

## **TITLE 2**

### **CLASSIFICATION, ADMINISTRATION AND PERSONNEL**

#### Chapters:

- 2.04 City Classification
- 2.08 City and Ward Boundaries
- 2.12 City Council Procedure
- 2.16 City Council Members
- 2.20 Mayor
- 2.24 City Attorney
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- 2.48 Retirement
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- 2.56 Police Department
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- 2.71 Historic District Commission
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- 2.76 Cemeteries
- 2.80 District Court
- 2.84 Unclaimed Property
- 2.88 Ritz Commission
- 2.89 Museum Commission
- 2.90 Claims Against City
- 2.94 Outside Fire Service

#### **CHAPTER 2.04**

#### **CITY CLASSIFICATION**

#### Sections:

- 2.04.01 Operation as first class city

2.04.01 Operation as first class city. The city shall operate as a city of the first class under the laws of the State. (Ord. No. 494)

## **CHAPTER 2.08**

### **CITY AND WARD BOUNDARIES**

#### Section:

2.08.01 Map of city

2.08.01 Map of city. The ward redistricting plan as outlined on the boundary description, which is attached hereto and made a part hereof, be and is hereby adopted, with said map to serve hereafter as the Official Ward Map for the City of Blytheville, Arkansas. (Ord. No. 1723.)

## **CHAPTER 2.12**

### **CITY COUNCIL PROCEDURE**

#### Sections:

2.12.01 Council meetings - regular  
2.12.02 Council meetings - special  
2.12.03 Public Notification and Participation  
2.12.04 Duties and Privileges of Council Members at City Council Meetings  
2.12.05 Order of business

2.12.01 Council meetings - regular. The City Council shall meet in regular session on the third Tuesday of each month at 5:00 p.m. When a holiday occurs on any such Tuesday, the regular meeting shall be held on the following Tuesday at the same hour unless otherwise provided for by motion. The regular meeting time may be rescheduled by the City Council in special circumstances, but when done, the change must be made far enough in advance to allow normal public notification. (Ord. No. 1840, Sec. 2 (A))

The place of the City Council meetings shall be in the Municipal Courtroom unless another place has been previously set by the City Council. (Ord. No. 1840, Sec. 2 (B))

2.12.02 Council meetings - special. Special meetings may be called by three or more Council Members, or by the Mayor. Notification of a special meeting, including specific items to be considered, shall be at least two hours prior to the meeting. Such notification shall be made by personal service to each member or by telephone, specifying time and place of the meeting. (Ord. No. 1840, Sec 2 (C))

### *Executive Session*

An executive session may be convened on the request of any member of the City Council or the Mayor. Executive sessions will be permitted only for the purpose of considering the employment, appointment, promotion, demotion, disciplining, or resignation of any public officer or employee. (Ord. No. 1840, Sec 2 (D))

### *Quorum*

A majority of the City Council shall be necessary to constitute a quorum to do business. The concurring vote of a majority of those elected, providing a quorum is present, shall represent the acts of the City Council except where otherwise provided by law. (Ord. No. 1840, Sec 2 (E))

**2.12.03 Public Notification and Participation.** 1. The City shall give advance notice to the public of items to be on the agenda for the next regular Council meeting. A copy of the agenda may be obtained by a member of the public from the City website at [www.cityofblytheville.com](http://www.cityofblytheville.com) or from the City Clerk. The agenda will be posted on the City website and written copies of the Agenda may be obtained from the City Clerk's office on Friday afternoon prior to the next regular City Council meeting.

2. Public Comments - Agenda Items

- (a) At every meeting of the City Council, each member of the public in attendance shall be given the opportunity to speak on items on the agenda for the meeting.
- (b) The presiding officer shall recognize any member wishing to speak on each agenda item.
- (c) Each member of the public being recognized to speak shall state their name and address followed by a concise statement of the person's position on the question under discussion.
- (d) Repetitive comments should be avoided which shall include comments made previously either to the City Council or to the Planning Commission when the Planning Commission minutes have been provided to the City Council members.
- (e) All remarks shall be addressed to the City Council as a whole and not any particular member of the City Council.
- (f) No person other than the City Council members and the person having the floor shall be permitted to enter into any discussions without permission of the Presiding Officer. No questions shall be asked a City Council member or city employees except through the Presiding Officer.

- (g) All members of the public are requested to accord the utmost courtesy to members of the City Council, to other members of the public appearing before the City Council and to City staff and are asked to refrain at all times from rude or derogatory remarks, reflections as to integrity, abusive comments and statements as to motive and personalities.
- (h) The Mayor will be responsible for noting concerns and questions and responding to any citizens who address the Mayor and City Council. The person speaking during this period shall be limited to five (5) minutes or as determined by the Mayor.

(2) The Mayor shall administer the public comment and shall be responsible for monitoring the time taken by each speaker and will instruct the speakers as to when their time has exhausted, or their comments have been repetitive. Any Council member may move for additional time to be allowed for the speaker which will require a two-thirds (2/3) vote of the City Council members present at said meeting.

3. Any person wishing to address the Mayor and City Council may be placed on the agenda at the request of their respective Council person by the deadline as set forth in Section 4. (B).

4. This section shall not be applied to conflict with any law or regulation pertaining to public hearings required by state law.

#### *Cell Phones and Pagers*

With the exception of on-duty emergency services personnel, cell phones and pagers must be turned off or put in silent mode and not used within the Municipal Courtroom during meetings.

#### 2.12.04 Council. Duties and privileges of council members at city council meetings

##### *(A) Conduct*

During City Council meetings, Council Members shall preserve order and decorum and shall neither by conversation nor otherwise delay or interrupt the proceedings. Nor shall they refuse to obey the orders of the Presiding Officer or the rules of the City Council.

Every member of the City Council desiring to speak shall address the chair and, upon recognition by the Presiding Officer, shall confine herself or himself to the questions under debate and shall avoid all personalities and indecorous language. A City Council Member once

recognized shall not be interrupted while speaking unless called to order by the Presiding Officer, unless a point of order is raised by another member or unless the member chooses to yield to questions from another member.

If a member is called to order while he/she is speaking, he/she shall cease speaking immediately until the question of order is determined. If ruled to be not in order, he/she shall remain silent or shall alter his or her remark so as to comply with the rules of the City Council.

All members of the City Council shall accord the utmost courtesy to each other, to city employees, and to members of the public appearing before the City Council and shall refrain at all times from rude or derogatory remarks, reflections as to integrity, abusive comments and statements as to motives and personalities. City Council Members shall confine their questions as to the particular matters before the City Council and in debate shall confine their remarks to the issues before the City Council.

*(B) Personal Interest*

No member of the City Council with a direct or indirect financial or personal interest in any item before the City Council shall participate in the discussion of or voting on such matter.

*(C) Voting*

Every member present when a question is put to a vote shall vote either "Yea" or "Nay", except that a member may abstain from voting if he or she has not participated in the preceding discussion of the question and that if that member briefly states the reason for the abstention. Prior to the meeting, each Council Member shall draw a number and will vote in order of the number drawn.

*(D) Roll Call*

Upon every vote the affirmative and negative votes shall be called and be recorded on every motion, resolution and ordinance. The Presiding Officer or any Council Member may call for a roll call vote.

*(E) President Pro Tempore*

The City Council shall annually, at the time of organizing, in public session, elect one of its members as President Pro Tempore. Any Council Member may nominate any other member of the City Council for this position, and no second of a nomination is required. Each Council Member shall vote by naming his or her choice by voice vote if there is more than one nominee for the position. A majority vote of the City Council shall be required for election. The Mayor shall preside at all meetings of the City Council; in the absence of the Mayor, the Presiding Officer duties shall be performed by the President Pro Tempore; in the absence of the President

Pro Tempore, those duties shall be performed by a designated Council Member. Designation shall be by appointment of the Mayor, or by majority vote of the Council at any meeting where a clear designation of Presiding Officer has not been made.

*(F)      Privileges of the Presiding Officer*

The President Pro Tempore or designee acting as the Presiding Officer may move, second and debate from the chair and shall not be deprived of the rights and privileges of being a member of the City Council by reason of his or her acting as the Presiding Officer.

2.12.04 Order of business. At all meetings of the Council the following shall be the order of business unless the Council by a majority vote shall order otherwise:

- (1) Call to order
- (2) Roll call
- (3) Reading of minutes of the previous meeting
- (4) Reports of boards and standing committees
- (5) Reports of special committees
- (6) Unfinished business
- (7) New business
- (8) Announcements
- (9) Adjournment

Any Council member shall be authorized in his or her sole discretion to request that a citizen be allowed to speak on any issue on the agenda and a majority of the Council must vote to allow the citizen to speak on any agenda items.

*(B) Agenda Items -*

The deadline for agenda items shall be 12:00 p.m. on Friday immediately preceding each City Council meeting.

*(C) Non-Agenda Items -*

Blytheville citizens wishing to address the City Council regarding any issue whether related or unrelated to published agenda items shall utilize the following procedure:

Step 1 - Discuss their concerns or situation with their respective Council Member.

Step 2 - If the Council Member is unable to rectify the situation or the concerns of the citizen, the Council member will refer the issue to the appropriate City Council committee and the Council member will advise the Chairman of said Committee in advance of said committee meeting to place the citizen on the Committee agenda for the first available meeting of the Committee.

Step 3 - If the committee is unable to rectify the situation or the concerns of the citizen, the Chairman or the citizen's City Council member, shall request in writing or by e-mail, to the Mayor, to place the citizen on the agenda of the next regularly-scheduled meeting of the City Council.

Council Members are requested to advise citizens of the procedure when they are approached to allow a citizen to address the City Council.

*(D) Precedence of Motions -*

The City Council shall follow the precedence and classification of motions as given in the most recent edition of the Arkansas Municipal League's "Handbook for Arkansas Municipal Officials" or successive publications. In the event the Handbook does not cover the matter, the most recent edition of "Robert's Rules of Order" shall apply. On questions of appeal, a majority of those present is required to overturn a ruling of the chair.

**1. Motions Stated by the Chair and Withdrawal of Motions**

When a motion is made and seconded, it shall be stated by the Presiding Officer before debate. After being stated by the Presiding Officer, a motion may not be withdrawn by the mover without the consent of the member seconding it and approval by a majority of the City Council present at said meeting.

**2. Reconsideration**

After the decision of any question, any member of the majority may request a reconsideration of any action at the same or the next succeeding meeting; provided, however, that a resolution authorizing or relating to any contract may be reconsidered at any time before final execution thereof. A motion to reconsider requires a simple majority for passage. After a motion for reconsideration has once been acted on, no other motion for reconsideration thereof shall be made without unanimous consent.

**3. Readings**

All ordinances shall be read aloud at three different meetings unless the City Council votes to suspend the rules. In order to suspend the rules, a motion must be made by a City Council member present and shall require a two-thirds (2/3) vote of all Council members present meeting.

The Council may waive the rules and go to the second or third reading. (Ord. No. 1840, Sec. 4 including all subparts)

## **CHAPTER 2.16**

### **CITY COUNCIL MEMBERS**

#### **Sections:**

2.16.01	[reserved]
2.16.02	[reserved]
2.16.03	[reserved]
2.16.04	Code of Ethics
2.16.05	Committees

2.16.01 [reserved]

2.16.02 [reserved]

2.16.03 [reserved]

2.16.04 Code of Ethics

*(A) General*

Members of the City Council occupy positions of public trust. All business transactions of such officials dealing in any manner with the public funds either directly or indirectly, must be subject to the scrutiny of public opinion both to the legality and to the propriety of such transactions.

*(B) Conflict of Interest*

Council Members shall refrain from making use of special knowledge or information gained by virtue of their elected office before it is made available to the general public; shall refrain from making or influencing decisions involving business associates, customers, clients, competitors and immediate family members and shall comply with all lawful actions, directives and orders of duly constituted municipal officers as such may be issued in the normal and lawful discharge of the duties of these municipal officers. Nothing herein, however, shall serve to deny Council Member of the legal rights and privileges available to all Blytheville citizens.

*(C) Responsibility of All Council Members*

Council Members shall conduct themselves so as to bring credit upon the city as a whole and so as to set an example of good ethical conduct for all citizens of the community. Council Members shall bear in mind at all times their responsibility to the entire electorate, shall refrain

from actions benefiting special interest groups at the expense of the city as a whole, and shall do everything in their power to ensure equal and impartial law enforcement throughout the city without respect to race, creed, color, or the economic or social position of individual citizens.

In an effort to allow the public full knowledge of financial and personal interests, Council Members are expected to file an annual statement of financial interests as required in Arkansas Code Ann. 21-8-701.

#### 2.16.05 Committees

- A. There are hereby established the following standing committees of the City Council of the City of Blytheville, Arkansas:
  - 1. Committee on Committees
  - 2. Police and Fire
  - 3. Finance and Purchasing
  - 4. Streets, Drainage and Building Codes
  - 5. Health, Sanitation and Utilities
  - 6. Parks, Recreation and Airport (Ord. No. 1165, Sec. 1.)
- B. Each standing committee shall consist of three (3) City Council members appointed by a majority vote of the full membership of the City Council, and each member of the City Council shall have at least one committee assignment. (Ord. No. 1165, Sec. 2.)
- C. At the first meeting or as soon as convenient, the City Council members, after the beginning of the Councilmen's term of office, shall elect by majority vote the Committee on Committees shall make its recommendations as to committee assignments by majority vote at the next regular or special meeting of the City Council. In making its recommendation, the Committee on Committees, in addition to other appropriate determination, shall give due regard to the committee assignment preferences of the respective councilmen. (Ord. No. 1165, Sec. 3.)
- D. After the Committee on Committees makes its recommendations as to the committee assignments, election of the committee members shall be made by a majority vote of the full membership of the City Council. The names of the committee members shall be announced and recorded by the City Clerk in the regular journal of proceedings when they are elected. (Ord. No. 1165, Sec. 4.)
- E. Thereafter and prior to the next regular meeting after their election, the members of each standing committee shall meet at an agreed upon time and place for the purpose of electing the chairman of each committee, whose term shall be for one year; that provided further not councilman may serve as Chairman of more than one standing committee, except the Chairman of the Committee on Committees may serve as Chairman of one

additional committee. The names of committee Chairman shall be announced at the next regular or special meeting of the City Council after their election and shall be recorded by the City Clerk in the regular journal of proceedings. (Ord. No. 1165, Sec. 5.)

- F. Any Chairman or member of a standing committee may be removed by majority vote of the full membership of the City Council, provided it shall not abridge the right of a City Councilman to serve on at least one standing committee. (Ord. No. 1165, Sec. 6.)
- G. Standing committees shall meet at the call of the Chairman, to consider such matters as may be referred to it by the full membership and other matters falling within the subject matter or jurisdiction of the committee deemed appropriate by the membership. Each committee shall adopt its own rules of procedures except rules shall provide that all committee meetings shall be open and public except for such meetings or parts thereof for which State laws specifically authorizes such closed meetings as provided by State law, if such committee desires to do so. (Ord. No. 1165, Sec. 7.)
- H. The Committee on Committees may appoint special or temporary committees to consider such special or temporary matters as do not fall within the general jurisdiction of a standing committee. (Ord. No. 1165, Sec. 8.)

