

TITLE 13

PLANNING

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CHAPTER 13.04

PLANNING COMMISSION

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13.04.01 Authorization Under provisions of Act 26, 1955 General Assembly, state of Arkansas, Randolph County and the city of Pocahontas, herein called parties to the agreement, agree to join cooperatively in area planning and to establish a regional planning commission. (Ord. No. 216, Sec. 1.)

13.04.02 Planning Commission In order to establish and maintain and continue a Planning Commission for the city of Pocahontas, Arkansas, the Commission shall be known as the Pocahontas Planning Commission. As provided in 13.04.01 of this Act known as Act 26, any other civil jurisdiction or any public authority or agency operating, wholly or in part, within the area of jurisdiction of the parties to this agreement may join in this agreement and be members of the Joint Planning Commission (Ord. No. 293, Sec. 2.)

13.04.03 Membership Pocahontas Planning Commission membership shall be constituted as follows:

- A. The Commission shall consist of five members, who shall be appointed by the Mayor with the advice and consent of the City Council of the city of Pocahontas, Arkansas and a majority of the members of the Planning Commission shall hold no other public office.
- B. The initial members of the Planning Commission shall be appointed for terms as follows: two (2) members for one year; two (2) members for two years; one (1) member for three years, thereafter all members will be appointed for terms of four years. (Ord. No. 293, Sec. 3.)

13.04.04 Officers, meetings and by-laws

- A. The officers of the Planning Commission shall consist of a Chairman, Vice-Chairman, and Secretary/Treasurer, who shall serve one year terms and who shall perform duties conferred upon them by the by-laws or rules of the Planning Commission.
- B. The Planning Commission shall be empowered to adopt rules consistent with this ordinance and the laws of the state of Arkansas as are necessary for the operation of the Commission.(Ord. No. 293, Sec. 4.)

13.04.05 Means of cooperation The parties to this agreement shall cooperate on area planning through the Pocahontas Planning Commission, and shall furnish the commission, on request, any information or documents in their possession or control, and shall aid wherever possible the work of the Commission in the cooperation of their officials, department, and agencies.

As provided in Act 26, the Pocahontas Planning Commission may assist the parties to this agreement in carrying out any area plan or plans developed by the Commission, and may assist any of the parties to this agreement or other public bodies in the preparation of effectuation of local plans or planning consistent with the program and means of the Commission. (Ord. No. 216, Sec. 5.)

13.04.06 Powers, functions, and duties The Planning Commission shall have the powers, duties and functions as provided by law.

- A. Shall assume the planning duties and functions granted cities by statute and shall make studies of present conditions and future needs, prepare plans, conduct public hearings, adopt and file plans in accordance with statutory requirement.
- B. May hire staffs and/or contract for planning services with outside agencies or consultants.

- C. Shall prepare an annual report and prepare and publish studies and reports in connection with its work.
- D. May acquire property and materials for use and incur necessary expenses within the limits of its budget as appropriated and provided by the City Council or as otherwise provided.
- E. May receive for its own use and purpose funds or monies as provided by Section 4 of Act 26.
- F. Shall prepare an annual budget to be submitted for approval to the City Council and the budget may be prepared to provide for both general funds and expenditures and for special funds and expenditures.
- G. May determine the areas appropriate for the preparation of regional planning and determine appropriate planning districts within the area. (Ord. No. 293, Sec. 6.)

11.04.07 Method of financing The Planning Commission shall be financed in the following manner:

- A. The Planning Commission shall prepare an annual budget for presentation to the City Council and the County Judge and any other participating agency by October 15 for the following year. The funds for this budget provided and approved by the parties to this agreement shall be contributed twenty-five per centum by Randolph County from the County General Fund, and seventy-five per centum from the city of Pocahontas, from the General Fund of said city, until other public bidders may be added to the Commission and further agreement as to division of costs made by the parties hereto.
- B. The acceptance of the budget by the parties to this agreement shall carry with it the authority for the Commission to encumber and expend funds as budgeted during the calendar year. (Ord. No. 216, Sec. 7.)

