and five (5) years, respectively. Successor members shall be elected by a majority of the board for terms of five (5) years each.

(c) Each member shall qualify by taking and filing with the clerk of this municipality his oath of office in which he shall swear to support the Constitution of the United States and the Constitution of the State of Arkansas and to discharge faithful his duties in the manner provided by law. Each member shall serve until his successor is elected and qualified.

(d) In the event of a vacancy in the membership, however caused, a majority of the board shall elect a successor member to serve the unexpired term. A member shall be eligible to succeed himself. (Ord. No. 3461, § 2, 7-3-78)

2-8-21.3. Organization; compensation; removal.

(a) The members of the board shall meet and organize by electing one of their members as chairman, and one as vice-chairman, one as secretary and one as treasurer, and such officers shall be elected annually thereafter in the like manner. The duties of the secretary and treasurer may be performed by the same member. The board may also appoint an executive director who shall not be a member of the board and who shall serve at the pleasure of the board and receive such compensation as shall be fixed by the board.

(b) The members of the board shall receive no compensation for their services but shall be entitled to reimbursement of expenses incurred in the performance of their duties.

(c) Any member of the board may be removed for misfeasance, malfeasance, or willful neglect of duty by the mayor of this city after reasonable notice of and an opportunity to be heard concerning the alleged grounds for removal. (Ord. No. 3461, § 3, 7-3-78)

2-8-21.4. Powers of the board relative to health care facilities; bonds.

The board is hereby specifically empowered:

- (a) To own, acquire, construct, reconstruct, extend, equip, improve, operate, maintain, sell, lease, contract concerning or otherwise deal in or dispose of public facilities projects or any interest in such facilities as are presently described in A.C.A. 14-137-106 (Act 142, Section 4, of 1975, as amended) or as it may hereafter be amended, including without limitation, leasehold interests in and loans evidenced by promissory notes and secured by real estate mortgages, and/or security interests in personal properties of such facilities, and to make loans to mortgage lenders (as defined in the Public Facilities Boards Act) to provide financing for such facilities; and

- (b) To issue bonds to obtain funds and revenues for the accomplishment of any of the public facilities projects herein authorized, either alone or together with other available funds and revenues therefor. (Ord. No. 3461, § 4, 7-3-78; Ord. No. 3832, § 3, 12-16-85)

2-8-21.5. Additional powers of board.

The board is hereby additionally authorized and empowered:

- (a) As a body politic and corporate to have perpetual succession and to adopt bylaws, not in conflict with this article or the public facilities boards act, as it may from time to time, be amended, for the regulation of its affairs and the conduct of its business;
- (b) To maintain an office at such place or places in Hot Springs, Arkansas, as the board may designate, from time to time;
- (c) To sue and be sued in its own name;
- (d) To fix, charge and collect rents, fees, loan repayments, interest and charges for the use of any public facilities project or loan make in connection therewith;
- (e) To employ and pay compensation to such employees and agents, including attorneys, consulting engineers, architects, surveyors, accountants, financial experts, and others as it may in its judgment find necessary for the accomplishment of the purposes and objectives for which it has been created and to fix their compensation; and
- (f) To do any and all other acts and things to accomplish the public facilities projects for which it is authorized by this article and all other acts and things authorized or required by the Public Facilities Boards Act, as it may from time to time be amended, except as may be specifically limited herein, and any and all other things necessary or convenient to accomplish the purposes for which the board has been created, including without limitation, the purposes, powers and authority provided for in the Public Facilities Boards Act, as hereafter amended from time to time. (Ord. No. 3461, § 5, 7-3-78; Ord. No. 3832, § 2, 12-16-85)

2-8-21.6. Use of funds and revenue.

(a) The board is authorized to use any available funds and revenues for the accomplishment of the public facilities projects which it is authorized to own, acquire, construct, reconstruct, extend, equip, improve, operate, maintain, sell, lease, contract concerning, or otherwise deal in, or to give or take leasehold interests in and to fund loans with respect thereto in exchange for promissory notes secured by real estate mortgages and/or security agreements in personalty from owners, users or others in connection with any such

public facilities projects. Bonds may be issued by the board in such principal amounts as shall be sufficient to pay the cost of accomplishing the public facilities projects involved, the cost of issuing the bonds, the amount necessary for reserves, if deemed desirable, the amount necessary to provide for debt service on the bonds until revenues for the payment thereof are available from other sources, and any other costs and expenditures of whatever nature incidental to the accomplishment of the public facilities involved and the placing of it in operation. Any net earnings of the board (beyond that necessary for retirement of the indebtedness or to implement any public facilities project) shall not inure to the benefit of any person other than to the city of Hot Springs, Arkansas. Upon dissolution of the board, title to all property owned by the board shall vest in the city of Hot Springs, Arkansas.

(b) In the event of default with respect to obligations issued to finance the acquisition of property, the city has the exclusive option to purchase such property for the amount required to discharge such obligations and is provided thirty (30) days from the date of actual notice of such default in which to exercise such option. (Ord. No. 3461, § 6, 7-3-78)

2-8-21.7. Statutory authority with respect to bonds.

This board shall have, with the respect to the issuance of bonds authorized to be issued by it, the authority and power with respect thereto set forth and contained in A.C.A. 14-137-116 through 14-137-122, which terms and provisions are hereby incorporated in this article as though herein expressly set forth, word for word, except to the extent of changes required for the provisions thereof to be consistent in the context of this article, and such additional authority as may be granted in similar provisions by amendment of the public facilities boards act from time to time hereafter, except within sixty (60) days prior to the date of each issue of obligations of the board, the board shall obtain the approval of the governing body of the city. (Ord. No. 3461, § 7, 7-3-8)

2-8-21.8. Meetings.

The board shall meet upon the call of its chairman, or a majority of its members, and at such times as may be specified in the bylaws for regular meetings, and a majority of its members shall constitute a quorum for the transaction of business. The affirmative vote of the majority of the members present at a meeting of the board shall be necessary for any action taken by the board. Any action taken by the board may be authorized by resolution and such resolution shall take effect immediately unless a later effective date is specified in the resolution. No vacancy in the membership in the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board. (Ord. No. 3461, § 8, 7-3-78)

2-8-21.9. Records.

The secretary shall keep a record of the proceedings of the board and shall be custodian of all books, documents and papers filed with the board and of the minute book or journal of the board and its official seal, if any shall be adopted. The secretary may cause copies to be made of all minutes and other records and documents of the board and may give certificates of the board to the effect that such copies are true copies, and all persons dealing with the board may rely upon such certificates. (Ord. No. 3461, § 9, 7-3-78)

2-8-21.10. Annual reports; financial statement.

Within the first ninety (90) days of each calendar year, the board shall make a written report to the mayor and to the board of directors concerning its activities for the preceding calendar year. Each such report shall set forth a complete operating and financial statement covering its operation during the year. (Ord. No. 3461, § 10, 7-3-78)

2-8-21.11. Amendments to public facilities act to automatically apply to board.

To accomplish the specific public facilities objective set forth above, the board shall have such additional authority and power as may, from time to time, hereafter be authorized for public facilities boards by amendments to the public facilities act without additional action by the board of directors. (Ord. No. 3461, § 11, 7-3-78)

2-8-22. – 2-8-29. Reserved.

ARTICLE III. ADVISORY COMMITTEES

2-8-30. Advisory committees; general policies and procedures.

The following "General Policies and Procedures for Advisory Committees" are hereby adopted, provided further that any committee created pursuant to this resolution shall be advisory in nature and shall not be considered or construed to be the creation of a commission under any other ordinance of the city of Hot Springs or state statute regarding the creation of autonomous committees or commissions.

- (a) *Advisory committee purpose. It is the intention of the city of Hot Springs to seek both general and technical citizen input and assistance in the provision of certain city services and functions through the formation of advisory committees.*
- (b) *General policies and procedures. Advisory committees, which are now in effect or which shall be hereafter created, shall function in accordance with the following policies and procedures. Provided, however, that should a conflict exist between the provisions hereof and state statute or ordinances specifically addressing a particular commission, the specific statute or ordinance shall apply to the extent of said conflict.*

Editor's note-Resolution 3112 adopted 1/9/95 directs the city manager to establish a procedure for the selection of nominees for various boards, committees and commissions. Ord. No. 4719, adopted 4-6-98, amended all resolutions and ordinances pertaining to advisory commissions by replacing the term "commission" with the term "committee."

- (1) Creation/Dissolution. Each advisory committee shall be created by a resolution adopted by the board of directors. The board of directors may eliminate or modify any advisory committee it creates when the board of directors shall deem it to be in the best interest of the city of Hot Springs to do so. Any committee created pursuant to this resolution shall be advisory in nature and shall not be considered or construed to be the creation of a commission under any other ordinance of the city of Hot Springs or state statute regarding the creation of autonomous committees or commissions.
- (2) Membership. Advisory committee members shall be appointed by the board of directors in accordance with the board of directors' appointment procedure. Advisory committee members shall serve at the pleasure of the board of directors. Members may be removed at any time by a simple majority of the board of directors present. Advisory committees shall consist of an odd number of members.
- (3) Terms of office. Advisory committee members' terms of office shall be four years as hereinafter defined. The membership shall be divided into majority and minority division. The majority division shall consist of one-half of the membership plus one, and the minority division shall consist of the remaining membership. The majority division terms of office shall commence in May of odd numbered years beginning in 1993. The minority division's terms shall commence in May of the odd numbered years beginning in 1991. The initial term of office and membership division shall be determined by the drawing of lots by the membership at their first meeting. Initial membership terms shall be adjusted as necessary to correspond with the dates established herein.
- (4) Officers. At the first meeting following the appointment of members, the advisory committee shall elect from among its membership a chairperson and vice-chairperson. The officers shall serve two-year terms. No member shall serve more than two consecutive two-year terms as chairperson without interruption of at least a two-year period. The chairperson shall preside at all meetings and shall rule on all matters of procedure regarding the order of business, motion, voting, etc. The chairperson shall have a vote in all matters of business. The vice-chairperson shall serve as chairperson in the absence of the chairperson.
- (5) Qualifications. All official members of advisory committees shall be qualified electors of the city of Hot Springs. Provided, however, that ex officio, nonvoting members may be appointed to certain advisory committees in which case such members may participate in all meeting discussion and activities. No member shall be an employee of the city of Hot Springs, nor shall they be an elected or appointed official of the city.

