

TITLE 11

BUILDINGS AND CONSTRUCTION

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CHAPTER 11.04

BUILDING PERMIT

Sections:

- 11.04.01 Required
- 11.04.02 Residential area
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- 11.04.04 Fee
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11.04.01 Required It shall be unlawful for any person, persons, firm, corporation or associations, to construct, erect or build any building or structure of any kind or character without filing estimates, plans, and specifications with the City Council and obtaining approval of location, materials, cost and usage purpose. (Ord. No. 181, Sec. 1.)

11.04.02 Residential area It shall be unlawful for any person, persons, firm, corporation or associations to construct, erect, or build any buildings or set up, establish or create any business in any residential section declared by the Council or predominately residential without first obtaining approval from the City Council. (Ord. No. 181, Sec. 2.)

11.04.03 Corresponding permit Any permit issued for the construction or erection of any building, must be for the corresponding value of other buildings within a radius of three blocks. The corresponding value as mentioned above to be determined by the City Council or a person designated by them for making the estimate. (Ord. No. 181, Sec. 3.)

11.04.04 Fee There shall be collected a fee for the issuance of a permit. The fee shall be based upon the cost of the building or structure, the same being \$5.00 for the first \$1,000.00 cost or fraction thereof of the building or structure, then \$2.00 for each additional \$1,000.00 of cost or fraction thereof. (Ord. No. 417, Sec. 2.)

11.04.05 Fine Any person, persons, firm, corporation or association violating any part of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than \$50.00 or more than \$200.00. (Ord. No. 181, Sec. 5.)

11.04.06 Property improvement It shall be unlawful for any person to engage in construction, alteration or repair of any improvement upon real property in the city of Pocahontas, Arkansas, without first obtaining a building permit. (Ord. No. 307, Sec. 1.)

11.04.07 Fine Any person violating the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not more than Twenty-Five Dollars (\$25.00) and not less than Twenty Dollars (\$20.00). (Ord. No. 307, Sec. 2.)

11.04.08 Separate violations For the purpose of determining violations of this ordinance each day shall be construed as a separate violation when any person shall engage in the construction, improvement or repair of structures on real property within the city limits of the city of Pocahontas, Arkansas, without having first secured a valid building permit. (Ord. No. 307, Sec. 3.)

CHAPTER 11.08

PLUMBING CODE

Sections:

11.08.01	Adopted by reference
11.08.02	Amendment to Section I
11.08.03	Inspection and supervision
11.08.04	Applications, permits
11.08.05	Bond
11.08.06	Street openings
11.08.07	Cross Connections - Back Flow
11.08.08	Penalties

11.08.01 Adopted by reference The provisions and regulations of the Arkansas State Plumbing Code, 1970 Revision to 1969 Edition, and amendments thereto, are made a part of this ordinance by reference, three certified copies of which shall be on file in the office of the Recorder/Treasurer and shall extend over and govern the installation of all plumbing installed, altered or repaired within or without the city of Pocahontas, Arkansas, wherever water and/or sewage service originating from the Municipal Water and/or Sewer System is furnished. (Ord. No. 275, Sec. 1.)

11.08.02 Amendment to Section 1 All consumer's underground metallic gas piping shall be protected Against external corrosion attack as prescribed in the following paragraphs.

This corrosion control consists of three primary procedures. These are (1) the use of properly coated pipe, (2) The installation of an anode attached to the pipe to provide cathodic protection current and (3) The installation of an isolating fitting on each end of the piping to confine the anode current to the pipe concerned.

A. Coatings

1. Materials - the external surface of all underground metallic gas piping shall be coated with one of the following materials:

- a. Plastic (epoxy, etc.) applied as a dry powder resin to headed pipe
- b. Extruded plastic (polyethylene, etc.) bonded to pipe
- c. Asphalt or coal tar enamel hot applied
- d. Pressure- sensitive plastic tape
- e. Pre-formed bituminous tapes

2. Application

Application by a yard (or mill) coating contractor is recommended. Any coatings used shall be applied to clean pipe over a suitable primer, and shall be bonded to the pipe. It shall be applied such that it is free of voids, or holds, and in accord with manufacturer's recommendations. The proper application or a good coating material to a properly prepared surface is important.

The minimum thickness of applied coating shall be as follows:

- a. Plastic (epoxy, etc.) - 10 mils (8/1,000 inch)
- b. Extruded plastic - 25 mils
- c. Asphalt or coal tar enamel - 90 mils
- d. Pressure-sensitive plastic tape - we mils
- e. Preformed bituminous tapes - 35 mils

3. Joints and Fittings

After joining pre-coated pipe, the bare area at the weld or fitting shall be cleaned free of all dirt, grease, pipe dope, soap, moisture, dust, rust and mill scale, and all the bare surface coated with the proper primer and one of the applicable materials specified above.

All coating shall be done in accord with manufacturer's recommendations.

4. General

In transporting, unloading and handling pipe care shall be exercised to prevent damage to the coating. The coating shall be inspected for damage and any damage found shall be repaired before backfilling.

All coatings shall extend at least 6 inches above grade level on risers.

B. Insulation (isolation)

An insulating (isolating) union or other approved insulating fitting shall be installed above grade level on every riser at the building served, and at the connection to the utility's piping unless otherwise directed by the gas utility. It is necessary that the underground gas piping be electrically isolated from house or building piping, and from any unprotected utility company piping.

No gas piping up stream of the insulating fittings at the building entrance shall be allowed to contact any other metallic structure, such as concrete reinforcing, drain line, grounding systems, or grounded direct burial electric distribution cables. A minimum clearance of 4 inches should be maintained at crossings with any other metallic piping.

C. Cathodic Protection

1. A magnesium or zinc anode(s) shall be installed on every consumer's underground piping system to supply the direct current output necessary to provide cathodic protection to the piping. Minimum anode size for service piping is 5 pounds.
2. Anodes shall be buried at least 3 feet deep, and shall be at least 3 feet from the pipe.
3. The anode connecting wire shall be attached to the pipe by soldering or thermite welding. The connection shall be primed and coated carefully, as were the field joints.

The plumbing inspector should check to assure that the cathodic protection is adequate (that all isolating fittings are effective and that the anode is properly installed) by measuring the pipe-to-soil potential between the pipe and copper-copper sulfate electrode. This should be a minimum of 0.85 volts with the pipe negative. (Ord. No. 294, Sec. 1.)

11.08.03 Inspection and supervision

- A. There is hereby created the position of Plumbing Inspector or inspectors who shall be employed by the city of Pocahontas.
- B. The Plumbing Inspector or inspectors shall have experience in plumbing to the extent that enables him to know when plumbing is installed correctly.
- C. The inspector shall receive as full compensation for his services, a salary designated by the city of Pocahontas.
- D. The Plumbing Inspector or inspectors shall not be directly or indirectly connected in any way with any person, firm or corporation, directly or indirectly engaged in the business of plumbing, or plumbing suppliers.
- E. It shall be the duty of the Plumbing Inspector or inspectors to enforce all provisions of this ordinance, and such inspector or inspectors is hereby granted the authority to enter all buildings within or without the corporate limits of the city of Pocahontas, when such buildings are connected, or to be connected to the Municipal Water and/or Sewer System.
- F. The Plumbing Inspector shall prepare or cause to be prepared suitable forms for application, permits, inspection reports and other such materials.
- G. It shall be the duty of the Plumbing Inspector to inspect and test all plumbing work for compliance with this ordinance and its adopted plumbing code, and to enforce changing of such installations that does not meet the requirements. It further shall be his duty to see that all persons installing or altering plumbing shall be qualified by state law. (Ord. No. 275, Sec. 2.)