13.04.08 Annual budget

- A. The Planning Commission shall prepare an annual budget for presentation to the City Council and the City Council shall appropriate the necessary funds for the work of the Planning Commission.
- B. In accordance with the provisions of Arkansas Statutes, the Planning Commission may work in conjunction and cooperation with other public boards, commissions and authorities. (Ord. No. 293, Sec. 8.)

13.04.09 Territorial jurisdiction

- A. A.C.A. 14-56-413 provides that the territorial jurisdiction of the legislative body of the city having a Planning Commission, for the purpose of this subchapter, shall be exclusive and shall include all land lying within five (5) miles of the corporate limits. The Planning Commission shall designate the area within the territorial jurisdiction for which it will prepare plans, ordinances, and regulations.
- B. The Planning Commission has designated that it will, pursuant to the above referenced statute, prepare plans and regulations for all territories lying within two (2) miles of the present corporate limits of the city of Pocahontas. The city Council hereby adopts the recommendations of the Planning Commission.
- C. A description of the boundaries of the area shall be filed with the City Clerk and with the County Recorder. (Ord. No. 512, Sec. 1-3)

13.04.10 Compensation

- A. The Commission members shall receive as compensation Twenty-Five Dollars (\$25.00) per month for any months that they attend a Planning and Zoning Commission meeting.
- B. The Chair of the Commission shall receive as compensation One Hundred Dollars (\$100.00) per month for any months that they attend a Planning and Zoning Commission meeting or any seminars related to the position in which they attend.
- C. The payments shall be made every quarter after being submitted to the City Clerk/Treasurer on forms approved by the Clerk's office. (Ord. No. 2013-5, Secs. 1-3.)

CHAPTER 13.08**FLOOD DAMAGE PREVENTION PROGRAM****Sections:**

13.08.01	Statutory authority
13.08.02	Findings of fact
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13.08.06	Flood Damage Prevention Code adopted by reference
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13.08.10	Compliance
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13.08.01 Statutory authority The Legislature of the state of Arkansas has in A.C.A. 14-268-101, et seq., delegated the responsibility of local governmental units to adopt regulations to minimize flood losses. Therefore, the City Council of Pocahontas, Arkansas, does hereby ordain as follows. (Ord. No. 2012-5, Sec. 1.)

13.08.02 Finding of fact

- A. The Federal Emergency Management Agency (FEMA) has identified Special Flood Hazard Areas of the city of Pocahontas, Arkansas, in the current scientific and engineering report entitled “The Flood Insurance Study (FIS) for Randolph County, Arkansas, and incorporated areas, dated May 2, 2012, with an effective Flood Insurance Rate Map (FIRM) dated May w, 2012.
- B. These Special Flood Hazard Areas are subject to periodic flooding events that result in loss of life and property, pose health and safety hazards, disrupt commerce and governmental services, and cause extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- C. These periodic flooding events are exacerbated by the cumulative effect of floodplain developments which cause an increase in flood heights and velocities, and by the placement of inadequately elevated, inadequately flood proofed or otherwise unprotected structures or uses vulnerable to floods into Special Flood

Hazard Areas. Such structures or uses are inherently hazardous to other lands because of their adverse impact on flooding events. (Ord. No. 2012-5, Sec. 2.)

13.08.03 Statement of purpose The purpose of this ordinance is to promote the public health, safety and general welfare, to prevent adverse impacts from any floodplain development activities, and to minimize public and private losses due to flooding events in identified Special Flood Hazard Areas. This ordinance advances the stated purpose through provisions designed to:

- A. Protect human life and health;
- B. Protect natural floodplains against unwise development;
- C. Eliminate adverse impacts of necessary floodplain development;
- D. Minimize expenditure of public monies on flood control projects;
- E. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- F. Minimize prolonged business interruptions due to flooding events;
- G. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in Special Flood Hazard Areas;
- H. Minimize future flood blight areas to help maintain a stable tax base; and
- I. Provide for notice to potential buyers when property is in a Special Flood Hazard Area. (Ord. No. 2012-5, Sec. 3.)

13.08.04 Lands to which this ordinance applies The ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction of the city of Pocahontas, Arkansas. (Ord. No. 2012-5, Sec. 4.)

