

REGULAR MEETING  
BOARD OF MAYOR AND ALDERMEN  
MAY 10, 2016

The Board of Mayor and Aldermen of the City of Fayetteville, Lincoln County, Tennessee, met in open, public session at the regular meeting place of said Board in the Municipal Building of said City at 5:00 p.m. on May 10, 2016. Mayor Jon Law was present and presiding. The following named Aldermen were present:

Danny Bryant, Anna Catherine Cowley, Violet Harry, Gwen Shelton, Dorothy Small and Michael Whisenant

Also, present were Scott Collins, City Administrator and Johnny D. Hill, Jr., City Attorney.

The prayer was led by Danny Bryant, and the pledge was led by Jon Law.

**Adoption of Agenda:**

The agenda for May 10, 2016, was approved upon motion by Anna Catherine Cowley, seconded by Violet Harry.

Aye:

Danny Bryant, Dorothy Small, Violet Harry, Michael Whisenant, Gwen Shelton and Anna Catherine Cowley

Nay:

None

**Approval of Minutes:**

The Regular minutes of April 12, 2016, were read and approved and accepted as distributed.

**Oath of Office:**

Jeremy Tanner was sworn into office as a member of the Fayetteville Police Department.

**Reports:**

**Main Street:**

Josh Richardson, Fayetteville Main Street President, reported that Main Street has submitted documents for the façade grant. A town hall meeting will be held to explain the process, and notice for that will be in the Elk Valley Times. Director Carol Foster attended the second quarter meeting was in Jackson. Fayetteville Main Street and Teen Board held their annual graduation at Las Trojas on April 21, 2016. Destiny Thornton received the scholarship award for the most points for this year. The second annual Slawburger Festival was a great success, with an estimated 5,000 people attending the event. Main Street is very thankful for all of the volunteers and sponsors that helped to make it a success. They are still in the process of finalizing the bookkeeping for the Slawburger Festival, but they do know they will have a profit and will be presenting the façade grant later this year. A reminder to mark everyone's calendar's for the second annual Cruzin' Downtown Fayetteville, presented by the City of Fayetteville, on October 1, 2016. Also, The Host of Christmas Past will be November 11-13, 2016.

**Chamber of Commerce:**

Carolyn Denton, the Chamber Director, reported that the Slawburger Festival was a huge success and the Chamber appreciates all of the sponsors and vendors. The 2016 copy of the Business Directory is completed and will be used for tourism, recruitment, as well as for our own residents. There was a ribbon cutting recently for the Early Head-Start and also, coming up will be Backyard Grill on May 13<sup>th</sup> at 12:15 and Fayetteville Auto Traders on May 20<sup>th</sup>. The student advisory board has had their graduation, and the Chamber gave a scholarship to Lauren Harris. The student advisory board had a Penny Drive for Junior's House to help raise money for the Blue Ribbon Walk and raised \$896.00. The Chamber took part in the five county regional mixer that was held at Jack Daniel's Distillery, where they celebrated their 150<sup>th</sup> year. For National Tourism Week, Carolyn went to the I-65 Welcome Center and welcomed visitors and invited them to Fayetteville.

Music in the Park is scheduled for June and everyone remember to bring your lawn chairs and picnic and enjoy some good music.

**Fire Report:**

Fire Chief Danny Travis was absent. No report was given.

**Police Report:**

Police Chief Richard Howell reported that there were one hundred twenty-nine (129) incidents, sixty-one (61) arrests, fifty-six (56) traffic accidents, and forty-four (44) citations, for a total police activity of one thousand three hundred ninety-eight (1,398) events.

**Recreation Report:**

Ricky Honey, Recreation Director, reported that youth baseball and softball seasons have started up and going well. The swimming pool will open on May 23<sup>rd</sup>. Kids Fish Day will be June 11<sup>th</sup>.

**Public Works:**

Eddie Plunkett, Public Works Director, reported that for the month of April there were two hundred eighty-seven (287) tons of brush and two hundred seventeen (217) tons of trash picked up. May 30<sup>th</sup> sanitation will be closed; they will pick up Monday's trash on Tuesday, May 31<sup>st</sup>. Please remember to get carts off the road as soon as possible after the trash is picked up.

**Planning and Codes Report:**

Jeff Siefert, Building Inspector, reported for the month of April there were fifteen (15) building permits issued. Fees were two thousand sixty-five dollars and seven cents (\$2,065.07), with a total project value of four hundred fifty-seven thousand nine hundred thirty-five dollars (\$457,935.00).