## **CHAPTER 2.20**

### **MAYOR**

#### Sections:

- 2.20.01 [reserved]
- 2.20.02 [reserved]
- 2.20.03 Duties
- 2.20.04 Appointment of officers
- 2.20.05 Compensation and Reimbursement
- 2.20.06 Vacancy
- 2.20.07 Department heads

#### 2.20.01 [reserved]

#### 2.20.02 [reserved]

2.20.03 Duties. As chief executive of the city the Mayor shall preside over all meetings of the City Council and shall perform such duties as may be required of him by State Statute or city ordinance.

##### *A. Defining Authority*

In exercising its management responsibilities, the City Council reserves its authority to approve policy that represents broad statements of its intentions, to approve plans and programs,

and to delegate authority of administration to the Mayor, except those rights that are by law reserved to the City Council. The City Council delegates the authority to the Mayor to hire capable personnel within an approved wage and salary policy, to plan and establish schedules and to train, Supervise and terminate employees.

*B. Definition of Responsibilities*

The Mayor has the principal responsibility for directing the operations of the city government, and for advising and assisting the City Council in its deliberations. In connection with this latter responsibility, the City Council expects and requests the Mayor to furnish it with whatever data, information and material it may need to properly carry out its functions in an informed manner.

*C. City Council/Mayor Cooperation*

Efficient management of the city can exist only through mutual understanding and complete cooperation between the City Council and the Mayor. The Mayor's performance cannot be of the best unless he or she is given the latitude to exercise independent judgement in executing policies of the City Council. The City Council acknowledges that obligation and gives the Mayor the latitude of judgement and discretion and expects faithful performance in carrying out the policies of the City Council.

While open communications between the City Council and city personnel is encouraged, it shall be understood the administrative authority for the management of the city rests with the Mayor. Members of the City Council should refrain, as individuals, from giving specific direction or instruction to city personnel pertaining to the discharge of assigned duties.

2.20.04 Appointment of officers. The Mayor shall appoint, with the approval of the City Council (where such approval or confirmation is required) all officers of the city whose election or appointment is not provided for by State Statute or City Ordinance.

2.20.05 Compensation and Reimbursement.

(A) *Compensation* Compensation for the Mayor and City Council Members is defined in the City Employee Compensation Manual.

(B) *Reimbursement* The Mayor, City Council and Citizen Committee Members are entitled to be reimbursed for expenses they incur. All are required to keep up with proper documentation in order to be reimbursed for the expenses. All should contact the City Finance Director for documentation requirements. (Ord. No. 1840, Sec. 9 (A& B)

2.20.06 Vacancy In the event of a vacancy, the Mayor shall appoint a successor for the balance of the unexpired term subject to the approval of the City Council. (Ord. No. 1211, Sec. 1.)

2.20.07 Department heads That pursuant to A.C.A. §14-42-110, the authority to appoint and remove the heads of Police and Fire Departments of the City of Blytheville, Arkansas shall rest with the Mayor. (Ord. No. 1485, Sec. 1.)

## **CHAPTER 2.24**

### **CITY ATTORNEY**

#### Sections:

- 2.24.01      Election; qualifications
- 2.24.02      Duties
- 2.24.03      Establishing the Office of the City Attorney as a Separate Department

2.24.01 Election; qualifications. There shall be elected within and for the city, at the general election to be held on the first Tuesday following the first Monday in November of 1982 and every four (4) years thereafter a city attorney, who shall be a resident of the city and qualified elector therein who shall hold his office for four (4) years, and until his successor is elected and qualified.

STATE LAW REFERENCE-see Ark. Code Ann. § 14-43-415.

2.24.02 Duties. The city attorney shall have such powers and perform such duties as are required by law or may be prescribed by ordinances of the city. (Ord. No. 172)

The City Attorney for Blytheville, Arkansas, shall assume the duties previously performed by a lawyer pursuant to a contract entered into with the Blytheville Sewer Commission and Blytheville Waterworks Commission. (Ord. No. 1579, Sec. 1)

#### 2.24.03 Establishing the Office of the City Attorney as a Separate Department

There is hereby established the Office of City Attorney as a separate department in the City of Blytheville, Arkansas. The Office of City Attorney shall have a separate budget and shall operate independently from any other department within the City of Blytheville. (Ord. No. 1693, Sec. 1 & 2)

## **CHAPTER 2.28**

### **CITY CLERK-TREASURER**

#### Sections:

2.28.01      Election; qualifications

2.28.01 Election; qualifications. Elections shall be held for treasurer as provided by state law.

1.      The offices of City Clerk and City Treasurer are hereby combined effective January 1, 2015, and the office shall become the office of City Clerk -Treasurer.

2.      The separate office of City Treasurer is hereby abolished.

3.      The office of City Clerk-Treasurer shall be included on the ballot for the election to be held on November 4, 2014, and every four (4) years thereafter and the separate offices of City Clerk and City Treasurer shall be removed from the ballot.

4.      A copy of this Ordinance shall be delivered to the Mississippi County Election Commission immediately after passage and publication as required by law to ensure that the new office of City Clerk - Treasurer shall appear on the ballot for the next election as set forth hereinabove.

5.      The initial salary and benefits for the office of City Clerk-Treasurer shall be the combined salary for the existing offices of City Clerk and City Treasurer plus benefits. (Ord. No. 1770. 1-7)

## **CHAPTER 2.36**

### **CITY ENGINEER**

#### Sections:

2.36.01      Office created

2.36.02      Qualifications; appointment; term

2.36.03      Duties

2.36.04      Reports

2.36.05      Employment of laborers

2.36.01 Office created. There is created the office of city engineer.

2.36.02 Qualifications; appointment; term.

- A. The city engineer shall be a person who has had the technical training of a civil engineer, who has had at least three years experience as a civil engineer and is familiar with the various subjects of his profession.
- B. The city engineer shall be appointed by the mayor, by and with the consent and approval of the city council and shall serve for such term as may be designated at the time of such appointment and confirmation.

2.36.03 Duties. It shall be the duty of the city engineer:

- A. To prepare plans and specifications for and supervise the construction of all streets, sidewalks, alleys, bridges, draining, parking lots and the improvement of other public property as may be hereafter authorized;
- B. To be responsible for the maintenance of all streets, sidewalks, alleys, parking areas and public property of the city;
- C. To represent the city in any construction project in which public property of the city is involved or in which the city is interested;
- D. To assist the airport commission with engineering problems when his assistance is requested;
- E. To serve as inspector and perform the duties required by all the building and zoning regulations of the city;
- F. To assist and advise all other departments of the city with engineering problems; and
- G. To perform such other duties as may be prescribed by the city council.

2.36.04 Reports. The city engineer shall make a detailed report to the mayor and city council at least once a month showing permits issued, inspections made and fees collected and shall pay to the city collector all fees collected by him. (Ord. No. 282)

2.36.05 Employment of laborers. The city engineer may employ such labor as may be necessary for the proper performance of his duties. He shall cooperate with the mayor, the city council and the heads of other departments of the city. (Code 1952, Sec. 1-62)

## **CHAPTER 2.40**

### **FINANCE DIRECTOR**

#### Sections:

2.40.01	Created
2.40.02	Duties
2.40.03	Deposit of funds
2.40.04	Expenditures
2.40.05	Availability of records

2.40.01 Created. The position of finance director is created. The finance director shall be appointed by the mayor and approved by the city council and may be removed in like manner.

2.40.02 Duties. The finance director shall be supervisor in charge of the finance department and shall perform the following duties:

- A. Receive and make daily deposits for all monies and revenues of all funds of the city in the appropriate accounts deposited in the name of the city; maintain revenue and expenditure records for the city, including budget, appropriations, fund allocations, pay rolls, tax and insurance data required for bond issues, bank accounts, investments and any and all other functions generally assigned to a comptroller.
- B. Shall prepare, not less than once a month a complete statement of the conditions of all funds of the city to be submitted on or before the 15th day of each month to the mayor and city council.
- C. Shall prepare all instruments used for the disbursement of city funds, except those expenditures made pursuant to Act 40 of the Acts of Arkansas, 1949. The instruments, so prepared, shall be signed by the mayor and countersigned by the city treasurer, with no other signature required. Any enactment of the city requiring signatures of officers in variance with this chapter is hereby repealed.
- D. Shall prepare a voucher for each and every expenditure of city funds.
- E. Shall be held responsible for determining that said voucher is in accordance with the approved budget and all ordinances of the city council.
- F. Bond shall be furnished by the finance director, city treasurer and mayor in such amounts as approved by the State Board of Finance pursuant to Act #155, of the Acts of Arkansas, 1959. Premiums for such bonds shall be paid by the city.

G. It shall be the duty of the finance director to perform such other services as may be directed by the mayor or city council.

2.40.03 Deposit of funds. All persons and/or officers of the city receiving any funds belonging to the city shall immediately transmit same to the finance director to be deposited in such manner as prescribed herein and he shall give receipt therefor.

2.40.04 Expenditures. All expenditures made on behalf of the city shall be in accordance with the Statutes of Arkansas, ordinances and resolution of the city now in effect or hereafter adopted.

The Mayor, City Council and Citizen Committee Members are entitled to be reimbursed for expenses they incur. All are required to keep up with proper documentation in order to be reimbursed for the expenses. All should contact the City Finance Director for documentation requirements. (Ord. No. 1840, Sec. 9 (B))

2.40.05 Availability of records. All financial records, reports and budgets are declared to be public records. Any officer of this city required by law to make quarterly financial reports may make same based upon the monthly reports required under the provisions of this chapter to be made by the finance director, which reports may be adopted by said officer without independent audit by them. Any report so made shall be construed as compliance with all laws and ordinances requiring submission of same. All financial records and bookkeeping equipment, together with any certification of any and all funds heretofore made shall be retained in the office of the finance director. (Ord. No. 887)

## **CHAPTER 2.44**

### **PERSONNEL POLICIES**

#### Sections:

- 2.44.01 Personnel Policies
- 2.44.02 Compensation Manual

2.44.01 Personnel Policies The City of Blytheville hereby adopts in full as ordinance the attachment to this ordinance titled "Personnel Handbook, City of Blytheville, Arkansas", of which not less than three (3) copies shall be filed in the office of the City Clerk. (Ord. No. 1832, Sec. 1.)

2.44.02 Compensation Manual Attachment I, titled "City of Blytheville Compensation Manual," be and is hereby adopted in its entirety for the purpose of establishing an effective, fair, and consistent compensation program for the City of Blytheville. (Ord. No. 1634, Sec. 1.)

## **Amendments**

### **Ord. No. 1839, Sec. 1**

#### **CLOTHING ALLOWANCE FOR SWORN LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS**

All sworn law enforcement officers and firefighters shall receive an annual clothing allowance in the amount of \$720.00 to purchase uniforms and other items necessary for the duties that they perform. The total amount of \$720.00 will be paid out to the new employee subsequent to processing in at the Personnel Office. After completion of one year of service with the department, the uniform allowance will be paid on a quarterly basis in the amount of \$180.00. All of these employees will sign for the receipt of the initial \$720.00 with the understanding that if they should leave employment with their respective departments during the first year of employment, they may be required to reimburse the City of Blytheville a pro-rata share of this initial uniform allocation.

#### **CIVILIAN POLICE AND FIRE DEPARTMENT PERSONNEL**

Some civilian Police and Fire Department personnel may be required to wear apparel that is uniform in appearance such as polo shirts or oxford shirts with department emblems. These personnel will be allocated an allowance for these items in the amount set forth by the City Council to be paid on a quarterly basis.

### **Ord. No. 1881, Sec. 1**

Ordinance No. 1831 (Compensation Manual) is hereby amended to include the \$5,000.00 sign-on hiring bonus as outlined in Exhibit "A" attached.

## **CHAPTER 2.45**

### **DRUGFREE WORKPLACE POLICY**

#### Sections:

- 2.45.01      Purpose of Policy
- 2.45.02      Policy Statement
- 2.45.03      Safety and Security-Sensitive Positions Defined
- 2.45.04      Drug-Free Awareness Program/Education and Training
- 2.45.05      Prohibited Substances/Legal Drugs/Unauthorized Items
- 2.45.06      Use of Alcohol and Drugs/Prohibited Conduct
- 2.45.07      When Drug and alcohol Testing May be Required of All Employees
- 2.45.08      When Drug and Alcohol Testing May Be Required of Employees Holding Safety and Security-Sensitive Positions

- 2.45.09      Disciplinary Action
- 2.45.10      Employment Status Pending Receipt of Test Results

**2.45.01 Purpose of Policy** The City has a vital interest in providing for the safety and wellbeing of all employees and the public and maintaining efficiency and productivity in all of its operations. In fulfillment of its responsibilities, the City is committed to the maintenance of a drug and alcohol-free workplace.

The City and certain employees who drive commercial motor vehicles are subject to the requirements of federal statutes and implementing regulations issued by the Federal Highway Administration of the U.S. Department of Transportation. However, the foregoing provisions do not cover certain city employees who perform safety and security-sensitive functions. In addition, the City has an interest in maintaining the efficiency, productivity and wellbeing of employees who do not perform safety or security-sensitive functions. In order to further provide a safe environment for city employees and the public, the City has adopted the following (a) A safety-sensitive position is one in which a momentary lapse of attention may result in grave and immediate danger to the public. The following positions are considered safety sensitive: This policy does not govern or apply to employees who are subject to testing as commercial vehicle operators under the foregoing federal law and regulations. They are governed by a separate policy enacted pursuant to that legislation. However, such employees may be tested as authorized by this policy if the circumstances giving rise to such testing do not arise from the employee's operation of a commercial motor vehicle. (Ord. No. 1656, Sec. 1.)

**2.45.02 Policy Statement**

- (b) All employees must be free from the effects of illegal drugs and alcohol during scheduled working hours as a condition of employment. Drinking alcoholic beverages or using drugs while on duty, on City property, in City vehicles, during breaks or at lunch or working or reporting for work when impaired by or under the influence of alcohol, or when drugs and/or drug metabolites are present in the employee's system, is strictly prohibited and grounds for disciplinary action up to and including immediate discharge. In addition, employees are subject to disciplinary action up to and including immediate discharge for the unlawful manufacture, distribution, dispensation, possession, concealment or sale of alcohol or drugs while on duty, on City property, in City vehicles, during breaks or at lunch.
- (c) The City reserves the right to require employees to submit to urine drug testing and Breathalyzer alcohol testing to determine usage of drugs and/or alcohol as provided below. Employees must submit to all required tests. Any employee who refuses to submit to any required test without a valid medical explanation will be subject to immediate discharge. Refusal to execute any required consent forms, refusal to cooperate regarding the collection of samples, or submission or attempted submission of an adulterated or substituted urine sample shall be deemed refusal to submit to a required test. (Ord. No. 1656, Sec. 2.)

