

City of Fayetteville Item Review Form

2013-0155

Legistar File Number

11/19/2013

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Jeremy Pate

Submitted By

Development Services

Department

Action Required:

A RESOLUTION CONFIRMING THE APPROVAL OF THE FAYETTEVILLE PLANNING COMMISSION AND DESIGNATING THE ATTACHED MAP AND DESCRIBED BOUNDARY AS THE PLANNING AREA, PURSUANT TO A.C.A. 14-56-412 AND A.C.A. 14-56-413

Does this item have a cost? No

Cost of this request	Category or Project Budget	Program or Project Name
Account Number	Funds Used to Date \$0.00	Program or Project Category
Project Number	Remaining Balance	Fund Name
Budgeted Item? <input type="checkbox"/>	Budget Adjustment Attached? <input type="checkbox"/>	

V20130812

Previous Ordinance or Resolution # _____

Original Contract Number: _____

Comments:

Paul a. Baker 11-5-2013
Igor M... 11-5-13
Lionel Jordan 11/5/13

11-05-13P12:42 RCVB
[Signature]



CITY COUNCIL AGENDA MEMO

To: Mayor Jordan, City Council

Thru: Don Marr, Chief of Staff

From: Jeremy Pate, Development Services Director

Date: November 01, 2013

Subject: ADM 13-4529 (PLANNING AREA BOUNDARY)

RECOMMENDATION

Staff recommends the City Council confirm the Planning Commission's decision to adopt a new Planning Area Map and description to conform to recently enacted state statutes.

BACKGROUND

According to A.C.A. 14-56-412, a planning commission for a city within the State of Arkansas must prepare a map designating the territorial jurisdiction for which it will prepare plans, and recommend ordinances and regulations. The area designated is known as the *planning area*. Generally speaking, the planning area is the area that a city planning commission thinks is going to be "city" at some reasonable future date. It is within that area that defines where subdivision regulations are enforced and the Master Street Plan and other plans are formulated. The map, along with a description of the boundaries, must be confirmed by the City Council and must be filed with the city clerk and the county recorder.

State statutes also control how far a planning area may extend; during the last state legislative session, the extent to which cities may exercise regulations within a planning area was reduced by Act 1053 and thus the need for all cities to amend their boundaries to comply with recent state law. For a city of our size (60,000-150,000 population), the planning area boundary may extend up to two (2) miles from the city limit line. If the corporate limits of two or more municipalities are less than two miles apart, the limits of their respective territorial jurisdiction shall be a line equidistant between them, or as agreed upon by the respective municipalities.

The City of Fayetteville has not adopted a new planning area map in over 10 years, and yet has grown by annexation, much like neighboring cities. As a result, in most cases Fayetteville's planning area boundary is set by default; we have no less than 8 neighboring municipalities whose planning area extends to within two miles of our own corporate limits. Due to this fact, the Northwest Arkansas Regional Planning Commission (NWARPC) has worked over the past several months with all of the cities in Washington and Benton County to prepare maps for smaller cities to reflect new planning area boundaries, and the City has adjusted ours to conform to the new state statute.

Attached is the Planning Area Map and legal description that the city staff and NWARPC recommend for adoption.

DISCUSSION

On October 28, 2013, the Planning Commission forwarded this item to the City Council with a recommendation of approval with a vote of 9-0-0.

BUDGET IMPACT

None.

RESOLUTION NO. _____

A RESOLUTION TO CONFIRM THE APPROVAL OF THE PLANNING COMMISSION AND TO DESIGNATE THE ATTACHED MAP AND DESCRIBED BOUNDARY AS THE NEW FAYETTEVILLE PLANNING AREA

WHEREAS, state law requires cities in Arkansas through their planning commissions to designate by maps and legal descriptions the territorial jurisdiction for which they will prepare plans and recommend regulations; and

WHEREAS, the Planning Department prepared and the Planning Commission unanimously approved the area shown on the attached map as the new territorial jurisdictional area for which plans and regulations should be prepared and enforced.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby confirms the approval of the Planning Commission and designates the attached map (Exhibit A) and described boundary (Exhibit B) as the new Fayetteville Planning Area.