**Administrator's Report:**

Scott Collins, City Administrator, reported that the local parks and recreation fund grant is in the final stages. A pre-construction meeting will be held concerning the Kiwanis restrooms on May 19<sup>th</sup> at 11:00 a.m. Mudpuppy and Waterdog have been mapping out the trails for Camp Blount, and they hope to have the placards completed around the first of the year. The Camp Blount property is now a state historical site, and any metal detecting, digging, etc. is strictly prohibited in accordance to Tennessee and Federal Law. The flood plain study and storm water issues letter of proposal should be going out next week. The transportation Alternative Program Grant, which has been in the environmental phase for 6-8 months, has developed a new issue concerning two species of bats found in the area planned for development. We are working with the consulting engineers to satisfy this issue with the Wildlife Agency. The police building is very close to being completed. Because of this board's actions in removing a blighted building and replacing it with the new police building, the Tennessee Municipal building has announced that it will be awarding the City an award at the June Annual Conference. We are in the full enforcement phase of the sign ordinance. Signs that are in violation have been collected, and violators may come by the Municipal Building to pick up their signs. If the signs are not claimed after three months, they will be discarded. If you have any questions, please contact the Planning and Codes department. Much appreciation is given to the Recreation and Public Works Departments for preparing the ground for the community garden and for the set-up done for the Slawburger Festival.

**Air Conditioning Unit for School Office – up to \$4,800:**

Motion was made by Gwen Shelton, seconded by Dorothy Small, to approve \$4,800 to replace the heating and cooling unit upstairs. Upon roll call, the following voted:

Aye:

Danny Bryant, Dorothy Small, Violet Harry, Michael Whisenant, Gwen Shelton and Anna Catherine Cowley

Nay:

None

Mayor Law declared the motion approved.

**Keep Fayetteville – Lincoln County Beautiful request - \$5,000:**

Motion was made by Danny Bryant, seconded by Dorothy Small, to approve the \$5,000 funding for the recycle center. Upon roll call, the following voted:

Aye:

Dorothy Small, Violet Harry, Michael Whisenant, Gwen Shelton, Anna Catherine Cowley and Danny Bryant

Nay:  
None

**Surface Transportation Project – Engineer Selection:**

There was a full and thorough discussion concerning the Surface Transportation Project engineer selection. Motion was made by Danny Bryant, seconded by Gwen Shelton, to accept Kimley Horn as engineers. Upon roll call, the following voted:

Aye:  
Violet Harry, Michael Whisenant, Gwen Shelton, Anna Catherine Cowley, Danny Bryant and Dorothy Small

Nay:  
None

**Ordinance 2016-07:**

Ordinance No. 2016-07, an ordinance entitled, “An Ordinance Amending Title 13 of the Municipal Code of the City of Fayetteville, Tennessee,” was considered. Said Ordinance is as follows:

**ORDINANCE NO. 2016-07**

**AN ORDINANCE OF THE CITY OF FAYETTEVILLE, TENNESSEE  
AMENDING TITLE 13 OF THE FAYETTEVILLE MUNICIPAL CODE  
ENTITLED PROPERTY MAINTENANCE REGULATIONS.**

**WHEREAS**, the Title 13 of the Code of the City of Fayetteville contains provisions regulating property maintenance in the City of Fayetteville; and

**WHEREAS**, updates and amendments to the existing Title 13 is in the best interest of the citizens of the City of Fayetteville in order to ensure that the regulations set forth in that title serve the intended function.

**NOW, THEREFORE, BE IT ORDAINED** by the City of Fayetteville Board of Mayor and Alderman that Title 13 of the Municipal Code shall be amended to read as follows:

**TITLE 13**

**PROPERTY MAINTENANCE REGULATIONS<sup>1</sup>**

**CHAPTER**

1. MISCELLANEOUS.
2. MOSQUITOS.
3. DIRTY LOTS.
4. INOPERATIVE VEHICLES, ETC.
5. SLUM CLEARANCE.

**CHAPTER 1**

**MISCELLANEOUS**

**SECTION**

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Weeds.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. House trailers.

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<sup>1</sup> Municipal code references  
Animal control: title 10.  
Littering streets, etc.: § 16-107.