#### 2.45.03 Safety and Security-Sensitive Positions Defined

(a) A safety-sensitive position is one in which a momentary lapse of attention may result in grave and immediate danger to the public. The following positions are considered safety sensitive:

- (1) Law enforcement officers who carry firearms and jailers.
- (2) Motor vehicle operators who carry passengers, including, but not limited to, ambulance drivers, bus or jitney drivers, and drivers who transport other city employees.
- (3) Fire department employees who directly participate in fire-fighting activities.
- (4) Medical personnel with direct patient care responsibilities including physicians, nurses, surgical scrub technicians, emergency medical technicians and trainees, medical and nurses assistants.
- (5) Mechanics, welders and sheet metal workers who work on vehicles designed to carry passengers such as buses, ambulances, police cruisers, vans and the like.
- (6) Other employees whose duties meet the definition of safety or security sensitive after consultation with and approval by the Arkansas Municipal League.

(b) A security sensitive position includes:

- (1) Any police officer, jailer, police dispatcher and police department employee, including clerical workers, having access to information concerning ongoing criminal investigations and criminal cases which information could, if revealed, compromise, hinder or prejudice the investigation or prosecution of the case.
- (2) The City also considers law enforcement officers as holding security-sensitive positions by reason of their duty to enforce the laws pertaining to the use of illegal substances. Officers who themselves use such substances may be unsympathetic to the enforcement of the law and subject to blackmail and bribery. (Ord. No. 1656, Sec. 3.)

#### 2.45.04 Drug-Free Awareness Program/Education and Training

The City will establish a Drug-Free Awareness Program to assist employees to understand and avoid the perils of drug and alcohol abuse. The City will use this program in an ongoing educational effort to prevent and eliminate drug and alcohol abuse that may affect the workplace.

The City's Drug-Free Awareness Program will inform employees about: (1) the dangers of drug and alcohol abuse in the workplace; (2) the City's policy of maintaining a drug and alcohol free workplace; (3) the availability of drug and alcohol treatment, counseling and rehabilitation programs; and (4) the penalties that may be imposed upon employees for drug and alcohol abuse violations.

As part of the Drug-Free Awareness Program, the City shall provide educational materials that explain the City's policies and procedures. Employees shall be provided with information concerning the effects of alcohol and drug use on an individual's health, work and personal life; signs and symptoms of alcohol and drug use on an individual's health, work and personal life; signs and symptoms of an alcohol or drug problem; and available methods of intervening when an alcohol or drug problem is suspected, including confrontation and/or referral to management.

Supervisors who may be asked to determine whether reasonable suspicion exists to require an employee to undergo drug and/or alcohol testing shall receive at least 60 minutes of training on alcohol misuse and 60 minutes of training on drug use. The training shall cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and drug use. (Ord. No. 1656, Sec. 4.)

#### 2.45.05 Prohibited Substances/Legal Drugs/Unauthorized Items

- (a) Prohibited substances. Alcoholic beverages and drugs are considered to be prohibited substances in the workplace. For purposes of this policy, the term "drugs" includes controlled substances (as identified in Schedules I through V of Section 202 of the Controlled Substances Act, 21 U.S.C.' 812, and the regulations promulgated thereunder, and defined in the Uniform Controlled Substances Act, Ark. Code Ann. 5-64- 201-216), including synthetic narcotics, designer drugs, and prescription drugs, excepting: prescription drugs approved by and used in accordance with the directions of the employee's physician.
- (b) Legal Drugs. The appropriate use of prescription and over-the-counter medications is not prohibited. Any employee using a prescription drug should consult with his/her physician and pharmacist regarding the effects of the drug. Employees should read all labels carefully.
- (c) Unauthorized Items. Employees may not have any unauthorized items in their possession or in any area used by them or under their control. Unauthorized items include, but are not limited to, alcoholic beverage containers and drug paraphernalia.

2.45.06 Use of Alcohol and Drugs/Prohibited Conduct All employees covered under this policy are subject of the following prohibitions regarding the use of alcohol and drugs (controlled substances):

- (1) Employees shall not report for duty or remain on duty while impaired by the consumption of alcohol. An employee will be deemed to be impaired by alcohol if that employee has a blood alcohol concentration of 0.04 or greater.
- (2) Employees shall not consume alcohol while on duty.
- (3) Employees required to undergo post-accident testing shall not use alcohol for 8 hours following the accident, or until they undergo a post-accident alcohol test.
- (4) Employees shall submit to all authorized drug or alcohol tests.
- (5) Employees shall not report for duty or remain on duty while under the influence of any controlled substance, except when the use thereof is pursuant to the instructions of a licensed physician who has advised the employee that the effect of the substance on the employee does not pose a significant risk of substantial harm to the employee or others in light of his/her normal job duties.
- (6) In addition, subject to disciplinary rules set forth below, employees who are found to have an alcohol concentration of 0.02 or greater, but less than 0.04, in any authorized alcohol test shall be removed from duty and may not return to duty until the start of the employee's next regularly scheduled shift, but not less than 24 hours following administration of the test.
- (7) The foregoing rules shall apply to all employees and shall apply while on duty, during periods when they are on breaks or at lunch, or not performing safety or security sensitive functions. (Ord. No. 1656, Sec. 6.)

**2.45.07 When Drug and alcohol Testing May be Required of All Employees** Employees (and applicants) covered by this policy shall be required to submit to urine testing for use of prohibited drugs and/or breathalyzer alcohol testing in the following circumstances:

- (a) When the city has reasonable suspicion that an employee has violated any of the above prohibitions regarding use of alcohol or drugs.

For purposes of this rule, reasonable suspicion shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. The required observations must be made by a supervisor or city official or employee who is trained in detecting the signs and symptoms of misuse of alcohol and drug use.

- (b) As part of a pre-employment physical examination after a conditional job offer has been made, a fitness for duty physical examination, or any other lawful required periodic physical examination. Non-safety and non-security sensitive

positions will not be required to undergo a pre-employment drug or alcohol test unless the applicant is otherwise required to undergo a pre-employment physical examination after a conditional job offer has been extended to the employee.

- (c) When the City management has a reasonable suspicion based on observations or credible information submitted to the City, that the employee is currently using, impaired by or under the influence of drugs or alcohol.
- (d) When an employee suffers an on-the-job injury or following a serious or potentially serious accident or incident in which safety precautions were violated, equipment or property was damaged, an employee or other person was injured, or careless acts were performed by the employee. Such testing will be required of non-safety sensitive employees only when such factors, when taken alone or in combination with other factors, give rise to reasonable suspicion that the employee may be under the influence of drugs or alcohol.
- (e) When any prohibited drug or alcoholic beverage, is found in an employee's possession.
- (f) When the laboratory values in any authorized drug test indicates the need for additional testing, as determined by the Medical Review Officer (MRO), or where any authorized drug test must be canceled due to a collection, chain of custody or other procedural problem. (Ord. No. 1656, Sec. 7.)

2.45.08 When Drug and Alcohol Testing May Be Required of Employees Holding Safety and Security-Sensitive Positions Employees in (and applicants for) safety and security-sensitive positions shall be required to submit to urine testing for use of prohibited drugs and/or Breathalyzer alcohol testing in the foregoing and in the following circumstances:

- (a) When a safety-sensitive employee is involved in an accident involving a motor vehicle on a public road, and the employee's position is safety-sensitive because it involves driving a motor vehicle.
- (b) Random testing for drugs (but not alcohol) will be conducted. In order to treat all employees as equally as possible, and to maintain consistency in the administration of its efforts to maintain a drug-free workplace, random testing under this policy will be governed by 49 U.S.C. '31306 and implementing regulations to the extent that it is lawful and feasible to do so. Further guidance must be found in the Omnibus Transportation Employee Testing Act of 1991 - Steps to Compliance for Arkansas Municipalities, @published by the Arkansas Municipal League. (Ord. No. 1656, Sec. 8.)

2.45.09 Disciplinary Action Employees may be subject to disciplinary action, up to and including discharge, for any of the following infractions;

- (a) Refusal to submit to an authorized drug or alcohol test. Refusal to submit to testing means that the employee fails to provide an adequate urine or breath sample for testing without a valid medical explanation after he/she has received notice of the requirement to be tested or engages in conduct that clearly obstructs the testing process. Refusal to submit to testing includes, but is not limited to, refusal to execute any required consent forms, refusal to cooperate regarding the collection of samples, and/or submission or attempted submission of an adulterated or substituted urine sample.
- (b) Drinking alcoholic beverages or using drugs while on duty, on City property while on duty, on City property, in City vehicles, during breaks or at lunch.
- (c) Unlawful manufacture, distribution, dispensation, possession, concealment or sale of any prohibited substance, including an alcoholic beverage, while on duty, on City property, in City vehicles, during breaks or at lunch.
- (d) Any criminal drug statute conviction and/or failure to notify the City of such conviction within five (5) days.
- (e) Refusal to cooperate in a search.
- (f) Having an alcohol concentration of .04% or greater in any authorized alcohol test.
- (g) Testing positive for drugs and/or their metabolites in any authorized drug test. Although the foregoing infractions will ordinarily result in discharge regardless of the employee's position, the City reserves the right to consider extenuating circumstances and impose lesser discipline when such action is deemed appropriate. (Ord. No. 1656, Sec. 9.)

**2.45.10 Employment Status Pending Receipt of Test Results** In addition to appropriate disciplinary measures, including suspension, which may be taken in response to the incident or course of conduct which gave rise to the test, the City reserves the right to decide whether the incident or course of conduct prompting the test is of such a nature that the employee should not be put back to work until the test results are received. If such a decision is made, the employee will be suspended without pay. Where the test result is negative, the employee will be reinstated with back pay, provided the employee has not been given an appropriate disciplinary suspension for violation of another work rule which also covers the time missed waiting for the test results. (Ord. No. 1656, Sec. 10.)

## **CHAPTER 2.48**

### **RETIREMENT**

#### Sections:

- 2.48.01 Local Police and Fire Retirement System
- 2.48.02 Police and Fire DROP
- 2.48.03 Police and Fire, Pistol Awarded
- 2.48.04 Mayor's retirement

**2.48.01 Local Police and Fire Retirement System** The Chief Administrative Officer is hereby authorized to enter into an agreement with LOPFI to administer the Blytheville Police Pension and Relief Fund as stated in Section 1 hereof. (Ord. No. 1576, Sec. 2.)

#### 2.48.02 Fire and Police DROP

- A. That the City of Blytheville, Arkansas, hereby adopts the ten (10) year extension as set forth in Arkansas Code Annotated Section 24-11-830 along with all requirements of said code section. That Ark. Code Ann. Section 24-11-830 is hereby adopted by reference and made a part hereof. (Ord. No. 1708, Sec. 1.)
- B. That the City of Blytheville, Arkansas, hereby adopts the ten (10)-year extension as set forth in Arkansas Code Annotated Section 24-11-434 along with all requirements of said code section. That ACA Section 24-11-434 is hereby adopted by reference and made a part hereof. (Ord. No. 1694, Sec. 1.)

#### 2.48.03 Police and Fire, Pistol Awarded

- A. When a City of Blytheville Police Officer or Fire Marshal retires from service or dies while still employed with the Department, in recognition of and appreciation for the service of the retiring or deceased officer, the Blytheville City Council may award the pistol carried by the Police Officer or Fire Marshal at the time of his or her death or retirement from service to:
  1. The Police Officer or Fire Marshal;
  2. The Police Officer or Fire Marshal's spouse, if the spouse is eligible under applicable state and federal laws to possess a firearm.
- B. As used in this subsection "retires" means"

1. A Police Officer or Fire Marshal who is currently drawing an annuity from the Arkansas Local Police and Fire Retirement System (LOPFI) or will draw an annuity from the System within sixty (60) days of severance of employment with the Department; or
2. A Police Officer or Fire Marshal who becomes permanently disabled while acting in his or her capacity as an officer employed by the Police or Fire Department and is no longer able to work for the Department. (Ord. No. 1747, Sec. 1.)

#### 2.48.04 Mayor's retirement

- A. The City Council of the City of Blytheville Arkansas establishes the age that the Mayor of the City of Blytheville becomes eligible for retirement benefits after no less than ten (10) years in office to be age fifty-five (55).
- B. That upon the death of the Mayor, the spouse of the Mayor married to the Mayor for ten (10) years or longer will receive one-half (1/2) of retirement benefits the Mayor was entitled to receive.(Ord. No. 1678, Secs. 1-2.)

## **CHAPTER 2.52**

### **SERVICE ON CITY BOARD OR COMMISSION**

#### Sections:

2.52.01      Restriction

2.52.01 Restriction. No person shall be allowed to serve on more than one city board or commission at the same time. (Ord. No. 1076)

## **CHAPTER 2.56**

### **POLICE DEPARTMENT**

#### Sections:

2.56.01	Auxiliary Created
2.56.02	Authority of chief
2.56.03	Membership
2.56.04	Termination of membership
2.56.05	Disciplinary rules

2.56.06	Uniform
2.56.07	Identification card
2.56.08	Duties, chief to establish
2.56.09	Commander
2.56.10	Use of firearms
2.56.11	Funeral escorts

2.56.01 Auxiliary Created. There is created a volunteer police force designated as the "Blytheville Auxiliary Police" and shall be composed of voluntary membership not to exceed fifty (50) members; the members shall be headed by the chief of police, hereinafter designated as the "chief". They shall be part-time employees of the city but shall not be included under the civil service or retirement system.

2.56.02 Authority of chief. The chief may by order diminish or expand the membership as may in his judgment be required within the limit herein established. The chief shall have the complete authority, control and command over the auxiliary police, subject to the provisions of this chapter. He may appoint as members any person he may consider qualified and may reject any application for membership. He shall provide for the training of candidates for membership and for the further training of members.

2.56.03 Membership. No person shall be considered a member of the auxiliary police until he has been duly appointed by the chief, registered on a roster kept by the chief, and until he has taken the oath provided for officers of the city police department.

Persons eligible for membership shall be no less than twenty-one (21) years nor more than forty-five (45) years of age and shall be citizens of the United States, residents of the county, and of excellent character and reputation. They shall be in excellent physical condition, mentally stable, and suffer from no ailment or disability which would limit or prevent them from engaging in strenuous exercise or the use of firearms. Restrictions and regulations as to age and physical condition may be waived only in the discretion of the chief in these cases involving special qualification, abilities and aptitude in the best interest of the police department.

2.56.04 Termination of membership. Membership of any person may be terminated at the will and pleasure of the chief. Any member may resign from the auxiliary police at any time, but it shall be his duty to notify the chief in writing of his resignation.

2.56.05 Disciplinary rules. In addition to the penalties provided by law, any violation of law under color of the performance of his duties as a member of the auxiliary police, and any breach of the rules and regulations established by the chief shall subject any member to summary dismissal, and the fact may be published at the order of the chief.

2.56.06 Uniform. The chief shall prescribe the uniforms, badges and insignia for members and the manner in which the same shall be worn. Members shall furnish at no expense to the city, uniforms and equipment. It shall be punishable by a fine not to exceed Fifty (\$50.00)

Dollars for anyone not a member in good standing of the force to wear or use the uniforms, badge or insignia so prescribed.