11.08.04 Applications, permits

- A. Before beginning any work in the city of Pocahontas, the person installing or altering same, shall apply to the Plumbing Inspector or other designated official and obtain a permit to do such work. Only those persons legally authorized to do plumbing may be issued permits. A permit may be issued to a home owner to install or alter plumbing in a single family residence, providing the home owner

does the work himself and that the building is owned and occupied by the owner as his home. All such work shall meet the code requirements.

- B. All applications for permits shall be made on suitable forms provided. The application shall be accompanied by fees in accordance with the following schedule:

Plumbing rough-in inspection	\$
Each plumbing mixture and/or Water And/or waste discharging devices	\$
New or reconstructed sewer connection	\$
Each septic tank system	\$
Hot water heater, new or replaced	\$
Water service connection	\$
Final certificate of Inspector	\$

An additional fee of \$ _____ shall be charged for each additional trip on the part of the Plumbing Inspector, caused by the negligence of the plumber of not being ready for inspection or a return for inspection of a corrected installation.

PLEASE NOTE: THE CITY OF POCAHONTAS DOES NOT CHARGE A PLUMBING FEE. (Ord. No. 275, Sec. 3.)

11.08.05 Bond Every master plumber doing business in the city of Pocahontas, shall execute and deliver to the city a bond with a surety bonding company in the sum of \$1,000 to indemnify the city or any citizen for any damage caused by the failure of such master plumber to comply strictly with the provisions of this ordinance. No plumbing permit shall be issued to any master plumber unless this bond has been delivered to the city and is in full force and effect. (Ord. No. 275, Sec. 4.)

11.08.06 Street openings

- A. All openings made in the public streets or alleys to install plumbing must be made as carefully as possible and all materials excavated from the trenches shall be removed or placed where the least inconvenience to the public will be caused.
- B. All openings must be replaced in precisely the same condition as before the excavation stated and all rubbish and materials must be removed at once, leaving the street or sidewalks clean and in perfect repair.
- C. All openings shall be marked with sufficient barriers, flares or red lamps shall be maintained around the opening at night and all other precautions shall be taken by the plumber or excavator to protect the public from damage to person or property. (Ord. No. 275, Sec. 5.)

11.08.07 Cross Connections - Back Flow The city Water Department of the city of Pocahontas, and the city Plumbing Inspector of the city of Pocahontas, be and they are hereby authorized and directed to take such steps as necessary to determine all potential hazards to the purity or potability of the city water supply which exist. Upon determining said potential hazards it shall be the duty of said department and said inspector to immediately cause notice to go to the owner or such other person responsible for said premises, specifying said hazards, and notifying said person that in the event that said hazard is not corrected within thirty (30) days from the date of said notice, all water services shall be discontinued thereafter until the requirements of this code have been complied with (Ord. No. 275, Sec. 6.)

11.08.08 Penalties Any person, firm or corporation found guilty of violating any of the provisions of this ordinance shall be subject to a fine of not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00), together with the costs of such prosecution. Each day during which violation continues shall be a separate offense. (Ord. No. 275, Sec. 7.)

CHAPTER 11.12

ELECTRICAL CODE

Sections:

11.12.01	Adoption of Electrical Code
11.12.02	Inspector
11.12.03	Duties
11.12.04	Permits
11.12.05	Inspection
11.12.06	Standards
11.12.07	Licensing of electricians
11.12.08	Bond required
11.12.09	Qualification
11.12.10	Failure to comply
11.12.11	Consequences
11.12.12	Penalties
11.12.13	License to individual

11.12.01 Adoption of Electrical Code. There is hereby adopted by the City Council of Pocahontas, Arkansas, for the purpose of establishing rules and regulations for energy efficient standards for new building, construction, this Code known as the 2014 Arkansas Energy Code (hereinafter "Code"), being particularly the 2014 Arkansas Energy Code edition thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended, of

which not less than three (3) copies of this ordinance, as well as, three (3) copies of the 2014 Arkansas Energy Code, have been and now are filed in the office of the Clerk or Recorder of the City of Pocahontas, Arkansas, and the same ordinance and Code is hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling in the construction of all buildings and structures therein contained within the corporate limits of the City of Pocahontas, Arkansas. (Ord. No. 2015-01, Sec. 1.)

11.12.02 Inspector There is hereby created the office of Electrical Inspector who shall be appointed by the Mayor, subject to the confirmation of the City Council. The Electrical Inspector shall have had at least two (2) years experience as an electrician, shall be of good moral character, shall be versed in the approved methods of electrical construction for safety of life and property and the National Electrical Code. He shall receive such compensation as the council may decide. (Ord. No. 272, Sec. 2.)

11.12.03 Duties. The Electrical Inspector, who for the purpose of this ordinance shall be known as the City Electrician, and hereinafter referred to as such, shall have the duty and is hereby authorized, empowered and directed to regulate and determine the placing of electric wires and other appliances for electric lights, heat or power in the city of Pocahontas and to cause all such wires, appliances, or apparatus to be placed, constructed and guarded so as not to cause fires or accidents, endangering life or property, and to be constructed so as to keep to a minimum the loss or waste of electric current.

It shall be his duty of the City Electrician to enforce all provisions of this ordinance and he is hereby granted the authority to enter all buildings in the city in the performance of his duties between the hours of 8:00 a.m. and 5:00 p.m. daily, except that in emergency and within the limits of reason, the City Electrician may enter buildings for such purposes at other than the designated hours.

It shall be the duty of the City Electrician to inspect and/or test all electrical work and equipment or apparatus for compliance with the code. Whenever electric wiring, appliances or apparatus shall be defective or hazardous through improper manufacture or improper or insufficient insulation or for any other reason, he shall at once cause the removal of such defect or defects, at the expense of the owners of such wiring, appliance or apparatus. (Ord. No. 272, Sec. 3.)

11.12.04 Permits. No installation, alteration or removal shall be made in or of the wiring of any building or structure for light, heat or power or to increase the load of energy carried by such wires or equipment, nor shall any building or structure be wired for electric lights, appliances, motors, apparatus or heating devices nor alterations be made thereto without a written permit therefore being first obtained from the city license issuing clerk by the person, firm or corporation having direct charge of such installation, alteration or removal. (Ord. No. 272, Sec. 4.)