**13-101. Health officer.** The "health officer" shall be the Chief of Police or such city, county, or state officer as the board of mayor and aldermen shall appoint or designate to administer and enforce health and sanitation regulations within the city. (1979 Code, § 8-101)

**13-102. Smoke, soot, cinders, etc.** It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1979 Code, § 8-105)

**13-103. Stagnant water.** It shall be unlawful for any person to knowingly allow any pool of stagnant water to accumulate and stand on his property. (1979 Code, § 8-106)

**13-104. Weeds.** Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the judge or chief of police to cut such vegetation when it has reached a height of over eight (8) inches. (1979 Code, § 8-107)

**13-105. Dead animals.** Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1979 Code, § 8-108)

When any such prohibited condition comes to the attention of the judge he shall order the person responsible therefor to remedy the situation within ten (10) days. Should the condition not be remedied within the time specified in the notice, the city clerk shall have the work done at city expense and the cost thereof shall become a lien upon the property enforceable the same as delinquent taxes. (1979 Code, § 8-109)

**13-106. Health and sanitation nuisances.** It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity.

When any such prohibited condition comes to the attention of the judge he shall order the person responsible therefor to remedy the situation within ten (10) days. Should the condition not be remedied within the time specified in the notice, the city clerk shall have the work done at city expense and the cost thereof shall become a lien upon the property enforceable the same as delinquent taxes. (1979 Code, § 8-109)

**13-107. House trailers.** It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures and the proposed location conforms to the zoning provisions of the city and unless a permit

## CHAPTER 2

### MOSQUITOS

#### SECTION

- 13-201. Breeding places to be treated.
- 13-202. Breeding places enumerated.
- 13-203. Methods of treatment.
- 13-204. Evidence of breeding.
- 13-205. Abatement by health officer at offender's expense.
- 13-206. Abatement by health officer at city's expense.
- 13-207. Permit, etc., required for fish pools.
- 13-208. Enforcement by health officer.
- 13-209. Police, etc., to cooperate with health officer.

**13-201. Breeding places to be treated.** It shall be unlawful for any property owner, agent of such owner, tenant, sub-tenant, or other occupant of any property or premises located within the corporate limits to have, keep, maintain, cause or permit upon said property or premises any collection of standing or flowing water in which mosquitoes breed, unless such water is treated so as to effectively prevent such breeding. (1979 Code, § 8-601)

**13-202. Breeding places enumerated.** The collection of water mentioned in § 13-201 shall be held to include that contained in ditches, pools, ponds, excavations, holes, depressions, open cesspools, privy vaults, fountains, cisterns, tanks, shallow wells, barrels, troughs, urns, cans, boxes, bottles, tubs, automobile bodies, buckets, defective house roof gutters, tanks of flush closets, or other similar water containers. (1979 Code, § 8-602)

**13-203. Methods of treatment.** The method of treating collections of water for the prevention of breeding mosquitoes shall be approved by the health officer and may be any one of the following:

- (1) Screening with wire netting of at least sixteen (16) meshes to the inch each way or with other material which will effectively prevent the ingress or egress of mosquitoes.
- (2) Complete emptying and thorough drying or cleaning of unscreened containers every seven (7) days.
- (3) Using a larvicide approved and applied under the directions of the health officer.
- (4) Cleaning and keeping sufficiently free of vegetable growth and other obstructions and stocking with mosquito-destroying fish.
- (5) Filling or draining to the satisfaction of the health officer.
- (6) Removal or destruction of tin cans, tin boxes, broken or empty bottles and similar articles likely to hold water. (1979 Code, § 8-603)

**13-204. Evidence of breeding.** The natural presence of mosquito larvae in standing or running water shall be evidence that mosquitoes are breeding there and that such water is being maintained in violation of this chapter. (1979 Code, § 8-604)

**13-205. Abatement by health officer at offender's expense.** Should any person or persons responsible for conditions giving rise to the breeding of mosquitoes fail or refuse to take necessary measures to prevent the same, the health officer, or his authorized agent is hereby authorized to do so, and all necessary cost incurred by him for this purpose shall be a charge against the property owner, or other person offending as the case may be. (1979 Code, § 8-605)

**13-206. Abatement by health officer at city's expense.** The health officer or his representatives, if he deems it necessary, may immediately treat or have treated at city expense any collection of standing or floating water in which mosquitoes are found to be breeding on public or private property. (1979 Code, § 8-606)