2.56.07 Identification card. An identification card and such other insignia or evidence of identity as the chief may prescribe shall be issued to each member who must carry such identification at all times while on duty, and he must surrender them upon the termination of his membership. It shall be punishable by a fine not exceeding Fifty (\$50.00) Dollars for any person to wear, carry or display an auxiliary police identification card, or otherwise deceitfully represent himself to be a member of or connected with the auxiliary police, unless he is in fact a member.

2.56.08 Duties, chief to establish. The duties of the auxiliary police, subject at all times to the direction, supervision and control of the chief, shall be to assist the regular members of the police department in enforcement of the law and maintenance of peace and order at such times provided for and designated by the chief. The chief shall establish rules and regulations to govern the auxiliary police, fix the specific duties of its members and provide for maintenance of discipline. He may change such orders from time to time, provided no member shall in any manner perform any act as a member of the auxiliary police unless he is designated for duty as such member at the time. The chief may prescribe other duties than those mentioned herein to be performed by the auxiliary police, not inconsistent with the provisions hereof.

2.56.09 Commander. The chief shall designate one member of the auxiliary police to be its commander. The commander will serve at the will and direction of the chief of police.

2.56.10 Use of firearms. Members of the auxiliary police shall be authorized while on official duty to carry firearms as prescribed by the rules and regulations as set forth by the police chief. (Ord. No. 903)

2.56.11 Funeral escorts The police department of the City of Blytheville shall hereafter provide, as a public service, escort service for funeral processions within the city of Blytheville, Arkansas. (Ord. No. 1162, Sec. 1.)

## **CHAPTER 2.58**

### **FIRE DEPARTMENT**

Sections:

2.58.01      Fire Marshal

**2.58.01 Fire Marshal**

A.      The position currently designated in the Blytheville Fire Department as “Fire Marshall” is hereby declared to be the office or position of Fire Marshal created by this ordinance.

B. In order to exercise the authority, set forth in Ark. Code Ann. § 14-53-112, the person or persons serving as Fire Marshall in and for the City of Blytheville, Arkansas shall be required to meet all regulations promulgated by the Blytheville Fire Department. (Ord. No. 1501, Secs. 1-2.)

## **CHAPTER 2.60**

### **PORT AUTHORITY**

#### Sections:

2.60.01	Created
2.60.02	Public agency; powers and authority
2.60.03	Mayor's responsibility
2.60.04	Surety bond; financial restrictions
2.60.05	Removal of commissioners
2.60.06	Goals
2.60.07	General purposes
2.60.08	Powers
2.60.09	Revenues
2.60.10	Reports
2.60.11	Meetings
2.60.12	Civil service not applicable

2.60.01 Created. The city declares its intention to organize a joint City-County Port Authority under the provisions of the Metropolitan Port Authority Act of 1961, being Act 439 of the Acts 1961, Arkansas Statutes 21-1501 - 21-1516, inclusive.

2.60.02 Public agency; powers and authority. The port authority, is to be a public agency of the city and county with all the powers and authority set forth in the Metropolitan Port Authority Act of 1961, being Act 439 of the Acts of 1961.

2.60.03 Mayor's responsibility. The mayor is hereby authorized, empowered and directed to do all things necessary and proper for the purpose of organizing a joint City-County Port Authority under the provisions of the law set forth above. (Ord. No. 829)

2.60.04 Surety bond, financial restrictions. The authority shall require a surety bond of the person appointed treasurer in such amount as the authority may fix, and the premium or premiums thereon shall be paid by said authority as a necessary expense of the authority. No member of the board shall engage financially, nor become affiliated with any organization which is engaged financially, in any navigational or river port enterprise while a member of the board.

2.60.05 Removal of commissioners. Any member of the board appointed by the provisions of this chapter may be removed by the mayor, provided such removal is approved by the city council.

2.60.06 Goals. The city, through the port authority, may engage in promoting, developing, constructing, equipping, maintaining and operating the harbors, ports, river-rail terminals or barge terminals and works of internal improvements thereto, without or within the corporate city limits, including the acquisition, construction, maintenance and operation of such harbors, ports, river rail or barge terminals and facilities including highways, railroads, bridges, or other facilities necessary or essential for the proper operation.

2.60.07 General purposes. The port authority shall be an instrumentality for the accomplishment of the following general purposes:

- A. To develop, improve, or maintain harbors, ports, river-rail or barge terminals in or near the city as they may deem for the more expeditions and efficient handling of waterborne commerce from and to any other part of the state or any other state or states or foreign countries.
- B. To acquire, construct, equip, maintain, develop and improve the facilities of the ports, harbors, river-rail or barge terminals and to improve such portions of the waterways not within the jurisdiction of the federal government.
- C. To foster and stimulate the shipment of freight and commerce through the ports, harbors, river-rail and barge terminals, whether originating without or within the state, including the investigation and handling of matters pertaining to all transportation rates and rate structures affecting the same.
- D. To cooperate with the United States of America and any other agency, department, corporation or instrumentality in the maintenance, development, improvement and use of the harbors, ports, river-rail or barge terminals in connection with the furtherance of the operation and needs of the United States.
- E. To accept funds from any sources and to use the same in such manner, within the purpose of the authority, as shall be stipulated by the source from which received, and to act as agent or instrumentality for the city in any matter coming within the general purposes of the authority.
- F. To act as agent for the United States of America or any agency, department, corporation or instrumentality thereof, in any matter coming within the purposes or powers of the authority.
- G. And in general, to do and perform any act or function which may tend or be useful toward the development and improvement of said harbors, river-rail or barge terminals and to increase the movement of waterborne commerce, foreign and domestic, through the harbors, ports, river-rail and barge terminals.

The enumeration of the above purposes shall not limit or circumscribe the broad objective of developing to the utmost the port possibilities of the city.

2.60.08 Power. In order to enable the city to carry out the purposes of this chapter, the authority shall:

- A. Have the powers of a body corporate, including the powers to sue and to be sued, to make contracts, and to adopt and use a common seal.
- B. Be authorized and empowered to rent, lease, buy, own, acquire, mortgage, otherwise encumber, and dispose of such property, real or personal as the authority may deem proper to carry out the purposes and provisions of this chapter.
- C. Be authorized and empowered to acquire, construct, maintain, equip and operate any wharves, docks, piers, quays, elevators, compresses, refrigeration storage plants, warehouses and other structures and any and all facilities needful for the convenient use of the same in aid of commerce, including the dredging of approaches, the construction of belt line roads, highways, bridges and causeways and other bridges and causeways necessary or useful in connection therewith, and shipyards, shipping facilities, and transportation facilities incident thereto and useful and convenient for the use thereof, including terminal railroads.
- D. Appoint and employ and dismiss at pleasure, such employees as may be selected by the Authority Board, and to fix and pay the compensation thereof subject to the approval of the city council and mayor.
- E. Establish an office for the transaction of its business at such place or places as, in the opinion of the Authority, shall be advisable or necessary in carrying out the purposes of this chapter.
- F. Be authorized and empowered to create such agencies and departments as the Board may deem necessary or useful for the furtherance of any of the purposes of this chapter.
- G. Be authorized and empowered to pay all necessary costs and expenses involved in and incident to the formation and organization of the Authority, and incident to the administration and operation thereof and to pay all other costs and expenses reasonably necessary or expedient in carrying out and accomplishing the purposes of this chapter.
- H. Be authorized and empowered to act as agent for the United States of America, or agency, department, corporation, or instrumentality thereof, in any matter coming within the purposes or powers of the Authority.
- I. Have the power to adopt, alter or repeal its own by-laws, rules and regulations governing the manner in which its business may be transacted and in which the

power granted to it may be enjoyed, and may provide for the appointment of such committees, and their function as it may deem necessary or expedient in facilitation of its business.

- J. Be authorized and empowered to do any and all other acts and things in this chapter authorized or required to be done, whether or not included in the general powers in this section.
- K. Be authorized and empowered to do any and all things necessary to accomplish the purposes of this chapter; provided, that it shall not engage in shipbuilding.

The property of the authority shall not be subjected to any taxes or assessments.

The port authority shall in addition to the above enumerated powers, have the power of eminent domain and such other and further powers as are not by law given to a port authority, and it shall be governed by all existing statutes pertaining to the duties and powers of a port authority.

2.60.09 Revenues. All revenue derived from the operation of the port authority, after paying the operation expenses and maintenance, shall be set aside and used for additional improvements, reserves for depreciation, or for the retirement of bonds and interest which have been issued for the purposes herein above enumerated and, in the manner, now provided by law. All authority funds shall be deposited in a bank or banks to be designated by the authority, with the approval of the mayor and city council. Funds of the authority shall be paid out only upon warrants signed by the treasurer and countersigned by the chairman or the acting chairman. No warrants shall be drawn or issued disbursing any of the funds except for a purpose authorized by this chapter and only when the account or expenditure for which the same is to be given in payment has been audited and approved by the authority.

2.60.10 Reports. The authority shall keep a record of all revenues and expenditures, its related properties and facilities, and shall submit annual reports to the city council. It shall be the duty of the board of the authority to prepare and file an annual report of the financial affairs and conditions of the authority, its related properties and facilities, annually between the 15<sup>th</sup> day of January and the 1<sup>st</sup> Monday in February; and the report shall be filed in the office of the clerk and the report shall be published in some newspaper published in the city and shall show a complete financial statement of all moneys received and disbursed by the authority during the preceding year.

The statement shall show the several sources from which funds were received, and the balance on hand at the time of publishing the statement and shall show the complete financial condition of the authority.

The authority shall submit to the city annually before the city prepares its budget, the amount of funds necessary for maintenance, operation and management of the authority, its related properties and facilities, above the estimated revenues and the funds remaining on hand.

2.60.11 Meetings. The Port Authority shall meet at least once every six months.

2.60.12 Civil service not applicable. The Civil Service Laws shall not apply to the employees of the Port Authority, its related properties and facilities. (Ord. No. 818)

## **CHAPTER 2.68**

### **AIRPORT COMMISSION**

#### Sections:

2.68.01	Created
2.68.02	Members; qualifications
2.68.03	Appointment; oath of office; terms; vacancies; pay
2.68.04	Organization; meetings
2.68.05	Powers
2.68.06	Adoption of rules and regulations; state and federal regulations
2.68.07	Revenues; reports
2.68.08	Regional Airport Authority

2.68.01 Created. There is hereby created an airport commission for the Blytheville Municipal Airport. (Ord. No. 612, Sec. 1, 9-8-59) STATE LAW REFERENCE-see Ark. Stats. 74-201

2.68.02 Members; qualifications. The airport commission shall be composed of five members who shall be residents and qualified electors of the city. No member shall hold any office under the county, state or federal government, or any other office under the city government, nor be a candidate for any elective office, nor engage financially in any aeronautical enterprise, while a member of the commission.

2.68.03 Appointment; oath of office; terms; vacancies; pay.

A. The members of the airport commission shall be appointed by the mayor and confirmed by a three-fourths (3/4) vote of the duly elected and qualified members of the city council; and shall hold office for a term of five (5) years; provided, the commissioners first appointed shall serve the terms of one, two, three, four and five years to be designated by the mayor; and upon the expiration of their respective terms, their successors shall be appointed in like manner and shall serve for a term of five (5) years.

- B. Each commissioner shall execute the oath of office required of public officials of the state.
- C. Any commissioner may be removed by a three-fourths (3/4) vote of the duly elected and qualified members of the city council.
- D. Vacancies shall be filled by the mayor for the unexpired term.
- E. The commissioners shall receive no salary for their services but shall be entitled to reimbursement for all expenses reasonably incurred by them in the performance of their duties as members of the commission.

2.68.04 Organization; meetings.

- A. The airport commission shall elect from its members a chairman and vice chairman and shall determine their tenure as such officials. It shall also appoint a secretary who may be but is not required to be a member of the commission. If such secretary is a member of the commission, he shall be entitled to compensation for such services in a reasonable amount as may be determined by the commission, and such compensation shall not be deemed in conflict with any other provision herein.
- B. The commission shall hold regular meetings at least monthly, but other meetings may be held at any time, and shall be held at any time at the call, with reasonable notice, of the mayor or city council.

2.68.05 Powers.

- A. The airport commission shall have full and complete authority to engage, operate, improve, extend and maintain the municipal airport property which may now or hereafter be owned by the city, its related properties and facilities, and shall have full and complete charge of the airport, its related properties and facilities, including authority to employ or remove any and all assistants and employees of whatever nature, kind, and character, and to fix, regulate and pay their salaries or compensation; it being the intention herein to vest in the commissioners unlimited authority to operate, manage, maintain, improve and extend the municipally owned airport, its related properties and facilities, and to have full and complete charge thereof.
- B. In addition to powers and authority specifically enumerated herein, the commission shall have all the powers and authority provided by the laws of the state and it is the intention herein to delegate all such powers and authority to the commission.

2.68.06 Adoption of rules and regulations; state and federal regulations.

- A. The airport commissioners shall adopt such rules and regulations as they may deem necessary and expedient for the proper operation and maintenance of the municipal airport, its related properties and facilities, and shall have authority to alter, change or amend such rules and regulations at their discretion.
- B. They shall comply or cause to be complied with, all civil air regulations of the federal and state governments as to worthiness, certification and operation of aircraft.
- C. They shall protect all the aerial approaches to the airport in so far as it comes within their jurisdiction to do so for the safe operation thereof.

2.68.07 Revenues; reports.

- A. All revenues derived from the operation of the municipal airport and related properties, after paying the operating and maintenance expenses, shall be set aside and used for additional improvements on the airport, or for the retirement of debts and interest incurred for the purchase and improvement of the airport and related properties.
- B. The commissioners shall keep a record of all revenues and expenditures of the airport, its related properties and facilities, and shall submit monthly reports to the mayor and city council.
- C. It shall be the duty of the commissioners to prepare and file an annual report of the financial condition and affairs of the municipal airport, its related properties and facilities, not later than the 15th day of March of each year for the preceding calendar year.
- D. The monthly reports shall set out accurate and complete itemized statements of all receipts of every kind since the last preceding report, showing the source thereof, and all disbursements of every kind showing the date, amount, number and purpose of each voucher and to whom issued.
- E. The annual report shall show the financial condition of the airport, its related properties and facilities, and the status of its bonded debt, if any, an itemized listing of assets and liabilities, a classified summary of revenues and disbursements for the year, and all other details necessary to completely reflect the financial condition of the airport.

F. In addition, the commission shall furnish such other reports, data and information as may be requested by the mayor or council.

G. The financial reports required by the section shall be certified by a certified public accountant.

#### 2.68.08 Regional Airport Authority

- A. The City Council hereby finds and determines that it is in the best interest of city to join with the City of Gosnell, Mississippi County, and the State of Arkansas in formation of a regional airport authority to assist in the redevelopment of the Base.
- B. The formation of a regional development authority pursuant to the Act, to be known as the "Blytheville-Gosnell Regional Airport Authority" (the "Authority"), is hereby authorized. (Ord. No. 1305, Secs. 1-2.)

