

INTRODUCTION

State law changes in Arkansas impact many provisions in the ordinance codes of Arkansas municipalities. This pamphlet is intended to assist municipal attorneys in the identification of provisions in ordinance codes that may require revision in light of state law. The information in this pamphlet is based upon the experience of the legal staff of Municipal Code Corporation in working with the ordinance codes of Arkansas municipalities.

This pamphlet is current through the end of the 2017 Regular Session and the 2017 First Extraordinary Session of the 91th Arkansas General Assembly and the November 8, 2016, election.

Not all provisions of this pamphlet will apply to your Code, nor does this pamphlet purport to include all state laws that may somehow affect the language of your Code.

The provisions of this pamphlet are intended to assist municipal attorneys and are not intended to be a substitute for the advice of counsel.

It is not the intent of Municipal Code Corporation in publishing this pamphlet to provide legal advice. An attorney admitted to practice in Arkansas must be consulted as to the applicability of a given statute or case to a particular situation.

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Prepared by

Roger D. Merriam, Senior Code Attorney

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GENERAL PROVISIONS

1. *Penalty for ordinance violations.* The provisions of A.C.A. § 14-55-504(a)(1) were amended in 2017.

ADMINISTRATION

1. *Ordinance adoption procedures.* The provisions of A.C.A. § 14-55-202 were amended in 2017.

2. *Aldermen.* Aldermen are now referred to as council members. See 2017 Ark. Laws act 879.

BUILDINGS AND BUILDING REGULATIONS

1. *Building officials.* Building officials are to be appointed in the same manner as other department heads. See A.C.A. § 14-56-202.

2. *Building standards.* Pursuant to A.C.A. § 12-13-101 et seq., the Director of the Department of Arkansas State Police, who serves by operation of law as the Arkansas State Fire Marshal has promulgated technical codes, including building, mechanical, and fire prevention codes.

3. *State electrical code.* Compliance with the state electrical code is required. See A.C.A. § 20-31-105.

4. *Arkansas Plumbing Code.* Pursuant to A.C.A. § 17-38-103, the Arkansas Plumbing Code constitutes minimum standards that are statewide in application. The Arkansas Plumbing Code is the International Plumbing Code. See Ark. Admn. Code 007 24 0.

5. *Elevators, dumbwaiters and escalators.* Ordinances providing for the licensing, inspection, construction, installation, alteration, maintenance, or operation of elevators, dumbwaiters, or escalators or for the qualifications and duties of operators thereof are void. See A.C.A. § 20-24-102.

6. *Codes adopted by reference.* Electronic copies of technical codes to be adopted by reference may be used in lieu of hard copies. See A.C.A. §§ 14-55-206, 14-55-207.

7. *Electricians.* Licensing of electricians is preempted to the state. See A.C.A. § 17-28-305.

8. *Heating, ventilation, air conditioning, and refrigeration workers.* Licensing of heating, ventilation, air conditioning, and refrigeration workers is preempted to the state. See A.C.A. § 17-33-104.

9. *Excavations.* The provisions of A.C.A. § 14-271-101 et seq. no longer permit municipalities to “opt out” of certain provisions, A.C.A. § 14-271-105 being repealed by Act 41 of 2007.

BUSINESSES

1. *Adult-oriented businesses.* Local regulation of the location of adult-oriented businesses must meet minimum standards. See A.C.A. § 14-1-304.

2. *Auctioneers.* Municipal licensing of auctioneers is restricted. See A.C.A. § 17-17-107.

3. *Private detective and security agencies.* Subject to certain exceptions, municipal regulation of private detective and security agencies is preempted. See A.C.A. § 17-40-106.

4. *Scrap metal dealers--Electronic records.* Municipal ordinances may require scrap metal recyclers to keep electronic or digital records or make electronic or digital reports. See A.C.A. § 17-44-102.

5. *Taxicabs.* Municipal regulation of taxicabs is restricted. See A.C.A. § 14-57-301 et seq.

6. *Minimum wage and other benefits.* Subject to certain exceptions, local ordinances providing for a minimum wage or other benefits that exceed state or federal requirements are

prohibited. See A.C.A. § 11-4-221.

ENVIRONMENT

1. *Fertilizer.* The registration, packaging, labeling, sale, storage, distribution, use, or application of fertilizers is preempted to the state. See A.C.A. § 2-19-212.
2. *Underground storage tanks.* Subject to certain exceptions, local regulation of certain underground storage tanks is restricted. See A.C.A. § 8-7-812.

FIRE PREVENTION AND PROTECTION

1. *Cigarette fire safety standards.* Local cigarette fire safety standards are restricted. See A.C.A. § 20-27-2112.

MUNICIPAL COURTS

1. *Municipal courts.* Municipal courts have been abolished and replaced by district courts. See Ark. Const. Amend. No. 80, § 19.

NUISANCES

1. *Agricultural operations.* Ordinances declaring certain agricultural operation to be a nuisance are restricted. See A.C.A. § 2-4-105.

OFFENSIVES AND MISCELLANEOUS PROVISIONS

1. *Firearms and ammunition.* Local regulation of firearms and ammunition is restricted. See A.C.A. § 14-54-1411.
2. *Sport shooting ranges and sports facilities.* Regulation of sport shooting ranges and sports facilities is restricted. See A.C.A. § 14-1-101.
3. Local regulation of the manufacture, sale, storage, or distribution of vapor products or alternative nicotine products is restricted. See A.C.A. § 26-57-267.
4. *Medical marijuana.* Local regulation of medical marijuana is restricted. See Ark. Const. Amend. No. 98, § 14.

PLANNING

1. *Development impact fees.* Development impact fees are subject to certain minimum requirements. See A.C.A. § 14-56-103.

SIGNS

1. *Outdoor advertising signs.* The taking, elimination, alteration, or diminishment of a legally erected outdoor advertising sign by a municipality is prohibited without first making the payment of just monetary compensation therefor. See A.C.A. § 14-56-102.

TRAFFIC AND VEHICLES

1. *Cell phone use in motor vehicles.* Municipal ordinances regarding the use of a handheld wireless telephone for wireless interactive communication while operating a motor vehicle are preempted. See A.C.A. § 27-51-1505.
2. *Impoundment—Prostitution offenses.* Local governments may by ordinance provide for impoundment of vehicles used in connection with prostitution offenses. See A.C.A. § 5-5-101 et seq.

ZONING

1. *Manufactured homes.* Zoning restrictions on manufactured housing are limited. See

A.C.A. § 14-54-1604.