**13-207. Permit, etc., required for fish pools.** It shall be unlawful for any person to construct, possess, or maintain a fish pool within the corporate limits, where malaria transmitting and pest mosquitoes may breed, without first securing a permit from the health officer and thereafter maintaining or continuing such fish pond or pool so as to at all times prevent the propagation or breeding of such mosquitoes. (1979 Code, § 8-607)

**13-208. Enforcement by health officer.** For the purpose of enforcing the provisions of this chapter, the health officer or his agent may at all reasonable times enter in or upon any premises within the corporate limits and order abatement of violations. It shall be unlawful for any person to fail to comply with any such order of the health officer. (1979 Code, § 8-608)

**13-209. Police, etc., to cooperate with health officer.** It shall be the duty of all policemen and the Director of Public Works of the city to cooperate with the health officer in carrying out and seeing that the provisions of this chapter are properly enforced. (1979 Code, § 8-609)

## **CHAPTER 3**

### **DIRTY LOTS**

#### **SECTION**

- 13-301. Short title
- 13-302. Declaration of nuisance.
- 13-303. Permitting accumulations of weeds or other vegetation unlawful.
- 13-304. Permitting accumulations of debris unlawful.
- 13-305. Raking, piling of weeds and rubbish; placement.
- 13-306. Removal; notice.
- 13-307. Noncompliance; abatement at owner's expense; non-payment.
- 13-308. Complaints.
- 13-309. Lots where dumping of fill material occurs.
- 13-310. Penalties.

**13-301. Short title.** This chapter may be cited as the dirty lot ordinance. (1979 Code, § 8-801)

**13-302. Declaration of nuisance.** The existence within the corporate limits of the City of Fayetteville of lots and parcels of land overgrown with obnoxious weeds or burdened with accumulations of rubbish and refuse are hereby declared to be a nuisance. (1979 Code, § 8-802)

**13-303. Permitting accumulations of weeds or other vegetation unlawful.** (1) Except as set out in (3) hereof, it shall be unlawful for any person owning, leasing, occupying or having control of property in the city to permit or suffer weeds or other vegetation to grow on such property to such an extent that such a nuisance is created injurious to the health and welfare of the inhabitants of the city. Weeds or other vegetation that have attained a height of eight (8) inches or more shall be presumed to be detrimental to the public health and a public nuisance, which presumption may be rebutted by competent evidence.

(2) It shall also be unlawful for any person, occupant, or anyone having supervision or control of any lot, tract, parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the city to suffer or permit grass, weeds or any plant that is not cultivated to grow in rank profusion, or otherwise, in, along, upon or across the sidewalk or street adjacent to same in the area between the property line and the curblin, or within the area ten (10) feet beyond the property line, to a height greater than eight (8) inches on an average.

(3) Property owners owning no less than three acres and desiring to cut the same for hay shall:

- (a) Cut and maintain the field around every side at the property line for a width of no less than ten (10) feet. (This includes fences, borders, trees and brush lines.)
- (b) Cut and maintain to the curblin or edge of the street in accordance with subsection (2) above;
- (c) Cut the field at least three (3) times during cutting season with cutting dates no later than June 1st first cutting, July 15th second cutting and September 1st third cutting; and
- (d) Notify the building official of the address of the lot to be cut for hay. (1979 Code, § 8-803)

**13-304. Permitting accumulations of debris unlawful.** No persons or entities owning, leasing, occupying or having control of property in the city shall allow or leave any debris, rubbish, or unlawful clutter including but not limited to trash, garbage, toys, tools, papers of every description, automobile parts, furniture, appliances, ashes, tin or aluminum cans, glass or plastic containers, indoor furniture, boxes, mattresses, firewood that is not neatly stacked, yard maintenance items, and discarded materials of any kind to accumulate on their property including front, back or side yards or porches for a period of more than seven (7) days. Building materials including lumber, bricks, concrete blocks, sand and gravel shall not be permitted to accumulate in such areas for a period of more than thirty (30) days.