- (6) Meetings. *Advisory committees shall conduct their meetings at such times as afford the greatest possible public participation given the area of responsibility. Meetings shall be held in the board of directors' chambers, city hall, whenever possible and feasible. Minutes of the meetings, which summarize the discussion and record all official actions and voting, shall be kept and shall be filed with the office of the city clerk within 15 days following such meeting. Copies of the meeting minutes shall also be forwarded to the board of directors. All meetings, minutes, records and other material shall be subject to the Arkansas Freedom of Information Act. An agenda shall be prepared for each meeting, which shall state the time and place of the meeting and the specific subjects to be discussed at the meeting. Items may not be added to an agenda after publication except that emergency matters which may arise between publication of the agenda and the meeting time may be added at the first of the meeting by a majority vote of the members present. Meeting agendas should be posted in the designated location in city hall as soon as possible prior to the meeting date and should be forwarded to applicable news media not less than 24 hours prior to the meeting. Each advisory committee shall meet at least one time every three (3) months; however, meetings may be held at any time upon call by the chairperson, city manager or city staff member assigned to an advisory committee. Each advisory committee should establish a regular meeting schedule to the extent possible.*
- (7) Scope of authority. *The resolution creating each advisory committee shall outline its duties and responsibilities. Proposed policy or procedure revisions, deletions or additions or other issues relative to an advisory committee's scope of authority initiated by the general public, the board of directors or city staff should be referred to the appropriate committee prior to any further action on such matter whenever possible and feasible. The city manager shall be responsible for determining if an item is within the scope of authority of an advisory committee and whether or not such matter should be referred to an appropriate advisory committee. The advisory committee shall consider all matters referred and shall submit a recommendation to the elected board of directors to be placed on their next agenda. In cases of a clear and present danger to the public health and safety, the city manager, appropriate city staff member or the board of directors may take such action as necessary to alleviate the danger and shall contact the advisory committee by telephone and advise its members of the emergency and that extraordinary measures were deemed necessary. Advisory committees shall not have any authority whatsoever with respect to the operation of any department of the city. In this regard, advisory committees shall have no authority over any office, officer or employee of the city except as may be requested by the city manager or board of directors in special and specific circumstances.*

- (8) Final authority. Recommendations of any advisory committee shall not be final. All decisions of such committees are recommendations of an advisory nature for final consideration by the board of directors or city manager as appropriate or required by resolution, ordinance or statute. Provided, however, it is the intention of the board of directors that all items within the scope of authority of any advisory committee be submitted to said advisory committee for consideration and recommendation prior to submission to the board of directors for those matters which require board action except in the case of emergency matters as defined in paragraph 7 above.
- (9) Existing policies and procedures. The policies, procedures, regulations, resolutions and ordinances which exist as of the adoption of this policy shall be considered as the initial policies, procedures, etc., of any advisory committee which may now exist or hereinafter be created and shall not be subject to review by the mere adoption of this policy. Provided, however, that any additions, revisions or deletions to said policies and procedures, which may arise following the effective date of this policy, shall be subject to this policy and may be referred to the appropriate advisory committee as defined in paragraph 7 and 8 above.
- (10) City staff support. The city manager shall designate certain city staff members to provide administrative support to such advisory committees as may now or hereinafter be created. The city manager will ensure that the personnel assigned provide adequate administrative and secretarial assistance and conduct such research or supply such information as may be necessary in the advisory committee's decision-making process. Advisory committee members or officers shall not issue any direct order to city staff members. All requests for assistance shall be made via the city manager or by a change of policy which is subject to board of directors approval.
- (11) Compensation. Advisory committee members shall receive no compensation for service on an advisory committee; provided, however, that such reasonable expenses, which are incurred as a direct result of a member's serving on an advisory committee, shall be paid in accordance with the city's travel and reimbursement policy. Any such expenses must be approved by the city manager prior to being incurred. Local travel to and from meetings is not an eligible expense for reimbursement.
- (12) Special commissions. Nothing in this policy shall prohibit the city manager or board of directors from appointing an ad hoc advisory committee for a specific purpose of a short-term nature and waiving all or part of this policy with regard to said ad hoc short-term committee structure and function. (Res. No. 2481, 1-22-90)

Editor's note-§2-8-30 was adopted by Resolution, but included in the Code of Ordinances due to its permanent nature.

2-8-31. Airport Advisory Committee.

Cross reference - See §11-1-1.

2-8-32. Animal Control Advisory Committee.

Cross reference - See §10-2-1.

2-8-33. Arts Advisory Committee.**2-8-33.1. Creation and organization.**

(a) *There is hereby created a nine-member Arts Advisory Committee. Said committee shall be organized and shall function in accordance with the "General Policies and Procedures for Advisory Committees" (§ 2-8-30). Members shall be appointed to two (2) year terms. Provided, however, that the initial term of the five odd-numbered positions shall expire October 1, 1999, and the initial term of the four even-numbered positions shall expire October 1, 2000. (Res. No. 4020, §1, 9-8-98)*

(b) *The Arts Advisory Committee shall be composed of nine (9) citizens who are qualified electors of the City of Hot Springs. (Res. No. 6477, §1, 1-8-07)*

(c) *All current members of the Arts Advisory Committee are hereby designated as "citizens at large." (Res. No. 6477, §2, 1-8-07)*

2-8-33.2. Duties and responsibilities.

The Arts Advisory Committee shall have the following duties and responsibilities:

- (a) *Review and recommend placement of permanent art at publicly-owned facilities in the city.*
- (b) *Assist in the organization and promotion of temporary art exhibits at publicly-owned facilities.*
- (c) *Assist in the securing of private, grant funding and art donations for permanent art displays at public buildings in the city.*

(Res. No. 4020, §3, 9-8-98)

Editor's note-§2-8-33 was adopted by Resolution, but included in the Code of Ordinances due to its permanent nature.

2-8-34. Community Development Block Grant (CDBG) - Advisory Committee.

(a) *There is hereby created a Community Development Advisory Committee (CDAC) for the Community Development Block Grant (CDBG) Entitlement Program. Said committee shall be organized and shall function in accordance with the following resolutions and any future amendments thereto: "General Policies and Procedures for Advisory Committees" (§2-8-30); the Community Participation Guide (Resolution No. 5673); and the CDBG Program Policies and Procedures (Resolution No. 5669). The Community Development Advisory Committee shall be comprised of five (5) citizens who are qualified electors of the City of Hot Springs. The members shall be appointed by the Board of Directors. The initial terms of office and membership shall be as established by "General Policies and Procedures for Advisory Committees."*

Editor's note: The Community Participation Guide and CDBG Program Policies and Procedures are on file in the Office of the City Clerk.

(b) *The membership of the Community Development Advisory Committee shall be as follows:*

- (1) *one member from Board of Director District One (a CBDG target area) to be nominated by the District Director;*
- (2) *one member from Board of Director District Two (a CBDG target area) to be nominated by the District Director; and*
- (3) *three members at-large to be nominated in accordance with the Board of Directors nomination and selection process for Boards, Commissions and Committees.*

(c) *The Community Development Advisory Committee shall:*

- (1) *assist the City Manager and/or his designee in evaluating and establishing the operating policies and procedures for Community Development Block Grant (CDBG) Entitlement Program;*
- (2) *perform the functions as outlined in Community Development Block Grant (CDBG) Housing Rehabilitation Program policies and procedures as may now or hereafter be adopted by the Board of Directors;*
- (3) *perform the functions as outlined in Community Development Block Grant (CDBG) Entitlement Program, Community Participation Guide as may now or hereafter be adopted by the Board of Directors;*
- (4) *assist the City Manager and/or his designee in developing the Annual Action Plan and selection of projects and programs for inclusion therein to be considered and approved by the Board of Directors; and*

- (5) *consider and advise the City Manager and/or his designee and the Board of Directors relative to such other CDBG-related issues as may be referred to said committee by the City Administration or the Board of Directors.*

(Res. No. 6267, §§1-3, 5-1-06, Res. No. 7424, §1. 5-18-10)

Editor's note-§2-8-34 was adopted by Resolution but included in the Code of Ordinances due to its permanent nature.

2-8-35. Construction Trades Advisory Committee.

Cross reference - See §15-1-11.

2-8-36. EMS Medical Advisory Board.

2-8-36.1. EMS Medical Advisory Board - Membership.

The EMS Medical Advisory Board shall consist of the following voting members and ex-officio members:

Position One and Two -- two emergency physicians from National Park Medical Center (NPMC) as appointed by the NPMC Chief Executive Officer;

Position Three and Four -- two emergency physicians from St. Joseph's Mercy Health Center (SJMHC) to be appointed by the SJMHC Chief Executive Officer;

Position Five -- a medical staff physician from NPMC to be appointed by the NPMC chief Executive Officer;

Position Six -- a medical staff physician from SJMHC to be appointed by the SJMHC Chief Executive Officer;

Position Seven -- a medical staff physician from Health Park Hospital to be appointed by the Health Park Hospital Chief Executive Officer;

Five Ex-Officio non-voting members to include representatives from (1) the City of Hot Springs Fire Department; (2) City of Hot Springs Police Department; (3) Garland County Sheriff's Office; (4) Garland County Department of Emergency Management; and (5) a Garland County Volunteer Fire Department as appointed by the County Judge.

The terms of office for each position shall be two years. Appointments shall be subject to confirmation by the Hot Springs Board of Directors and the Garland County Judge.

2-8-36.2. Duties and responsibilities.

In order to ensure that the citizens of Hot Springs are provided with the best emergency medical ambulance service and E-911 response system possible, the EMS Medical Advisory Board shall have the following duties and responsibilities:

- (a) advise the Board of Directors and Quorum Court concerning matters relative to emergency medical ambulance services and the coordination of related dispatch and communications functions and equipment between LifeNet, other emergency services and the E-911 public safety answering points (PSAP) within Garland county;*
- (b) monitor and evaluate the level of medical care provided by LifeNet in both the city and Garland County;*
- (c) develop and review community-wide EMS protocols;*
- (d) monitor LifeNet response times for each part of the city and county;*
- (e) receive and review consumer emergency ambulance service complaints while providing LifeNet full opportunity to respond to such complaints prior to any action by the Board.*
- (f) set standards to ensure that EMTs and paramedics maintain education and skill levels; and*
- (g) perform such other duties and responsibilities as may be assigned or referred by the Board of Directors or Quorum Court.*

2-8-36.3. General policies and procedures.