13.08.05 Methods of reducing flood losses This ordinance uses the following methods to accomplish the stated purpose:

- A. This ordinance restricts or prohibits structures or uses in Special Flood Hazard Areas that adversely impact health, safety or property during flooding events;

- B. This ordinance requires protection against flood damage for structures or uses vulnerable to floods at the time of initial construction, or after substantial improvement of the structure, or after substantial damage has occurred;
- C. This ordinance controls the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation and transport of flood waters;
- D. This ordinance controls floodplain development (structural development, placement of manufactured structures, clearing, grading, mining, drilling, dredging, placement of fill, excavating, watercourse alteration, drainage improvements, roadway or bridge construction, individual water or sewer installations and other activities) which may increase flood damage by increasing flood elevations, flood water velocities, or flood discharge patterns;
- E. This ordinance regulates the construction of flood barriers which unnaturally divert floodwaters or which may adversely impact other lands. (Ord. No. 2012-5, Sec. 5.)

13.08.06 Flood Damage Prevention Code adopted by reference There is hereby adopted by reference a Flood Damage Prevention Code for city of Gentry, Arkansas, dated March 13, 2012. The code shall include:

- ARTICLE 1 DEFINITIONS
- ARTICLE 2 ADMINISTRATION
- ARTICLE 3 PROVISIONS FOR FLOOD HAZARD REDUCTION

A copy of the referenced code shall be filed in the office of the Mayor of the city of Pocahontas and shall be available for inspection and copying by any person during normal office hours. (Ord. No. 2012-5, Sec. 6.)

13.08.07 Abrogation and greater restrictions This ordinance does not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Whenever there is a conflict or overlap between this ordinance and another ordinance, easement, covenant, or deed restriction, the instrument with the more stringent restrictions applies. (Ord. No. 2012-5, Sec. 7.)

13.08.08 Interpretation In the interpretation and application of this ordinance, all provisions must:

- A. Be considered as minimum requirements;
- B. Be liberally construed in favor of the governing body; and

- C. Be deemed to neither limit nor repeal any other powers granted under state statutes. (Ord. No. 2012-5, Sec. 8.)

13.08.09 Warning and disclaimer of liability The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes. Documented scientific and engineering data form the basis for these requirements. On rare occasions, flooding events greater than those considered for this ordinance will occur. In addition, flood heights may increase over time due to man-made or natural causes. This ordinance does not imply that land outside Special Flood Hazard Areas will be free from flooding, nor that strict adherence to this ordinance protects uses permitted within Special Flood Hazard Areas from all flood damages. This ordinance specifically does not create liability on the part of the community, nor any official or employee of the community, for any flood damages that result while strictly following this ordinance, or from any lawful administrative decision made under the provisions of this ordinance. (Ord. No. 2012-5, Sec. 9.)

13.08.10 Compliance Constructing, locating, substantially altering or changing the use of any structure or land after the effective date of this ordinance requires full compliance with the provisions of this ordinance and all other applicable regulations. (Ord. No. 2012-5, Sec. 10.)

13.08.11 Penalty for non-compliance Flood hazards are reduced by compliance with the provisions of this code. Accordingly, enforcement of this ordinance discourages non-compliance and is a recognized mechanism for flood hazard reduction.

- A. The Floodplain Administrator must enforce the provisions of this ordinance and is authorized to:
1. Issue cease and desist orders on non-compliant floodplain development projects;
 2. Issue citations for non-compliance;
 3. Request that FEMA file a 1316 Action (Denial of Flood Insurance) against non-compliant properties; and
 4. Take any other lawful action necessary to prevent or remedy any instance of non-compliance with the provisions of this ordinance.
- B.
1. It is a misdemeanor to violate or fail to comply with any provision of this ordinance.
 2. Any person found in a court of competent jurisdiction, guilty of violating this ordinance is subject to fines of not more than Five Hundred Dollars (\$500.00) per day for each violation; in addition the defendant is subject to payment of all associated court costs and costs involved in the case. (Ord. No. 2012-5, Sec. 11.)