**13-305. Raking, piling of weeds and rubbish; placement.** It shall be unlawful for any person owning, leasing, occupying or having control of property in the city to rake up, cut up or pile up said weeds, grass, brush, vegetation, dead or broken tree limbs, dead trees or rubbish into any ditch or natural drain or at any place on the property that might obstruct the vision of the operators of vehicles or pedestrians or obstruct the flow of water drainage. (1979 Code, § 8-804)

**13-306. Removal; notice.** Upon failure of any owner of property within the corporate limits of the city to cut or have cut such obnoxious growths of weeds or other vegetation, or to remove or have removed such accumulations of trash, rubbish and refuse as described in this chapter, it shall be the duty of the building official, or such other persons as are designated by the mayor, to serve a notice on the owner, lessee, occupant or person having control of such property, ordering said person or persons to cut or have cut such obnoxious weeds and/or remove or have removed such accumulations of trash, rubbish and refuse within five (5) days of the service of such notice. Such notice may be served:

- (1) By personally serving the same on the owner, lessee, occupant, or person having control of such property; or
- (2) By mailing the same to the last known address of such owner, lessee, occupant, or person having control of such property by certified mail; or
- (3) By posting the same on the property on which such condition or conditions exist.

Service of notice by any of the above methods shall be due notice within the meaning of this article, provided however, that no owner out of possession shall be liable to the penalty imposed by § 13-307 unless there shall be personal service of such notice upon him, or such notice mailed to him by certified mail as aforesaid. (1979 Code, § 8-805)

**13-307. Noncompliance; abatement at owner's expense; non-payment.** If the owner or other person described in § 13-305 herein shall fail to remedy such conditions within the time prescribed therein, unless an appeal is made, the inspector shall certify such failure to the city administrator who shall take such action as is necessary to remedy the conditions and abate the nuisance. If City of Fayetteville employees and equipment are used in abating the nuisance, the city administrator shall determine the reasonable

cost of the required inspections, recorded examinations, notifications, complaint response, and movement of employees and equipment to and from the site in establishing a base charge to which additional charges for equipment and employee operating time shall be added to establish the total cost to be billed to the owner. Upon failure of the owner to remit to the city the amount of such charge within sixty (60) days from the date of such notice, a ten (10) percent penalty shall be added and the total amount of the bill and the penalty shall be certified by the city clerk and shall constitute a lien upon the property for which the expenditure is made, which lien may be enforced by a suit in the Chancery Court as are other tax liens of the city. The provisions of this section are not exclusive but are cumulative and in addition to the penalties and requirements of § 13-307, it being the intent of the council that the penalty provision of § 13-307 shall be in addition to the burden placed upon the owner of the property set out in the provisions of this section. (1979 Code, § 8-807)

**13-308. Complaints.** A complaint may be made by a city resident to the Codes Enforcement Officer regarding weeds, vegetation, debris or rubbish. Upon the receipt of such complaint, the Codes Officer shall conduct an inspection and investigation to determine if a violation of this chapter has occurred. The Codes Enforcement Officer may conduct an inspection and investigation upon the Officer's own observation of weeds, vegetation, debris or rubbish in violation of this chapter.

**13-309. Lots where dumping of fill material occurs.** Property owners who permit others to deposit dirt, rock, concrete, masonry or other material on their properties for the purpose of raising the property grade or otherwise filling the property shall be required to level each load of material within sixty (60) days of the date each load is dumped.

**13-310. Penalties.** Any person, firm or corporation violating the provisions of this chapter shall be guilty of a misdemeanor and punishable by a fine not more than fifty dollars (\$50.00) and each day's violation shall constitute a separate offense. (1979 Code, § 8-808)

## CHAPTER 4

### INOPERATIVE VEHICLES, ETC.

#### SECTION

13-401. Definitions.

13-402. Inoperative motor vehicles prohibited.

13-403. Nuisance.

13-404. Notice to owner to remove vehicle.

13-405. Removal by owner.

13-406. Removal by city.

**13-401. Definitions.** (1) "Motor vehicle" - Every vehicle as herein defined which is self-propelled or designed for self-propulsion. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space, shall be considered a part of a motor vehicle.

(2) "Semitrailer" - Every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

(3) "Trailer" - Every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle. (1979 Code, § 8-901)

**13-402. Inoperative motor vehicles prohibited.** It shall be unlawful for any person, firm or corporation to keep, except within an enclosed building or structure, on any property zoned for residential or commercial any motor vehicle, trailer, or semitrailer, whose condition is such that it is economically impractical to make it operative; provided, however, that the provisions of this section shall not apply to a

properly licensed business which on the date of passage of this chapter is regularly engaged in business as an automobile dealer, salvage dealer, or scrap processor. (1979 Code, § 8-902)

**13-403. Nuisance.** The accumulation and storage of one or more inoperative vehicles and parts therefor on private property shall constitute debris and a nuisance detrimental to the health, safety, and welfare of the residents of the city. (1979 Code, § 8-903)

**13-404. Notice to owner to remove vehicle.** (1) If any officer of the police department or the building officials finds any vehicle in violation of § 13-402, he shall make diligent search and inquiry to determine the record owner of the land upon which the vehicle is located, and he shall notify said owner in writing by mail at his last known mailing address that he has found such violation and the nature thereof. He shall demand and it shall be the duty of the record owner of such land to cause such vehicle to be removed from the property forthwith and taken to an authorized place of storage.