11.12.05 Inspection. Upon the completion of the wiring, installation or alteration of any building or structure for light, heat, power, appliance or apparatus, it shall be the duty of the person, firm or corporation having direct charge of such to notify the City Electrician who shall, as early as possible, inspect such wiring, installation, appliance and apparatus and if installed, altered and constructed in compliance with the permit and in accordance with the regulations of this ordinance, he shall execute a certificate of satisfactory inspection, which shall contain the date of such inspection and the result of his examination, but no such certificate shall be issued unless such electric wiring, motors, heating devices, appliances and apparatus be in strict accord with the rules and requirements and the spirit of this ordinance, nor shall current be turned on to such installation, equipment, appliance, motor, heat devices and apparatus until said certificate be issued. The amount of fee or charge to be made for such inspections and certificates shall be Fifteen Dollars (\$15.00).

In event the Electrical Inspector is required to make additional inspections prior to issuance of such certificate, and because of prior unsatisfactory electrical work, an additional charge of Fifteen Dollars (\$15.00) shall be made, which shall be paid to and collected by the City Clerk.

In addition to the electrical inspections(s) as set out above the City Council of the city of Pocahontas, shall appoint a representative who shall perform plumbing and gas inspections. The fee for said inspection(s) shall be Fifteen Dollars (\$15.00) each for the gas and plumbing per inspection. The duty of the appointed gas and plumbing inspector shall be to insure the structure complies with state laws as proscribed in the plumbing and electrical codes. (Ord. No. 418, Sec. 2.)

11.12.06 Standards. All electrical construction, all materials, appliances, motors, heating devices, and apparatus used in connection with electrical work and the operation of all electrical apparatus within the city of Pocahontas shall conform to the rules and requirements of the National Electrical Code current when work is performed or equipment and apparatus installed; however, the necessity, good service and said results often require larger sizes of wire, more branch circuits and better types of equipment than the minimum which is specified in the National Electrical Code. Therefore, the City Electrician supervising the enforcement of this code will have the responsibility and authority for making interpretations of the rules, for deciding upon the approval of equipment, materials, construction and for granting the special permission contemplated in a number of the rules and the City Electrician, where necessary, shall follow the code procedure for securing official interpretations of the code. (Ord. No. 272, Sec. 6.)

11.12.07 Licensing of electricians. Any person, firm or corporation desiring to engage in the business of electrical construction or of the installation of wiring and apparatus for electric lights, appliances, heating or power in the city of Pocahontas shall, before doing so, obtain a license therefore pursuant to an examination to be proscribed and administered by the City Electrical Inspector. The fee for said examination and electrical license for the first year shall be Forty Dollars (\$40.00). Said license may thereafter be renewed annually for a renewal fee of Five Dollars (\$5.00) per year. All of said fees shall be paid to and collected by the City Clerk. (Ord. No. 341, Sec. 1.)

11.12.08 Bond required. Every person, firm or corporation doing electrical business in the city of Pocahontas shall execute and deliver to the city a bond with a surety bonding company in the sum of _____ to indemnify the city or any citizen for any damage caused by the failure of such person, firm or corporation doing the electrical work to comply strictly with the provisions of this ordinance. (Ord. No. 272, Sec. 8.)

11.12.09 Qualification. No license shall be issued until the party applying for same has given satisfactory evidence to the City Electrician of his or their ability to do said electrical work in a safe and satisfactory manner. No permit for installation or alteration of any wiring, heating devices, motors, appliances and apparatus shall be issued until the license and bond herein required have been obtained. (Ord. No. 272, Sec. 9.)

11.12.10 Failure to comply. Any person, firm or corporation who shall fail to correct any defect or defects in his or their work or to meet the required standards after having been given notice of the unfit condition by the City Electrician within a reasonable time, shall be refused any other permit until such defect or defects have been corrected and shall be subject to revocation of license for continual defective work or either upon conviction for violation of the provisions of this ordinance.

11.12.11 Consequences Upon failure to comply with this ordinance, the City Electrician shall have authority, after due notice, to cut out electric current in the locality concerned. (Ord. No. 272, Sec. 11.)

11.12.12 Penalties Any person, firm or corporation found guilty of violating any of the provisions of this ordinance shall be subject to a fine of not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00) together with the costs of such prosecution, or by imprisonment. Each day during which violation continues shall be a separate offense. (Ord. No. 272, Sec. 12.)

11.12.13 License to individual Any individual desiring to perform his own electrical work personally shall not be required to make the required bond or to obtain the required license, but shall be required to obtain the regular permit for that particular job. Such work done by an individual must be done by him personally or his own particular job and not be a way of performing a service to the public generally. (Ord. No. 272, Sec. 13.)

CHAPTER 11.16

FIRE PREVENTION CODE

Sections:

- 11.16.01 Adoption of Fire Prevention Code
- 11.16.02 Enforcement
- 11.16.03 Definition
- 11.16.04 Establishment of limits of districts in which storage of flammable liquids in outside above ground tanks, bulk storage of liquified petroleum gases and storage of explosives and blasting agents is to be restricted
- 11.16.05 Amendments made in the code hereby adopted
- 11.16.06 Modifications
- 11.16.07 Appeals
- 11.16.08 Penalties

11.16.01 Adoption of Fire Prevention Code. There is hereby adopted by the City Council of the city of Pocahontas, Arkansas, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Standard Fire Prevention Code, Abbreviated Edition, recommended by the state of Arkansas, being particularly the 1965 edition thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended (by 11.16.05 of this ordinance), of which code not less than three (3) copies have been and are now filed in the office of the Recorder/Treasurer and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the corporate limits of the city of Pocahontas. (Ord. No. 259, Sec. 1.)

11.16.02 Enforcement. The code hereby adopted shall be enforced by the Chief of the Fire Department. (Ord. No. 259, Sec. 2.)

11.16.03 Definition Wherever the word “Municipality” is used in the code hereby adopted, it shall be held to mean the city of Pocahontas. (Ord. No. 259, Sec. 3.)

11.16.04 Establishment of limits of districts in which storage of flammable liquids in outside above ground tanks, bulk storage of liquified petroleum gases and storage of explosives and blasting agents is to be restricted. The limits referred to in Section 73 of the code hereby adopted in which storage of flammable liquids in outside above ground tanks is prohibited, the limits referred to in Section 103 of the code hereby adopted, in which bulk storage of liquified petroleum gas is restricted, and the limits referred to in Section 53 B of the code hereby adopted, in which established as follows: Beginning at all property described as central business (C-1), roadway business (C-2) and Industrial (I-1) under the Pocahontas Zoning Ordinance, to the point of beginning. (Ord. No. 259, Sec. 4.)

11.16.05 Amendments made in the code hereby adopted The following codes and parts of codes, of which not less than three (3) copies are on file in the office of the city clerk for the public examination, are hereby adopted by reference:

Arkansas Fire Prevention Code, 2012 Edition, which includes three volumes, namely Volume 1 - Fire, Volume 2 - Buildings, and Volume 3 - Residential.

In the event of a conflict between any fire prevention codes adopted by reference in this section, the code provision most recently adopted shall be enforced." (Ord. No. 2015-11, Sec. 2)

11.16.06 Modifications. The Chief of the Fire Department shall have the power to modify any of the provisions of the code hereby adopted upon application, in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decisions of the Chief of the Fire Department thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant.(Ord. No. 259, Sec. 6.)

11.16.07 Appeals. Whenever the Chief of the Fire Department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief of the Fire Department to the governing body of the municipality within thirty (30) days from the date of the decision appealed. (Ord. No. 259, Sec. 7.)