## **CHAPTER 2.69**

### **CRIMINAL NUISANCE ABATEMENT BOARD**

#### Sections:

- 2.69.01 Creation Of Board
- 2.69.02 Composition And Organization Of Board
- 2.69.03 Administrative Support To The
- 2.69.04 Filing Of Complaints With The Board
- 2.69.05 Service Of The Complaint On Owner
- 2.69.06 Hearings, Findings And Decisions Of The Board
- 2.69.07 Order Of Abatement
- 2.69.08 Appeals To Circuit Court
- 2.69.09 Violations Of Orders Or Continuation Of Nuisance Activity
- 2.69.10 Collection And Expenditure Of Civil Penalties
- 2.69.11 Supplemental Measures
- 2.69.12 Immunity

2.69.01 Creation Of Board Pursuant to Act 1190 of 2003 the Blytheville City Council hereby creates a Criminal Nuisance Abatement Board herein referred to as the "Board" which shall have all power as provided for and authorized by Act 1190. (Ord. No. 1848, Sec. 1.)

2.69.02 Composition And Organization Of Board The Board shall be composed of five (5) citizens of Blytheville who shall be appointed by the governing body of the City Council. At the Board's first meeting, members of the Board shall draw lots so that one (1) member shall serve a three-year term, two (2) members shall serve a four-year term, and two (2) members shall

serve a five-year term. All successors, whom shall be appointed by the City Council, shall serve one (1) five-year term. Board members shall elect a chair and a vice-chair, and any other officers needed to conduct the business of the Board. The Board may promulgate rules and regulations needed to conduct the hearings on the complaints concerning places and premises uses as public or common nuisances. The quorum necessary to conduct business shall be three (3) Board members. No order of the Board shall be entered, amended, or dissolved without three (3) Board members voting in favor of the motion in support thereof. (Ord. No. 1848, Sec. 2.)

2.69.03 Administrative Support To The Board The city's Code Enforcement Department, referred to herein as the "Department or "Office" shall provide the necessary staff for the Board and shall record or contract with a court reporter to record all Board meetings and be prepared to make a record of all appeals to Circuit Court. The City Attorney shall serve as legal advisor to the Board. (Ord. No. 1848, Sec. 3.)

2.69.04 Filing Of Complaints With The Board Any employee, officer, or resident of the city may bring a sworn complaint before the Board against the owner of a place or premises that may constitute a nuisance. The complaint shall be filed on a form similar to the form attached hereto as "Exhibit A" and Shall be filed in the code enforcement office. The oath for the complaint shall be administered by a notary public or other person authorized by law to administer oaths. (Ord. No. 1848, Sec. 4.)

2.69.05 Service Of The Complaint On Owner After receiving the Complaint, the Department shall notify the complaint on the owner of the place or premises that is the basis of complaint. Notice shall be served upon the owner according to the Rule 4(d) of the Arkansas Rules of Civil Procedure. The Notice shall include a copy of the complaint (including any supporting documentation) and a copy of this Ordinance and shall be in a form similar to "Exhibit B." The Department may solicit the help of the Police Department to serve the notice as allowed by 2.69.03(c) of Act 1190. (Ord. No. 1848, Sec. 5.)

#### 2.69.06 Hearings, Findings And Decisions Of The Board

(a) After a complaint is filed, the Board shall conduct a hearing on the matter, after the owner of the place or premises has been given at least ten (10) calendar days' notice of the hearing. The owner or the complaining party may seek a continuance of the hearing verbally or in writing. Upon a showing of good cause, the continuance shall be granted by the Board. If all parties reach agreement (verbally or by an agreed order), no hearing is required.

(b) At the hearing, the Board may consider any evidence, including evidence of the general reputation of the place or premises. The owner of the premises shall have an opportunity to present evidence in his or her defense. Any party may retain counsel to represent them at the hearing. All witnesses at the hearing shall be sworn and may be questioned by any party, Board member or attorneys representing the parties or the Board.

(c) After the hearing, the Board may declare the place or premises to be a public nuisance as defined by Arkansas Code §§ 5-74-109, 14-54-1502, and 16-105-402 or that are used for prostitution as defined by Arkansas Code § 5-70-102 or may declare that no nuisance exists. The order shall be in a form similar to "Exhibit C".

(d) After declaring a place or premises a nuisance, the Board shall make a factual determination as to the reasons why the Board finds that a public nuisance exists.

(e) The sworn testimony and the Board findings shall become a part of the record. (Ord. No. 1848, Sec. 6.)

#### 2.69.07 Order Of Abatement

(a) If the Board declares a place or premises to be a public nuisance, it may enter an order requiring the owner of such place or premises to take such action that the Board deems necessary to abate the nuisance or to adopt such procedure as may be appropriate under the circumstances to abate any such nuisance. The order shall be in a form similar to "Exhibit C" and may include, but is not limited to, the following:

(1) Prohibit the maintaining of the nuisance;

(2) Prohibit the operating or maintaining of the place or premises, including the closure of the place or premises or any part of the premises for a period no longer than the effective date of the order;

(3) Prohibit the conduct, operation, or maintenance of any business or activity on the premises which is conducive to the nuisance;

(4) Order the eviction of tenants of the place or premises who are responsible for the criminal conduct or allows or permits another to commit the criminal conduct;

(5) Order the owner of the place or premises or the owner's agents to perform criminal background checks of tenants before renting the property; or

(6) Order the owner to bring the place or premises into compliance with state and local safety codes before allowing the reoccupation of the property.

(b) The order must include a statement stating that violations of this order may be punishable by a fine of not more than two hundred fifty dollars (\$250) for each day that violations of the order continue or that the public nuisance continues to exist.

(c) A finding or order entered pursuant to this act shall become effective seven (7) calendar days after the order has been posted on the subject premises and mailed to the owner's last known address by first class mail. The order shall expire after one (1) year after the effective

date or at such earlier time as is stated in the order. The order may be stayed pending appeal to circuit court pursuant to Act 1190. (Ord. No. 1848, Sec. 7.)

**2.69.08 Appeals To Circuit Court** Within thirty (30) days after an order or decision has been entered by the Board according to the provisions in this act, any party may appeal to the circuit court for a de novo review on the record pursuant Section 7 of Act 1190. If an appeal is filed, the decision or order of the Board shall remain in effect unless stayed by the circuit court pursuant to Act 1190. (Ord. No. 1848, Sec. 8.)

**2.69.09 Violations Of Orders Or Continuation Of Nuisance Activity** If an order that has been entered is violated, the Board, on its own or pursuant to a complaint, may hold a hearing on whether or not a public nuisance continues to exist, or an order has been violated. If the Board finds that the public nuisance continues to exist or that an order has been violated, the Board may impose a civil penalty of not more than two hundred fifty dollars (\$250) for each day that the order is violated or that the nuisance continues to exist. Before such a hearing may be held, the owner must be given at-least ten (10) calendar days' notice, in writing, of the hearing according to methods stated in the Arkansas Rules of Civil Procedure 4(d).

The notice must state that if the Board finds that the nuisance continues to exist or that the order has been violated, the Board may impose a fine of not more than two hundred fifty dollars (\$250) for each day that the order has been violated or that the nuisance has continued to exist. The maximum amount of a civil penalty that may be imposed is ten thousand dollars (\$10,000). In addition to a civil penalty, the Board may award costs of a successful complaint not to exceed one thousand dollars (\$1000). The owner or the complaining party may seek a continuance of the hearing verbally or in writing. Upon a showing of good cause, the continuance shall be granted by the Board. Any civil penalty or costs awarded by the Board may be appealed to the circuit court within thirty (30) days pursuant to Act 1190. (Ord. No. 1848, Sec. 9.)

**2.69.10 Collection And Expenditure Of Civil Penalties** All civil penalties imposed by the Board shall be used by the code enforcement and or police department for nuisance abatement purposes. Any order imposing costs or civil penalties not appealed to circuit court may be filed with the Circuit Clerk's office and constitute a judgment of record and a lien against the nuisance property. (Ord. No. 1848, Sec. 10.)

**2.69.11 Supplemental Measures** This ordinance does not restrict the right of any person or government official from proceeding against a public nuisance by any other means. This Ordinance is supplemental to all other laws and any other powers of the city. (Ord. No. 1848, Sec. 11.)

2.69.12 Immunity As provided by Act 1190, the Board, its individual members, and city employees assisting the Board are immune from suit or action for their activities in discharge of their duties under this act to the full extent of judicial immunity. Except for perjury and false swearing, complainants and witnesses are absolutely immune from suit or action for all communications with the Board and all statements made within the nuisance abatement process. (Ord. No. 1848, Sec. 12.)

## **CHAPTER 2.70**

### **ADVERTISING AND PROMOTION COMMISSION**

#### Sections:

2.70.01	Tax levied
2.70.02	Fund Created
2.70.03	Permitted Uses
2.70.04	Commission Created

2.70.01 Tax levied There is hereby levied on each motel and hotel located in the City of Blytheville, Arkansas, a tax of one percent (1%) upon the gross receipts from the renting, leasing or otherwise furnishing of all hotel or motel accommodations in the City of Blytheville, Arkansas with the owners or operators of said motels and hotels beginning to collect said tax on January 1, 1984

- (a) The tax shall be collected from the purchaser or user of the accommodations by the person, firm, corporation, association, trust or estate (or other entity of whatever nature) furnishing such accommodations (the "taxpayer"), and the taxpayer shall remit to the City on the fifteenth day of each month all collections of the tax for the preceding month, accompanied by reports on forms to be prescribed by the City Advertising and Promotion Commission being created herein.
- (b) As provided in Act No. 185, the provisions of Act No. 386 of 1941, as amended, together with the rules and regulations thereunder, shall, so far as practicable, apply to the administration, collection, assessment and enforcement of the tax. (Ord. No. 1132, Sec. 1.)

2.70.02 Commission Created There is hereby created the City Advertising and Promotion Fund, to which fund there shall be credited all collections of the tax levied under Section 1 hereof. (Ord. No. 1132, Sec. 2.)

2.70.03 Permitted Uses The City Advertising and Promotion Fund shall be used, in the manner determined by the City Advertising and Promotion Commission, exclusively for the advertisement and promotion of the City and its environs. (Ord. No. 1132, Sec. 3.)

2.70.04 Commission Created There is hereby created the "City Advertising and Tourist Promotion Commission" (the "Commission"). The Commission shall have the powers and duties prescribed by Act No. 185, as now or hereafter amended. The Commission shall be composed of seven (7) members as follows:

1. Four (4) members shall be owners or managers of businesses in the tourism industry, and the owner or manager shall reside within the boundaries of Mississippi County, at least three (3) of whom shall be owners or managers of hotels, motels, or restaurants, and who shall serve for staggered four (4) years;
2. Two (2) members of the Commission shall be City Council Members and shall be selected by the City Council and shall serve at the will of the Council; and
3. One (1) member shall be from the public at large, who shall reside within the city limits of the City of Blytheville and shall serve for a term of four (4) years.

Vacancies on the Commission, whether resulting from expiration of a regular term or otherwise, in any of the four (4) tourism industry positions provided for in item 1 or in the at-large position provided for in item 3 shall be filled by appointment made by the remaining members of the Commission, with the approval of the City Council of the City of Blytheville. (Ord. No. 1470, Sec. 1.)

## **CHAPTER 2.70**

### **HISTORIC DISTRICT COMMISSION**

#### Sections:

2.71.01	Commission Created
2.71.02	Purpose
2.71.03	Commission Powers
2.71.04	Blytheville Historic District
2.71.05	Definitions
2.71.06	Certificate Of Appropriateness Required
2.71.07	Determination On An Application
2.71.08	Demolition
2.71.09	Economic Hardship
2.71.10	Demolition By Neglect
2.71.11	Work Not Requiring A Certificate Of Appropriateness
2.71.12	Applicability To City And Utilities
2.71.13	Appeals
2.71.14	Enforcement
2.71.15	Additional Authority
2.71.16	Design Guidelines

2.71.01 Commission Created There is hereby created an Historic District Commission hereafter known as the Commission to be composed of seven (7) members who shall be citizens of the City of Blytheville and qualified electors of the municipality. The appointments to membership on the Commission shall be so arranged that the term of at least one member will expire each year. Commissioners shall serve for terms of one, two, three, four, five, six, and seven years each, and thereafter upon the expiration of the respective terms, commissioners appointed by the Mayor and approved by a majority vote of the City Council, shall each be appointed to a term of three (3) years. Vacancies shall be filled in like manner for the unexpired term. All members will serve without compensation. The Commission shall elect a chairman and vice chairman annually from its own number. The Commission may adopt rules and regulations not inconsistent with the provisions of this Act (AS 19-5001-19-5011) and may, subject to appropriation, employ clerical and technical assistance or consultants and may accept money, gifts or grants and use the same for such proposes (Acts 1963, No. 484, Paragraph 4, Page 1547). (Ord. No. 1141, Sec. 1.)

2.71.02 Purpose It is hereby declared as a matter of public policy that the protection, enhancement, perpetuation, and use of such areas, improvements and districts of special character or special historic or aesthetic interest or value are public necessities and are required in the interest of the health, prosperity, safety and welfare of the people of this City.

The purpose of this Ordinance is to:

- (a) effect and accomplish the protection, enhancement, and perpetuation of such areas and improvement of districts which represent or reflect elements of the City's cultural, social, economic, political, and architectural history;
- (b) safeguard the City's historic, aesthetic and cultural heritage, as embodied and reflected in such areas;
- (c) stabilize and improve property values in such districts;
- (d) foster civic pride in the beauty and accomplishments of the past;
- (e) protect and enhance the City's attractions to tourists and visitors;
- (f) strengthen the economy of the City; and
- (g) promote the use of historic districts and landmarks for the education, pleasure, and welfare of the people of the City.

2.71.03 Commission Powers Without limiting the generality of the other provisions of this Ordinance by reason of the following enumeration, the Historic District Commission (hereafter referred to as HDC) shall have, in addition to the duties enumerated in Resolution No. 2004:30 the authority but not be limited to:

- (a) Adopt design review guidelines to be used when considering Certificate of Appropriateness applications. These guidelines will be based upon the Secretary of Interior's Standards for Rehabilitation and adapted specifically to Blytheville;
- (b) conduct surveys and studies of neighborhoods, areas, places, structures, objects and improvements within the City of Blytheville for the purpose of determining those of distinctive historic, community, architectural or archeological interest or value;
- (c) nominate buildings, structures, objects and historic districts to the National Register of Historic Places;
- (d) recommend to the City Council the adoption of Ordinances designating areas as having special historic community or architectural value as "historic district" and add these historic districts to the provisions of this Ordinance;
- (e) keep a register of all properties and structures that have been designated as historically significant including all information required for each designation;
- (f) obtain the services of qualified persons to direct, advise and assist the Historic District Commission;
- (g) request and receive any appropriate information, cooperation, assistance or studies from arty City departments, boards, agencies or commissions and any joint city-county departments, boards, agencies or commissions;
- (h) advise and assist owners of historic properties within historic districts on physical and financial aspects of preservation, renovation, rehabilitation, and reuse, and on procedures for inclusion on the National Register of Historic Places;
- (i) promote the education and understanding of Blytheville's heritage;
- (j) hold public hearings to review applications for certificates of appropriateness,
- (k) periodically review the Blytheville Zoning Ordinance and recommend to the Planning Commission and the City Council any amendments appropriate for the protection and continued use of property within historic districts:

- (l) review and make recommendations to the Planning Commission on all conditional uses, rezoning, and variances that affect properties within historic districts;
- (m) testify before relevant boards and commissions on any matter affecting architecturally and/or historically significant properties;
- (n) destroy, exchange or otherwise dispose of in accordance with the law, any materials in its possession, except borrowed materials, which it may find to be worthless or surplus to its needs;
- (o) establish and make reasonable charges for furnishing copies of materials in its possession or for sales of historic memorabilia or signs;
- (p) expend any moneys arising from grants, contributions or gratuities, and receive bequests or donations of real or personal property and convert into money any such property which cannot be used in the form received, and expend the same for any of the functions performable by it;
- (q) cooperate with the Arkansas Historic Preservation Program, historical associations and other non-profit organizations devoted to the history of this city and state;
- (r) take such other action, not inconsistent with law, as it shall deem necessary in the performance of any of its functions; and
- (s) adopt (or amend) its own rules and regulations by a vote of not less than two thirds of all members present and voting.