(2) The mailing of such notice or personal delivery shall be sufficient proof thereof.

(3) If the mailing address of the owner of the land upon which the vehicle is located is not known and the land is unoccupied and the owner has no agent in the City of Fayetteville, such notice shall be posted upon such land as notice to the owner thereof. (1979 Code, § 8-904)

**13-405. Removal by owner.** The owner of the property on which the same is stored or located or the owner of the vehicle or either of them shall remove the vehicle within ten (10) days of the date of mailing or service of the notice as provided in § 13-404. (1979 Code, § 8-905, as amended by Ord. #95-22, Sept. 1995)

**13-406. Removal by city.** If the violation described in the notice has not been remedied within ten (10) days after the mailing or serving thereof, then the owner of the land on which the vehicle is located shall be deemed guilty of a misdemeanor for maintaining a public nuisance punishable by a fine not more than fifty dollars (\$50.00). Each day that the offending vehicle(s) is allowed to remain on the property after the passage of ten (10) days shall constitute a separate violation. (1979 Code, § 8-906)

## CHAPTER 5

### SLUM CLEARANCE

#### SECTION

13-501. Definitions.

13-502. Structures unfit for human occupation or use.

13-503. Procedures.

13-504. Conditions to be taken into consideration by the public officer.

13-505. Services of complaints or orders.

13-506. Power of public officer.

13-507. Powers in addition.

**13-501. Definitions.** As used in this part, unless the context otherwise requires:

(1) "Dwelling" means any building, structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith;

(2) "Governing body" means the Board of Mayor and Aldermen of the City of Fayetteville;

(3) "Municipality" means the City of Fayetteville;

(4) "Owner" means the holder of the title in fee simple and every mortgagee of record;

(5) "Parties of interest" means all individuals, associations, corporations and others who have interests of record in a structure and any who are in possession thereof;

(6) "Place of public accommodation" means any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited;

(7) "Public authority" means any officer who is in charge of any department or branch of the government of the municipality relating to health, fire, building regulations or other activities concerning structures in the municipality;

(8) "Public officer" means the building inspector of the municipality, and

(9) "Structure" means any dwelling, place of public accommodation, vacant building or structure suitable as a dwelling or place of public accommodation. (an added by Ord. #97-11 § 1, Dec. 1997)



**13-502. Structures unfit for human occupation or use.** Whenever any public officer or authority in the municipality finds that there exists in the City of Fayetteville structures which are unfit for human occupation or use due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such structures unsafe, unsanitary, dangerous or detrimental to the health, safety, morals, or otherwise inimical to the welfare of the residents of this municipality, such public officer or authority is hereby authorized to exercise the police power of the municipality, to repair, close or demolish the aforementioned structure in the manner herein provided. (as added by Ord. #97-11, § 2, Dec. 1997)

**13-503. Procedure.** (1) Whenever a petition is filed with the building inspector by a public authority or by at least five (5) residents of the municipality charging that any structure is unfit for human occupation or use, or whenever it appears to the public officer on his own motion that any structure is unfit for occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest of such structure, a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or the public officer's designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the serving of the complaint.

(a) The owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and

(b) The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer;

(2) If, after such notice and hearing, the public officer determines that the

structure under consideration is unfit for human occupation or use, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order which provides:

(a) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure, the owner, within the time specified in the order, shall repair, alter or improve such structure to render it fit for human occupation or use or shall vacate and close the structure as a place of human occupation or use; or

(b) If the repair, alteration or improvement of the structure cannot be made at reasonable cost in relation to the value of the structure, the owner, within the time specified in the order, shall remove or demolish such structure;

(3) If the owner fails to comply with an order to repair, alter, improve or vacate and close the structure, the public officer may cause such structure to be repaired, altered, improved, or vacated and closed; and may cause to be posted on the main entrance of any structure so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful";

(4) If the owners fail to comply with an order to remove or demolish the structure, the public officer may cause such structure to be removed or demolished;

(5) The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be assessed against the owner of the property, and shall, upon the filing of the notice with the office of the Register of Deeds of Lincoln County, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed. If the structure is removed or demolished by the public officer, the public officer shall sell the materials of such structure and shall credit the proceeds of such sale, if any, against the costs of the removal or demolition, and any balance remaining shall be deposited in the chancery court by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court.