11.16.06 Penalties. Any person who shall violate any of the provisions of the code hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the Council or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable by a fine of not less than Five Dollars (\$5.00) nor more than Ten Dollars (\$10.00) or by imprisonment for not less than ten (10) days nor more than sixty (60) days or by both such fine and imprisonment. The imposition of one (1) penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violation or defect within a reasonable time; and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.

The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions. (Ord. No. 259, Sec. 8.)

CHAPTER 11.20

HOUSING CODE

Sections:

- 11.20.01 Adoption of
- 11.20.02 Housing Official
- 11.20.03 Establishment of a Housing Board of Appeals
- 11.20.04 Duties of Building Official
- 11.20.05 Right of entry

11.20.01 Adoption of. There is hereby adopted by the City Council of the city of Pocahontas, Arkansas, that certain health and housing standards known as the 1965 Edition of the Southern Standard Housing Code, of which not less than three (3) copies have been and are now filed in the office of the Recorder/Treasurer and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this chapter shall take effect, the provisions thereof shall be controlling on all dwellings and premises within the city limits of Pocahontas, Arkansas. (Ord. No. 260, Sec. 1.)

11.20.02 Housing Official.

- A. The office of Housing Enforcing Official is hereby created.
- B. The Building Official shall be responsible for the enforcement of this ordinance.
- C. The Building Official shall be appointed by the Mayor subject to confirmation of the City Council. His appointment shall continue during good behavior and satisfactory service. He shall not be removed from office except for cause after full opportunity has been given him to be heard on specific charges. (Ord. No. 260, Sec. 2.)

11.20.03 Establishment of a Housing Board of Appeals.

- A. There is hereby created a Board of Housing Appeals which shall consist of five (5) members appointed by the Mayor and subject to confirmation of the City Council of the city of Pocahontas, Arkansas. One member shall be appointed to serve on (1) year, two members to serve two (2) years, and two members to serve three (3) years.
- B. This Board shall act by majority vote of the members present.

- C. Said Board shall have the power and be required to hold public hearings in deciding appeals where it is alleged there is an error in law or fact in any order or decision of the Building Official in the enforcement of this ordinance. (Ord. No. 260, Sec. 3.)

11.20.04 Duties of Building Official It shall be the duty of the Housing Official to enforce all laws and provisions specified in the Part IV - Housing, Southern Standard Building Code. (Ord. No. 260, Sec. 4.)

11.20.05 Right of entry The Building Official, in the discharge of his official duties, and upon proper identification, shall have the authority to enter any building structure or premises at any reasonable hour. (Ord. No. 260, Sec. 5.)

CHAPTER 11.24

CONDEMNED STRUCTURES

Sections:

- 11.24.01 Nuisance properties unlawful
- 11.24.02 Condemnation for abatement
- 11.24.03 Pre-condemnation notice
- 11.24.04 Contents of resolution and notice
- 11.24.05 Post-condemnation notice
- 11.24.06 Boarding and securing
- 11.24.07 Abatement by owner
- 11.24.08 Abatement by city
- 11.24.09 Sale of materials
- 11.24.10 Disposition of sale proceeds
- 11.24.11 Abatement costs and lien on property
- 11.24.12 Penalty
- 11.24.13 Judicial declaration and fine
- 11.24.14 Emergency action

11.24.01 Unlawful It shall be and it is hereby declared to be unlawful for any person or persons, partnership, corporation or association to own, keep or maintain any house, building and/or structure within the corporate limits of the city of Pocahontas, Arkansas, which constitutes a nuisance and which is found and declared to be a nuisance by resolution of the City Council. (Ord. No. 2011-2, Sec. 1.)

11.24.02 Condemnation required Any such lot, house, building and/or structure which is found and declared to be a nuisance by resolution of the City Council will be condemned to insure the repair, rehabilitation, securing and/or removal thereof as specified in the notice to repair or remove. (Ord. No. 2011-2, Sec. 2.)

11.24.03 Pre-condemnation notice Prior to the consideration of a resolution by the City Council declaring any house, building and/or structure as a nuisance, the owner(s) and any mortgagee(s) or lienholder(s), of such house, building and/or structure shall be mailed written notification of the date, time and place that the City Council will consider said resolution. Said notice shall be sent twenty (20) days prior to the date of the hearing and shall include a copy of the inspection report, by registered letter or personal service, the receipt of which shall be duly acknowledged.

Should the owner of any such house, building and/or structure not be known or the owner whereabouts not be known or such owner is a non-resident of the state, then a copy of the written notice shall be posted upon the premises and the Mayor or his designee shall make an affidavit setting out the facts to unknown address or whereabouts of non-residents, and thereupon service by publication once a week for two (2) consecutive weeks as now provided for by law against non-resident defendant may be had and an attorney ad litem shall be appointed to notify the defendant by registered letter addressed to his last known place of residence of same can be found. (Ord. No. 2011-1, Sec. 3.)

11.24.04 Contents of resolution and notice The resolution of the City Council condemning any house, building and/or structure which constitutes a nuisance will include in said resolution an adequate description of the house, building, and/or structure; the name(s), if known, of the owner(s) and mortgagee(s) and/or lienholder(s) thereof; notification of the requirements and penalties imposed by this article, and shall set forth the reason or reasons said house, building and/or structure is or has been condemned as a nuisance. (Ord. No. 2011-2, Sec. 4.)

11.24.05 Post-condemnation notice After a house, building and/or structure has been found and declared to be a nuisance and condemned by resolution as herein provided, a true or certified copy of said resolution will be mailed to the owner(s) and mortgagee(s) and/or lienholder(s) thereof, if the whereabouts of said owner(s) and mortgagee(s) and/or lienholder(s) thereof be known or their last known address be known, and a copy thereof shall be posted at a conspicuous place on said house, building and/or structure, provided, that if the owner(s) and mortgagee(s) and/or lienholder(s) of said house, building and/or structure be unknown or if his or their whereabouts or last known address be unknown, the posting of the copy of said resolution as hereinabove provided will suffice as notice of the condemnation. (Ord. No. 2011-2, Sec. 5.)

11.24.06 Boarding and securing When necessary for the public health and safety, the owner of all property declared a nuisance by the City Council shall board and secure the structure or condition within the time set forth in the notice. The owner shall maintain such boarding or securing at all times until the structure is brought into full compliance with the applicable building or abatement codes or until such time as the structure is razed and removed. Boarding and securing of the structure or condition does not relieve the owner of the requirement to diligently repair, rehabilitate or demolish and remove the structure or condition. All materials used to board and secure shall be weatherproofed or treated and shall be painted and maintained with a color of paint that blends with the overall structure. (Ord. No. 2011-2, Sec. 6.)