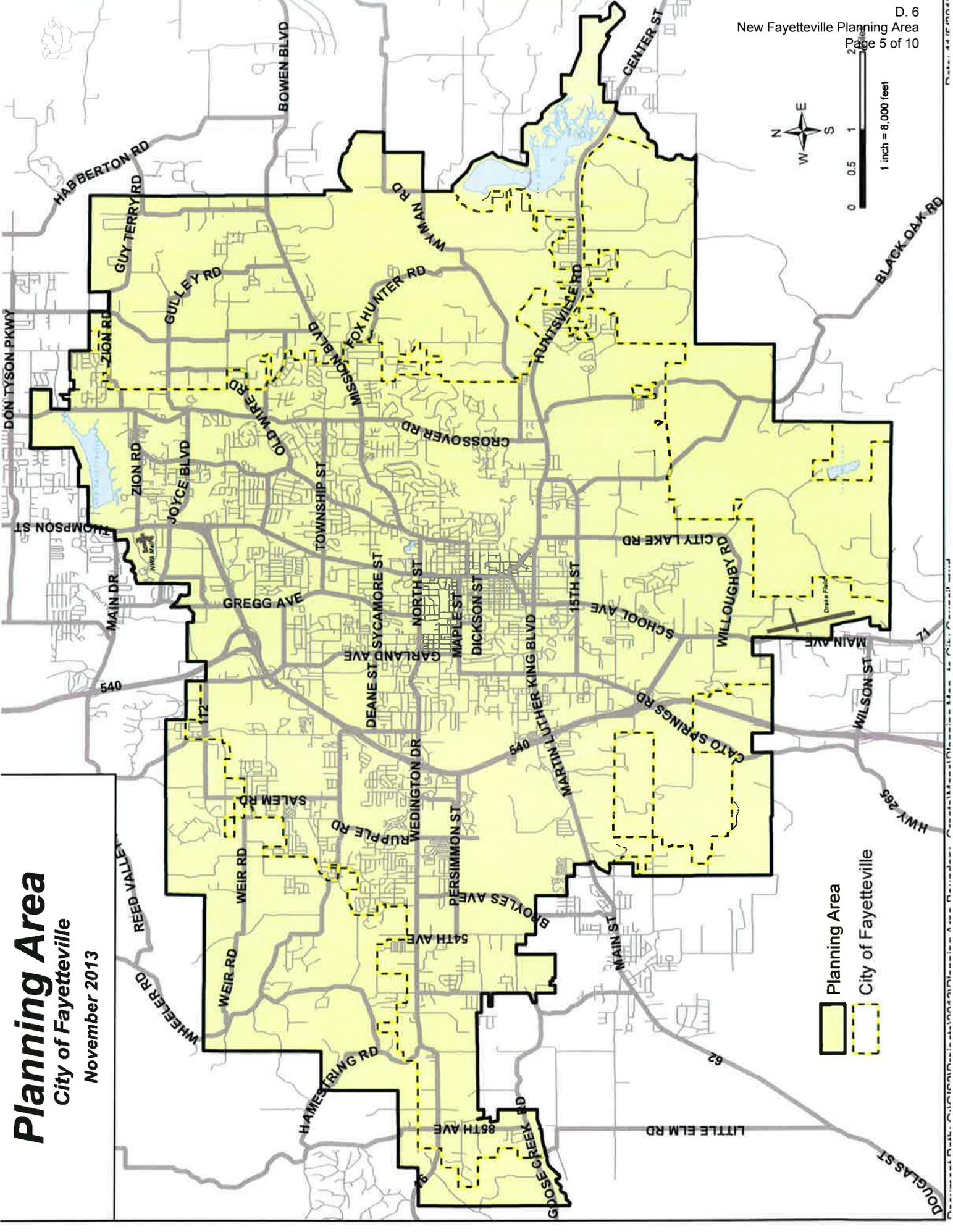
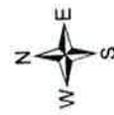
PASSED and **APPROVED** this 19th day of November, 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer



Planning Area

City of Fayetteville

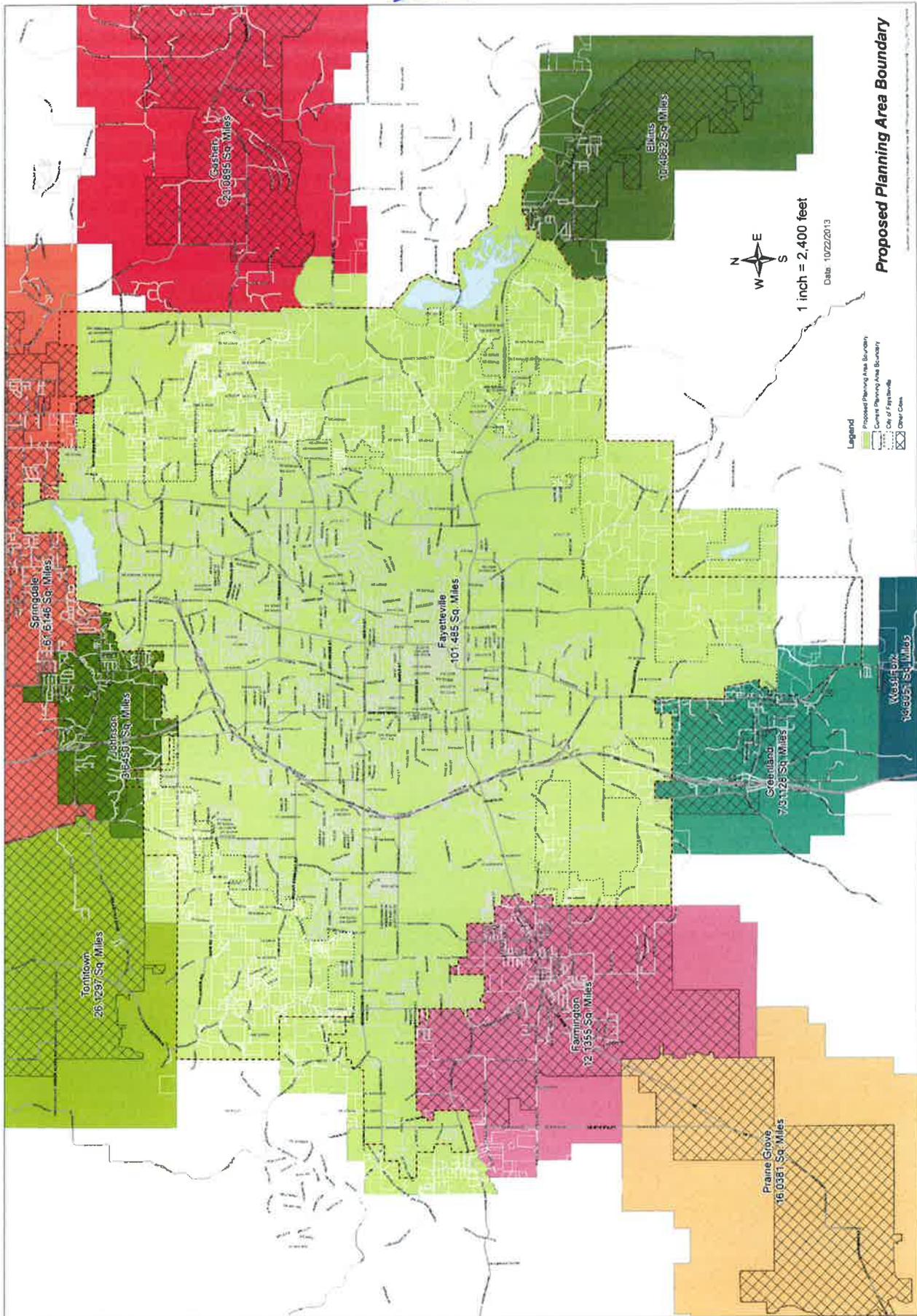
November 2013

-  Planning Area
-  City of Fayetteville

ADM 13-4529 Exhibit "B"