(6) Nothing in this section shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (as added by Ord. #97-11, § 3, Dec. 1997)

**13-504. Conditions to be taken into consideration by the public officer.** The public officer may determine that a structure is unfit for human occupation or use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants of such structure, the occupants of neighboring

structures or other residents of the municipality. Such conditions may include the following (without limiting the generality or the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanness. (as added by Ord. #97-11, § 4, Dec. 1997)

**13-505. Services of complaints or orders.** Complaints or orders issued by the public officer shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the municipality, or in the absence of such newspaper, in one printed and published in Lincoln County and circulating in the municipality. A copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the register's office of the county in which the structure is located, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. (as added by Ord. #97-11, § 5, Dec. 1997)

**13-506. Power of public officer.** The public officer shall exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers, in addition to others herein granted, to:

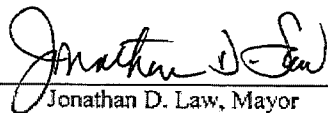
- (1) investigate conditions in the municipality in order to determine which structures therein are unfit for human occupation or use;
- (2) Administer oaths, affirmations, examine witnesses and receive evidence;
- (3) Enter upon premises for the purpose of making examinations; provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- (4) Appoint and fix the duties of such officers, agents and employees as the public officer deems necessary to carry out the purposes of the chapter; and
- (5) Delegate any of such public officer's functions and powers under the chapter to such officers and agents as the public officer may designate. (as added by Ord. #97-11, § 6, Dec. 1997)


**13-507. Powers in addition.** The powers conferred by this chapter are in addition and supplementary to powers conferred by any other statutes or ordinance. (as added by Ord. #97-11, § 7, Dec. 1997)

\*\*\*\*\*

**BE IT FURTHER ORDAINED** that this amendment shall take effect from and after its passage, the public welfare requiring it.

Adopted this 10<sup>th</sup> day of May, 2016.

  
Jonathan D. Law, Mayor

Attest:   
Scott Collins, City Clerk

Motion was made by Danny Bryant, seconded by Gwen Shelton, to approve Ordinance No. 2016-07, which is "An Ordinance Amending Title 13 of the Municipal Code of the City of Fayetteville, Tennessee. Upon roll call, the following voted:

Aye:

Michael Whisenant, Gwen Shelton, Anna Catherine Cowley, Danny Bryant, Dorothy Small and Violet Harry

Nay:

None

### Call for Public Hearing on Fiscal Year 2017 Budget:

Motion was made by Michael Whisenant, seconded by Danny Bryant, to approve a public hearing prior to the June Board of Mayor and Aldermen Meeting. Upon roll call, the following voted:

Aye:

Gwen Shelton, Anna Catherine Cowley, Danny Bryant, Dorothy Small, Violet Harry and Michael Whisenant

Nay:

None

### Resolution R-16-06:

Resolution No. R-16-06, a resolution entitled, "A Resolution Authorizing and Providing the Financing of the Construction of a Water Facilities Project," was considered. Said Resolution is as follows:

#### **AUTHORIZING RESOLUTION R-16-06**

RESOLUTION AUTHORIZING AND PROVIDING FOR THE FINANCING OF THE CONSTRUCTION OF A WATER FACILITIES PROJECT, INCLUDING AUTHORIZING THE EXECUTION OF APPLICATIONS, CONTRACTUAL AGREEMENTS, AND OTHER NECESSARY DOCUMENTS, AND MAKING CERTAIN REPRESENTATIONS, CERTIFICATIONS, AND PLEDGES OF CERTAIN REVENUE IN CONNECTION WITH SUCH FINANCING.

WHEREAS, the **City of Fayetteville** is a public and governmental body in Fayetteville, Tennessee, (the "Local Government"); and

WHEREAS, the Local Government has determined that it is necessary and desirable to undertake certain activities or tasks in connection with a water facilities project, Department of Environment and Conservation Number **DWF 2016-175** (the "Project"), in and for the Local Government; and

WHEREAS, Drinking Water Revolving Loan Fund Act of 1997, Tennessee Code Annotated, Sections 68-221-1201 et seq., provide for the lending of moneys in the water facilities Revolving Loan Fund to Local Governments for the purpose of providing funds for Project Loans; and

WHEREAS, the local Government has determined that it is necessary and advisable to borrow funds for the Project pursuant to these sections.