11.24.07 Abatement by owner The owner of any property declared a nuisance by the City Council shall obtain necessary permits and commence to repair, rehabilitate, secure, raze and remove, or otherwise abate the nuisance within thirty (30) days and shall continue such work to satisfactory completion within such time as the Mayor or his designee determines. A renovation permit shall be required for the correction or elimination of nuisances or property or structures that have been approved for condemnation by the City Council. The conditions of the granting of a renovation permit are:

- A. A renovation permit must be obtained within thirty (30) days from the date of condemnation by the City Council.
- B. A renovation permit shall expire forty-five (45) days from date of issue.
- C. The City Council may grant, upon written recommendation from Code Enforcement Officer with cause shown, one (1) extension not to exceed six (6) months. Said extension shall be conditioned upon posting a bond, cash or surety, in an amount set by the City Council which, in the opinion of the Council, will be sufficient to offset some or all of the costs of nuisance abatement but in no event shall said bond be greater than three thousand dollars (\$3,000.00) per nuisance structure. Further said bond shall be posted prior to the request for the extension being placed on the City Council agenda. (Ord. No. 2016-09, Sec. 1)
- D. A structure of property shall be removed from condemnation procedures provided the provisions of this article have been complied with and the structure or property satisfactorily passes an inspection by the City Inspector or Code Enforcement Officer. At such time the money deposited per subsection (C) of this section shall be refunded. If the property does not pass inspection at the expiration of the permit, said bond shall be used to cover the net costs of razing said structure. Any surplus money shall be refunded to the individual posting said bond together with any accrued interest. Any sum exceeding the amount of the bond shall be pursued pursuant to the collection provisions set forth herein.

- E. Fees for renovation permit issued involving building, electrical or plumbing repair of modification shall be the same as currently charged by the city for building, electrical and plumbing permits. A flat fee of Twenty-Five Dollars (\$25.00) will be assessed for all renovation permits issued which does not involve building, electrical or plumbing repair or modification. (Ord. No. 2011-2, Sec. 7.)

11.24.08 Abatement by city If the owner of the house, building and/or structure constituting a nuisance have not obtained the required permits and commenced work to rehabilitate, secure, raze and remove, or otherwise abate said nuisance within thirty (30) days after the posting of the true copy of the resolution at a conspicuous place on said house, building and/or structure, said house, building and/or structure constituting the nuisance will be repaired, boarded and secured, or razed and removed as may be necessary to abate the nuisance by the Mayor or his designated representative. (Ord. No. 2011-2, Sec. 8.)

11.24.09 Sale of materials The Mayor or Police Chief or any other person or persons designated by him to tear down and remove any such house, building and/or structure constituting a nuisance will insure the removal thereof and dispose of the same in such a manner as deemed appropriate in the circumstances and to that end may, if the same have a substantial value, sell said house, building and/or structure, or any saleable material thereof, by public sale to the highest bidder for cash, ten (10) days' notice thereof being first given by one publication in some newspaper having a general circulation in the city, to insure its removal and the abatement of the nuisance. (Ord. No. 2011-2, Sec. 9.)

11.24.10 Disposition of sale proceeds All proceeds of the sale of any such house, building and/or structure, or the proceeds of the sale of saleable materials therefrom and all fines collected from the provisions of this ordinance shall be paid by the person or persons collecting the same to the City Treasurer. If any such house, building and/or structure, or the saleable materials thereof, be sold for an amount which exceeds all costs incidental to the abatement of the nuisance (including the cleaning up of the premises) by the city, plus any fine or fines imposed, the balance thereof will be returned by the City Treasurer to the former owner or owners of such house, building and/or structure constituting the nuisance. (Ord. No. 2011-2, Sec. 10.)

11.24.11 Abatement costs and lien on property

- A. If the city has any net costs in the securing, repair or razing and removal of any house, building and/or structure, such costs shall be charged to the owner. Should the owner fail to pay said charges within sixty (60) days from the date of the first billing, the city shall have a lien on the property as provided by A.C.A. 14-54-903 and 14-54-904.
- B. The lien may be enforced in either one of the following manners:

1. The lien may be enforced at any time within eighteen (18) months after work has been done by an action in the Chancery Court. The amount of the lien herein provided may be determined at a hearing before the City Council held after thirty (30) days' written notice by certified mail to the owner of the property if the name and whereabouts of the owners are known;
2. If the name of the owner cannot be determined then, only after the publication of notice of such hearing in a newspaper having a bona fide circulation in the county for one (1) insertion per week for four (4) consecutive weeks. The determination of the City Council being subject to appeal by the property owner in the Circuit Court and the amount so determined at said hearing, plus a ten percent (10%) penalty for collection, shall be by the City Council certified to the tax collector of the county and by him placed on the tax books as delinquent taxes are collected accordingly, and the amount, less three percent (3%) thereof, when so collected shall be paid to the city by the County Tax Collector.

- C. It is expressly stated that the tax lien method is the preferred method of collection unless the Code Enforcement Officer in consultation with the City Attorney makes a determination to proceed with one of the other specified collection methods. (Ord. No. 2011-2, Sec. 11.)

11.24.12 Penalty A fine of not less than Two Hundred Fifty Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00) is hereby imposed against the owner(s) of any house, building and/or structure found and declared to be a nuisance by resolution of the City Council thirty (30) days after the same has been so found and declared to be a nuisance and for each day thereafter said nuisance be not abated constitutes a separate and distinct offense punishable by a fine of Two Hundred Fifty Dollars (\$250.00) for each said separate and distinct offense, provided, the notice as herein provided in 11.24.05 hereof has been given within ten (10) days after said house, building and/or structure has been by resolution found and declared to be a nuisance. (Ord. No. 2011-2, Sec. 12.)

11.24.13 Judicial declaration and fine In the event it is deemed advisable by the City Council that a particular house, building and/or structure be judicially declared to be a nuisance by a court having jurisdiction of such matters, the City Council is hereby authorized to employ an attorney to bring such an action for said purpose in the name of the city, and the only notice to be given to the owner(s) and mortgagee(s) and/or lienholder(s) of any such house, building and/or structure sought to be judicially declared to be a nuisance will be that as now provided for by law in such cases in a court of equity or Circuit Court. When any such house, building and/or structure has been declared judicially to be a nuisance by a court of competent jurisdiction, a fine of One Hundred Dollars (\$100.00) is hereby imposed against the owner(s) thereof from the date

said finding is made by the court and for each day thereafter said nuisance be not abated constitutes a separate and distinct offense punishable by a fine of One Hundred Dollars (\$100.00) for each separate and distinct offense.

In the event the owner(s) of any such house, building and/or structure judicially found to be a nuisance fails or refuses to abide by the orders of the court, the Building Inspector or other person or persons referred to in 11.24.08 of this ordinance will be applicable to such owner(s). The provisions contained in the immediately preceding sentence apply independently of any action as may be taken by the court judicially declaring the nuisance. (Ord. No. 2011-2, Sec. 13.)

11.24.14 Emergency action Notwithstanding any provision herein to the contrary, in cases of extreme emergency where notice is not practical, the city and its authorized agents may enter upon any real property, houses, buildings or other structures and take such action or actions as may be immediately necessary for the preservation of the public health, safety and welfare prior to the issuance of notice as provided for herein, provided further, that the procedural requirements of this article shall be adhered to following any such emergency action. (Ord. No. 2011-2, Sec. 14.)