PLANNING AREA BOUNDARY DESCRIPTION

All of Sections 19, 21, 28, 29, 30, 31, 32, and 33 of T17N, R29W; all of Sections 5, 6, 7, 8, 17, 18, 19, 20, 21, 29, and 30 of T16N, R29W; all of Sections 24, 25, 26, 29, 30, 31, 32, 33, 34, 35, and 36 of T17N, R30W; all of Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 34, 35, and 36 of T16N, R30W; all of Sections 2 and 3 of T15N, R30W; all of Sections 35 and 36 of T17N, R31W; all of Sections 1, 2, 3, 10, 11, 12, and 13 of T16N, R31W; all of Section 17, T16N, R31W; those parts of Sections 14, 15, 16, 22, 23, and 24 of T16N, R31W lying in the Fayetteville city limits; Sections 25 and 36 of T16N, R31W, less and except territory lying in the Farmington city limits; Sections 31 and 33 of T16N, R30W, less and except territory lying in the Greenland city limits; S4, T15N, R30W, less and except territory lying in the Greenland city limits; that part of S9, T15N, R30W lying in the Fayetteville city limits, and the unincorporated portion of the NE $\frac{1}{4}$ of said S9; the N $\frac{1}{2}$ of Sections 10 and 11 of T15N, R30W; that part of S28, T16N, R29W lying in the Fayetteville city limits, and all unincorporated territory in said S28 lying west of the Middle Fork White River; those parts of Sections 9, 16, 22, 23, and 26 of T16N, R29W lying in the Fayetteville city limits; the NW $\frac{1}{4}$ of S9, T16N, R29W; the W $\frac{3}{4}$ of S4, T16N, R29W lying south of the White River; S20, T17N, R29W, less and except that part lying in the Springdale city limits; that part of S18, T17N, R29W lying in the Fayetteville city limits; those parts of S13, 23, and 27 of T17N, R30W lying in the Fayetteville city limits; S28, T17N, R30W, less and except that part lying in the Johnson city limits; the S $\frac{1}{2}$ of Sections 25 and 26 of T17N, R31W; the E $\frac{1}{2}$ of S4, T16N, R31W; the N $\frac{1}{2}$ NE $\frac{1}{4}$ of S9, T16N, R31W, and the S $\frac{3}{4}$ of said S9; the S $\frac{1}{2}$ NE $\frac{1}{4}$ of S8, T16N, R31W and the S $\frac{1}{2}$ of said S8; and that part of S20, T16N, R31W lying north of Goose Creek; all in Washington County, Arkansas.





Arkansas Code of 1987 Annotated Official Edition
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*** Legislation is current through the 2013 Regular Session and updates ***
*** received from the Arkansas Code Revision Commission through ***
*** September 12, 2013. ***
*** Annotations are current through May 29, 2013. ***

Title 14 Local Government
Subtitle 3. Municipal Government
Chapter 56 Municipal Building And Zoning Regulations -- Planning
Subchapter 4 -- Municipal Planning

A.C.A. § 14-56-413 (2013)

14-56-413. Territorial jurisdiction.

(a) (1) (A) The territorial jurisdiction of the governing body of a municipality for the purpose of this subchapter shall not exceed the limits stated under this subsection.

(B) If the territorial limits of two (2) or more municipalities conflict, the limits of their respective territorial jurisdictions shall be a line equidistant between them, or as agreed on by the respective municipalities.

(2) In addition to the powers under this subchapter, cities now having eight thousand (8,000) population or more shall have the authority to administer and enforce planning ordinances outside their corporate limits as follows:

(A) For cities of eight thousand (8,000) to sixty thousand (60,000) population, the jurisdictional area will be one (1) mile beyond the corporate limits;

(B) For cities of sixty thousand (60,000) to one hundred fifty thousand (150,000) population, the jurisdictional area will be two (2) miles beyond the corporate limits; and

(C) (i) For cities of one hundred fifty thousand (150,000) population and greater, the jurisdictional area will be three (3) miles beyond the corporate limits.