2.71.04 Blytheville Historic District The Historic District hereby created shall consist of that area of the City shown on Exhibit I, which is attached hereto and made a part hereof.

The Blytheville Historic District in Blytheville, Arkansas, is more particularly described as follows :

Beginning at a point in the center of North 5<sup>th</sup> Street at the alley between West Main Street and West Walnut Street proceed southerly to the intersection of West Ash Street and South 5<sup>th</sup> Street. thence proceed easterly to a point in the center of the intersection of West Ash Street and South 2<sup>nd</sup> Street, thence proceed northerly to the alley between West Main Street and

West Ash Street, thence proceed easterly to the center of South First Street, thence proceed southerly to the alley between East Main Street and East Ash Street, thence proceed easterly to the center of Franklin Street, thence proceed northerly to the alley between East Main and East Walnut Street, thence proceed westerly to the point of beginning.

#### 2.71.05 Definitions

Unless specifically defined below, words or phrases shall have the same meaning they have in common usage.

**ADAPTIVE USE** - Rehabilitation of a historic structure for use other than its original use such as a residence converted into offices.

**ADDITION** - New construction added to an existing building or structure.

**ALTERATION** - Any project involving change of or addition to an existing building.

**AREA OF INFLUENCE** - The affected area to be notified for a public hearing as determined by a specific type of construction, alteration, restoration, moving or demolition as described in the individual categories found in the guidelines for review adopted by the Historic District Commission.

**BUILDING** - Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals or chattels.

**CERTIFICATE OF APPROPRIATENESS** - A document awarded by the Historic District Commission allowing an applicant to proceed with a proposed rehabilitation, renovation, preservation, alteration, demolition, or new construction in a designated area or site, following a determination of the proposal's suitability according to applicable criteria.

**CERTIFICATE OF ECONOMIC HARDSHIP** - A certificate issued by the Historic District Commission waiving the requirement for a Certificate of Appropriateness due to significant financial constraints of the property owner.

**CHARACTER** - The qualities and attributes of any structure, site, street or district.

**CONTEMPORARY** - Reflecting characteristics of the current period. Contemporary denotes characteristics which illustrate that a building, structure or detail was constructed in the present or recent past rather than being imitative or reflective of a historic design;

**DETAILING** - Architectural aspects that, due to particular treatment, draw attention to certain parts or features of a building.

**DEMOLITION** -Any act which destroys in whole or in part a building or structure.

**DEMOLITION BY NEGLECT** - The destruction of a building or structure through abandonment or lack of maintenance.

**DESIGN GUIDELINES** - Criteria developed by preservation commissions to identify design concerns in an area and to help property owners ensure that rehabilitation and new construction respect the character of designated buildings and districts.

**ELEMENT** - A material part or detail of a site, structure, street, or district.

**ENTRANCE AREA** - The area of access to the interior of the building including the design, location, and materials of all porches, stairs, doors, transoms, and sidelights.

**EXTERIOR ARCHITECTURAL FEATURES** -The architectural style, design and general arrangement of the exterior of a structure, including the kind and texture of the building material and the type and style of all windows, doors, light fixtures, signs and other appurtenant fixtures.

**FAÇADE** - A face of a building.

**HEIGHT** - The vertical distance as measured through the central axis of the building from the elevation of the lowest finished floor level to the highest point of the building.

**HISTORIC DISTRICT** - A geographically definable area with a significant concentration of buildings, structures, sites, spaces, or objects unified by past events, physical development, design, setting, materials; workmanship, sense of cohesiveness or related historical and aesthetic associations. The significance of a district may be recognized through listing in a local, state, or national register and may be protected legally through enactment of a local historic district ordinance administered by a historic district commission.

**LANDMARK** - A building, structure., object or site which is identified as a historic resource of particular significance.

**MASSING** - Volume, magnitude or overall size of a building.

**ORDINARY MAINTENANCE** - Those improvements which do not change but simply upgrade a structure.

**OWNER OF RECORD** - The person, corporation, or other legal entity listed as owner on the records of Mississippi County.

**PRESERVATION** -The maintenance of a property without significant alteration to its current condition.

**PROPORTION** - Relationship of height to width of the building outline as well as individual components.

**PUBLIC NOTICE** - The classified advertisement of an event, such as a preservation commission meeting, that is published in the local newspaper and posted in the city government building in order to notify the general public of the upcoming event.

**REHABILITATION** - The process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural and cultural values.

**RESTORATION** - The process of returning a building to its condition at a specific time period, often to its original condition.

**RHYTHM** - A harmonious or orderly recurrence of compositional elements at regular intervals, including the location of doors and the placement of windows, symmetrically or asymmetrically and their relative proportion.

**ROOF AREA** - The outside covering of a building or structure extending above the vertical walls including the form, material, and texture of the roof, including the slope, pitch, and spacing of roof covering. Roof area also includes but is not limited to size, design, number, and location of dormers; the design and placement of cornices; and the size, design, material, and location of chimneys.

**SCALE** - The relative dimension, size; degree or proportion of parts of a building to one another or group of buildings.

**SITING** - Location of a building in relationship to the legal boundaries and setbacks, adjacent properties, and the natural conditions of the site.

**STRUCTURE** - Any improvement on the land that extends above ground level.

**TEXTURE** - The visual or tactile surface characteristics created by shape, arrangement and distribution of the component materials.

**WALL AREAS** - The vertical architectural member used to define and divide space. This includes but is not limited to kind, texture, and exposure of wall sidings and trims and the location, number, and design of all window and door openings.

**2.71.06 Certificate Of Appropriateness Required** No building or structure, including but not limited to masonry walls, fences, light fixtures, steps and paving. Other appurtenant fixtures, or other elements set forth in design guidelines shall be erected, altered, restored, moved, or demolished within said Historic District until after an application for a Certificate of Appropriateness as to the exterior architectural features has been submitted to and approved by the HDC.

- (a) No building permit or other permit shall be granted for purpose of constructing or altering structures until art application for a Certificate of Appropriateness as to the exterior architectural features has been submitted to and approved by the HDC.
- (b) A Certificate of Appropriateness shall be required whether or not a building permit is required.
- (c) In its deliberations under this Ordinance, said HDC shall not consider interior arrangement or use.

2.71.07 Determination On An Application Within a reasonable amount of time, not to exceed thirty (30) days after the filing of an application for a Certificate of Appropriateness, the HDC shall make a preliminary determination as to the properties, if any, that will be materially affected by any of the changes proposed in said application. The HDC shall promptly send by mail, postage prepaid, to the applicant and to the owners of all such affected properties, a notice of hearing to be held by the HDC on said application. A notice of the public hearing shall be published at least one (1) time in a newspaper having circulation throughout the City of Blytheville a minimum of fifteen (15) days prior to the hearing.

- (a) The HDC, at the public hearing, shall hear all persons desiring to present information regarding the application. The HDC shall act on such application for Certificate of Appropriateness within a reasonable period of time. The HDC shall determine whether the restoration, rehabilitation, renovation, preservation, alteration, construction, moving or demolition of buildings, structures, or appurtenant fixtures involved will be appropriate to the preservation of the Historic District. If the HDC determines that a certificate of appropriateness should not be issued, it shall place upon its records the reasons for such determination. The HDC shall immediately notify the applicant of its determination.
- (b) Proposed repairs, alterations, new construction, moving or demolition in the Historic District shall respect and relate to the special character of the District. In making its determination, the HDC shall consider without being limited to the following criteria:
  1. The purpose of this Ordinance;
  2. The architectural or historic value or significance of a building and its relationship to the surrounding area;
  3. The general compatibility of proposed changes; and
  4. Any other factor, including visual and aesthetic considered pertinent.

(c) The HDC shall encourage proposed changes which reflect the original design of the structure, based on photographs, written description or other historical documentation, and shall be guided by the following preferences:

1. It is preferable to preserve by maintenance rather than to repair original features of the building.
2. It is preferable to repair rather than to reconstruct if possible
3. It is preferable to restore by reconstruction of original features rather than to remove or remodel.
4. Contemporary design shall not be excluded from consideration.

(d) When evaluating the general compatibility of alterations to the exterior of any building in the Historic District, the HDC shall consider, but not be limited to, the following factors within the building's area of influence:

1. Siting
2. Height
3. Proportion
4. Rhythm
5. Roof area
6. Entrance area
7. Wall areas
8. Detailing
9. Façade
10. Scale
11. Massing

(e) New construction shall be judged on its compatibility with the existing neighborhood and area of influence.

(f) Additions to existing buildings shall be judged in the same manner as new construction and shall complement the design of the original building.

(g) No change shall be made in the scope of work for any building permit after issuance of a Certificate of Appropriateness without resubmitting to the HDC and receiving approval in the same manner as provided above.

**2.71.08 Demolition** If the application for a Certificate of Appropriateness involves the demolition of a building which the HDC initially determines to be an inappropriate demolition, then the HDC may defer the matter until such time as it has had an opportunity to consider the following alternatives to the demolition of subject property.

1. Sources of funding for preservation and restoration activities if lack of such funds is the reason for the request to demolish.
2. Adaptive use changes.
3. An attempt to find a purchaser for the property who would maintain the building in a suitable and acceptable manner.
4. The feasibility of moving the building to another appropriate location.
5. Any such other solution as may be deemed advisable and in keeping with the spirit and intent of this Ordinance.

(a) The owner or other person having legal custody of any building or structure within a historic district shall keep the structure properly maintained and repaired in order to prevent demolition by neglect. However, during the time the HDC is considering any one of the alternatives above, progress reports shall be made by the HDC and/or its staff at its regularly scheduled meeting. If, at the expiration of six (6) calendar months from the date of the first public hearing of an application for demolition, the HDC has not found a viable alternative to the demolition of the property, the HDC shall reschedule the matter for public hearing requiring notices as aforesaid, and upon said public hearing, make its final determination as to the application. In such cases, the public hearing for final determination shall be held within one (1) calendar month after the expiration of the six (6) months from the date of the first public hearing; and at the second public hearing, the HDC may hear such matters as are considered necessary or desirable to be fully advised of all facts and circumstances pertaining to the proposed demolition. At the second public hearing, the HDC may immediately announce its decision or take the matter under advisement to its next regularly scheduled meeting but in no event longer than two (2) calendar months after the expiration of the six-month period after the first public hearing. If the HDC has rendered no decision on the application for demolition within two (2) calendar months after the expiration of the six (6) months following the first public hearing, the HDC shall consider the application as having been approved and shall issue a Certificate of Appropriateness.

2.71.09 Economic Hardship In addition to considering the matters brought to the attention of the HDC and the criteria set out above, the HDC may determine that failure to issue a Certificate of Appropriateness will involve a substantial economic hardship to the applicant.

- (a) It shall be the incumbent on the applicant to demonstrate economic hardship to the HDC.
- (b) If the property is a significant historic and community resource the HDC may invoke up to a ninety (90) day delay of proposed work. During this period of delay, the HDC shall propose suitable alternatives to the proposed work for the

applicant to investigate. The applicant, with the assistance of the HDC and/or City staff, shall investigate the feasibility of the proposed alternatives, and report their findings to the HDC. If the applicant fails such, the HDC may consider this failure in their deliberations.

- (c) If after the end of the ninety (90) day delay period, no reasonable use can be found or economic return can be obtained and there has been no substantial detriment to the Historic District, the HDC may issue a Certificate of Economic Hardship approving the proposed work. If the HDC finds otherwise; it shall deny the application for Certificate of Economic Hardship, and record in its records the reason therefore.

**2.71.10 Demolition By Neglect** The owner or other person having legal custody of any building or structure within a historic district shall keep the structure properly maintained and repaired. It will be the responsibility of such owners to repair a structure if it is found to have deterioration. including but not limited to:

- (a) The deterioration of exterior walls or other vertical supports;
- (b) The deterioration of external chimneys;
- (c) The deterioration of roofs or other horizontal members;
- (d) The deterioration or crumbling of exterior plasters or mortar;
- (e) The ineffective waterproofing of exterior walls, roofs, foundations, including broken windows or doors;
- (f) The peeling of Paint, rotting, holes and other forms of decay;
- (g) The lack of maintenance of surrounding environment, e.g., fences, gates, sidewalks, steps, signs, ancillary structures, and landscaping; and
- (h) The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.

The HDC shall notify the property owner of any violations of these maintenance requirements by mail, giving details of the violation along with a time period for remedy of the violation and consequences of failure to remedy the violation.

**2.71.11 Work Not Requiring A Certificate Of Appropriateness:**

- (a) Nothing in this Ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the Historic District which does not involve a change in design, materials, or outer appearance. Such ordinary maintenance will not require a Certificate of Appropriateness.
- (b) This Ordinance shall not prevent the restoration, rehabilitation, renovation, preservation, alteration, construction, or demolition of any such feature that the building inspector or similar agent of the City shall certify is required for the public safety. In emergency situations, threatening life, limb or significant

property damage, work may be authorized by the City of Blytheville without a Certificate of Appropriateness. Such work shall be done in accordance with the principles and specific criteria adopted under this Ordinance. When work is performed by city staff or utility companies under this emergency clause, the HDC shall be so notified by the next business day.

- (c) This Ordinance shall not prevent the restoration, rehabilitation, renovation, preservation, alteration, construction or demolition of any such feature under a permit issued by a building inspector or similar agent of the City prior to the effective date of the establishment of said Historic District.

**2.71.12 Applicability To City And Utilities** Work done by the City of Blytheville and by public utility companies within historic districts shall be subject to the provisions of this Ordinance. The HDC shall consider these certificates in accordance with the procedures and standards applicable to individual certificates.

**2.71.13 Appeals** The HDC may adopt, within its own rules, procedures for addressing aggrieved applicants or reconsidering prior decisions. Any applicant still aggrieved by the determination of the HDC may, within thirty (30) days after the making of such decision, appeal the determination of the HDC to the Circuit Court of Mississippi County, Arkansas.

**2.71.14 Enforcement** In the event that work being performed is found not to be in accordance with the Certificate of Appropriateness or upon notification of such fact by the Historic District Commission and/or City staff, the building inspector shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect. Stop work orders and penalties for non-compliance with such will be enforced according to other applicable laws. A decision shall be made by the HDC concerning the stop work order within five (5) business days.