The EMS Medical Advisory Board shall function in accordance with the following general policies and procedures:

- (a) Officers. The chairperson and vice-chairperson of the EMS Medical Advisory Board shall rotate between SJMHC and NPMC on an annual basis. In this regard, when the chairperson is from one hospital, the vice-chairperson shall be from the other hospital and vice versa. The chairperson shall preside at all meetings and shall rule on all matters of procedure regarding the order of business, motion, voting, etc. The chairperson shall have a vote in all matters of business. The vice-chairperson shall serve as chairperson in the absence of the chairperson.*

- (b) *Meetings.* The EMS Medical Advisory Board shall conduct meetings at such times as needed to conduct official business. The date and time for such meetings shall be determined by the chairperson in consultation with the vice-chairperson and LifeNet representative. Minutes of the meetings, which summarize the discussion and record all official actions and voting, shall be kept and shall be filed with the Office of the City Clerk as soon as practical following each meeting. Copies of the meeting minutes shall also be forwarded to the Board of Directors and Quorum Court. All meetings, minutes, records and other material shall be subject to the Arkansas Freedom of Information Act. An agenda shall be prepared for each meeting, which shall state the time and place of the meeting and the specific subjects to be discussed at the meeting. Items may not be added to an agenda after publication except that emergency matters which may arise between publication of the agenda and the meeting time may be added at the first of the meeting by a majority vote of the members present. Meeting agendas should be posted in the designated location in the courthouse and City Hall as soon as possible prior to the meeting date and should be forwarded to applicable news media not less than 24 hours prior to the meeting.
- (c) *Scope of authority.* The EMS Medical Advisory Board shall not have any authority whatsoever with respect to the operation of any emergency ambulance service provider(s). In this regard, the EMS Medical Advisory Board shall have no authority over any office, officer or employee of such providers. The EMS Medical Advisory Board shall report its findings to the Board of Directors and the Quorum court for action under the provider contract and licensing agreements.
- (d) *Final authority.* Recommendations of the EMS Medical Advisory Board shall be of an advisory nature for final consideration by the Board of Directors, Quorum Court, County Judge or City Manager as appropriate or required by resolution, ordinance, provider contract, license or statute. In cases of a clear and present danger to the public health and safety, the City Manager, County Judge or appropriate City or county staff member, Quorum Court or the Board of Directors may take such action as necessary to alleviate the danger and shall advise the EMS Medical Advisory Board, at the earliest convenience, of the measures taken.
- (e) *Staff support.* Administrative support to the EMS Medical Advisory Board shall be provided by the provider of EMS, LifeNet. LifeNet will ensure that the personnel assigned provide adequate administrative and secretarial assistance and conduct such research or supply such information as may be necessary in the EMS Medical Advisory Board's decision-making process. EMS Medical Advisory Board members or officers shall not issue any direct order to hospital's staff member(s). All requests for assistance shall be made via the chairperson or hospital chief executive officer.

- (f) *Compensation. EMS Medical Advisory Board members shall receive no compensation for service on an EMS Medical Advisory Board.*

2-8-36.4. Concurrent resolution.

This resolution shall be contingent upon passage by the Garland County Quorum Court of a similar resolution.

(Res. No. 6336, §§1-4, 8-7-06)

Editor's note-§2-8-36 was adopted by Resolution, but was included in the Code of Ordinances due to its permanent nature.

2-8-37. Green Initiatives Advisory Committee - Created.

(a) *There is hereby created a Green Initiatives Advisory Committee. Said committee shall be organized and shall function in accordance with the "General Policies and Procedures for Advisory Committees" (§2-8-30). The Green Initiatives Advisory Committee shall be composed of five (5) citizens who are qualified electors of the City of Hot Springs. The members shall be appointed by the Board of Directors. The initial terms of office and membership shall be as established by "General Policies and Procedures for Advisory Committees."*

(b) *The purpose of the Green Initiatives Advisory Committee shall be to advise the City Manager and Board of Directors on various matters related to sustainability, environmental resources and "green" initiatives. In this regard, the committee shall:*

- (1) *inventory and become familiar with and knowledgeable of existing "green" practices involving schools, private companies and other local organizations and assist in publicizing and promoting these activities and practices;*
- (2) *review best practices in other cities and make recommendations on green initiatives that could be adopted and applied by the City of Hot Springs;*
- (3) *analyze current and projected sustainability and environmental trends;*
- (4) *consider and make recommendations to the City Manager and the Board of Directors concerning green initiatives and sustainability practices within the City of Hot Springs;*
- (5) *assist the City Manager and/or his/her designee in developing the best methods to conserve, preserve, protect, expand and improve environmental resources; and*

- (6) *consider and advise the City Manager and/or his designee and the Board of Directors relative to such other related issues as may be referred to said committee by the City Administration or the Board of Directors.*

(Res. No. 6951, §§1,2, 9-16-08)

Editor's note-§2-8-37 was adopted by Resolution but included in the Code of Ordinances due to its permanent nature.

2-8-37.1. Parking Advisory Committee.

2-8-37.2. Creation and organization.

(a) There is hereby created a Parking Advisory Committee for the Downtown Business District. Said committee shall be organized and shall function in substantial accordance with the following resolutions: "General Policies and Procedures for Advisory Committees" (Resolution No. 2481); "Board, Commission, and Committee Nomination Policy and Procedures" (Resolution No. 8623).

2-8-37.3. Declaration of policy.

(a) The Parking Advisory Committee shall study, plan, and advise the Hot Springs Board of Directors and City Manager on matters related to parking management, operations, resources, and facilities to improve efficiency and enhance the customer experience to facilitate a long-term strategic vision for the betterment of the downtown business district.

2-8-37.4. Duties and responsibilities.

The Parking Advisory Committee shall have the following duties and responsibilities:

- (a) Evaluate the effectiveness of existing parking resources;*
- (b) Make recommendations on policies and procedures affecting parking resources;*
- (c) Study parking alternatives and make recommendations to most effectively manage existing parking supply and reduce parking demand;*
- (d) Monitor future demand trends for planning, designation, location, and financing of additional parking facilities and/or structures;*
- (e) Provide affected downtown stakeholders and citizens an adequate opportunity to participate in planning and assessing parking policy, programs and resources;*

- (f) *Provide advice to the Board of Directors and City Manager on parking related matters referred to the committee by the aforementioned.*

2-8-37.5. Members.

(a) *The Parking Advisory Committee shall consist of five (5) members appointed by the Board of Directors. Members shall be qualified electors of the city and cannot hold any elective office of the city, county, or state. The members shall be appointed for terms of five (5) years and serve until their successors have been qualified and appointed. Terms shall be staggered so to ensure continuity among the committee. Members shall receive no compensation for their services.*

(Res. No. 9323, §1-4, 9-18-2018)

Editor's note-§2-8-37.1 was adopted by Resolution, but included in the Code of Ordinances due to its permanent nature.

2-8-38. Parks and Trails Advisory Committee.

Cross reference - See §11-2-1.

2-8-39. Towing Advisory Committee.

Cross reference - See. §10-5-12.3

2-8-40. Transportation Advisory Committee.

Cross reference - See §13-3-1

2-8-41. Urban Forestry Advisory Committee.

Cross reference - See §17-6-15.

CHAPTER 9

CITY/COUNTY INTERLOCAL AGREEMENTS

2-9-1. Interlocal agreement for detention services.

(a) *Purpose.* The purpose of this Interlocal Agreement (ILA) is to establish a formal binding relationship between the city and Garland County (hereafter referred to as "the county") for the housing of city prisoners at the Garland County Detention Facility (hereafter referred to as "the facility"). For the purpose of this agreement, city prisoners are those individuals arrested by the police department and held under custody of municipal court. A city prisoner becomes a county prisoner at such time as he is bound over to the circuit court.

(b) *Support and medical services.*

- (1) The county agrees to accept and provide for the secure custody, care and safekeeping of city prisoners in accordance with federal, state, and local laws, standards, policies, procedures, or court orders applicable to the operations of the facility.
- (2) The county agrees to provide city prisoners with the same level of medical care and services provided county prisoners including the transportation and security for prisoners requiring removal from the facility for emergency medical services. All costs associated with hospital or health care services for city prisoners, whether provided inside or outside the facility, will be paid directly by the city. If it is required that an inmate be confined in a hospital or other outside facility and guarding of that inmate is necessary, it will be the responsibility of the city, if the individual is a city prisoner, to bear the cost of the manpower necessary to guard the prisoner while confined in another facility.
- (3) The county agrees to notify the city as soon as possible of all emergency medical cases requiring removal of a prisoner from the facility and to obtain prior authorization for removal for all other required medical services, and such authorization shall not be unreasonably withheld.
- (4) The county will be responsible for the transportation of all prisoners, both city and county, to and from municipal court and providing guard services at that location.

State law reference-Authority for interlocal agreement, A.C.A. § 14-14-910 et seq.

- (5) Those inmates being housed in the facility that are classified as trustees will be released to a representative of the city on a regular basis upon request. It will be the responsibility of the city to provide for the secure custody, care supervision and safekeeping of these individuals when away from the jail.

(c) *Receiving and bookkeeping procedures.* Once a city police officer enters the booking room of the facility with a prisoner, that prisoner is hereby determined to be in the custody of the jail personnel at the facility, and the police officer has no further supervision responsibilities or duties for that individual. The city police officer, once a prisoner is in custody of jail personnel, should thereafter fill out the proper paperwork required of an arresting officer.

In the event the city police department desires copies of fingerprints, photographs, arrest reports, or other materials or documents concerning city prisoners which have been assembled by the Garland County sheriff's department, the city will reimburse the county for its costs in reproducing and providing said materials. The county agrees to provide requested copies and other documents in a reasonable time after request is made by the city.

(d) *Cost and reimbursement.* The city agrees to pay the county the following detention services rates effective March 1, 1991 for city prisoners housed at the facility on behalf of the city:

\$12.00 for each individual booked or processed at the facility and held less than six (6) hours;

\$31.00 for each individual booked or processed at the facility and held for at least six (6) hours but no more than twenty-four (24) hours; and

\$31.00 per "prisoner day" for each individual held for more than twenty-four (24) hours.

For purposes of this agreement, a prisoner day shall be computed by charging the city for the day of arrival, but not for the day of departure. Inmates held for a brief period in either the holding cells or the intoxication cells, whether booked or not, before being released, are not considered to be prisoners subject to "prisoner days" for billing purposes but may be subject to the applicable rates for less than twenty-four (24) hour detainment as enumerated above.

The detention service rates shall be subject to review prior to the end of each calendar year based on actual costs associated with the operation of the city, excluding debt service on the facility, which was in existence as of May 1, 1988. Any subsequent rate adjustment/revision shall become effective January 1 of each year and shall remain in effect for the entire calendar year. Rate adjustments/revisions shall be effected by resolution of the city and county governing bodies.

At the end of each month, the Garland County sheriff's department will submit an invoice to the city actually listing the name of each city inmate housed in the facility during that month, his date and the time of entry, his departure time and date, his total number of inmate days, and the cost for that particular inmate. The city will provide payment to the county on a monthly basis based on the invoice received each month. The name, title, complete address and telephone number of the county official responsible for invoice preparation should also be listed on the invoice.

Individuals who have outstanding warrants issued by both the city and county sheriff's office will be considered to be the responsibility of the arresting agency. Individuals arrested and brought to the facility by the city on outstanding state or federal warrants shall be the responsibility of the state or federal agency issuing the warrant.

(e) *Period of performance.* This agreement shall be in effect indefinitely until terminated in writing by either party, with said written notice being sent via certified mail, return receipt requested, restricted delivery, to the Garland County judge if the city desires to terminate said agreement or to the city manager if the county wishes to terminate said agreement. Notice of termination by either party shall be provided at least one hundred and eighty (180) days in advance of the effective date of formal termination.

(f) *Indemnity clause.* The county will defend all lawsuits and pay all judgments, including attorney fees, whenever the city is named as a party and:

- (1) said lawsuit is brought by a current or former inmate(s) housed in the facility; and
- (2) said lawsuit alleges a cause of action which occurred after the inmate or inmates were delivered to the custody of jail personnel at the facility and prior to discharge.