CHAPTER 11.28

BUILDING CODE

Sections:

- 11.28.01 Adoption of Building Code
- 11.28.02 Establishment of office of Building Official
- 11.28.03 Qualifications of Building Official
- 11.28.04 Duties of Building Official
- 11.28.05 Liability
- 11.28.06 Right of entry
- 11.28.07 Definition
- 11.28.08 Fire limits established

- 11.28.09 Saving clause
- 11.28.10 Energy efficiency standards

11.28.01 Adoption of Building Code. There is hereby adopted by the City Council of the city of Pocahontas, Arkansas, for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, including permits and penalties, that certain building code known as the "National Building Code", abbreviated Edition, recommended by the National Board of Fire Underwriters, being particularly the 1969 edition thereof as amended and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended, of which not less than three (3) copies have been and are now filed in the office of the Recorder/Treasurer and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling in the construction of all buildings and structures therein contained within the corporate limits of the city of Pocahontas. (Ord. No. 271, Sec. 1.)

11.28.02 Establishment of office of Building Official.

- A. The office of the Building Official is hereby created and the executive official in charge shall be known as the Building Official.
- B. The Building Official shall be appointed by the Mayor. His appointment shall continue during good behavior and satisfactory service. He shall not be removed from office except for cause after full opportunity has been given him to be heard on specific charges.
- C. During temporary absence or disability of the Building Official, the Mayor shall designate an acting Building Official. (Ord. No. 271, Sec. 2.)

11.28.03 Qualifications of Building Official. He shall be in good health, physically capable of making the necessary examinations and inspections. He shall not have any interest whatever, directly or indirectly, in the sale or manufacture of any material, process or device entering into or used in or connected with building construction, alteration, removal and demolition. (Ord. No. 271, Sec. 3.)

11.28.04 Duties of Building Official.

- A. He shall receive applications required by this code, issue permits and furnish the prescribed certificates. He shall examine the premises for which permits have been issued and shall make necessary inspections to see that the provisions of law are complied with and that construction is prosecuted safely. He shall enforce all provisions of the Building Code. He shall, when requested by proper authority, or when the public interest so requires, make investigations in connection with matters referred to in the Building Code and render written reports on the same.

To enforce compliance with law, to remove illegal or unsafe conditions, to secure the necessary safeguards during construction, or to require adequate existing facilities in buildings and structures, he shall issue such notices or orders as may be necessary.

- B. Inspections required under the provisions of the Building Code shall be made by the Building Official or his duly appointed assistant. The Building Official may accept reports of inspectors of recognized inspection services, after investigation of their qualifications and reliability. No certificate called for by any provision of the Building Code shall be issued on such reports unless the same are in writing and certified to by a responsible officer of such service.
- C. The Building Official shall keep comprehensive records of applications, of permits issued, of certificates issued, of inspections made or reports rendered and of notices or orders issued.
- D. All such records shall be open to the public inspection for good and sufficient reasons at the stated office hours, but shall not be removed from the office of the Building Official without his written consent.
- E. The Building Official shall make written reports to his immediate superior once each month, or more often if requested, including statements of permits and certificates issued, and orders promulgated. (Ord. No. 271, Sec. 4.)

11.28.05 Liability. Any officer or employee of the city of Pocahontas, Arkansas, or member of the Board of Adjustments and Appeals, charged with the enforcement of this code, acting for the city in the discharge of his duties, shall not thereby render himself liable personally, and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties. Any suit brought against any officer or employee because of such act performed by him in the enforcement of any provision of this code shall be defended by the City Attorney or legal representative of the city until the final termination of the proceedings. (Ord. No. 271, Sec. 5.)

11.28.06 Right of entry. The Building Official, in the discharge of his official duties, and upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour. (Ord. No. 271, Sec. 6.)

11.28.07 Definition.

- A. Wherever the word "Municipality" is used in the Building Code, it shall be held to mean the city of Pocahontas.
- B. Whenever the term "Corporation Counsel" is used in the Building Code, it shall be held to mean the City Attorney for the city of Pocahontas. (Ord. No. 271, Sec. 7.)

11.28.08 Fire limits established The fire limits of the city of Pocahontas are hereby established as follows: Beginning at all property described as central business (C-1), roadway business (C-2), and Industrial (I-1) under the Pocahontas Zoning Ordinance, to the point of beginning. (Ord. No. 271, Sec. 8.)

11.28.09 Saving clause Nothing in this ordinance or in the Building Code hereby adopted shall be construed to affect any suit or proceeding now pending in any court, or any rights acquired, or liability incurred, nor any cause or causes of action accrued or existing, under any act or ordinance repealed hereby. Nor shall any right or remedy of any character be lost, impaired or affected by this ordinance. (Ord. No. 271, Sec. 9.)

11.28.10 Energy efficiency standards The Board of Directors hereby finds that it is the best interests of the citizens of Pocahontas to formally adopt the 1979 Arkansas Rules and Regulations for Energy Efficiency Standards for New Building Construction, as adopted by the Arkansas Department of Energy. (Ord. No. 367, Sec. 1.)

CHAPTER 11.32

MECHANICAL CODE

Sections:

- 11.32.01 Adopted
- 11.32.02 Administrative Authority
- 11.32.03 Effective
- 11.32.04 Fine

11.32.01 Adopted There is hereby adopted by the city of Pocahontas, the Arkansas Mechanical Code, or the most recent edition thereof. These rules and regulations are adopted in an attempt to ensure safe mechanical installations including alterations, repairs, replacements, equipment, appliances, fixtures, fittings, and appurtenances thereto, so as to safeguard life, health, and the public welfare. (Ord. No. 99-10, Sec. 1.)

11.32.02 Administrative Authority For the purpose of this ordinance, the Building Official, his or her assistants, or any individual assigned by the Mayor, shall be the “Administrative Authority” authorized to enforce the provisions of the Mechanical Code. (Ord. No. 99-10, Sec. 2.)

11.32.03 Effective Three copies of this code have been, and are now, on file in the office of the City Clerk/Treasurer of the city of Pocahontas, Arkansas, and the same are hereby adopted and incorporated as if set out at length herein. From the date on which this ordinance shall take effect, the provisions of the aforementioned code shall be controlling in the construction of all buildings and other structures within the corporate limits of the city of Pocahontas, Arkansas, except as regulated by other ordinances of the city of Pocahontas Municipal Code. (Ord. No. 99-10, Sec. 3.)

11.32.04 Fine A.C.A. 15-55-102 empowers municipal corporations to adopt ordinances to provide for the safety, health, comfort, and convenience of inhabitants of the city. Violations of the Arkansas Mechanical code shall be considered a violation of this ordinance and shall be punishable as a misdemeanor offense. A violation of any of the Arkansas Mechanical Code adopted as a result of this ordinance, or other provisions of this ordinance, shall be punishable by a fine of up to \$250.00 per day. (Ord. No. 99-10, Sec. 4.)

CHAPTER 11.36

GAS CODE

Sections:

- 11.36.01 Gas Code Ordinance
- 11.36.02 Requirements
- 11.36.03 License required
- 11.36.04 Revocation of license
- 11.36.05 No permits
- 11.36.06 Fees
- 11.36.07 Certificates
- 11.36.08 Powers and duties of inspector
- 11.36.09 Adoption
- 11.26.10 Violations and penalties

11.36.01 Gas Code Ordinance This ordinance shall be known as the Gas Ordinance of the city of Pocahontas, and may be cited as such. (Ord. No. 470, Sec. 1.)