Any person who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be fined ten dollars (\$10.00) to five hundred dollars (\$500) per day, in accordance with state statute. Each day that a violation continues to exist shall constitute a separate offense.

**2.71.15 Additional Authority** It is the legislative intent of the Blytheville City Council to grant to the Blytheville Historic District Commission Authority to the extent allowed under the Arkansas Historic Districts Act, Act 484 of 1963 as amended and codified at Arkansas Code Annotated Section 14-172-201, et seq. Should Arkansas law hereafter be amended, this Ordinance shall conform to state law.” (Ord. No. 1734, Sec. 1.)

**2.71.16 Design Guidelines** That three (3) copies of the Blytheville Downtown Historic District Design Guidelines Manual are on file in the Office of the City Clerk of the City of Blytheville, Arkansas, and are open to public examination in the Office of the City Clerk between the hours of 8:30 A.M. and 5:00 P.M. and is hereby referred to, adopted and made a part hereof, as if fully set out in this Ordinance.

Ordinance No. 1645 is hereby incorporated into this Ordinance by reference for the purposes of enforcement of the Blytheville Downtown Historic District Design Guidelines Manual; that any parts of the Blytheville Downtown Historic District Design Guidelines Manual and this Ordinance which conflict with any previous Ordinances, rules and regulations of the Blytheville Planning Commission and any future Ordinances or rules and regulations of the Blytheville City Council shall control and supersede any conflict with this Ordinance and the Blytheville Downtown Historic District Design Guidelines Manual. (Ord. No. 1736, Sec. 1.)

## **CHAPTER 2.72**

### **EMERGENCY SERVICES**

#### Sections:

- 2.72.01 Policy and purpose
- 2.72.02 Emergency services defined
- 2.72.03 Powers of the mayor
- 2.72.04 Director of emergency services
- 2.72.05 Duties of director
- 2.72.06 Advisory council
- 2.72.07 Duties
- 2.72.08 Mutual aid agreements
- 2.72.09 Appropriations and authority to accept services, gifts, grants, and loans
- 2.72.10 Utilization of existing services and facilities
- 2.72.11 Political activity prohibited
- 2.72.12 Emergency services personnel
- 2.72.13 Workmen's Compensation benefits

#### 2.72.01 Policy and purpose.

- A. Because of the existing and possibility of the occurrence of disaster of unprecedented size and destructiveness resulting from enemy attack, sabotage, or other hostile action, or from fire, flood, earthquake, or other natural causes, and in order to insure that preparations of this city will be adequate to deal with such disaster, and generally to provide for the common defense and to protect the public property of the people of this city, it is hereby found and declared to be necessary:
  - 1. To create a city Emergency Services agency
  - 2. To provide for the rendering of mutual aid to other cities within the state, and those adjoining states, and to cooperate with the state government with respect to carrying out emergency services functions.

- B. It is further declared to be the purpose of this chapter and the policy of this city, that all emergency services functions of this city be coordinated to the maximum extent with the comparable functions of the state government including its various departments and agencies, of other cities and localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of this city's manpower, resources, and facilities for dealing with any disaster that may occur.
- C. It is further declared to be the purpose of this chapter and the policy of the city to organize its emergency services organization in conformity with Ark. Stats. 11-1934 - 11-1957.

2.72.02 Emergency services defined. As used in this chapter, "emergency services" means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters caused by enemy attack, sabotage, or other hostile action, or by fire, flood, earthquake, or other natural causes. These functions include, without limitation, fire fighting services, medical and health services, rescue, engineering, air raid warning services, communications, radiological, chemical, and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services (civilian war aid), emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services, and other functions related to civilian protection; together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions.

2.72.03 Powers of the mayor. The mayor of the city shall be responsible for and have general direction and control of the emergency services of this city. In addition to the powers and duties the Mayor now has, he shall have such additional powers granted and conferred by this chapter not inconsistent with other ordinances of this city.

2.72.04 Director of emergency services. The mayor, with the consent of the city council, is hereby authorized to appoint a Director of Emergency Services, who shall perform such duties as are imposed upon him by this chapter, and as are delegated to him by the mayor when not contrary to other ordinances of this city.

2.72.05 Duties of director. The director shall coordinate the activities of all organizations for emergency services within this city and shall maintain liaison with and cooperate with the emergency services agencies and organizations within the state and with the state government.

2.72.06 Advisory council. There is hereby created an emergency services advisory council consisting of four (4) citizens, appointed by the mayor and confirmed by the city council who shall advise the mayor and the director on all matters pertaining to emergency services. The mayor shall serve as chairman of the council and the members thereof shall serve without compensation.

2.72.07 Duties.

- A. In performing his duties under this chapter, the mayor, or the director of emergency services when such authority is delegated to him by the mayor, is authorized to cooperate with the State government, with other cities and counties, and with private agencies in all matters pertaining to the emergency services of this city and the state.
- B. In performing his duties under this chapter and to effect its policy and purpose, the mayor is further authorized and empowered:
  - 1. To make, amend, and rescind the necessary orders, rules, and regulations to carry out the provisions of this chapter within the limits of the authority conferred upon him herein, with due consideration of the plans of the state government;
  - 2. To prepare a comprehensive plan and program for the emergency services of this city, such plan and program to be integrated into and coordinated with the emergency services plans of the state government and of other cities and counties within the state to the fullest extent;
  - 3. In accordance with such plan and program for the emergency services of this city, to institute training programs and public information programs, and to take all other preparatory steps including the partial or full mobilization of emergency services organization, in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces of emergency service personnel in time of need;
  - 4. To make such studies and surveys of the industries, resources, and facilities in this city as may be necessary to ascertain the capabilities of the city for emergency services, and to plan for the most efficient emergency use thereof;
  - 5. On behalf of this city, to enter into mutual aid arrangements with other cities and counties within this state and also with emergency services agencies or organizations in other states for reciprocal emergency services aid and assistance in case of disaster too great to be dealt with unassisted. Such mutual aid arrangements may be made subject to the approval of the Governor, or of the State Director of Emergency Services;
  - 6. To delegate any administrative authority vested in him under this chapter, and to provide for the sub delegation of any such authority;

7. To cooperate with the Governor and the Arkansas Office of Emergency Services and other appropriate state offices and agencies, and with the officials and agencies of other cities and counties within the state pertaining to the emergency services of the state including the direction or control of:
  - a. black-outs and practice blackout, air-raid drills, mobilization of emergency services forces, and other tests and exercises,
  - b. warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith,
  - c. the effective screening or extinguishing of all lights and lighting devices and appliances,
  - d. shutting off water mains, gas mains, electric power connections and the suspension of all other utility services,
  - e. the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, prior and subsequent to drills or attack,
  - f. public meetings or gatherings, and
  - g. the evacuation and reception of the civilian population.

2.72.08 Mutual aid arrangements.

- A. The director of the organization for emergency services may, in collaboration with other public and private agencies within this state, develop or cause to be developed mutual aid arrangements for reciprocal emergency services aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the state emergency services plan and program, and in time of emergency it shall be the duty of each local organization for emergency services to render assistance in accordance with the provisions of such mutual aid arrangements.
- B. The director of the organization for emergency services may, subject to the approval of the Governor, enter into mutual aid arrangements with emergency services agencies or organizations in other states for reciprocal emergency service aid and assistance in case of disaster too great to be dealt with unassisted.

2.72.09 Appropriations and authority to accept services, gifts, grants, and loans.

- A. Whenever the state government or any agency or officer thereof shall offer to this city, services, equipment, supplies, materials, or funds by way of gifts, grants, or loans, for purposes of emergency services, the city, acting through the mayor, may accept such offer and upon such acceptance, the mayor may authorize any

officer of the city to receive such services, equipment, supplies, materials, or funds on behalf of this city, and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

B. Whenever any person, firm, or corporation shall offer to this city services, equipment, supplies, materials, or funds by way of gift, grant or loan, for purposes of emergency services, the city acting through the mayor, may accept such offer and upon such acceptance the mayor of the city may authorize any officer of the city to receive such services, equipment, supplies, materials, or other funds on behalf of the city, and subject to the terms of the offer.

2.72.10 Utilization of existing services and facilities. In carrying out the provisions of this chapter, the mayor is directed to utilize the services, equipment, supplies and facilities of existing departments, offices, and agencies of the city, to the maximum extent practicable, and

the officers and personnel of all such departments, offices, and agencies are directed to cooperate with and extend such services and facilities to the mayor, and to the emergency services organizations of the city upon request.

2.72.11 Political activity prohibited. No organization for emergency services established under the authority of this chapter shall participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes.

2.72.12 Emergency services personnel. No person shall be employed or associated in any capacity in the emergency services organization of this city established under this chapter who advocates or has advocated a change by force or violence in the constitutional form of the government of the United States or of this state, or in this city or the overthrow of any government in the United States by force or violence, or who has been convicted of or is under indictment or information charging any subversive act against the United States. Each person who is appointed to serve in this organization for emergency services shall, before entering upon his duties, take an oath, in writing before a person authorized to administer oaths in the State which oath shall be substantially as follows:

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Arkansas against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter." "And I do further swear (or affirm) that I do not advocate, nor am I a member of any political party or organization that advocates the overthrow of the Government of the United States or of this State by force or violence; and that during such time as I am a member of the emergency services Agency of the city, I will not advocate nor become a member of any political party or organization that advocates the overthrow of the Government of the United States or of this State by force or violence,"

**2.72.13 Workmen's Compensation benefits.**

- A. Recovery for the injury or death of persons appointed and regularly enrolled in emergency services organization as contemplated by this Act (AS 11-1934 - 11-1957), while actually engaged in emergency, shall be limited to the provisions of the Workmen's Compensation Act, if such person are regularly employed by the State of Arkansas, and if such person is (a) qualified emergency services volunteer worker of an accredited local organization for emergency services, recovery shall be limited as hereinafter provided.
- B. The remedy provided herein shall be the exclusive remedy as against the State and political subdivision thereof.
- C. For the purpose of workmen's compensation coverage in cases of injury to or death of an individual, all duly registered and qualified emergency services volunteer workers shall be deemed State employees within the meaning and requirements of Act 462 of 1949 as amended by Act 373 of 1951 (AS 13-1402 - 13-1407, 13-1409 - 13-1413) and shall receive compensation and their survivors shall receive death benefits in like manner as regular State employees for injury or death arising out of and in the course of their activities as emergency services volunteer workers.
- D. For the purpose of subsection (3) of this section, such emergency services volunteer workers who receive no monetary compensation for services rendered as such workers shall be deemed to have received such wages as will qualify them for maximum benefits applicable with respect to injury, disability, or death. The reimbursement of fifteen dollars (\$15.00) or less for out-of-pocket expenses incurred in response to an emergency situation, such as gasoline, oil, uniforms, and required equipment, etc., shall not be construed "monetary compensation" for the volunteer worker.
- E. In the event that any person who is entitled to receive benefits through the application of subsection (3) of this Section receives, in connection with the injury, disability or death giving rise to such entitlement benefits under an Act of Congress or Federal program providing benefits for emergency services workers or their survivors, the benefits payable hereunder shall be reduced to the extent of the benefits received under such other Act or program. Any person who performs the duties of such member or trainee as an adjunct to his regular employment and who otherwise would be entitled to receive Workmen's Compensation benefits for his injury, disability, or death, if injured in the performance of such duties, shall be deemed to have been injured, disabled or killed in the course of his regular employment.
- F. An emergency services volunteer worker shall be deemed duly registered and qualified when he meets the following requirements:

When he is a member of and has on file in either an accredited local emergency services organization, or in the office of Emergency Services the following information:

1. Name and address
2. Date enrolled
3. Loyalty oath
4. Class of service assigned
5. Payments, death and disability benefits as herein provided shall be made from the Workmen's Compensation revolving fund for State employees.

STATE LAW REFERENCE-see Ark. Stats. 11-1955; Sec. 22, Act 511 of 1973; Sec. 6, Act 408 of 1977; Hdbk. 4-3.6

## **CHAPTER 2.76**

### **CEMETERIES**

#### **Sections:**

2.76.01	Designated
2.76.02	Prohibited conduct
2.76.03	Interment prohibited
2.76.04	Ark. Cemetery Act compliance required

**2.76.01 Designated.** The area formerly known as the Old Cemetery and bounded on the North by Chickasawba Avenue and on the South by Walnut Street, on the East by Lot Five (5) Block Three (3), Davis Second Addition and on the West by Lots one (1) and Ten (10), Block Nine (9) Chickasawba Addition is hereby designated as Pioneer's Memorial Park. (Ord. No. 507, Sec. 1, 10-11-49)

**2.76.02 Prohibited conduct.** It shall be unlawful, in Pioneer's Memorial Park, for any person to:

- A. **Athletics.** Engage in any athletic contest; play football, softball, baseball, marbles or any other games, or to practice for football, baseball, softball, track or tennis, or to engage in any form of athletic activity in the park.
- B. **Bicycles.** Ride any bicycle or scooter onto any part of the park except on the concrete sidewalks surrounding and bisecting the park.
- C. **Flowers, shrubs, etc.** Cut, break, take, or carry away any flowers, plants or shrubbery or trees growing in the park.

- D. Littering. Throw any rubbish, trash, garbage, waste matter, tin cans or paper onto the park.
- E. Monuments, posts, etc. Break, deface, remove or destroy any monument, stone marker, sidewalk, guide post or fencing in the park.
- F. Nuisance. Commit any nuisance in the park.
- G. Signs and billboards. Place or erect any sign or billboard in the park.
- H. Vehicle. Drive any automobile, truck or other vehicle onto any part of the park.  
(Ord. No. 507, Secs. 1-9, 10-11-49)

2.76.03 Interment prohibited.

- A. The further burying of dead bodies in the Pioneer Cemetery located in the Northwest corner or Section 15, Township 15, North, Range 11 East, in the Chickasawba District of Mississippi County, Arkansas, same being within the corporate limits of the city and comprising two acres, more or less, (and same being the property of the Methodist Church, South, or its assigns) is hereby declared to be a nuisance and to be dangerous and detrimental to the health of the inhabitants of the city, and the further burying of dead bodies in said cemetery is hereby prohibited.
- B. The further burying of dead bodies in the Sawyer Cemetery located in the Southeast corner of Section 15, Township 15 North, Range 11 East, in the Chickasawba District of Mississippi County, Arkansas, same being within the corporate limits of the city and comprising two acres more or less, is hereby declared to be a nuisance and to be dangerous and detrimental to the health of the inhabitants of the city, and the further burying of dead bodies in said cemetery is hereby prohibited. (Ord. No. 500, Sec. 2, 1-11-49; Ord. No. 525, Sec. 2, 5-13-52)
- C. Only perpetually maintained cemeteries that abide by the Arkansas Cemetery Act for Perpetually Maintained Cemeteries and the rules of the Arkansas Cemetery Board shall be allowed within the city limits of the city of Blytheville. (Ord. No. 1616)

2.76.04 Ark. Cemetery Act compliance required Only perpetually maintained cemeteries that abide by the Arkansas Cemetery Act for Perpetually Maintained Cemeteries and the rules of the Arkansas Cemetery Board shall be allowed within the city limits of the city of Blytheville. (Ord. No. 1616, Sec. 1.)