(g) *Administrator.* There shall be no administrator position or joint board established pursuant to the terms of this contract.

(h) *Modifications/disputes.* Either party may initiate a request for modification to this agreement in writing. All modifications negotiated will be written and approved by the respective heads of the two local governments. Disputes, questions or concerns pertaining to this agreement will be resolved between the Garland County sheriff and the Hot Springs chief of police. Unresolved issues are to be directed to the Garland County judge and the Hot Springs city manager.

HOT SPRINGS CODE
CITY/COUNTY INTERLOCAL AGREEMENTS

(i) *Notices.* All notices or correspondence concerning this agreement shall be directed as follows:

To Garland County, Arkansas: Garland County Judge
Garland County Courthouse
Hot Springs, AR 71901

To City of Hot Springs: Office of City Manager
City of Hot Springs
P. O. Box 700
Hot Springs, AR 71902

(Ord. No. 3952, § 1, 4-18-88, Ord. No. 4122, § 1, 2-19-91)

Cross reference-Use of municipal court fees for cost of incarceration of defendants, § 2-10-3(b).

2-9-2. Interlocal agreement for medical ambulance services.

(a) *Franchise agreement.* The franchise agreement between the city of Hot Springs and St. Joseph's Regional Health Center and National Park Medical Center, as authorized by Ordinance No. 4519, shall constitute an interlocal agreement for emergency medical services and nonemergency ambulance services between Garland County and the city of Hot Springs.

(b) *Administrator position or joint board.* There shall be no administrator position or joint board established pursuant to the terms of this agreement.

(c) *Modification.* Either party may initiate a request for modification to this agreement in writing. All modifications negotiated will be written and approved by the respective heads of the two local governments. This agreement shall be subject to any such approvals as may be required by the governing bodies of the city of Hot Springs and Garland County.

(d) *Notices.* All notices or correspondence concerning this agreement shall be directed as follows:

To Garland County, Arkansas: Garland County Judge
Garland County Courthouse
Hot Springs, AR 71901

To City of Hot Springs: Office of City Manager
City of Hot Springs
P. O. Box 700
Hot Springs, AR 71902

(e) *Severability.* If any provision of this ordinance or the application thereto to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable. (Ord. No. 4529, §§ 1--5, 1-22-96)

Editor's note-Ord. No. 4519 granted a four-year franchise to St. Joseph's Regional Health Center and National Park Medical Center for provision of EMS ambulance service. The franchise agreement is on file in the office of the city clerk.

2-9-3. Agreement for animal control services.

The attached Agreement between the City of Hot Springs, Arkansas, and Garland County, Arkansas, for certain animal control services by the City on Behalf of the County, is hereby approved. (Res. No. 9200, 01-16-2018)

2-9-4. Agreement for information systems services.

The Mayor is hereby authorized to execute the attached Contract for Services between the City of Hot Springs Arkansas, and Garland County Arkansas, for certain Information Systems (IS) services. (Res. No. 9193, 12-19-2017)

Editor's note-The agreements referred to in Resolution 9193 and Resolution 9200 are on file in the office of the City Clerk.

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CHAPTER 10

DISTRICT COURT

2-10-1. District court - First division election.

This ordinance shall be in harmony and consistent with the laws of the State of Arkansas pertaining to the operation of district, including but not limited to, A.C.A. §16-17-108(ww)(1,2,3,4,5,6); and the district judge, first division, shall be elected in even numbered years consistent with A.C.A. §16-17-208, A.C.A. §16-17-209, and A.C.A. §16-17-103. (Ord. No. 4731, § 1, 5-18-98)

2-10-2. District court - Second division.

2-10-2.1. Creation.

There is hereby created the district court of the city of Hot Springs, second division, with all rights thereunto pertaining.

2-10-2.2. Salaries.

The salary of the district judge, second division, and the district court clerk, second division, shall be as now or hereafter established by State law and as determined by the board of directors of the city of Hot Springs and the quorum court of Garland County.

2-10-2.3. City/county expense.

The salaries of the district judge, second division, and district court clerk, second division, and the operating expenses of the city of Hot Springs district court, second division, shall be paid fifty percent (50%) by the city of Hot Springs and fifty percent (50%) by Garland County.

2-10-2.4. Election.

This ordinance shall be in harmony and consistent with the laws of the state of Arkansas pertaining to the operation of district courts, including but not limited to, A.C.A. §16-17-108(ww)(1,2,3,4,5,6), and the district judge, second division, shall be elected in even numbered years consistent with A.C.A. §16-17-208, A.C.A. §16-17-209, and A.C.A. §16-17-103.

_____ Cross reference-§ 10-6-1, traffic violations bureau.

State law reference-Municipal courts now known as district courts, municipal judges now known as district judges, Act 1693 of 2001, §1(a).

2-10-2.5. Intent.

It is the intent that the district court, second division, is to be established for the purpose of conducting court in the afternoon and night so that every effort can be made to accommodate the needs of the people. (Ord. No. 4718, §§ 1-5, 3-16-98)

2-10-3. Travel and Reimbursement

Policies related to City affairs by the City Attorney, for which the costs will be paid by the appropriate City Fund.

(a) *Travel costs and miscellaneous expenses shall be paid at the rates and in accordance with the procedures established in the administrative policy and associated forms entitled, "Travel Procedures for City Employees and City Officials," as may now or hereafter be in effect (January 30, 2013, edition attached and incorporated herein by reference).*

(b) *Any and all such expenses and/or reimbursements paid by the Finance Director shall be subsequently reviewed for appropriateness on a monthly basis by a three (3) member committee of the Board of Directors, consisting of the Mayor, the Assistant Mayor, and the immediate past Assistant Mayor. In the event that the committee shall determine that the payment of any such expense and/or reimbursement is inappropriate, then the recipient thereof shall immediately refund same to the City. (Res. No. 8496, §2, 7-1-2014)*

2-10-4. Fines and fees.**2-10-4.1. Fees - When city police department has served warrant, notice, etc.**

From and after the passage and effective date of this section, those fees which are additionally assessed when a judicial officer requires the Garland County Sheriff to serve a warrant, notice to vacate, and the like, said fees being determined pursuant to Arkansas Code Annotated § 21-6-307, shall likewise be assessed on cases emanating within the city when officers of the Hot Springs police department are required by court order to perform similar services. The fee for said services shall be the same as set and determined by the legislature per Arkansas Code Annotated § 21-6-307 when such similar services are performed by officers of the Hot Springs police department. (Ord. No. 3949, § 1, 4-18-88)

2-10-4.2. Court fine to be used to defray cost of incarcerating city prisoners.

That in addition to all fines now or as may hereafter be provided by law, there is hereby levied an additional court fine not to exceed Twenty Dollars (\$20.00) from each defendant who pleads guilty or nolo contendere to, is found guilty of, or forfeits bond for any misdemeanor or traffic violation in the District Court of Hot Springs. Provided, further, that the funds generated by said additional fine shall be used exclusively to help defray the cost of incarcerating city prisoners, including the construction and maintenance of the city jail and payments to other entities for incarcerating city prisoners. (Ord. No. 5731, §1, 7-21-2009)

Cross reference-City/county interlocal agreements, §2-9-1.

Editor's note: Resolution No. 7781 establishing a Fountain Lake Division of Garland County District Court was repealed by Resolution 7876.

2-10-5. Reserved.**2-10-6. Allocation of time payments.**

(a) All time payments collected by the municipal court shall be allocated at fifty percent (50%) to court costs and fifty percent (50%) to fines. Whenever either court costs or fines are fully paid, all remaining time payments collected shall be allocated to remaining amounts due.

(b) The court clerk shall prepare at least monthly a separate report for all time payments made on accounts. The monetary settlement for this separate report shall be made on or before the 5th day of the next-following month.

(Ord. No. 4885, §§ 1, 2, 7-3-00)

2-10-7. Collection of fines - Responsible agency.

Pursuant to A.C.A. § 16-13-709 (2)(A), the Garland County District Court is hereby designated as the agency primarily responsible for the collection of fines for the City of Hot Springs assessed in the said court. (Ord. No. 5246, §1, 1-20-04)

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CHAPTER 11**PERSONNEL****2-11-1. Reserved.****2-11-2. Residency policy.**

Editor's note-Res. No. 4111 (adopted 1-18-99) repealed Res. No. 3531 (adopted 10-21-96) which adopted a residency policy for all city employees hired after November 1, 1996. Res. No. 3531 was formerly codified in this section.

2-11-3. Longevity pay.

(a) *Amount.* That all regular, full-time city employees are entitled to longevity pay at the rate of two dollars and fifty cents (\$2.50) per month for each year of continuous service (after and not including their first twelve months of service) with the city of Hot Springs, Arkansas. Longevity payments are computed in this manner to a maximum of nine hundred dollars (\$900.00).

(b) *Payment.* That, effective July 1, 1999, longevity will accrue and be paid on a biweekly basis as part of the regular biweekly payroll process. Any amount paid for longevity will be listed separately from regular wages and specifically designated as longevity pay.

(c) *Options.* That any employee who does not elect to receive their longevity on a biweekly basis may choose one of the following options:

- (1) Christmas club account or
- (2) Share (Savings) account.

Both of these options are available through the city's designated credit union, and the employee will specify the type of account and the amount to be deposited. The specified amount will be deducted from the employee's paycheck and remitted by the city to the credit union for deposit into the employee's account. The employee will then be able to withdraw his/her funds as s/he desires in accordance with the policies of the credit union. (Ord. No. 4803, §§ 1--3, 6-21-99)

2-11-4. Retirement - Participation in Arkansas State Employee Retirement System.

Effective July 1, 1968, the city of Hot Springs does hereby elect to become a participating public employer in the Arkansas State Employees Retirement System under the provisions of Act No. 64 of the 1961 General Assembly.

The City of Hot Springs does hereby request the executive secretary of the Arkansas State Employees Retirement System to do any and all things necessary to place the eligible employees of the city of Hot Springs under the municipal division of the state employees retirement system. (Ord. No. 2957, §§ 1, 2, 5-20-68)

2-11-5. Social security.

2-11-5.1. Social security agreement between state and city approved.

The terms and provisions of the agreement to be entered into by and between the state agency, referred to in Act 248 of 1951, and the city is hereby approved. (Ord. No. 2390, § 1, 1-7-52)

2-11-5.2. Execution of agreement; responsibility of mayor and city clerk.

The mayor and the city clerk of the city are authorized and directed to execute the agreement for the city and the city clerk is hereby authorized and directed to represent the city in connection with the agreement. (Ord. No. 2390, § 2, 1-7-52)

2-11-5.3. Withholdings from salaries authorized.