11.36.02 Requirements All gas appliances or gas pipes hereafter sold, installed, maintained or repaired within the corporate limits of the city of Pocahontas shall conform to the requirements of this ordinance. (Ord. No. 470, Sec. 2.)

11.36.03 License required No person shall engage in work at the installation, extension, alteration or repair of any gas appliance or piping pertaining to or in connection with gas service on a consumer's premise within the corporate limits of the city of Pocahontas unless such person has first procured a license therefore, in accordance with the provisions of this ordinance. (Ord. No. 470, Sec. 3.)

11.36.04 Revocation of license No person, firm or corporation shall lend his or their Gas Fitter or Master Plumber's license, as the case may be, to any other person, nor shall any such licensed person, firm or corporation apply for a permit in his or their name for use of any other person, and such licensed person, firm or corporation so doing or refusing to comply with any other requirements of this ordinance shall have his or their Gas Fitter's or Master Plumber's license, as the case may be, suspended or revoked by the city officials of the city of Pocahontas. (Ord. No. 470, Sec. 4.)

11.36.05 No permits No gas fitter or plumber shall install a conversion burner, floor furnace, central heating plant, or gas engine, or make any alterations to installed house piping in any building or structure without first obtaining a permit to do such work from the city of Pocahontas. Permits shall not be required for setting or connecting other gas appliances where such connections are made to existing outlets previously installed by a licensed plumber, or gas fitter.

All gas piping from meter to building shall be plastic or plastic-coated steel, 1" in size to first opening. (Ord. No. 470, Sec. 5.)

11.36.06 Fees

- A. The fees for inspection of consumer's piping shall be \$15.00 for one outlet, \$18.00 for two to five outlets, inclusive, and \$2.00 each outlet thereafter: for each re-inspection of partial inspection, \$15.00.
- B. The fees for inspecting conversion burners, floor furnaces, or central heating plants shall be \$20.00 for each re-inspection or partial inspection, \$20.00.
- C. Each and all fees shall be paid by the person to whom the permit is issued. (Ord. No. 470, Sec. 6.)

11.36.07 Certificates The City Inspector shall issue a certificate of approval at the completion of the work for which a specific permit has been issued. If after inspection it is found that such work complies with the provisions of this ordinance and all other requirements of law or ordinance applicable thereto, a duplicate of each piping certificate shall be delivered to the Gas Company and used as its authority to grant gas services. (Ord. No. 470, Sec. 7.)

11.36.08 Powers and duties of Inspector

- A. The City Inspector is hereby authorized and directed to enforce all the provisions of this ordinance and the Inspector or his authorized representative, upon presentation of proper credentials, may enter any building or premises for the purposes of making inspection or prevention violations of this ordinance.
- B. The City Inspector or his authorized representative is hereby authorized to disconnect any gas piping or fixture or appliance which has been connected before a Certificate of Approval has been issued, or which, upon inspection, shall be found defective or in such conditions as to endanger life or property. In all cases where such a disconnection is made, a notice shall be attached to the piping system, which notice shall state the same has been disconnected by the Inspector or his representative together with the reason or reasons therefore, and it shall be unlawful for any person to remove said notice or reconnect said gas piping or appliance until authorized by the Inspector to do so.
- C. It shall be the duty of the Inspector to confer with representatives of local gas companies, of local plumbers' or gas fitters' associations, of the local Health Department, and of the local Fire Department and otherwise obtain from proper sources all helpful information and advice, presenting same to the city officials from time to time for their consideration. (Ord. No. 470, Sec. 8.)

11.36.09 Adoption The City Council of the city of Pocahontas hereby adopts the Arkansas State Gas Code and specifically Chapter 15 of the Arkansas State Plumbing code, rules and Regulations of the State Board of Health Governing Installation of Utility Gas; hereinafter referred to as the Arkansas State Gas Code.

The City Council of the city of Pocahontas, specifically, adopts the Arkansas State Gas code and incorporates the same by reference in this ordinance as if set out word for word. A copy of the Arkansas State Gas Code will be kept on file in the Municipal clerk's Office of the city of Pocahontas, for inspection upon request.

The Arkansas State Gas code shall set out the requirements regarding the gas pipe system design, material and components, gas piping installation, venting of equipment, procedures to be followed to place equipment in operation, and modifications to existing appliance installation for the purposes of fuel conservation. (Ord. No. 470, Sec. 9.)

11.36.10 Violations and penalties Any person, corporation or firm that shall fail to comply with or violate any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not less than \$100.00. Each day that the violation persists shall be considered a subsequent offense and the \$100.00 shall be imposed for each subsequent offense, or the license of such person, firm, or corporation may be revoked, or both fine and revocation of the license may be imposed. (Ord. No. 470, Sec. 10.)

CHAPTER 11.40**FAIR HOUSING****Sections:**

11.40.01	Policy
11.40.02	Definitions
11.40.03	Unlawful practice
11.40.04	Discrimination in the sale or rental of housing
11.40.05	Discrimination in the financing of housing
11.40.06	Discrimination in the provision of brokerage services
11.40.07	Exemption
11.40.08	Administration
11.40.09	Education and conciliation
11.40.10	Enforcement
11.40.11	Investigations; subpoenas; giving of evidence
11.40.12	Enforcement by private persons
11.40.13	Interference, coercion or intimidation
11.40.14	Separability of provisions
11.40.15	Prevention of intimidation in fair housing cases

11.40.01 Policy It is the policy of the city of Pocahontas to provide, within constitutional limitations, for fair housing throughout its jurisdiction. (Ord. No. 2009-12, Sec. 1.)

11.40.02 Definitions

Discriminatory housing practice means an act that is unlawful under 11.40.04, 11.40.05 or 11.40.06.

Dwelling means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

Family includes a single individual.

Person includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

To rent includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant. (Ord. No. 2009-12, Sec. 2.)

11.40.03 Unlawful practice Subject to the provisions of 11.40.03 (B) and 11.40.07, the prohibitions against discrimination in the sale or rental of housing set forth in 11.40.04 shall apply:

- A. All dwellings except as exempted by sub-section (B).
- B. Nothing in 11.40.04 shall apply to:
 - 1. Any single-family sold or rented by an owner:
 - a. Provided, that such private individual owner does not own more than three (3) such single-family houses at any one time;
 - b. Provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four (24) month period;
 - c. Provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three (3) such single-family houses at any one time;
 - d. Provided further, that the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented
 - (1) Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person, and

- (2) Without the publication, posting or maligning, after notice of any advertisement or written notice in violation of 11.40.04(C) of this ordinance, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or
 2. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.
- C. For the purposes of sub-section (B), a person shall be deemed to be in the business of selling or renting dwellings if
 1. He has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein, or
 2. He has, within the preceding twelve (12) months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein, or
 3. He is the owner of any dwelling designed or intended for occupancy by, or occupied by five (5) or more families. (Ord. No. 2009-12, Sec. 3.)