## **CHAPTER 2.80**

### **DISTRICT COURT**

#### Sections:

- 2.80.01      Bail Bond Fees
- 2.80.02      Fine collection
- 2.80.03      Prisoner fee

#### 2.80.01 Bail Bond Fees

- A.      A ten dollar (\$10.00) fee shall be and is hereby assessed on each licensed Bail bondsmen for taking and entering each Bail or Delivery Bond on misdemeanor cases originating in the jurisdiction of the City of Blytheville and processed by the Blytheville Police Department.
- B.      The City of Blytheville will bill the bonding companies monthly, based on the number of bonds written. The fees shall be paid to the City Collector and shall be due the first day of each month for the bonds written during the preceding month.
- C.      Seventy-five (75) percent of the collected fees shall be placed in the City's General Fund, and the remaining twenty-five (25) percent shall be placed in a special fund for use by the Blytheville Police Department for Radio Equipment Repair and Replacement, according to Ark. Code Ann. § 21-6-307. (Ord. No. 1335, Secs. 1-3.)

#### 2.80.02 Fine collection

- A.      The City Collector and Chief of Police, have been primarily responsible for a number of years for the collection of fines assessed in the District Court; and (Ord. No. 1742.)
- B.      The City desires to designate these two individuals as the city officials primarily responsible for the collection of fines assessed in the District Court of Mississippi County, Chickasawba District. (Ord. No. 1742.)
- C.      That it is in the best interest of the City of Blytheville, Arkansas that this Ordinance be enacted, and this Ordinance shall be retroactive to the date said individuals became subject to Arkansas Code Section 16-13-709 (2) (A) (i). (Ord. No. 1742.)

D. The Mayor and the City Clerk be and are hereby authorized on behalf of the City of Blytheville to negotiate and execute a Contract Agreement for the collection of delinquent fines owed to the City of Blytheville pursuant to A.C.A. Section 16-13-709. (Ord. No. 1672, Sec. 1.)

2.80.03 Prisoner fee That Section One of Ordinance No. 1482 be amended to read an additional fine of twenty dollars (\$20.00) shall be levied and collected from each defendant who pleads guilty or nolo contendere to or is found guilty of, or forfeits bond for any misdemeanor or traffic violation, or violation of a City Ordinance in the District Court of Mississippi County, Arkansas-Chickasawba District, Blytheville, Arkansas, pursuant to Act 209 of 2009. (Ord. No. 1692, Sec. 1.)

## **CHAPTER 2.84**

### **UNCLAIMED PROPERTY**

#### Sections:

2.84.01	Disposal
2.84.02	Sale
2.84.03	Proceeds of sale to owner
2.84.04	Proceeds remaining after six months

2.84.01 Disposal. The Police Chief under the direction hereinafter set out is hereby authorized and directed to dispose of at public auction all unclaimed personal property rightfully coming into the hands of his office and to dispose of other confiscated property confiscated under the orders of the city court with the exception of confiscated liquor.

2.84.02 Sale. All unclaimed personal property coming into the hands of the Police Chief will be held by him for a period of six (6) weeks or longer. If property remains unclaimed, he shall periodically advertise such property in some newspaper of general circulation in the city once each week for three (3) consecutive weeks setting forth in notice the time for the sale which shall not be earlier than five (5) days after the last publishing of the notice and no later than ten (10) days thereafter, designating an easily accessible place for the sale thereof, and giving a complete list and description of unclaimed articles to be sold. The Police Chief shall have the right to refuse any and all bids not satisfactory and will then proceed to advertise these items for sale at a later date. Terms of such sale shall be for cash only. Nothing in this chapter shall prohibit any person who properly identifies any of the property as being their own before the sale from claiming and having property restored to them.

2.84.03 Proceeds of sale to owner. The Police Chief shall deposit the receipt from the aforesaid sale of unclaimed property in the treasury and the treasurer is to keep these funds in a special account for a period of six (6) months and any person identifying as his own any of such

property within the six (6) month period shall upon the presentation of satisfactory proof be paid by city warrant out of the special account the amount of which the property was sold. The Police Chief or some person designated by him shall keep in a well bound book an accurate record and description of each piece of unclaimed property.

## **CHAPTER 2.88**

### **RITZ COMMISSION**

#### Sections:

2.88.01	Created
2.88.02	Removal
2.88.03	Authority
2.88.04	Purchases
2.88.05	Contracts, rules and regulations
2.88.06	Reports and audits
2.88.07	Revenues
2.88.08	General revenue
2.88.09	Council responsibilities

2.88.01 Created. There is hereby created a Ritz Commission to be composed of seven (7) members who shall be citizens of the City of Blytheville and qualified electors of the municipality. The Commissioners shall be appointed by the Mayor and confirmed by a majority vote of the City Council, provided, however, that those first appointed and confirmed after the passage of this Ordinance shall serve for terms of one, two, three, four, five, six and seven years each, to be designated by the Mayor and City Council, and thereafter upon the expiration of the respective terms, Commissioners appointed by the Mayor and approved by a majority vote of the City Council, shall each be appointed to a term of five (5) years. (Ord. No. 1862, Sec. 1)

2.88.02 Removal. Commission members appointed under the provisions of this Ordinance may be removed upon a two-thirds vote of the duly elected and qualified members of the City Council. (Ord. No. 1862, Sec. 2)

2.88.03 Authority. The Commissioners appointed under this Ordinance shall have complete authority to manage, operate, maintain and keep in good state of repair the Ritz and shall have complete charge of said building. The Commissioners shall have the right to employ or remove managers, janitors and other employees of whatsoever nature, kind or character, and fix and regulate their salaries. The Commissioners shall have complete and full authority provided, said Commissioners shall not have authority or power to sell, mortgage, or encumber said. city property unless otherwise authorized by the Statutes of Arkansas or authorized by the City Council. (Ord. No. 1862, Sec. 3)

2.88.04 Purchases.

- A. The Commissioners shall have authority under this Ordinance and shall have exclusive right and power to make purchases, supplies, apparatus, and other property and things, requisite to the management and operation of the civic center using the revenues that are derived from the operation of the Ritz. (Ord. No. 1862, Sec. 4)
- B. Anything purchased by the Commission for the Ritz shall be City property and in the event the Commission is dissolved, all property will remain with the City. (Ord. No. 1862, Sec. 8.)

2.88.05 Contracts, rules and regulations. The Commissioners shall have authority to enter into contracts with persons, firms, corporations or organizations for the use of the Ritz building or parts thereof and shall have authority to adopt such rules and regulations as they may deem necessary and expedient for the proper operations and management of the Ritz building and shall have authority to alter, change, or amend such rules and regulations at the discretion. (Ord. No. 1862, Sec. 5)

2.88.06 Reports and audits. The Commissioners shall submit monthly reports beginning one month after they take their oath of office and each month thereafter, reporting in full on the operations, including an account of receipts and disbursements to the Mayor and City Council and furnish such other and further reports, date and information as may be requested by the Mayor and City Council. The Commissioners shall further submit an annual audit of the operations of the Ritz to the Mayor and City Council. (Ord. No. 1862, Sec. 6)

2.88.07 Revenues. The Commissioners shall have authority to utilize all revenues derived from the Ritz in the operation of the Ritz. All funds derived from the use of the building shall be segregated in a Ritz fund which shall be used exclusively in the operation of the Ritz. The Commissioners shall each be bonded, said bond obtainable only from a reputable surety company doing business in the State of Arkansas. The premiums on said bond shall be paid for from the monies in the Ritz fund. The Commissioners shall receive no salary for their services. The Commissioners shall have the authority to accept and receive any donations from any person, firm, or association or corporation and said donations shall be placed in the Ritz fund and used exclusively for Ritz purposes. (Ord. No. 1862, Sec. 7)

2.88.08 General revenue. The Mayor and City Council may appropriate funds from the general revenues of the City and such funds shall be deposited in the Ritz fund if the City deems it necessary to appropriate general revenues for the use of the Commissioners and in managing and operating the Ritz. (Ord. No. 1862, Sec. 9)

2.88.09 Council responsibilities. The Mayor and City Council shall execute such instruments and enact such measures as it may be necessary to vest charge of said municipally owned building in the Commissioners hereinafter appointed. (Ord. No. 1862, Sec. 10)

## **CHAPTER 2.89**

### **MUSEUM COMMISSION**

#### Sections:

- 2.89.01      Commission Established
- 2.89.02      Responsibility
- 2.89.03      Policies
- 2.89.04      Employees

2.89.01 Commission Established There is hereby established in the government of the City of Blytheville, Arkansas, an independent agency to be known as "The Delta Gateway Museum Commission" which will consist of seven (7) Commissioners who are residents of Mississippi County and a minimum of five (5) of those being residents of the City of Blytheville, Arkansas, and will be named by the Mayor subject confirmation by a majority vote of the City Council. The facility will be part of the Blytheville Parks and Recreation Department and will report to the Parks and Recreation Commission of the Blytheville City Council. After these Commissioners are named and approved by the City Council, they will meet with the Mayor and will draw lots for terms of office as follows:

- (A)      Two Commissioners for a term of one year.
- (B)      Two Commissioners for a term of two years.
- (C)      Three Commissioners for a term of three years.

The term of each Commissioner will commence upon July 1, 2007. Successive terms will be three (3) years. The Commissioners will name a Chairman, a Vice-Chairman and a Secretary-Treasurer who will serve at the pleasure of the Museum Commission Board. (Ord. No. 1647, Sec. 1.)

2.89.02 Responsibility The Museum Commission will be responsible for preparing a budget for the year 2008 and each year after. The budget should be submitted to the City Council Finance Chairman no later than Oct 1 of each year. (Ord. No. 1647, Sec. 2.)

2.89.03 Policies The Museum Commission shall be responsible for formulating policy and overseeing the operation and maintenance of the facility. The Commission will meet monthly in Blytheville City Hall. The Commission will keep minutes of all meetings and submit a copy to the Mayor's office for distribution to the City Council and public when requested. (Ord. No. 1647, Sec. 3.)

2.89.04 Employees The Museum Commission will create job descriptions, develop a list of the qualifications the staff should have, conduct interviews and hire all employees necessary to run the facility based on the Budget passed by the Blytheville City Council. (Ord. No. 1647, Sec. 4.)

## **CHAPTER 2.94**

### **OUTSIDE FIRE SERVICE**

#### Sections:

2.94.01	Eligibility
2.94.02	Categories
2.94.03	Fees
2.94.04	Residential Fees
2.94.05	Commercial Fees
2.94.06	Mobile home complexes fees
2.94.07	Cash deposit
2.94.08	Due date
2.94.09	No proration
2.94.10	Insurance Coverage
2.94.11	Agreements
2.94.12	Requested services
2.94.13	Termination

2.94.01 Eligibility Any and all persons, firms, or corporations within a seven (7) mile radius of the City of Blytheville, Arkansas, desiring fire protection from the Blytheville Fire Department, may be eligible for such protection providing the requirements set forth herein are met. (Ord. No. 1446, Sec. 1.)

2.94.02 Categories This protection will be offered in three (3) categories:

1. Residential
2. Commercial
3. Mobile Home Complexes (Ord. No. 1446, Sec. 2.)

2.94.03 Fees Eligibility fees for the protection will be due and payable at the beginning of each calendar year. These fees are refundable only due to an annexation by the voting method and will be prorated for the months use. Residential and or commercial owners affected by annexation must request these fees. There will be a new assessment at the beginning of each calendar year even though no fire call has been received the previous year. (Ord. No. 1446, Sec. 3.)

2.94.04 Residential Fees The annual eligibility free for residential protection will be Fifty Dollars (\$50.00) for each residence, which will include one (only) unattached garage or storage building. (Ord. No. 1446, Sec. 4.)

2.94.05 Commercial Fees The annual eligibility fee for commercial fire protection is set forth as follows:

1. Buildings up to 7,500 square feet – One Hundred Fifty Dollars (\$150.00).
2. From 7,501 square feet up to 10,000 square feet- Two Hundred Dollars (\$200.00).
3. From 10,001 square feet up to 25,000 square feet – Three Hundred Dollars (\$300.00).
4. Over 25,000 square feet – Five Hundred Dollars (\$500.00).
5. All commercial buildings contiguous to the City will be required to petition for annexation. No fire protection will be provided for buildings in this category until such time that annexation proceedings are initiated. (Ord. No. 1446, Sec. 5.)

2.94.06 Mobile home complexes fees The annual eligibility fee for mobile home complexes is set forth as follows:

1. Three (3) mobile homes and under, whether owned individually or by one person, will be considered residential and charged Fifty Dollars (\$50.00) each.
2. All individually owned mobile homes will be charged Fifty Dollars (\$50.00) each.
3. Four to thirty (30) mobile homes—Three Hundred Dollars (\$300.00) (if owned by one person).
4. Over thirty (30) mobile homes—Twenty Dollars (\$20.00) Dollars for each additional mobile home with a maximum charge of Five Hundred Dollars (\$500.00). (Ord. No. 1446, Sec. 6.)

2.94.07 Cash deposit A cash deposit of Five Hundred Dollars (\$500.00) for answering a fire call will be assessed in all three (3) categories at the beginning of each calendar year. This deposit will be valid until a fire call is answered, after which time a new deposit must be made in order to have continued protection. These deposits will be refundable or transferable. (Ord. No. 1446, Sec. 7.)

2.94.08 Due date Eligibility fees are payable by the year and due the first of each year. Fees paid between July 1st and January 1st will be assessed for one-half of the yearly fee. (Ord. No. 1446, Sec. 8.)

2.94.09 No proration Fire call deposits will not be prorated. (Ord. No. 1446, Sec. 9.)

2.94.10 Insurance Coverage Any person, firm or corporation, covered by fire insurance that will pay a minimum of Five Hundred Dollars (\$500.00) for calls outside the corporate limits

of the city will not be subject to a cash deposit provided that proof of insurance is furnished to the City Collector's Office or Fire Department. For any fire call outside the city limits the insurance company shall issue a check of Five Hundred Dollars (\$500.00) made payable to the insured and the City of Blytheville. (Ord. No. 1446, Sec. 10.)

2.94.11 Agreements Upon paying eligibility fee the person or designated representative of the firm or corporation will sign an agreement of understanding. This agreement is attached hereto and made part hereof. (Ord. No. 1446, Sec. 11.)

2.94.12 Requested services Upon request to the Blytheville Fire Department by persons, firms or corporations, having met the requirements set forth herein, the department will instantly honor the request provided none of the following conditions exist:

1. Inclement or severe weather;
2. Insufficient personnel or equipment available;
3. Existing fire within the city limits.

The Fire Chief of the City of Blytheville or his authorized representative will make all decisions regarding these conditions. (Ord. No. 1446, Sec. 12.)

2.94.13 Termination Fire protection will be terminated for any person, firm or corporation violating any provision of this ordinance including the Agreement of Understanding. (Ord. No. 1446, Sec. 13.)