Beginning January 1, 1952, the city clerk is hereby authorized and directed to deduct from the salaries of city officials and employees, the amount as set forth in the act, and to remit to the state agency all of the withholdings from the salaries or wages from the city officials and employees and to match the sum from the funds of the city and to remit the amount to the state agency at the time and in the manner prescribed by the provisions of the Social Security Act. (Ord. No. 2390, § 3, 1-7-52)

State law reference-A.C.A. 24-1-201

2-11-6. Reserved

(Res. No. 6859, §1, 5-19-08)

Editor's note - §2-11-6 adopted by Resolution No. 6859, was repealed by Resolution No. 7853.

2-11-7. Policemen's and firemen's pension and relief funds.(a) *Policemen's pension and relief fund.*

- (1) The administration of the retirement program coverage for all Hot Springs policemen's pension and relief fund participants shall be transferred to the Arkansas local police and fire retirement system (LOPFI) pursuant to the authority of Act 364, Acts of Arkansas, 1981, as amended, and including other acts of the state legislature, provided that such retirement coverage for said relief fund participants shall mean the administration of that fund only and not a change in the relief fund's benefit program.
- (2) The mayor and city manager are authorized to enter into an agreement with the Arkansas local police and fire retirement system (LOPFI) to administer the city policemen's pension and relief fund as stated in subsection (a)(1) of this section. (Ord. No. 3934, §§ 1, 2, 12-7-87)

(b) *Firemen's pension and relief fund.*

- (1) The administration of the retirement program coverage for all Hot Springs firemen's pension and relief fund participants shall be transferred to the Arkansas local police and fire retirement system (LOPFI) pursuant to the authority of Act 364, Acts of Arkansas, 1981, as amended, and including other acts of the state legislature, provided that such retirement coverage for said relief fund participants shall mean the administration of that fund only and not a change in the relief fund's benefit program.
- (2) The mayor and city manager are authorized to enter into an agreement with the Arkansas local police and fire retirement system (LOPFI) to administer the city firemen's pension and relief fund as stated in subsection (b)(1) of this section. (Ord. No. 3935, § 1, 2, 12-7-87)

2-11-8. Reserved.

2-11-9. Substance abuse policy.**2-11-9.1. Substance abuse policy - Policy statement.**

It is the policy of the City of Hot Springs to provide a work environment free from the effects of the illegal use of drugs and the misuse of alcohol. The city is dedicated to ensuring that our employees are both physically and mentally prepared at all times to assume the duties and responsibilities of their respective jobs and to provide efficient services to the citizens they are employed to serve. Our employees are our most valuable resource, and it is the city's goal to provide a healthy and satisfying work environment which promotes personal opportunities for growth.

2-11-9.2. Substance abuse policy - Purpose.

The purpose of this policy is to assure worker fitness for duty and to protect employees and the public from the risks posed by the misuse of alcohol and the use of prohibited drugs. The city's policy will comply with all applicable federal regulations governing workplace anti-drug and alcohol programs as outlined below.

The Federal Motor Carrier Safety Administration (FMCSA) has published 49 CFR Part 382 which mandates urine drug testing and breath alcohol testing for all employees operating a commercial motor vehicle subject to the commercial driver's license requirements and prohibits performance of safety-sensitive functions when there is a positive test result.

The U.S. Department of Transportation (DOT) has published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens. In addition, the Federal Government published 48 CFR Part 29 (The Drug-Free Workplace Act of 1988) which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses.

The City of Hot Springs Board of Directors, for the sake of convenience and fairness, has further adopted these regulations and procedures to apply to other positions not under the authority of DOT or its agencies; any such requirements and/or disciplinary actions established under the City's authority are indicated by the use of a bold script font.

2-11-9.3. Substance abuse policy - Applicability.

This policy applies to all non-transit employees who:

- (1) hold a Commercial Driver's License (CDL) including, but not limited to, regular full-time drivers, casual, intermittent and occasional drivers;

Cross reference-Hot Springs Intracity Transit Substance Abuse Policy, § 13-2-3.

- (m) operate City vehicles/equipment not requiring a CDL when such operation is one of their primary job functions;
- (n) dispatch or maintain any City vehicles/equipment when such dispatch or maintenance is one of their primary job functions;
- (o) perform functions having a direct affect on public health and/or safety including, but not limited to, employees of the Airport, Water Production and Wastewater Treatment facilities; and
- (p) any other employees that the City determines to be performing safety-sensitive functions.

2-11-9.4. Substance abuse policy - Prohibited substances.

(a) *Illegally Used Controlled Substances or Drugs.* This includes any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs and use of illegally obtained prescription drugs.

(b) *Alcohol.* This includes the use of beverages containing alcohol or any other substances (including any medication, mouthwash, food or candy) such that alcohol is present in the body while performing job duties. The concentration of alcohol is expressed in terms of grams of alcohol per 210 liters of breath as measured by a breath testing device.

2-11-9.5. Substance abuse policy - Legal drugs.

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited; however, the use of any substance which carries a warning label indicating that mental functions, motor skills or judgment may be adversely affected must be discussed by employees with their appropriate health care professional before performing work-related duties. Educational information regarding prescription and over-the-counter medications should be obtained from either a health care professional or pharmacist. Employees are strongly urged to seek and obtain medical advice prior to using prescription or over-the-counter drugs that may adversely affect their ability to safely perform their job functions.

Any employee taking medications or drugs which may interfere with the safe and effective performance of duties or operation of vehicles and equipment must so notify his/her supervisor before beginning work. The employee may be temporarily reassigned to other duties when appropriate. Failure to provide such notice can result in disciplinary action, up to and including termination of employment. In the event of a question regarding an employee's ability to safely and effectively perform assigned duties while using such medication or drugs, clearance from a qualified physician will be required.

A legally prescribed drug means that the individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. If an employee tests positive for drugs, s/he must provide, within 24 hours, a valid prescription. A valid prescription includes the patient's name, the name of the substance, quantity/amount to be taken and the time period of the authorization. The misuse or abuse of legal drugs is prohibited during working hours, on breaks, during meal periods, when in uniform, while on City premises or at work sites in an official capacity as a representative of the City or while operating any City vehicle or equipment.

2-11-9.6. Substance abuse policy - Prohibited conduct.

All employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession or use of prohibited substances at all times. Employees are not to report for duty or remain on duty when they have used any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner who has advised the employee that the substance will not adversely affect their ability to safely perform their duties. Employees who violate these provisions will be subject to disciplinary action, up to and including termination. Law enforcement will be notified, as appropriate, when criminal activity is suspected.

Any employee who is reasonably suspected of being intoxicated, impaired, under the influence of a prohibited substance or not fit for duty will be suspended from job duties pending an investigation and verification of condition. Employees who fail to pass a drug or alcohol test will be removed from duty and referred to a Substance Abuse Professional (SAP). Failure to obtain a SAP evaluation and/or to follow the SAP's recommended treatment will be cause for disciplinary action, up to and including termination of employment. A drug or alcohol test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.

No employee will be allowed to report for duty or remain on duty when his/her ability to perform assigned duties is adversely affected by alcohol or when his/her breath alcohol concentration is 0.04 or greater. No employee may use alcohol within four hours of reporting for duty, while on duty or during any hours they are on call. Violation of these provisions will be cause for disciplinary action, up to and including termination of employment.

If an alcohol confirmation test result is 0.02 or greater, but less than 0.04, the employee will not be permitted to return to work until the start of his/her next regularly scheduled duty period, but not less than 24 hours following administration of the test.

Any employee who refuses to comply with a request for testing will be removed from duty, will be considered as having a positive test and will be referred to a Substance Abuse Professional for evaluation. Failure to obtain a SAP evaluation and/or failure to follow the SAP's recommended treatment plan will result in disciplinary action, up to and including termination. Any employee who is suspected of providing false information in connection with a test or who is suspected of falsifying test results through tampering, contamination,

adulteration or substitution will be required to undergo an observed collection. Verification of these actions will result in disciplinary action, up to and including termination. Refusal can include an inability to provide a sufficient urine specimen or breath sample without a valid medical explanation, as well as verbal declaration, obstructive behavior or physical absence resulting in the inability to conduct the test.

2-11-9.7. Substance abuse policy - Employee admission of alcohol and/or drug use.

An employee who makes a voluntary admission of alcohol misuse or controlled substances use will not be subject to disciplinary action provided:

- (a) the employee does not self-identify in order to avoid testing under the requirements of applicable regulations and/or this policy;*
- (b) the employee makes the admission prior to performing a safety-sensitive function (i.e., prior to reporting for duty);*
- (c) the employee does not perform a safety-sensitive function until s/he has been evaluated and has successfully completed education and/or treatment and return-to-duty testing requirements as outlined herein; and*
- (d) the admission is made to a supervisor or the city's Designated Employer Representative (DER).*

When an employee makes a voluntary admission (under the conditions outlined above) of alcohol misuse or controlled substances use, s/he will immediately be suspended from performing safety-sensitive functions and will be allowed sufficient opportunity to seek evaluation, education and/or treatment to establish control over his/her drug or alcohol problem. S/He will be permitted to return to safety-sensitive duties only upon successful completion of an educational and/or treatment program as determined by a drug and alcohol abuse evaluation expert (i.e., employee assistance professional, substance abuse professional or qualified drug and alcohol counselor) AND has undergone a return-to-duty breath alcohol test with a result of less than 0.02 and/or a return-to-duty drug test with a verified negative result. Follow-up testing will be required with a minimum of six drug and/or alcohol tests within the next 12 months after returning to duty; if the evaluation expert recommends more frequent follow-up testing, his/her recommendation will be followed.

2-11-9.8. Substance abuse policy - Testing procedures.

Urine drug testing and breath testing for alcohol will be conducted when circumstances warrant or as required by federal regulations and City policy. All employees will be subject to drug testing prior to employment and to drug and/or alcohol testing for reasonable suspicion. In addition, all safety-sensitive employees will be subject to random and post-accident drug and/or alcohol testing. All employees with a positive drug or alcohol test (first offense) will be required to undergo return-to-duty testing prior to returning to safety-sensitive duties; follow-up testing will be conducted for a period of one to five years based on the SAP's recommendation, with at least six tests performed during the first year.

All testing will be conducted in a manner to assure a high degree of accuracy and reliability using techniques, equipment and laboratory facilities that have been approved by the U.S. Department of Health and Human Services (DHHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended.

The drugs that will be tested for (and their respective cutoff levels) include:

<u>Substance (Drug)</u>	<u>Cutoff Initial Test</u>	<u>Cutoff Confirmation</u>
(i) Marijuana	50 ng/ml	15 ng/ml
(ii) Cocaine	300 ng/ml	150 ng/ml
(iii) Opiates	2000 ng/ml	-----
Morphine	-----	2000 ng/ml
Codeine	-----	2000 ng/ml
(iv) Amphetamines	1000 ng/ml	-----
Amphetamine	-----	500 ng/ml
Methamphetamine	-----	500 ng/ml
(v) Phencyclidine	25 ng/ml	25 ng/ml

An initial drug screen will be conducted on each urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40, as amended.