11.40.04 Discrimination in the sale or rental of housing As made applicable by 11.40.03 and except as exempted by 11.40.03(B) and 11.40.07, it is unlawful

- A. To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, or national origin.
- B. To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, or national origin.
- C. To make, print or publish, or cause to be made, printed or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination.

- D. To represent to any person because of race, color, religion, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
- E. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, or national origin. (Ord. No. 2009-12, Sec. 4.)

11.40.05 Discrimination in the financing of housing It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such load or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given; provided that nothing contained in this section shall impair the scope or effectiveness of the exception contained in 11.40.03(B). (Ord. No. 2009-12, Sec. 5.)

11.40.06 Discrimination in the provision of brokerage services It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, or national origin. (Ord. No. 2009-12, Sec. 6.)

11.40.07 Exemption Nothing in this ordinance shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by, or in conjunction with a religion organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operate for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this ordinance prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. (Ord. No. 2009-12, Sec. 7.)

11.40.08 Administration

- A. The authority and responsibility for administering this act shall be in the Chief Executive Officer of the city of Pocahontas.
- B. The Chief Executive Officer may delegate any of these functions, duties, and powers to employees of the city or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering certifying, reporting or otherwise acting as to any work, business, or matter under this ordinance. The Chief Executive Officer shall by rule prescribe such rights of appeal from the decisions of his hearing examiners to other hearing examiners or to other officers in the city/county, to boards of officers or to himself, as shall be appropriate and in accordance with law.
- C. All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this ordinance and shall cooperate with the Chief Executive Officer to further such purposes. (Ord. No. 2009-12, Sec. 8.)

11.40.09 Education and conciliation Immediately after the enactment of this ordinance, the Chief Executive Officer shall commence such educational and conciliatory activities as will further the purposes of this ordinance. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this ordinance and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. (Ord. No. 2009-12, Sec. 9.)

11.40.10 Enforcement

- A. Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the Chief Executive Officer. Complaints shall be in writing and shall contain such information and be in such form, as the Chief Executive Officer requires. Upon receipt of such a complaint, the Chief Executive Officer shall furnish a copy of the same to the person or persons who allegedly committed or is/was about to commit the alleged discriminatory housing practice. Within thirty (30) days after receiving a complaint, or within thirty (30) days after the expiration of any period of reference under subsection (C), the Chief Executive Officer shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the Chief Executive Officer decides to resolve the complaints, he shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation,

and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this ordinance without the written consent of the persons concerned. Any employee of the Chief Executive Officer who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than One Thousand Dollars (\$1,000.00) or imprisoned not more than one (1) year.

- B. A complaint under sub-section (A) shall be filed within one hundred and eighty (180) days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the Chief Executive Officer, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.
- C. If within thirty (30) days after a complaint is filed with the Chief Executive Officer, he/she has been unable to obtain voluntary compliance with this ordinance, the person aggrieved may, within thirty (30) days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The Chief Executive Officer will assist in filing.
- D. If the Chief Executive Officer has been unable to obtain voluntary compliance within thirty (30) days of the complaint, the person aggrieved may, within thirty (30) days hereafter commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this ordinance, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.
- E. In proceedings brought pursuant to this section, the burden of proof shall be on the complainant.
- F. Whenever an action filed by an individual shall come to trial, the Chief Executive Officer shall immediately terminate all efforts to obtain voluntary compliance. (Ord. No. 2009-12, Sec. 10.)

11.40.11 Investigations; subpoenas; giving of evidence

- A. In conducting an investigation, the Chief Executive Officer shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation; provided, however, that the Chief Executive Officer first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The Chief Executive Officer may issue subpoenas to compel his access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States District Court for the district in which the investigation is taking place. The Chief Executive Officer may administer oaths.
- B. Upon written application to the Chief Executive Officer, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the Chief Executive Officer to the same extent and subject to the same limitations as subpoenas issued by the Chief Executive Officer himself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.
- C. Witnesses summoned by subpoena of the Chief Executive Officer shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United Stated District Courts. Fess payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by him.
- D. Within five (5) days after service of a subpoena upon any person, such person may petition the Chief Executive Officer to revoke or modify the subpoena. The Chief Executive Officer shall grant the petition if he finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.
- E. In case of contumacy or refusal to obey a subpoena, the Chief Executive Officer or person at whose request it was issued may petition for enforcement in the District or State Court for the district in which the person to whom the subpoena was addressed resides, was served, etc.

- F. Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his power to do so, in obedience to the subpoena or lawful order of the Chief Executive Officer shall be fined not more than One Thousand Dollars (\$1,000.00) or imprisoned not more than one (1) year, or both. Any person who, with intent thereby to mislead the Chief Executive Officer, shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document submitted to the Chief Executive Officer pursuant to his subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than One Thousand Dollars (\$1,000.00) or imprisoned not more than one (1) year, or both.
- G. The Grantee's Attorney shall conduct all litigation in which the Chief Executive Officer participates as a party or as amicus pursuant to this ordinance. (Ord. No. 2009-12, Sec. 11.)

11.40.12 Enforcement by private persons

- A. The rights granted by 11.40.03, 11.40.04, 11.40.05 and 11.40.06 may be enforced by civil actions in state or local courts of general jurisdiction. A civil action shall be commenced within one hundred and eighty (180) days after the alleged discriminatory housing practice occurred; provided however, that the court shall continue such civil case brought pursuant to this section or 11.40.10(D) from time to time before bringing it to trial if the court believes that the conciliation efforts of the Chief Executive Officer are likely to result in satisfactory settlement of the discriminatory housing practice complained of in the complaint made to the Chief Executive Officer and which practice forms the basis for the action in court. And provided, however, that any sale, encumbrance, or rental consummated prior to the issuance of any court order issued under the authority of this ordinance, and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this ordinance shall not be affected.
- B. The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff actual damages and not more than One Thousand Dollars (\$1,000.00) punitive damages, together with court costs and reasonable attorney fees in the case of a prevailing plaintiff, provided, that the said plaintiff in the opinion of the court is not financially able to assume said attorney's fees. (Ord. No. 2009-12, Sec. 12.)

11.40.13 Interference, coercion or intimidation It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by 11.40.03, 11.40.04, 11.40.05 or 11.40.06. This section may be enforced by appropriate civil action. (Ord. No. 2009-12, Sec. 13.)

11.40.14 Separability of provisions If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the ordinance and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby. (Ord. No. 2009-12, Sec. 14.)

11.40.15 Prevention of intimidation in fair housing cases Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with:

- A. Any person because of his race, color religion or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or
- B. Any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:
 - 1. Participating, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities described in subsection 11.40.15(A); or
 - 2. Affording another person or class of persons opportunity or protection so to participate; or
- C. Any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities described in 11.40.15(A), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined not more than One Thousand Dollars (\$1,000.00), or imprisoned not more than one (1) year, or both; and if bodily injury results, shall be fined not more than Ten Thousand Dollars (\$10,000.00), or imprisoned not more than ten (10) years, or both; and if death results shall be subject to imprisonment for any term of years or for life. (Ord. No. 2009-12, Sec. 15.)