(ii) Upon July 3, 1989, no city with a population in excess of one hundred fifty thousand (150,000) persons shall exercise any zoning authority outside the boundaries of the county wherein it is located without the approval of the quorum court of the county wherein the city is not located and the approval of the governing bodies of all other cities having zoning authority over the area.

(3) Cities having a population of eight thousand (8,000) persons or less:

A.C.A. § 14-56-413

(A) Shall have a jurisdictional area that does not exceed one (1) mile beyond the corporate limits; and

(B) Shall not exercise any zoning authority outside the corporate limits.

(4) Cities now having an eight thousand (8,000) population or more and situated on a navigable stream may administer and enforce zoning ordinances outside their corporate limits but may not exceed the territorial limits under subdivision (a)(2) of this section.

(5) The city populations will be based on the most recent federal decennial census.

(b) (1) The planning commission shall designate the area within the territorial jurisdiction for which it will prepare plans, ordinances, and regulations.

(2) A description of the boundaries of the area shall be filed with the city clerk and with the county recorder.

HISTORY: Acts 1957, No. 186, §§ 3, 5; 1965, No. 134, § 1; 1965, No. 138, § 1; A.S.A. 1947, §§ 19-2827, 19-2829; Acts 1987, No. 56, §§ 1, 4; 1989, No. 94, § 1; 2011, No. 280, § 3; 2013, No. 1053, § 1.

NOTES: Amendments.

The 2011 amendment substituted "a city of the first class, a city of the second class, or an incorporated town" for "the city having a planning commission" in (a)(1)(A); deleted "of the first or second class" following "municipalities" in (a)(1)(B); and, in (a)(2)(A), added "In addition to the powers under this subchapter" and deleted "planning and" following "enforce."

The 2013 amendment rewrote this section.

Case Notes

In General. Annexation. Regulation of Land Use.

In General.

Because the Arkansas Soil and Water Conservation Commission acted within its statutory authority under § 15-22-503(e) in approving a water project submitted by a municipality that included a portion of a neighboring city's five-mile extraterritorial planning area, which was not preempted under this section by the neighboring municipality's planning authority in the five-mile area surrounding its city limits, and because the Commission's decision was supported by substantial evidence, the appellate court affirmed the Commission's order approving the municipality's water development project, as amended, for water plan compliance certification. *Ark. Soil & Water Conservation Comm'n v. City of Bentonville*, 351 Ark. 289, 92 S.W.3d 47 (2002).

There was no requirement in subdivision (b)(2) of this section that a map of a planning area be filed; thus, a city met the requirement of filing a "description of the boundaries" of the area by filing a legal description with the county clerk. *Potter v. City of Tontitown*, 371 Ark. 200, 264 S.W.3d 473 (2007).

Annexation.

Circuit court properly upheld the annexation of four tracts of real property totaling approximately 1,951 acres into the City of Sherwood, Arkansas because the City of Jacksonville's plans for the area were not superior to, and did not defeat, the landowners' right to petition for annexation to another city. *City of Jacksonville v. City of Sherwood*, 375 Ark. 107, 289 S.W.3d 90 (2008).

A.C.A. § 14-56-413

Regulation of Land Use.

Delegation of authority to regulate land use on property outside the city limits but within the city's extraterritorial-planning jurisdiction was permitted under this section, but approval of a subdivision application was unlawful due to the city's failure to prove that the necessary documents had been submitted. *McLain v. City of Little Rock Planning Comm'n*, 2011 Ark. App. 285, 383 S.W.3d 432 (2011), rehearing denied, -- S.W.3d --, 2011 Ark. App. LEXIS 515 (Ark. Ct. App. May 25, 2011).

Cited:

National Lumber Co. v. Advance Dev. Corp., 293 Ark. 1, 732 S.W.2d 840 (1987); *City of Fort Smith v. Didicom Towers, Inc.*, 362 Ark. 469, 209 S.W.3d 344 (2005); *City of Dover v. City of Russellville*, 363 Ark. 458, 215 S.W.3d 623 (2005).

HIERARCHY NOTES:

Tit. 14, Subtit. 3, Ch. 56 Note

Tit. 14, Subtit. 3, Ch. 56, Subch. 4 Note