All drug testing laboratory results will only be released to and reviewed by a qualified Medical Review Officer (MRO) in order to verify and validate test results. The MRO will release findings only to the Designated Employer Representative (DER). The MRO will be a licensed physician who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result. Before verifying that an employee has a positive test result, the MRO is responsible for contacting the employee, on a direct and confidential basis, to determine whether the employee wishes to discuss the test or present a legitimate explanation for the positive result. An MRO staff person may make the contact; the MRO's medically licensed or certified staff person may gather information. If, after reasonable efforts, the MRO is unable to reach the employee directly, the MRO may contact the DER for assistance in contacting the employee. The DER will take maximum precautions to preserve the confidentiality of the MRO contact.

If, after making all diligent and reasonable efforts, neither the MRO nor the DER is able to contact the employee within 14 days of the date the MRO received the confirmed positive test result from the laboratory, the MRO may verify the test result as positive. The MRO may also

verify the test result as positive if the employee does not contact the MRO within five days of being contacted by the DER or if the employee expressly declines the opportunity to discuss the test result. The MRO may reopen the verification of a positive test if the employee presents documentation of serious injury or illness or other circumstances that unavoidably prevented the employee from being contacted within the designated time period and, if the employee then presents a legitimate (in the MRO's opinion) explanation for the positive test, the MRO will declare the test to be negative. The MRO will review and interpret an individual's medical history, including any medical records and biomedical information provided, affording the individual an opportunity to discuss the test result, and decide whether there is a legitimate medical explanation for the result, including legally prescribed medication.

The MRO can declare a test invalid or canceled based on the regulations specified in 49 CFR Part 40, as amended. A canceled/invalid test is considered neither a positive nor a negative test. An example of a canceled test is a urine sample being rejected by the laboratory. The MRO will cancel the test and report the cancellation and the reason(s) for it to the appropriate agency, employer and employee.

Any drug test with a "positive dilute" result will be treated as a verified positive test. Any drug test that is reported as "negative dilute" will require the employee or applicant for employment to be retested immediately upon receipt of the result. If an employee is directed to take another test and declines, that employee has refused the test and will be required to follow the same procedures as outlined for positive drug test results. The result of the second test will become the test of record. A second negative dilute result will be treated as a negative test, and no further retesting will be required.

Tests for breath alcohol concentration will be conducted utilizing an Evidential Breath Testing device (EBT) that has been approved by the National Highway Traffic Safety Administration (NHTSA) and operated by a trained Breath Alcohol Technician (BAT). All breath alcohol test results will be reported only by an MRO or BAT to the DER.

If the initial breath test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. An employee who has a confirmed alcohol concentration of greater than 0.02 but less than 0.04 will be removed from his/her position for at least 24 hours unless a retest results in a concentration measure of less than 0.02. An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy and/or of the requirements set forth in 49 CFR Part 382.

Any employee who has a confirmed positive drug or alcohol test (first offense) will be suspended from work and referred to a Substance Abuse Professional (SAP). Any employee who has a second confirmed positive drug or alcohol test will be terminated.

All drug testing will be accomplished by urine test utilizing the split sample method and chain-of-custody control. Any employee who questions a positive drug test result may request that an additional test be conducted. This test must be conducted at a different DHHS-certified laboratory than performed the initial test. The test must be conducted on the split sample that was provided by the employee at the same time as the original sample. All costs for such

testing are paid by the employee unless the result of the split sample test invalidates the result of the original test. This cost will be deducted from the employee's paycheck. The method of collecting, storing and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the MRO within 72 hours of notice of the original sample verified test result. Requests made after 72 hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee.

2-11-9-9. Substance abuse policy - Required testing.

PRE-EMPLOYMENT drug tests will be conducted on each applicant selected for hire into any regular full-time or regular part-time position. Applicants selected for hire into temporary/seasonal positions will be drug tested if they are required to have a CDL or will be performing safety-sensitive functions. A job offer may be made prior to the test only if it includes the condition that the applicant tests negative. No applicant will be hired prior to the City's receipt of a verified negative test result. Any applicant who tests positive will not be eligible for hire for a period of at least six months. At any time after the end of the six-month period, the applicant, if again selected for hire, must:

- (a) show proof of successfully completing a substance abuse treatment program and
- (b) complete a new drug test with a negative result.

Pre-Employment (Pre-Transfer) drug tests will be conducted on each employee selected for transfer from a non-safety-sensitive position to a safety-sensitive position. No employee will be transferred to a safety-sensitive position prior to the City's receipt of a verified negative test result.

After obtaining written consent from an applicant with a CDL (including employees transferring from a non-CDL position to one requiring a CDL), the City will request the following information from DOT-regulated employers who have employed that individual for any period during the two years before the date of application or transfer:

- (a) Alcohol tests with a result of 0.04 or higher alcohol concentration
- (b) Verified positive drug test results
- (c) Refusals to be tested
- (d) Other violations of DOT agency drug and alcohol testing regulations
- (e) Documentation of successful completion of DOT return-to-duty requirements (including follow-up testing) for any applicant or employee who violated a DOT drug and/or alcohol regulation

REASONABLE SUSPICION drug and/or alcohol tests will be conducted when a determination is made that reasonable suspicion exists to require the employee to undergo testing. This determination must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. The observations may include indications of the chronic and withdrawal effects of controlled substances.

The determination must be made by a supervisor or City official who is trained in detecting the signs and symptoms of drug and alcohol use. The supervisor must complete and sign a written record of the observations leading to a reasonable suspicion; this record must be completed within 24 hours of the observed behavior or before the results of the alcohol or drug test are released, whichever is earlier. Reasonable suspicion tests will be coordinated with the Human Resources Director whenever possible. All employees are subject to reasonable suspicion testing.

Reasonable suspicion alcohol testing is authorized only if the observations described above are made during, just preceding or just after performance of safety-sensitive duties. An employee may be directed to undergo reasonable suspicion alcohol testing while s/he is performing safety-sensitive functions, just before s/he is to perform safety-sensitive functions or just after s/he has ceased performing such functions.

Notwithstanding the absence of a reasonable suspicion alcohol test, no employee is permitted to report for duty or remain on duty while s/he is under the influence of or impaired by alcohol, as shown by the behavioral, speech and performance indicators of alcohol misuse, nor will the City permit the employee to perform his/her duties until:

- (a) an alcohol test is administered and the employee's alcohol concentration measures less than 0.02; OR
- (b) twenty-four hours have elapsed following the determination that there is reasonable suspicion to believe that the employee has violated the provisions of this policy concerning the use of alcohol.

If a reasonable suspicion alcohol test is not administered within two hours following the determination, the employee's supervisor or department head must prepare a record stating the reason(s) the test was not promptly administered. If the test is not administered within eight hours following the determination, all attempts to administer an alcohol test will cease, and the employee's supervisor or department head must prepare a record stating the reason(s) the test was not administered. Any records prepared in accordance with this section must be submitted to and retained by the Human Resources Director.

POST-ACCIDENT drug and alcohol testing will be conducted on employees performing safety-sensitive functions after any accident involving the loss of human life. For non-fatal accidents, employees will be tested if they receive a citation for a moving traffic violation arising from the accident (within eight hours of the accident for alcohol testing and within 32 hours of the accident for drug testing) AND

- (a) *the accident involves bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident OR*
- (b) *one or more vehicles incurs disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other motor vehicle.*

An employee who is subject to post-accident testing must remain readily available for such testing or s/he may be deemed to have refused to submit to testing. This is not intended to delay any necessary medical attention for injured people or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care. If it is necessary for an employee to leave the scene of an accident prior to testing, the employee must keep his/her supervisor informed of his/her location.

An employee subject to post-accident alcohol testing must not use alcohol for eight hours following the accident or until s/he undergoes a post-accident alcohol test, whichever occurs first.

If a required post-accident alcohol test is not administered within two hours following the accident, the employee's supervisor or department head must prepare a record stating the reason(s) the test was not promptly administered. If the test is not administered within eight hours following the accident, all attempts to administer an alcohol test will cease, and the employee's supervisor or department head must prepare a record stating the reason(s) the test was not administered. If a required post-accident drug test is not administered within 32 hours following the accident, all attempts to administer a drug test will cease, and the employee's supervisor or department head must prepare a record stating the reason(s) the test was not administered. Any records prepared in accordance with this section must be submitted to and retained by the Human Resources Director.

***RANDOM** drug and alcohol testing will be performed on an unannounced basis and will be spread reasonably throughout the calendar year. The selection of employees for random alcohol and controlled substances testing will be made by a scientifically valid method so that each employee subject to random testing will have an equal chance of being tested each time selections are made. Once notified of selection for random testing, an employee must proceed to the collection site immediately. Employees subject to random testing are as follows:*

***DOT** - all non-transit employees who operate City vehicles and equipment requiring a Commercial Driver's License (CDL); employees in this category are tested under the authority of and in compliance with DOT regulations as specified in 49 CFR Part 40 and FMCSA regulations as specified in 49 CFR Part 382*

***POLICE** - all uniformed and communications employees of the Hot Springs Police Department; all employees in this category are tested under the authority of the City of Hot Springs Board of Directors*

FIRE - all uniformed and communications employees of the Hot Springs Fire Department; all employees in this category are tested under the authority of the City of Hot Springs Board of Directors

OTHER - all employees whose primary job functions include the operation of City vehicles and/or equipment not requiring a CDL, all employees whose primary job functions include the dispatch or maintenance of any City vehicles and/or equipment (except police/fire dispatchers) and any other employees which the City may determine to be performing safety-sensitive functions including, but not limited to, employees of the airport, water production and wastewater treatment facilities; all employees in this category are tested under the authority of the City of Hot Springs Board of Directors

RETURN-TO-DUTY and FOLLOW-UP drug and/or alcohol testing will be conducted when any safety-sensitive employee returns to safety-sensitive duties after a violation of the prohibited alcohol and/or drug conduct, refuses to submit to an alcohol and/or drug test or has a verified positive alcohol and/or drug test result (first offense). In order to return to work, the employee must have:

- (a) been evaluated by a Substance Abuse Professional (SAP) and followed any recommendation(s) for action by the SAP, including participation in any rehabilitation program AND
- (b) taken a return-to-duty alcohol test with results indicating an alcohol concentration of less than 0.02 and/or a drug test with a verified negative result. If a test is canceled, the employee must take another return-to-duty drug and/or alcohol test.

Follow-up tests will be unannounced and conducted at least six times within the first twelve months after the employee returns to duty. Any additional follow-up testing will be as recommended by the SAP. Follow-up tests will be in addition to any random tests and may be extended for up to five years following return to duty.

2-11-9.10. Substance abuse policy - Consequences of a positive test.

Alcohol. If the confirmation test result is 0.02 or greater, but less than 0.04, the employee will not be permitted to return to work until the start of his/her next regularly scheduled duty period, but not less than 24 hours following administration of the test.

If the confirmation test result is 0.04 or greater (first offense), the employee will immediately be suspended from performing safety-sensitive functions pending evaluation by a Substance Abuse Professional (SAP), completion of any recommended education, treatment, etc. and a return-to-duty alcohol test with a result of less than 0.02. Upon return to duty, the employee will then be subject to unannounced follow-up alcohol tests (no less than six within the following 12 months).

If the confirmation test result is 0.04 or greater and represents the second positive test (drugs and/or alcohol) for the employee, s/he will be terminated.

Controlled Substances (Drugs). *If the result of the primary specimen analysis is positive, the Medical Review Officer (MRO) will notify the employee of the positive result and the employee may, within 72 hours of such notification, request that the split sample be tested in a different DHHS laboratory for the presence of the substance(s) that showed a positive result. A SECOND TEST WILL NOT BE CONDUCTED UNLESS THE EMPLOYEE REQUESTS IT WITHIN 72 HOURS OF NOTIFICATION BY THE MRO OF THE POSITIVE RESULT UNLESS THE DELAY IS DUE TO DOCUMENTABLE FACTS THAT ARE BEYOND THE CONTROL OF THE EMPLOYEE.*

Once a verified positive test result has been received from the MRO, the employee will immediately be suspended from performing safety-sensitive functions until 72 hours have elapsed or, if the employee has requested a split sample test, until the split sample test results are received. If the split sample test result is negative, the employee will return to work and be paid for any period of suspension; the City will pay the cost of the split sample test. If the split sample test is not requested or if it reconfirms the positive result (first offense), the employee will be further suspended from performing safety-sensitive functions until s/he has been evaluated by a Substance Abuse Professional (SAP), completed any recommended education, treatment, etc. and had a negative return-to-duty drug test. Upon return to duty, the employee will then be subject to unannounced follow-up drug testing (no less than six tests within the following 12 months).

If the employee does not request a split sample test or if the split sample test reconfirms the positive result and this represents the second positive test (drug and/or alcohol) for the employee, s/he will be terminated effective his/her last day worked.

General - *An employee will be permitted to use any accrued sick, vacation and/or discretionary leave during the time of evaluation and treatment, provided the evaluation and any recommended treatment are processed in a timely manner. By the next business day after notification from the Human Resources Director, an employee must contact a Substance Abuse Professional and set up the earliest possible appointment for evaluation. Any required treatment must begin as soon as possible. Any delays in facilitating this process will result in the time off being unpaid or the employee may be terminated. Unless otherwise recommended by the SAP, the return-to-duty test must be completed no later than the next business day following notification from the SAP that the employee has completed any recommended education, treatment, etc. If an employee has no accrued leave or exhausts his/her accrued leave prior to return to duty, a leave of absence without pay may be granted in accordance with City policy.*

IF AN EMPLOYEE HAS A VERIFIED POSITIVE TEST RESULT FOR DRUGS AND/OR A CONFIRMED ALCOHOL CONCENTRATION OF 0.04 OR GREATER A SECOND TIME, S/HE WILL BE TERMINATED. THIS APPLIES TO ANY COMBINATION OF ALCOHOL AND/OR DRUG TEST RESULTS.

2-11-9.11. Substance abuse policy - Records.

Drug and alcohol testing results will be maintained under strict confidentiality by the Human Resources Director, Medical Review Officer (MRO) and testing laboratory. The Human Resources Director will maintain all records required by 49 CFR Part 40, 49 CFR Part 382 and this policy. All requests for information must be referred to the Human Resources Director who is the point of contact for all correspondence and reports from the MRO, testing laboratories and Substance Abuse Professional.

2-11-9.12. Substance abuse policy - Training.

All employees will receive a copy of and be educated in all provisions of this policy through classes and other methods as appropriate. Employees will also receive a booklet describing alcohol and each drug to be tested for and outlining the signs and symptoms of use and the health, social and workplace issues associated with each. Substance abuse training, including discussion of this policy, will be included in each new employee orientation class. All department heads and supervisors will receive additional training relative to the detection of signs and symptoms of drug and alcohol use.

2-11-9.13. Substance abuse policy - Designated employer representative.

The Designated Employer Representative (DER) for the City of Hot Springs is the Human Resources Director. As the DER, s/he is authorized to:

- (a) receive communications and test results from service agents;*
- (b) take immediate actions to remove employees from safety-sensitive duties; and*
- (c) make required decisions in the testing and evaluation processes.*

The Human Resources Director will be responsible for administration of this policy, including the maintenance of records, preparation of reports, coordination of drug and alcohol testing procedures and required training. S/He will be the contact person for any questions regarding the administration of this policy and for issuing any rulings regarding the interpretation of this policy.

In the Human Resources Director's absence, the City's Training Coordinator will serve as the Designated Employer Representative.

2-11-9.14. Substance abuse policy - Terms and definitions.

Adulterated Specimen - *a specimen that contains a substance that is not expected to be present in human urine or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.*

Alcohol - the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl and isopropyl alcohol.

Alcohol Concentration/Content - the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test

Alcohol Use - the drinking or swallowing of any beverage, liquid mixture or preparation (including any medication) containing alcohol

Breath Alcohol Technician (BAT) - a person who instructs and assists employees in the alcohol testing process and operates an evidential breath testing device

Canceled Test - a drug or alcohol test that has a problem identified that cannot be or has not been corrected or which is otherwise required to be canceled by governing regulations; it is neither a positive nor a negative test and includes a specimen rejected for testing by a laboratory

Chain-of-Custody - a procedure used to document the handling of the urine specimen from the time the employee or applicant gives the specimen to the collector until the specimen is destroyed

Confirmation Test (Alcohol) - a subsequent test using an EBT, following a screening test with a result of 0.02 or greater, that provides quantitative data about the alcohol concentration

Confirmation/Confirmatory Drug Test - a second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite

Confirmation/Confirmatory Validity Test - a second test performed on a urine specimen to further support a validity test result

Confirmed Drug Test - a confirmation test result received by an MRO from a laboratory

Covered Employee - a person, including a volunteer, applicant or transferee who performs a safety-sensitive function

Dilute Specimen - a specimen with creatinine and specific gravity values that are lower than expected for human urine

Disabling Damage - damage which precludes departure of a motor vehicle from the scene of an accident in its usual manner in daylight after simple repairs; includes damage to motor vehicles that could have been driven but would have been further damaged if so driven; excludes damage which can be remedied temporarily at the scene of the accident without special tools or parts, tire disablement without other damage even if no spare tire is available, headlight or taillight damage and damage to turn signals, horn or windshield wipers which makes them inoperative

DOT Agency - an agency (or operating administration) of the United States Department of Transportation administering regulations requiring alcohol and/or drug testing

Evidential Breath Testing (EBT) Device - a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath at the 0.02 and 0.04 alcohol concentrations

Licensed Medical Practitioner - a person who is licensed, certified and/or registered, in accordance with applicable federal, state, local or foreign laws and regulations, to prescribe controlled substances and other drugs

Medical Review Officer (MRO) - a licensed physician responsible for receiving and reviewing laboratory results generated by a drug testing program and evaluating medical explanations for certain drug test results

On Call - when an employee has specifically been placed on call for a designated period of time; any use of drugs or alcohol while specifically on call is strictly prohibited

On Duty - includes all time from the time an employee begins to work or is required to be in readiness to work until the time s/he is relieved from work and all responsibility for performing work

Performing a Safety-Sensitive Function - any period in which an employee is actually performing, ready to perform or immediately available to perform any safety-sensitive function

Refusal to Submit (to an alcohol or controlled substances test) - when an employee:

- (a) fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the City, consistent with applicable DOT agency regulations and this policy, after being directed to do so by the City;
- (b) fails to remain at the testing site until the testing process is complete; provided, that an applicant who leaves the testing site before the pre-employment testing process begins is not deemed to have refused to test;
- (c) fails to provide a urine specimen for any required drug test; provided, that an applicant who does not provide a urine specimen because s/he has left the testing site before the pre-employment testing process begins is not deemed to have refused to test;
- (d) fails to permit the observation or monitoring of his/her provision of a specimen in the case of a directly observed or monitored collection in a drug test;
- (e) fails to provide a sufficient amount of urine when directed and when it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;

- (f) *fails to or declines to take a second test which the City or collector has directed him/her to take;*
- (g) *fails to undergo a medical examination or evaluation as directed by the MRO as part of the verification process or as directed by the DER (In the case of a pre-employment drug test, the applicant is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment.);*
- (h) *fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process); or*
- (I) *is reported by the MRO as having a verified adulterated or substituted test result.*

Safety-Sensitive Function - includes all time a driver of City vehicles/equipment is at a City facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the City; all time inspecting, servicing or conditioning any City vehicle/equipment; all time spent at the driving controls of any City vehicle/equipment; all time, other than driving time, in or upon any City vehicle/equipment; all time loading or unloading any City vehicle/equipment, supervising or assisting in the loading or unloading, attending any vehicle/equipment being loaded or unloaded, remaining in readiness to operate the vehicle/equipment or in giving or receiving receipts for shipments loaded or unloaded; and all time spent repairing, obtaining assistance or remaining in attendance upon a disabled vehicle/equipment; any function which directly affects public health and safety (e.g., performance and dispatch of law enforcement and firefighting functions, operation and maintenance of water or wastewater treatment facilities and communication and contact with aircraft); and any other function which the City may determine to be safety sensitive

Screening/Initial Test (Alcohol) - an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen

Screening/Initial Test (Drugs) - a test to eliminate negative urine specimens from further analysis or to identify a specimen that requires additional testing for the presence of drugs

Split Specimen/Sample - a part of the urine specimen that is sent to a first laboratory and retained unopened and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result

Subject to Call - when an employee is generally subject to call but not specifically "on call"; if called in to work while subject to call, an employee must inform his/her supervisor if s/he has been using drugs and/or alcohol which might impair his/her job performance; no disciplinary action will be taken against an employee in this situation; however, if the

employee fails to inform his/her supervisor of any such impairment and reports to work under the influence of drugs and/or alcohol, s/he will be subject to disciplinary action, up to and including termination of employment.

Substituted Specimen - a specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine

Verified Test - a drug test result or validity testing result from an DHHS-certified laboratory that has undergone review and final determination by the MRO

2-11-9.15. Substance abuse policy - Contacts.

Designated Employer Rep (DER):

*Minnie Lenox, HR Director
133 Convention Boulevard
Hot Springs, AR 71901
501.321.6840 (Phone)
501.321.6769 (Fax)
mlenox@cityhs.net*

Collection Site:

*St. Joseph's Business Health
Tanya Tedder, Clinic Manager
154 Cornerstone Lane
Hot Springs, AR 71913
501.525.9675*

Medical Review Officer (MRO):

*Dr. Stuart B. Hoffman
National Medical Review Offices, Inc.
5900 Wilshire Boulevard
Los Angeles, CA 90036
800.733.6676 (Toll-Free)*

Testing Laboratory:

*Quest Diagnostics
506 East State Parkway
Schaumburg, IL 60173
800.877.7484 (Toll-Free)*

Third Party Administrator (TPA):

*ChoicePoint Services, Inc.
830 Chestnut, #105
Conway, AR 72032
501.329.6975*

Substance Abuse Professional (SAP)

*Phillip Kellar
Quapaw House
812 Mountain Pine Road
Hot Springs, AR 71913
501.767.4456*

(Res. No. 6612, 6-18-07)

Editor's note-§2-11-9 was adopted by Resolution, but included in the Code of Ordinances due to its permanent nature.

2-11-10. Drug-free workplace policy.

2-11-10.1. Policy statement.

In accordance with provisions established in the City of Hot Springs Substance Abuse Policy, any work area of city employees is declared a drug-free workplace. All city employees must abide by this policy as a condition of employment.

2-11-10.2. Controlled substances - Prohibited.

Unlawful use, possession, distribution, dispensation, sale or manufacture of any controlled substance while at work for the city of Hot Springs is strictly prohibited. Any consumption of alcoholic beverage, or to be in possession of an open container of an alcoholic beverage while at work or on city property is prohibited. Reporting for work under the influence of any controlled substance or alcohol is prohibited. Any employee violating any of the above prohibitions may be subject to disciplinary action up to and including termination for the first offense.

2-11-10.3. Notification.

If an employee is convicted of violating a criminal drug statute for a violation occurring in the workplace, he/she will be required to notify the Human Resources Department in writing within five (5) days of the conviction occurring. Failure to inform Human Resources subjects the employee to disciplinary action up to and including termination for the first offense.

By law, Human Resources will notify any applicable federal granting agency within ten (10) days of receiving such notice from an employee or otherwise receiving notice of a conviction.

2-11-10.4. Substance abuse assistance.

An employee may voluntarily report to his/her supervisor, or any management official, that he/she has a substance abuse problem without fear of immediate dismissal, as long as such report is made prior to the employee being requested to take a drug or alcohol test. Such a report will constitute mandatory referral to a rehabilitation center or drug alcohol abuse assistance program. If restriction of work activity is determined necessary while undergoing treatment, the employee may request sick leave, vacation leave or leave without pay during such period of rehabilitation. If an employee fails to avail him or herself of such help and violations of this policy do occur, the City will have little choice but to act severely against such violators in the interests of protecting all of our employees and the citizens.

(Res. No. 6004, 10-3-05)

Editor's note-§2-11-10 was adopted by Resolution, but included in the Code of Ordinances due to its permanent nature.

CHAPTER 12

PUBLIC DOCUMENTS

2-12-1. Public document policy and fee schedule.

2-12-1.1. Public record access and fee policy.

All public records and documents shall be made available for inspection, copying, or receipt of copies by any person so requesting in accordance with the Arkansas Freedom of Information Act (A. C. A. § 25-19-101 et. seq.). Any person requesting a copy of any public record or document may be charged a per copy fee based on the actual costs of reproduction, including the costs of the medium of reproduction, supplies, equipment and maintenance, but not including existing personnel time associated with searching for, retrieving, reviewing or copying the requested record(s). In this regard, each department which is the custodian of any public records or documents shall annually prepare and post an itemized breakdown of charges for record reproduction by record type. Public records and documents may be provided to news media, city officials, other government officials and agencies at no cost. Certain public documents that are routinely reproduced (e.g., meeting agenda packets, reports, studies, ordinances, resolutions, budget and financial reports, policies, etc.) may be disseminated to interested parties at no cost. Special requests for electronic information shall be provided and fees charged in accordance with A. C. A. § 25-19-109. (Ord. No. 5057, §1, 2-4-02)

2-12-1.2. Code of Ordinances subscription service.

Subscription to the Hot Springs Code of Ordinances may be offered by the Office of the City Clerk as follows: \$150.00 per initial copy including updates for the remainder of the year in which initial copy purchased. Code supplement subscriptions shall be \$75.00 per year. Code supplement subscriptions shall run January 1 through December 31 and shall be due between January 1 and January 31 of each year. (Ord. No. 5057, §2, 2-4-02)

2-12-1.3. Fire and police services.

The following fees may be charges for services provided by the fire and police departments:

Fire Incident Reports	\$10.00 per page;
Police Incident/Offense/Arrest Reports	\$ 5.00 per report;
Traffic Accident Reports	\$10.00 per report;
Criminal History/Warrant Checks	\$10.00 per check; and
Fingerprinting (non-arrest situations)	\$10.00 per person.

Exceptions: Criminal History/Warrant Checks may be provided for charitable organizations, news media and other government agencies at no charge upon request.

(Ord. 5057, §3, 2-4-02, Ord. No. 5419, §1, 1-23-06)

2-12-2 Records Management and Retention Plan

The creation and upkeep of records by City departments of Hot Springs requires the establishment of policies to regulate the maintenance, retention and disposal of records. The purpose of this ordinance is to establish a City-wide records retention schedule and authorize destruction of certain City records pursuant to a uniform schedule on an annual basis.

2-12-2.1 Short Title

This ordinance shall be known and cited as the Records Management and Retention Ordinance (*Records Management and Retention Plan*) of the City of Hot Springs.

2-12-2.2 Definitions

Public records means writings, recorded sounds, films, tapes, electronic or computer-based information, or data compilations in any medium required by law to be kept or otherwise kept and that constitute a record of the performance or lack of performance of official functions that are or should be carried out by a public official or employee, a governmental agency, or other agency wholly or partially supported by public funds or expending public funds.

Electronic record means a record created, generated, sent, communicated, received, or stored by electronic means.

Custodian with respect to any public record, means the person having administrative control of that record.

Medium means the physical form or material on which records and information may be stored or represented and may include, but is not limited to, paper, microfilm, microform, computer disks and diskettes, optical disks, and magnetic tapes.

Administrative rights means permissions and powers, including without limitation the permissions and powers to access, alter, copy, download, read, record, upload, write, or otherwise manipulate and maintain records.

Department head means the officer who by ordinance or administrative policy is in charge of an office of the City of Hot Springs that creates or receives public records.

Permanent record means any public record of the City of Hot Springs for which the retention period on a records control schedule is given as permanent.

Records control schedule means a document prepared by, or under the authority of this ordinance which lists the records maintained by the City of Hot Springs, their retention periods, and other records disposition information that the records management program may require.

Records management means the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of recordkeeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographics and electronic and other records storage systems.

Retention period means the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.

2-12-2.3 Policy

It is hereby declared to be the policy of the City of Hot Springs to provide for efficient, economical, and effective controls over the creation, distribution, organization, maintenance, use, and disposition of all municipal records through a comprehensive system of integrated procedures for their management from creation to ultimate disposition, consistent with the requirements of all applicable Federal and state law and accepted records management practice to be known hereafter as Hot Springs Records Management and Retention Ordinance.

2-12-2.4 Designation of Records Management Officer

The City Clerk, and the successive holders of said title, shall serve as the Records Management Officer for the City of Hot Springs.

2-12-2.5 Authority of Records Management and Retention Plan

The Records Management Officer shall prepare and revise, as necessary, a standard records management and retention plan outlining, in detail, the exact procedure. The records management and retention plan shall be approved by the city manager and the city attorney and shall be distributed to all departments of the city. The records management and retention plan shall be binding on all offices and departments or similar entities of the City of Hot Springs and records shall be created, maintained, stored, microfilmed, or disposed of in accordance with the plan.

(Ord No. 5992, §1-6, 2-11-2014)

CHAPTER 13**CODE OF ETHICS****2-13-1. Code of Ethics.****2-13-1.1. General policy.**

It is essential to the proper working of city government that:

- (a) *There is a spirit of working together among city officials that reflects caring and concern for all those who depend on us, good stewardship for the taxpayer and respect for all the people we work with.*
- (b) *All city officials and employees be dedicated to the highest ideals of honesty and integrity.*
- (c) *Even the appearance of an impropriety in our decision making process must be avoided.*

2-13-1.2. Purpose of Code.

The purpose of this Code is to provide a Code of Ethics for the city of Hot Springs. Working for government is a very special vocation. It involves a special kind of public trust. Those who are elected to public office and those who are appointed to positions of authority are expected by the public not only to follow the law but to go above that and set the standard for integrity, honesty, courtesy, and good stewardship.

If each city official will follow the suggestions in the Code of Ethics contained herein, he/she will have done his/her part to ensure objectivity and promote public confidence in city government. This Code is more stringent than what is required by law but it does not go beyond what is expected by the citizens of the city of Hot Springs. The only enforcement to anything mentioned in the Code which does not have force of law must rely on what is in the heart of each individual director or other official and ultimately with the voters at election time.

2-13-1.3. Principles.

- (a) *City officials must obey the laws of the State of Arkansas and the city of Hot Springs in spirit as well as by letter.*
- (b) *Decisions must be based on principles, the fundamental truths established by society.*
- (c) *Principle must never be sacrificed for expedience or for profit, whether that profit be monetary or for the inflation of the individual ego.*
- (c) *No city office should be used for financial or gratuitous enrichment.*

- (e) *A spirit of cooperation and teamwork among city officials is essential to the effective management of government. Therefore, all city officials should:*
- (1) *Seek to eliminate misunderstandings. Each individual should seek first to understand and then to be understood. Each official must learn to really "LISTEN" to the concerns of both constituents and his/her peers;*
 - (2) *Seek to eliminate that ingrained sense of competition among directors and other officials that is so detrimental to the win-win concept for the city as a whole;*
 - (3) *Ensure that support or opposition in the decision-making process is never based on the desire to improve one's opportunity for reelection;*
 - (4) *Invest in workshops and other training that will serve to teach and foster the value of teamwork and courtesy to all city officials;*
 - (5) *Show respect and courtesy to all those who work in government and to the public which city governments seek to serve;*
- (f) *Officials should never seek to demean or embarrass a fellow official or employee but must always reserve the right and obligation to clearly state opinions on any issue.*
- (g) *A primary goal for all officials should be to timely and respectfully communicate to the citizens they serve and one another.*
- (h) *All officials must carry out the duties of office in an efficient and prudent manner.*
- (I) *All city officials must never violate the trust placed in them by the citizens of Hot Springs.*
- (j) *Officials should believe the best about others, listen with empathy, focus on the positive and provide constructive feedback.*
- (k) *Officials should not disclose to others, or use to further their personal interest, confidential information acquired by them in the course of their official duties. In this regard, purchases and sales of property or other investments which might be interpreted as a speculation for quick profit should be avoided.*
- (l) *No official should represent any outside interest before the board of directors without first disclosing such interest.*
- (m) *Officials should not seek or accept a gift of value which could be intended to influence them in the performance of official duties.*

- (n) *City officials must seek at all times to affirm the dignity and worth of services rendered to the public by the city of Hot Springs.*

(Res. No. 3597, 2-18-97)

Editor's note-§2-13-1 was adopted by Resolution, but included in the Code of Ordinances due to its permanent nature.