NOW, THEREFORE, be it resolved as follows:

**Section 1.** Local Government hereby approves the creation of indebtedness on behalf of the Local Government in the principal amount of **FIVE MILLION FIFTY THOUSAND DOLLARS (\$5,050,000)** by the obtaining of a Project Loan.

**Section 2.** The execution and delivery of the Application for a Project Loan in the principal amount of **FIVE MILLION FIFTY THOUSAND DOLLARS (\$5,050,000)** for the purpose of funding all or a portion of the total estimated cost of the Project **FIVE MILLION FIFTY THOUSAND DOLLARS (\$5,050,000)**, by **Jonathan D. Law**, the Mayor of the City of Fayetteville, is hereby ratified and approved in all respects.

**Section 3.** The form, terms, and provisions of the agreement for the Project Loan among the Local Government, the Tennessee Department of Environment and Conservation and the Tennessee Local Development Authority (the "Loan Agreement"), as presented at this meeting, are hereby approved.

**Section 4.** The Local Government hereby agrees to honor and accept the method of financing as may be determined by the Authority pursuant to the Loan Agreement.

**Section 5.** The Local Government hereby agrees to make the monthly payments on the Project Loan in accordance with the Payment Schedule to be attached to the Loan Agreement.

**Section 6.** The Local Government hereby agrees to levy fees, rates or charges for services provided by the Project and/or to levy ad valorem taxes sufficient to pay the interest on and principal of the Project Loan in accordance with the Loan Agreement. The Local Government also agrees to levy fees, rates, or charges and/or ad valorem taxes sufficient to pay the cost of operation and maintenance of the water system of which the Project is a part, which cost shall include depreciation and all other debt service expense of the system.

**Section 7.** The Local Government assigns and pledges its State-Shared Taxes to the State and consents to the withholding and application of State-Shared Taxes in the event of failure by the Local Government to remit monthly payments in accordance with the terms of the Loan Agreement, as the Loan Agreement may be supplemented or amended from time to time.

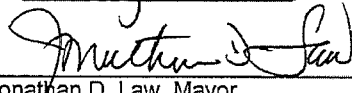
**Section 8.** The Local Government hereby agrees that there are no local pledges of State-Shared Taxes other than those disclosed.

**Section 9.** The Local Government hereby agrees to obtain alternative methods of financing for all costs necessary for the completion of the Project which are in excess of the combined financing provided by any agency of the United States Government and by the Tennessee Local Development Authority.

**Section 10.** The **Mayor** of the Local Government is authorized and directed to execute the Loan Agreement, and any amendments or supplements to the Loan Agreement, in the name and behalf of the Local Government; to deliver such documents to the other parties to such documents, such execution and delivery to be conclusive proof of the approval of the Local Government of such documents; and to take such further action and to execute and deliver such further instruments or documents as such officer may consider necessary or advisable in connection with the Loan Agreement. Provided, however, this resolution shall not be deemed to grant authority to the named officer to approve any increase in the amount of the Project Loan.

**Section 11.** All orders, resolutions, or ordinances in conflict with this resolution be and the same are repealed insofar as such conflict exists. This resolution shall become effective immediately upon its passage.

Duly passed and approved this 10<sup>th</sup> day of May, 2016.

  
\_\_\_\_\_  
Jonathan D. Law, Mayor

**WITNESS:**

\_\_\_\_\_  
(Affix Seal As Appropriate)

\_\_\_\_\_  
(Signature and Title)

Motion was made by Dorothy Small, seconded by Michael Whisenant, to approve Resolution No. R-16-06. Upon roll call, the following voted:

Aye:  
Anna Catherine Cowley, Danny Bryant, Dorothy Small, Violet Harry, Michael Whisenant and Gwen Shelton

Nay:  
None

**Recreation Board Appointment:**

Mayor Law postponed this appointment until June.

**Recreation Board Appointment:**

Mayor Law postponed this appointment until June.

**Notification of June Appointments to Fayetteville Public Utilities Board – Two Appointments:**

Mayor Law will make these appointments in June.

**Notification of June Appointment to Board of Appeals – One Appointment:**

Mayor Law will make this appointment in June.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk