Mayor – Sandy Sanders

City Administrator – Ray Gosack

City Clerk – Sherri Gard

Board of Directors

Ward 1 – Steve Tyler
Ward 2 – Andre' Good
Ward 3 – Don Hutchings
Ward 4 – George Catsavis
At Large Position 5 – Pam Weber
At Large Position 6 – Kevin Settle
At Large Position 7 – Philip H. Merry Jr.

AGENDA

Fort Smith Board of Directors

Study Session

November 27, 2012 ~ 12:00 Noon

Fort Smith Public Library Community Room
3201 Rogers Avenue

1. Discuss purchase amounts, partial payments and final payments requiring board approval *~ Director Merry requested at the September 11, 2012 study session / Deferred from the October 9, 2012 study session ~*

2. Review design of landfill scale house

3. Discussion regarding Arkansas Energy Code

4. Review preliminary agenda for the December 4, 2012 regular meeting

The City of Fort Smith ARKANSAS

1

MEMORANDUM

November 20, 2012

TO: Ray Gosack, City Administrator

FROM: Kara Bushkuhl, Director of Finance KB

SUBJECT: City Administrator Purchasing, Contracting and Sale Authority

After reviewing possible amendments to the City Administrator's purchasing, contracting and sale authority with Jerry Canfield, City Attorney, the following information is provided for the applicable sections of the city code of ordinances.

1. Regarding Code Section 2-162 dealing with payment of debts, the Board must establish a dollar limit for obligations, including partial payments. The current limit of $500,000 was set in 2001. Applying inflation since 2001, the current amount would be $650,000. Staff suggests the Board consider a limit higher such as $750,000. Section 1 of the attached ordinance form refers to this section.

2. Code Section 2-182 deals with purchases or contracts for supplies, materials or equipment ("purchases") or for the construction of municipal improvements ("contracts"). The Board may set limits for purchases at any level. However, the limit for public improvement contracts must maintain the state limit of $20,000 for approval by the City Administrator. These contracts include the construction of facilities, water and sewer projects, street projects, and drainage improvements. Even though the City Code established these contracts with a $40,000 limit for approval in 2001, recent history has not indicated any such instances when the City Administrator approval was obtained between the $20,000 and $40,000 level. The City Attorney has suggested that the city separate "purchases" from "contracts". Section 2 of the attached ordinance form will provide this distinction. Subsection (b) (1) and (2) apply to both purchases and contracts for smaller limits; (b) (3) and (4) refer only to purchases; and (b) (5) and (6) refer only to contracts.

The limits suggested for each subsection are:

		Current	Proposed
(1)	Purchases and Contracts	$750	$1,000
(2)	Purchases and Contracts	$750-$5,000	$1,000-$7,500
(3)	Purchases	$5,000-$20,000	$7,500-$75,000
(4)	Purchases	$40,000 and above	$75,000 and above
(5)	Contracts	$5,000-$20,000	$7,500-$20,000
(6)	Contracts	$40,000 and above	$20,000 and above

The suggested levels are slightly above inflation rates since 2001. Please note that the proposed ordinance reduces the requirement for competitive bidding until the purchase has to go to the Board. This will save time and money since the advertising and waiting requirements are eliminated for those purchases.

3. Regarding Code Section 2-182 (c) dealing with contracts for services, the current limit for the City Administrator is $40,000 for the first level; between $40,000 and $200,000 for the next level; and $200,000 and above for services requiring competitive bidding. The inflation rates for 2012 for these levels of spending are $52,000 and $260,000, respectively. Staff suggests the Board consider $75,000 and $300,000, respectively.

4. Regarding Code Section 2-182 (d) (3) dealing with specified contracts for professional services, the current limit is $40,000. Staff recommends that this be increased to $75,000.

5. Section 2-183 (a) and (c) of the City Code covers competitive bidding requirements. Section 3 of the attached ordinance form allows for the separation of purchases and contracts. Purchases and contracts for services are provided for in subsection (a) while contracts for municipal improvements are provided for in subsection (c). The amounts for purchases and contracts for services will follow the choices made above for subsection (a). The amount for subsection (c) must be $20,000 per state law.

6. Regarding Code Section 2-202 that deals with sales, leases or exchanges of personal properties, the current limit is $5,000. The inflation rate would increase the limit to $6,500. Staff suggests the Board select $7,500. Section 4 of the proposed ordinance form provides for a change to this limit.

7. Section 2-214 of the City Code deals with project approval authorization for real property acquisitions. The first level of limits is currently $2,500. A formal appraisal is not required unless negotiations are not settled. Staff has requested that this limit be raised to $5,000 due to formal appraisal costs starting at $1,500 and above. The next level of project approval is currently $2,501 to $10,000 that requires a formal appraisal and approval by the City Administrator. The proposed limit increase for this level is $5,001 to $20,000. The third level for project approval is for acquisitions greater than $10,000 so it is proposed that this limit be changed to greater than $20,000.

Regarding the approval for final payments and acceptance of the project as complete, this is the city's current practice. The City Attorney recommends that this remain in place. He stated that it is a benefit for negotiating with contractors and any subsequent litigation. Furthermore, the City Clerk relies on these Board approvals to close a contract file.

In another matter, the staff would like to update the list of professional services to include land acquisitions and appraisal services. A separate ordinance draft has been attached to provide for these additions. Approval of this ordinance requires a two-thirds (2/3) vote by the Board.

For your information, attached is a schedule that indicates the purchasing activity and periodic payment authorizations by type presented to the Board for the past three calendar years and 2012 to date. Also, attached is a schedule that indicates the number of purchases that would have been presented to the Board if the proposed level of $75,000 was in place and the number of partial payments that would have been presented to the Board if the level had been $750,000. A copy of the current code for the sections referenced in this memorandum is also attached.

Please let me know if you have questions, or require more information.

Pc: Jeff Dingman

ORDINANCE NO. _____

AN ORDINANCE AMENDING DESIGNATED PROVISIONS OF CHAPTER 2, ARTICLE V OF THE FORT SMITH MUNICIPAL CODE CONCERNING THE CITY ADMINISTRATOR'S AUTHORITY BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS THAT

SECTION 1: Chapter 2, Article V, Section 2-162 of the Fort Smith Municipal Code is hereby amended to read as follows:

The city administrator, or designated representative, is hereby authorized to approve, or disapprove, for payment out of funds previously appropriated for that purpose, any bills, debts or statements presented to the city and resulting from the supplying of goods, properties or services to the city; provided, however, if the amount of any bill, debt or liability exceeds _____ dollars ($_____), the payment or disapproval thereof shall require the confirmation of the board of directors.

SECTION 2: Chapter 2, Article V, Section 2-182 of the Fort Smith Municipal Code is hereby amended to read as follows:

(a) In exercising his authority as set forth in section 2-181, the city administrator, or designated representative, shall conform to the procedures in this section.

(b) The following procedures shall apply to purchases of or contracts for any supplies, materials or equipment for the various offices, departments and agencies of city government ("purchases") or for the construction of municipal improvements ("contracts"):

(1) All purchases or contracts where the expenditure therefore is less than _____ dollars ($_____) may be made by the city administrator, or designated representative, without securing oral or written competitive quotes.

(2) All purchases or contracts where the expenditure is _____ dollars ($_____) or more, but less than _____ ($_____) may be made by the city administrator, or designated representative, after securing oral competitive quotes therefore.

(3) All purchases where the expenditure therefore is _____ dollars ($_____) or more, but less than _____ dollars ($_____) may be made by the city administrator, or designated representative, after the securing of three (3) or more written competitive quotes, if possible. If three (3) written competitive quotes are not obtained, the purchase

request form must show the names of at least three (3) suppliers contacted in attempting to obtain competition or note the reason three (3) suppliers were not contacted.

(4) All purchases where the expenditure is _____ dollars ($_____) or more may be made after the securing of competitive written bids and with the approval of the bid by the city administrator and board of directors.

(5) All contracts where the expenditure therefore is, _____dollars ($_____) but less than twenty thousand ($20,000) may be made by the city administrator, or his designated representative, after the securing of three or more written bids. If three (3) written bids are not obtained, the purchase request form must show the names of at least three (3) firms contacted in attempting to obtain competition or note the reason three (3) firms were not contacted.

(6) All contracts where the expenditure is twenty thousand dollars ($20,000) or more may be made with the approval of the board of directors after securing of competitive bids.

(c) The following procedures shall apply to all contracts for services, other than those expressly provided for in subsection (d) of this section, to be rendered to the city:

(1) Utilizing budgeted funds, the city administrator is authorized to enter into any such contract for services where the expenditure therefore is not more than _____ dollars ($_____) after soliciting and reviewing written proposals from interested and qualified providers of such services. Such written proposals shall include a statement of the scope of services to be provided, qualifications of the providers of the service fees and charges, and any other information the city administrator may require.

(2) Utilizing budgeted funds, the city administrator is authorized to enter into any such contract for services where the expenditure is _____ dollars ($_____) or more but less than _____ dollars ($_____) after soliciting and reviewing written proposals from interested and qualified providers of such services. Such written proposal shall include a statement of the scope of services to be provided, qualifications of the providers of the services, fees and charges, and any other information the city administrator may require. With reference to those contracts described in this subsection, before execution of any such contract for services on behalf of the city, the city administrator shall notify the board of directors in writing of the execution of the contract for services, the designation of the

budgeted fund from which such contract for services will be paid and the date on which execution of the contract will be made.

(3) The city administrator is authorized to secure competitive bids for any such contract for services where the expenditure is _____ dollars ($_____) or more. Such written bids shall include a statement of the scope of services to be provided, qualifications of the providers of the services, fees and charges, and any other information the city administrator may require. The selected bid shall require approval of the city administrator and the board of directors.

(d) (3) Utilizing budgeted funds, all contracts providing for total compensation for services and expenses to be supplied to the city of _____dollars ($_____) or less shall be entered into by the city administrator. All contracts for services in excess of _____dollars ($_____) shall be authorized by the board of directors.

SECTION 3: Chapter 2, Article V, Section 2-183 (a) and (c) of the Fort Smith Municipal Code are hereby amended to read as follows:

(a) Where the amount of any expenditure for a purchase for supplies, materials or equipment for the various offices, departments and agencies of the city government is _____ dollars ($_____) or more, or for any contract for services to be rendered to the city is _____ dollars ($_____) or more, the city administrator or designated representative shall invite competitive bidding thereon by legal advertisement published one (1) time in a daily local newspaper. Bids received pursuant to such advertisement shall be opened not less than fifteen (15) days including the date of invitation to bid. The bidding procedure as set forth in this and other provisions of the city shall not be exclusive of other state-mandated bidding procedures.

(c) Where the amount of any expenditure for the construction of municipal improvements is twenty thousand dollars ($20,000) or more the city administrator or designated representative shall invite competitive bidding thereon by legal advertisement published one (1) time in a daily local newspaper. Bids received pursuant to such advertisement shall be opened not less than fifteen (15) days including the date of invitation to bid. The bidding procedure as set forth in this and other provisions of the city shall not be exclusive of other state-mandated bidding procedures.

SECTION 4: Chapter 2, Article V, Section 2-202 of the Fort Smith Municipal Code is hereby amended to read as follows:

Where the value of supplies, materials, apparatus or equipment to be sold, exchanged or transferred pursuant to Section 2-201 is such that it is reasonably expected to result in a credit to the city in the amount of

_____ dollars ($_____) or more, the city administrator, or designated representative, shall invite competitive bidding thereon by legal advertisement in any local daily newspaper. Bids received pursuant to such advertisement shall be opened not less than fifteen (15) days including the date of invitation to bid. The city administrator, or designated representative, shall transmit to the board of directors a tabulation of all bids received. The selected bid shall require approval of the city administrator and the board of directors. All received bids may be rejected.

SECTION 5: Chapter 3, Article V, Section 2-214 of the Fort Smith Municipal Code is hereby amended to read:

(1) For acquisitions of a value up to _____ dollars ($_____):

(2) For acquisitions of a value between _____ dollars ($ _____) and _____ dollars ($_____):

(3) For acquisitions of a value greater than _____ dollars ($_____):

SECTION 6: Emergency Clause. In recognition of normal inflation and other factors contributing to rising costs and realizing the City of Fort Smith often needs to respond to purchasing needs in an expedited fashion through authority provided to the City Administrator, the Board of Directors determines that there is an immediate need for the effectiveness of these proposed Code changes, and thus an emergency is declared to exist and this Ordinance will be in full force and effect from this date.

PASSED AND APPROVED this _____ day of_____, 2012.

APPROVED:

_____

Mayor

ATTEST:

_____

City Clerk

ORDINANCE NO.
AN ORDINANCE AMENDING SECTION 2-182 OF THE
FORT SMITH MUNICIPAL CODE REGARDING PROFESSIONAL SERVICES

BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE

CITY OF FORT SMITH, ARKANSAS, THAT:

The first sentence of Section 2-182 (d) of the Fort Smith Municipal Code is hereby amended to read:

In keeping with the A.C.A. title 19, Chapter 11, subchapter 8 (Section 19-11-801 et seq.), it is determined to be the policy of the city that the city shall authorize contracts for external accounting; legal; financial advisory; architectural; consulting; engineering; construction management; land surveying, title search and insurance services; graphic design; advertising and video production services; software and website development services; and land acquisition and appraisal services to be provided to the city on a negotiated basis, and the city shall negotiate contracts for any other professional services when directed by state law.

THIS ORDINANCE ADOPTED THIS _____ DAY OF _____, 2012

APPROVED:

MAYOR

ATTEST:

CITY CLERK

Approval Type	2009		2010		2011		2012	
Architectural		$0.00		$0.00		$0.00	2	$252,015.00
Computer Equip.		$0.00	3	$353,168.88	5	$346,536.04		$0.00
Construction	8	$1,559,280.76	12	$3,334,164.21	7	$5,169,432.39	4	$907,153.57
Consulting	2	$144,850.00	1	$185,630.00		$0.00		$0.00
Engineering-Construction	20	$17,176,921.29	3	$51,800.00	4	$8,514,695.39	8	$8,945,776.12
Engineering-Drainage Imp.	2	$159,036.24	2	$678,400.25	2	$602,239.28	2	$1,142,335.30
Engineering Services-General	2	$1,271,050.00	3	$1,136,035.00	2	$954,354.00	2	$233,848.00
Engineering-Property Acquisition		$0.00		$0.00		$0.00	1	$249,900.00
Equipment	6	$933,234.18	2	$838,446.33	7	$1,295,817.04	7	$2,216,462.28
Engineering-Street Overlays	12	$9,519,166.55	6	$7,699,183.61	8	$8,481,263.73	3	$3,414,752.87
Goods	3	$469,342.01		$0.00	3	$547,569.00	4	$805,855.00
Heavy Equipment	7	$1,536,605.73	4	$475,439.81	11	$1,922,904.28	9	$6,203,692.62
Property Acquisition		$0.00		$0.00		$0.00	1	$167,000.00
Software		$0.00	1	$41,504.54		$0.00	1	$53,802.00
Staffing		$0.00	1	$58,782.49		$0.00	1	$987,309.00
Utilities-Architectural	1	$72,200.00	4	$50,593.00	2	$121,296.00		$0.00
Utilities-Construction	57	$68,768,575.59	56	$35,255,196.32	47	$23,339,771.17	41	$19,092,049.20
Utilities-Engineering	17	$6,439,944.84	9	$850,954.75	10	$1,531,367.00	2	$4,258,503.20
Utilities-Property Acquisition	5	$405,470.00	2	$316,846.00	4	$531,010.00	1	$709,000.00
Total Resolutions	143		109		112		87	

City of Fort Smith, Arkansas
Purchase Limit & Partial Payment History & Proposal Comparisons
For the Fiscal Years Ended December 31, 2009, 2010 & 2011 and for the
Period January 1 - September 30, 2012

Approval Type	2009	2010	2011	2012 To Date
Actual Purchases of Items:				
less than $40,000	48	31	36	41
$40,000 and above	143	109	112	87
Partial Payments:				
$500,000 and above	51	34	31	28
If proposed limits adopted, past activity would have been:				
Actual Purchases of Items:				
$75,000 and above	116	84	89	75
Partial Payments:				
$750,000 and above	2	14	18	-

DIVISION 1. - GENERALLY

Sec. 2-161. - Fee ratified.
Sec. 2-162. - Approval of obligations.
Sec. 2-163. - Signatures for warrants.
Sec. 2-164. - Deposit of funds in budgeted checking accounts.
Sec. 2-165. - Investment management.
Secs. 2-166—2-180. - Reserved.

Sec. 2-161. - Fee ratified.

All fees and charges made by the city in effect on the adoption date of this Code are ratified and confirmed.

Sec. 2-162. - Approval of obligations.

The city administrator, or designated representative, is hereby authorized to approve, or disapprove, for payment out of funds previously appropriated for that purpose, any bills, debts or statements presented to the city and resulting from the supplying of goods, properties or services to the city; provided, however, if the amount of any bill, debt or liability exceeds five hundred thousand dollars ($500,000.00), the payment or disapproval thereof shall require the confirmation of the board of directors.

(Code 1976, § 2-124; Ord. No. 36-01, § 1, 6-19-01)

State law reference— *Board to establish maximum amount of bills that can be paid by administration without confirmation of board of directors, A.C.A. § 14-48-117(5)(A)(ii).*

Sec. 2-163. - Signatures for warrants.

The city administrator is hereby authorized to sign all municipal warrants, and all such warrants shall be cosigned by the city treasurer.

(Code 1976, § 2-126)

State law reference— *Administrator to sign warrants when authorized by board of directors. A.C.A. § 14-48-117(9).*

Sec. 2-164. - Deposit of funds in budgeted checking accounts.

(a) Beginning January 1, 2001, the city shall contract for banking services every two (2) years with optional annual renewals, not to exceed two (2) renewals. The contract will be awarded after competitive bids for banking services have been evaluated according to the criteria established by the city administrator, or designated representative. In awarding the contract for banking services, the city shall give preference to the banking institution that offers the lowest cost of services requested and the highest lending and investment efforts in the community, while giving consideration to new or unique services offered by the banking institution that can be quantified to provide financial benefits to the city. The contract for banking services shall include termination clauses for the city and the financial institution in the event of a breach of service or failure to meet performance criteria.

(b) To be eligible to submit a bid, a banking institution must meet the following qualifications:
  (1) The banking institution must be licensed by the federal government and be a part of all relevant federal insurance plans;
  (2) The banking institution must be licensed by the state;
  (3) The banking institution must have at least three (3) staffed full service locations within the boundaries of the city;
  (4) The banking institution must provide all of the services being sought by the city in its request for proposals;
  (5) The banking institution must be included on the annual list of eligible banks prepared by the state bank commissioner as provided by A.C.A. § 19-8-105(a); and
  (6) In the event of change of ownership of the banking institution, the above five (5) qualifications must continue to be met by the new entity. Failure to meet these qualifications will allow the city to terminate the contract.

(c) In order for a banking institution to be considered a qualified bidder, the bank must be capable of, and agree to, provide the city full banking services. These services will be paid for on a fee for service basis. These services will include, but not be limited to the following:
  (1) Accept deposits and process checks. Reconciliations will be furnished electronically for the city's special account, payroll account, clearing account and other accounts as requested by the city;
  (2) Complete wire transfers, night depository services, investment processing services, coin sorting and counting services;
  (3) Collateralize at least one hundred two (102) percent of the daily account balances with the U.S. government and selected agency securities of the U.S. government with maturities not to exceed eighteen (18) months, or other instruments authorized by state law;
  (4) Provide the city weekly statements on CD-ROM for its payroll account, clearing account and other accounts as requested by the city. Monthly statements will be provided for all other accounts. The statements must detail account balances, interest rate earned, and the dollar amount of interest credited to various city accounts.
  (5) Direct deposit of payroll services for those city employees electing to use this service;
  (6) Cash all checks issued by the city and drawn on the servicing bank at all branches of the servicing bank within the Greater Fort Smith Metropolitan Statistical Area.

(d) Annually, the city's depository board shall confirm the banking services contract pursuant to A.C.A. § 19-8-105(b).

(Code 1976, § 2-127; Ord. No. 44-00, §§ 1, 2, 8-15-00)

Sec. 2-165. - Investment management.

(a) The objectives of the city's investment and cash management program shall be to:
  (1) Safely invest city funds to the fullest extent possible.
  (2) Maintain sufficient liquidity to meet cash flow needs.
  (3) Attain the maximum yield possible consistent with subsections (1) and (2) above.

(b) The city will limit its investments to the safest type of securities permitted by state law. These shall include those which:
  (1) Have insurance on the principal guaranteed by the Federal Deposit Insurance Corporation (FDIC).
  (2) Have security on the principal in the form of bonds or other interest-bearing securities of the U.S. government or its agencies.
  (3) Have security on the principal in the form of bonds or other interest-bearing securities of the state, or its agencies or political subdivisions as defined by state law.

(c) Investments shall be made by the city administrator, or designated representative, on the basis of competitive offers and bids in order to obtain the highest available rates in accordance with subsections (a) and (b) of this section. In order to keep administrative costs as low as possible, investments of less than one hundred thousand dollars ($100,000.00) may be made through a current depository bank. For investments exceeding one hundred thousand dollars ($100,000.00), banking institutions shall be contacted by telephone and asked to provide an interest yield quote by return telephone call within sixty (60) minutes. The institution offering the highest interest yield in accordance with the other security requirements will be notified immediately of the city's investment decision. The bids of each institution shall be recorded and kept on file for a period of at least one (1) fiscal year.

(d) In the event of identical interest yield bids, the city may break the tie by the use of an objective method to be determined by the city.

(e) In the event no quotes are received from a banking institution in the city insured by the FDIC, the city may invest its funds in any banking institution insured by the FDIC in the state meeting the security requirements of subsection (b) of this section.

(f) Clear title to the principal of and collateral backing for any investment shall be maintained by the city or by a third-party safekeeping agent under agreement to the city.

(g) The city may specify monthly investment yield payments in order to enhance cash flow and investment returns.

(h) The city administrator, or designated representative, shall be responsible for administering the city's investment and cash management program in accordance with state law and city ordinances.

(i) The city administrator, or designated representative, shall provide the mayor and board of directors with monthly investment information. The information shall include type of investment, purchase date, maturity date, face value, rate of interest, amount of interest earned and institution where the funds are invested.

(Code 1976, § 2-128)

State law reference— *Determination of depositories, A.C.A. §§ 19-8-106, 19-8-107.*

Secs. 2-166—2-180. - Reserved.

DIVISION 2. - PURCHASES [8]

Sec. 2-181. - Authority of administrator.
Sec. 2-182. - Procedures for purchase of supplies, services.
Sec. 2-183. - Competitive bidding—When required.
Sec. 2-184. - Same—Waiver of formalities.
Sec. 2-185. - Same—Waiver.
Sec. 2-186. - Exception.
Secs. 2-187—2-200. - Reserved.

Sec. 2-181. - Authority of administrator.

The city administrator, or designated representative, shall have the exclusive power and responsibility to make purchases of or contract for any supplies, materials or equipment for the various offices, departments and agencies of the city government, and to make or authorize contracts for services to be rendered to the city or for the construction of municipal improvements.

(Code 1976, § 2-140)
State law reference— *Similar provisions. A.C.A. § 14-48-117(5)(A)(i).*

Sec. 2-182. - Procedures for purchase of supplies, services.

(a) In exercising his authority as set forth in section 2-181, the city administrator, or designated representative, shall conform to the procedures in this section.

(b) The following procedures shall apply to purchases of or contracts for any supplies, materials or equipment for the various offices, departments and agencies of city government or for the construction of municipal improvements:

(1) All purchases or contracts where the expenditure therefor is less than seven hundred fifty dollars ($750.00) may be made by the city administrator, or designated representative, without securing bids.

(2) All purchases or contracts where the expenditure is seven hundred fifty dollars ($750.00) or more, but less than five thousand ($5,000.00) may be made by the city administrator, or designated representative, after securing oral bids therefor.

(3) All purchases or contracts where the expenditure therefor is five thousand dollars ($5,000.00) or more, but less than twenty thousand dollars ($20,000.00) may be made by the city administrator, or designated representative, after the securing of three or more written bids. If three (3) written bids are not obtained, the purchase request form must show the names of at least three (3) firms contacted in attempting to obtain competition or note the reason three (3) firms were not contacted.

(4) All purchases or contracts where the expenditure therefore is twenty thousand dollars ($20,000.00) but less than forty thousand dollars ($40,000.00) may be made by the city administrator, or his designated representative, after the securing of competitive bids.

(5) All purchases or contracts where the expenditure is forty thousand dollars ($40,000.00) or more may be made with the approval of the board of directors after the securing of competitive bids.

(c) The following procedures shall apply to all contracts for services, other than those expressly provided for in subsection (d) of this section, to be rendered to the city:

(1) The city administrator is authorized to enter into any such contract for services where the expenditure therefor is not more than forty thousand dollars ($40,000.00) after soliciting and reviewing written proposals from interested and qualified providers of such services. Such written proposals shall include a statement of the scope of services to be provided, qualifications of the providers of the service fees and charges, and any other information the city administrator may require.

(2) The city administrator is authorized to enter into any such contract for services where the expenditure is forty thousand dollars ($40,000.00) or more but less than two hundred thousand dollars ($200,000.00) after soliciting and reviewing written proposals from interested and qualified providers of such services. Such written proposal shall include a statement of the scope of services to be provided, qualifications of the providers of the services, fees and charges, and any other information the city administrator may require. With reference to those contracts described in this subsection, before execution of any such contract for services on behalf of the city, the board of directors must appropriate the necessary funds for the services and the city administrator shall notify the board of directors in writing of the execution of the contract for services, the designation of the budgeted fund from which such contract for services will be paid, if appropriated, and the date on which execution of the contract will be made.

(3) The city administrator is authorized to secure competitive bids for any such contract for services where the expenditure is two hundred thousand dollars ($200,000.00) or more. Such written bids shall include a statement of the scope of services to be provided, qualifications of the providers of the services, fees and charges, and any other information the city administrator may require. Any contract to be executed for services shall require approval of the board of directors.

(4) Any written proposal for services received under the provisions of this subsection (c) shall be retained by the city for a period of three (3) years.

(d) In keeping with A.C.A., tit. 19, ch. 11, subch. 8 [§ 19-11-801 et seq.], it is determined to be the policy of the city that the city shall authorize contracts for external accounting; legal; financial advisory; architectural; consulting; engineering; construction management; land surveying, title search and insurance services; graphic design, advertising and video production services; and software and website development services to be provided to the city on a negotiated basis, and the city shall negotiate contracts for any other professional services when directed by state law. The following procedure shall apply to the procurement of such contracts:

(1) The term "city administrator" shall refer to the city administrator or the administrator's designated agent. The term "firm" shall refer to any professional person or a firm of professionals.

(2) Such contracts shall be negotiated based on demonstrated competence and qualifications and at fair and reasonable prices.

(3)

All contracts providing for total compensation for services and expenses to be supplied to the city of forty thousand dollars ($40,000.00) or less shall be entered into by the city administrator provided that the board of directors has appropriated, either in the city's annual budget or by other appropriation, the funds from which services shall be paid. All contracts in excess of forty thousand dollars ($40,000.00) shall be authorized by the board of directors.

(4) The city administrator shall cause to be published in a newspaper having general circulation in the city a notice indicating that the city will receive, for a 15-day period including the date of notice, statements of qualifications and performance data from all firms who provide professional services such as lawyers, architects, engineers or land surveyors or other professional services designated in the notice. Submitted statements of qualifications and performance data shall be utilized in the procurement process for service contracts. On or before the fifteenth day of September of each calendar year, a notice shall be so published indicating that such professionals may submit statements of qualifications and performance data by the fifteenth day of November of the year of publication, which submitted information will be used in the procurement of service contracts by the city during the one-year period commencing with the first calendar day of the year following the year of publication. At any time the city enters into the procurement of any contract for such professional services, all then current statements of qualification and performance data on file with the city and all additional statements of qualification and performance data obtained by or submitted to the city, whether as a result of a published notice or otherwise, shall be evaluated as a part of the contract procurement process.

(5) From the available statements of qualifications and performance data, the city shall select three (3) qualified firms for consideration with reference to the anticipated issuance of a contract for services. From the three (3) qualified firms, there shall be selected the firm considered the best qualified and capable of performing the desired work. Both in the selection of the three (3) qualified firms and in the selection of the firm considered the best qualified and capable, consideration shall be given to the following factors:

a. The specialized experience and technical competence of the firm with respect to the type of professional services required.

b. The capacity and capability of the firm to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project.

c. The past record of performance of the firm with respect to such factors as control of costs, quality of work and ability to meet schedules and deadlines.

d. The firm's proximity to and familiarity with the area in which the project is located.

(6) After the selection of the firm most qualified and capable of performing the desired work, the city administrator shall, jointly with the selected firm, prepare a detailed, written description of the scope of proposed services. Such written description shall be used as the basis for the negotiation of the contract for services. The city administrator shall then enter into negotiations with the selected firm. If the administrator is unable to negotiate a satisfactory contract with such firm, the unsuccessful negotiations shall be terminated and negotiations shall commence with another of the selected qualified firms. If negotiations are again unsuccessful, negotiations shall be conducted with the third qualified firm. If the administrator is unable to negotiate a contract with any of the selected firms, the city administrator shall reevaluate the necessary professional services, including the scope and reasonable fee requirements anticipated by the contract, and, after completing that process, proceed in accordance with the provisions of this division.

(7) If at the time of commencement of procurement of a professional services contract there is available from all sources less than three (3) statements of qualifications and performance data, the procedures outlined above shall take place with reference to the then available statements of qualifications and performance data.

(Code 1976, § 2-141; Ord. No. 65-89, §§ 1, 2, 8-1-89; Ord. No. 89-90, § 3, 12-18-90; Ord. No. 59-97, §§ 1—3, 10-21-97; Ord. No. 64-98, §§ 1—3, 9-1-98; Ord. No. 36-01, §§ 2—4, 6-19-01; Ord. No. 65-04, §§ 1, 2, 10-19-04; Ord. No. 92-05, 12-6-05; Ord. No. 97-05, 12-20-05; Ord. No. 71-06, 8-1-06)

***State law reference**— Board to establish maximum amount for which administrator may contract without bids. A.C.A. § 14-48-117(5)(A)(i).*

Sec. 2-183. - Competitive bidding—When required.

(a) Where the amount of any expenditure for a purchase or contract for supplies, materials or equipment for the various offices, departments and agencies of the city government is twenty thousand dollars ($20,000.00) or more, or for any contract for services to be rendered to the city is two hundred thousand dollars ($200,000.00) or more, the city administrator or designated representative shall invite competitive bidding thereon by legal advertisement published one (1) time in a daily local newspaper. Bids received pursuant to such advertisement shall be opened not less than fifteen (15) days including the date of invitation to bid. The bidding procedure as set forth in this and other provisions of the city shall not be exclusive of other state-mandated bidding procedures.

(b) In the event of an emergency, the city administrator may invite competitive bidding to be opened not less than five (5) days following the date of invitation to bid.

(c) Where the amount of any expenditure for the construction of municipal improvements is ten thousand dollars ($10,000.00) or more the city administrator or designated representative shall invite competitive bidding thereon by legal advertisement published one (1) time in a daily local newspaper. Bids received pursuant to such advertisement shall be opened not less than fifteen (15) days including the date of invitation to bid. The bidding procedure as set forth in this and other provisions of the city shall not be exclusive of other state-mandated bidding procedures.

(d) Thereupon, the city administrator or designated representative shall transmit to the board of directors a tabulation of all bids received thereon and the board of directors, with the recommendation of the city administrator, by resolution duly passed, shall authorize the purchase or contract to the best responsible and responsive bidder; provided, however, the directors may reject any and all bids.

(Code 1976, § 2-142; Ord. No. 59-97, § 4, 10-21-97; Ord. No. 36-01, § 5, 6-19-01)

***State law reference**— Competitive bidding required. A.C.A. § 14-48-129.*

Sec. 2-184. - Same—Waiver of formalities.

The advertisement for bid may state that the board of directors may waive any formalities in regard to the bidding other than the requirement of bond, when the same is required.

(Code 1976, § 2-143)

Sec. 2-185. - Same—Waiver.

The board of directors, by ordinance, may waive the requirement of competitive bidding in exceptional situations where such procedure is not feasible, but such exceptional situation being lacking, the board of directors may not except any particular bid from the requirement of competitive bidding.

(Code 1976, § 2-144)

State law reference— *Waiver of competitive bidding, A.C.A. § 14-48-129(b).*

Sec. 2-186. - Exception.

The provisions of this division dealing with the procurement of contracts for professional services shall not be applicable to professional employees of the city.

(Ord. No. 65-89, § 3, 8-1-89)

Secs. 2-187—2-200. - Reserved.

FOOTNOTE(S):

---

[6] ***Editor's note***— *Resolution No. R-95-99, adopted April 20, 1999, set forth procedures for protests of bid awards as follows:* *(Back)*

[6] *The city administrator is authorized to implement the following protest of bid award procedure for all city sealed bids taken by the city's purchasing department:* *(Back)*

[6] *Any protest of bid award must be made in writing and received by the purchasing department no later than three (3) days after notice of intent to award has been made. Additionally, if the subject purchase requires board of directors' approval, written protest must be received by the purchasing department no later than five (5) days prior to the next board of directors meeting at which the recommended bid award will be considered.* *(Back)*

[6] *The foregoing procedure shall not be applicable to contracts for public works not administered by the city's purchasing department.* *(Back)*

DIVISION 3.1. - SALE, LEASE OR EXCHANGE OF PERSONAL PROPERTIES [9]

Sec. 2-201. - Authorized.
Sec. 2-202. - Competitive bidding—When required.
Sec. 2-203. - Same—Waiver of formalities.
Sec. 2-204. - Same—When not required.
Sec. 2-205. - Same—Waiver.

Sec. 2-201. - Authorized.

The city administrator, or his designated representative shall have the exclusive power and authority to sell, exchange or transfer any supplies, materials, apparatus or equipment owned by the city for public purposes.

(Code 1976, § 2-157; Ord. No. 36-01, § 6, 6-19-01)
State law reference— *Similar provisions, A.C.A. § 14-48-117(5)(A)(iii).*

Sec. 2-202. - Competitive bidding—When required.

Where the amount of a sale, exchange or transfer authorized in section 2-201 exceeds the sum of five thousand dollars ($5,000.00) that is to say, whenever the value of the property being sold or exchanged is of such value that it will reasonably realize a credit to the city in the amount of five thousand dollars ($5,000.00) or more, the city administrator, or designated representative, shall invite competitive bidding thereon by legal advertisement in any local daily newspaper. Bids received pursuant to such advertisement shall be opened not less than fifteen (15) days including the date of invitation to bid. The city administrator, or designated representative shall transmit to the board of directors a tabulation of all bids received thereon and the board of directors, with the recommendation of the city administrator, by resolution duly passed, shall authorize the purchase or contract to the lowest responsible and responsive bidder; provided, however, the directors may reject any and all bids.

(Code 1976, § 2-158; Ord. No. 36-01, § 7, 6-19-01)
State law reference— *Board to establish dollar value of property for which bids required. A.C.A. § 14-48-117(5)(A)(iii).*

Sec. 2-203. - Same—Waiver of formalities.

The advertisement for bid may state that the board of directors may waive any formalities in regard to the bidding other than the requirement of bond, when same is required.

(Code 1976, § 2-159)

Sec. 2-204. - Same—When not required.

No property owned by the city shall be sold, exchanged or transferred without competitive bidding unless the city administrator shall certify in writing that in his opinion the fair market value of such property is less than five thousand dollars ($5,000.00).

(Code 1976, § 2-160; Ord. No. 36-01, § 8, 6-19-01)

Sec. 2-205. - Same—Waiver.

The board of directors, by ordinance, may waive the requirement of competitive biding in regard to the sale or exchange of such property, in exceptional situations, where such procedure is not feasible, but such exceptional situations lacking, the board of directors may not except any particular sale from the requirement of competitive bidding.

(Code 1976, § 2-161)

FOOTNOTE(S):

[9] ***Editor's note***— *Ord. No. 44-07, § 1, adopted June 5, 2007, amended the Code by renumbering former div. 3 as a new div. 3.1, and changing the title from "Sale, lease or exchange of property."* (Back)

DIVISION 3.3. - REAL PROPERTY ACQUISITION POLICY [11]

Sec. 2-210. - Purpose.
Sec. 2-211. - Application.
Sec. 2-212. - Project preparation and notice.
Sec. 2-213. - Input received and design completion.
Sec. 2-214. - Project approval.
Sec. 2-215. - Reserved.

Sec. 2-210. - Purpose.

The property acquisition policy of the city as stated in this division is adopted for the purpose of outlining the procedures to be used by the administrative officials of the city in the preparation of public projects which involve the city's acquisition of private property interests. The policy is adopted to provide uniformity among the various departments of the city which, from time to time, acquire private property interests in conjunction with approved projects. The policy is not intended to create rights in favor of persons or entities other than the city. Specifically, the city reserves the complete right to exercise the constitutionally authorized power of eminent domain as permitted by controlling law, and no provision of the policy stated in section 2-211 is intended to restrict or limit the right of the city to exercise its power of eminent domain.

(Ord. No. 40-05, § 1, 5-17-05)

Sec. 2-211. - Application.

The hereinafter stated property acquisition policy shall apply to the acquisition of real property interests by the city except in situations:

(1) Involving acquisitions pursuant to federal requirements; and
(2) Otherwise authorized by motion, resolution, or other legislative enactment of the governing body of the city.

(Ord. No. 40-05, § 2, 5-17-05)

Sec. 2-212. - Project preparation and notice.

Administrative staff of the city shall prepare a conceptual plan for the proposed project identifying approximate property acquisition impacts. Property owners affected by the proposed project are to be sent:

(1) Notice of the name and telephone number of a staff contact person; and
(2) Notice of a public meeting at which the conceptual plan and approximate property acquisition impacts are to be discussed with affected property owners.

As to smaller projects affecting only a few properties, the administrative staff will make direct contact with the property owners in lieu of holding a public meeting.

(Ord. No. 40-05, § 2, 5-17-05)

Sec. 2-213. - Input received and design completion.

Input from affected property owners will be received at the public meeting or in individual contacts with affected property owners. After considering pertinent information, project design is to be completed by staff. When design nears completion, the needs for acquisition of private property interests is finalized.

(Ord. No. 40-05, § 2, 5-17-05)

Sec. 2-214. - Project approval.

Unless previously authorized by budget (budgeted maintenance or construction projects), the proposed project requiring acquisition of private property interests must be approved by the board of directors.

(1) For acquisitions of a value up to two thousand five hundred dollars ($2,500.00):
   a. Staff will estimate the value of each acquisition based on appraisal reports from other properties in the neighborhood. The estimate value must be reviewed and approved by the staff employee's department head or his/her designee.
   b. Staff sends an offer letter to the property owner.
   c. Staff will not negotiate with the property owner except to receive information about an obvious error in the staff's valuation.
   d. In the event of complicating factors in the acquisition or if there is no reliable value data available, the subsection a. valuation procedure will not be used; rather, an appraiser will be retained to establish value.
   e. If the acquisition value issue is settled, staff or the city attorney will close the transaction.
   f. If the acquisition value issue is not settled, a formal appraisal will be prepared and forwarded to the property owner. Any proposed settlement above the appraised amount will be submitted to the board. The use of the power of eminent domain will be submitted to the board for approval. The board may either approve a settlement amount or authorize the use of eminent domain to acquire the property interest.
(2) For acquisitions of a value between two thousand five one hundred dollars ($2,501.00) and ten thousand dollars ($10,000.00):

a. Staff will have a formal appraisal report prepared by a qualified appraiser.
b. Staff will send an offer letter to the affected property owner.
c. Staff will not negotiate with the property owner except to receive information about an obvious error in the appraiser's valuation.
d. If the acquisition value issue is settled, staff or the city attorney will close the transaction.
e. If the acquisition value issue is not settled, any settlement offer from the property owner will be forwarded to the board. The board may either approve a settlement amount or authorize the use of eminent domain to acquire the property interest.

(3) For acquisitions of a value greater than ten thousand dollars ($10,000.00):

a. Staff will have a formal appraisal report prepared by a qualified appraiser.
b. The appraised amount and a request for authorization to make an offer will be presented to the board for approval.
c. If authorized, the city attorney's office or a staff member will send an offer letter to the property owner.
d. If the acquisition value issue is settled for appraised value, the city attorney or a staff member will close on the acquisition with the property owner.
e. Any settlement greater than the appraised amount will require board approval. If the value issue is not settled, the use of the power of eminent domain will be submitted to the board for approval. The board may either approve a settlement amount or authorize the use of eminent domain to acquire the property interest.

(4) For acquisitions involving only temporary construction easements of any value where there is no damage to substantial improvements:

a. Staff will estimate the value of the temporary construction easement based on appraisal reports from other properties in the neighborhood.
b. In the event of complicating factors in the acquisition, damage to substantial improvements, or reliable appraisal data is not available, the subsection a. valuation procedure will not be used; rather, an appraiser will be retained to establish value.
c. Staff will send an offer letter to the affected property owner.
d. Staff will not negotiate with the property owner except to receive information about an obvious error in the staff's valuation.
e. If the acquisition value issue is settled for the estimated or appraisal amount, staff or the city attorney will close the transaction.
f. If the acquisition value issue is not settled, a formal appraisal will be prepared and forwarded to the property owner. Any settlement above the appraised amount will be submitted to the board. The use of the power of eminent domain will be submitted to the board for approval. The board may either approve a settlement amount or authorize the use of eminent domain to acquire the property interest.

(Ord. No. 40-05, § 2. 5-17-05)

Sec. 2-215. - Reserved.

FOOTNOTE(S):

*[11] **Editor's note**— Ord. No. 44-07, § 1. adopted June 5. 2007, amended the Code by renumbering former div. 3.5 as a new div. 3.3. and changing the title from "Property acquisition policy."* *(Back)*

MEMORANDUM

November 21, 2012

To: Ray Gosack, City Administrator

From: T. Baridi Nkokheli, Director

Subject: Landfill Scale Project

Our existing landfill scale house (photographs attached) was designed to effectively accommodate one attendant. Due to significant increases in landfill traffic volumes over the past twelve years and a 2004 requirement/recommendation from the internal auditor, a minimum of two attendants are now required to be present during all shifts to maintain adequate financial control and to serve customers.

The existing interior space is approximately 180 square feet and is too small to comfortably and efficiently accommodate two people. The building was constructed of a lightweight metal material that does not have adequate insulation to maintain a comfortable interior temperature for multiple staff during summer or winter months and was not constructed in a way that additional insulation could be added. The building also allows rain, dirt, and other contaminants (e.g. contaminated soil, biosolids) to penetrate the structure when being hauled over the scales.

The restroom is separated from the working area by an interior door. This layout does not provide a sanitary barrier from the work area and/or a significant privacy barrier when men and women are working together. Due to limited space in the work area, the restroom houses a coffee maker and microwave, and is used for cash handling and safe storage out of sight of customers. While this provides some security, it also provides poor financial control due to the inability to install cameras in the cash handling area as recommended in the 2010 cash handling audit.

Our inbound scale is 12 years old and the preexisting outbound scale is 18 years old. Both scales suffer from severe metal fatigue and are having frequent, reoccurring maintenance issues. We have spent $113,526 to repair the scale system (not including the building) over the past 6 years with the repair costs increasing each year. The old in-ground, scale technology renders the scales more vulnerable to the adverse effects of rain, snow, ice, and lightning strikes. The design materials used and openness of the facility's location has made the scales and building susceptible to repeated lightning strikes, which have "fried" telephones and computers, and main circuit boards and load cells used in the weighing system. Downtime due to these occurrences has lasted several hours to days resulting in severe delays to incoming and outgoing traffic. These maintenance problems routinely place at least one scale out of service resulting in long

delays in service and creating traffic backups. Additional personnel is also required to “flag” traffic across the remaining operational scale which is required to weigh both incoming and outgoing vehicles.

Funding for the scale project was earmarked in the Sanitation Sinking Fund in the 2011 Budget. The project includes a new scale house, three new scales, and hardware upgrades to accompany our existing landfill software. The new scale house will be built to accommodate two landfill attendants in a clean, healthy environment with separate/secure cash handling areas as well as other features to enhance security and financial controls (e.g. bullet resistant glass, cameras, multilevel access control). The new scales will have concrete decks, which require little or no maintenance as compared to our open, in-ground (metal) models, and will be covered to better protect the scales and landfill customers from inclement weather. A third, automated scale will be added to accommodate our department collection vehicles as well as our commercial haulers in order to improve the traffic flow into the landfill. Plans also include the addition of public restrooms and a small pavilion to provide customers with a “rest area” during their visit. All of this will enhance customer service, employee working conditions and security.

An engineering services agreement with Mickle, Wagner, Coleman, Inc. to provide the design and construction observation for the scale project was approved by the Board on May 3, 2011 (R-78-11). The maximum payment for the engineering services was set at $260,000. $150,842.75 has been expended for engineering services to date.

We intended to have this project design completed by the end of 2012, however, the scope and complexity of the project broadened when we began planning and dealing with the interworking of the information system, the scale system, and the flow of traffic. During the November 27, 2012 Study Session, we will present information describing the project for the Board members. We plan to solicit bids for the project in January pending the Board’s approval to proceed. Construction should begin by March 2013 and be completed by December 2013.

Please contact me should you have any questions or would like additional information.

Landfill Scale Facility Photographs

Landfill Scale Facility Photographs

Memorandum

To: Ray Gosack, City Administrator

From: Wally Bailey, Director of Development Services

Date: 11/21/2012

Re: Arkansas Energy Code

During the 2011 Arkansas legislative session, the Arkansas Legislature passed and approved Act 802 which amended Arkansas Code Section 15-10-205(b)(3). This Act essentially requires compliance with the current version of the Arkansas Energy Code (AEO).

The Administrative Rules and Regulations Subcommittee of the Arkansas General Assembly approved the AEO proposal to update the state's energy code. The code update rule has renamed the 2004 Arkansas Energy Code as the 2011 edition of the Arkansas Energy Code. The commercial provisions of the code reference ASHRAE Standard 90.1-2007 and Chapter 5 of the 2009 International Energy Conservation Code (IECC), while the residential standards will continue to reference the 2003 IECC. The new energy code becomes effective January1, 2013.

Cities or counties that issue building permits for new building construction are required to record that the builder has certified that the proposed building will comply with the Arkansas Energy Code. The design professionals (architects and engineers) employed to prepare plans and specifications for new buildings are responsible for ensuring compliance with the Arkansas Energy Code. Builders or contractors are also obligated to comply with the code.

Evidence that the building project complies with the Energy Code must be submitted with each building permit application. The evidence can be prepared using either prescriptive or performance methods. The different compliance methods are described in the Arkansas Energy Code. The Arkansas Energy Office has free software known as COMCheck and RESCheck to help the builder or design professional with determining compliance.

The Building Safety Division has been communicating for several months with the Fort Smith design and construction community regarding this action by the Arkansas Energy Office. Many we have talked with were already familiar with the requirements in the Arkansas Energy Code. Many residential contractors, hvacr contractors, architects and engineers that Jimmie Deer and I have visited with believe they have already been complying with most of the new code requirements on most of their jobs. Another opinion we received is that for those that are not familiar with the new code requirements the cost impact could be a minimum of $500.00 per project.

We have provided written notice to design professionals and contractors, met with the Greater Fort Smith Association of Homebuilders, and met with the Fort Smith Chapter of the Arkansas HVACR Association for the purpose of informing and educating these groups about the new code. We will continue to inform and assist the design and construction community during this transition.

We wanted to take the opportunity to present this information to the Board of Directors at a study session before it is placed on a voting session. We will be prepared to discuss this with the Board at the November 27, 2012 study session.

I have enclosed background information as support for this item.

Cities that issue building permits for new building construction must adopt Arkansas Energy Code by December 31, 2012

In 2004, the Arkansas Energy Office, a subdivision of the Arkansas Economic Development Commission, developed the Arkansas Energy Code in order to establish minimum standards for the design of energy-efficient buildings. The 2004 version of the Arkansas Energy Code relied almost exclusively on the International Energy Conservation Code (IECC), 2003 Edition.

In 2009, the Arkansas Legislature passed Act 1196, which provided the Arkansas Energy Office with the authority to promulgate rules and regulations that require cities and counties issuing building permits for new building construction to adopt the 2004 version of the Arkansas Energy Code by ordinance. At the last legislative session, Act 1196 was amended by Act 802, which no longer required cities to comply with the 2004 version of the Arkansas Energy Code, but by the current version of the Arkansas Energy Code. *See Ark. Code Ann. § 15-10-205.*

New rules and regulations promulgated by the Arkansas Energy Office, including new versions of the Arkansas Energy Code, were to be enacted in compliance with the Arkansas Administrative Procedures Act. *See Ark. Code Ann. § 25-15-204 (describing the procedure for adopting, amending, or repealing a state agency's rules or regulations).*

The Arkansas Energy Office retooled the Arkansas Energy Code in 2011. For residential purposes, the 2003 edition of the IECC remains in effect. *See Ark. Energy Code for New Bldg. Constr. Supplements & Amendments*, Ark. Energy Office, available online at arkansasenergy.org/residential/builders/energy-code.aspx.

However, for commercial and high-rise residential construction projects, American Society of Heating, Refrigerating and Air–Conditioning Engineers (ASHRAE) 90.1-2001 will govern until the end of the year. In 2013, ASHRAE 90.1-2007 will govern, with Chapter 8 of the 2003 IECC being replaced with Chapter 5 of the 2009 IECC.

The 2011 edition of the Arkansas Energy Code places certain requirements on cities and counties in order to bring all cities and counties in compliance with the Code. Specifically, cities and counties that issue building permits for new building construction are required to adopt the Arkansas Energy Code as amended.

The Arkansas Energy Code shall be adopted by ordinance in all applicable cities and counties by Dec. 31, 2012. Once adopted, applicable cities and counties are required to submit a copy of the ordinance to the Arkansas Energy Office. However, if an applicable city and county has not adopted the Code by Dec. 31, 2012, a mayor or county judge is required to submit a letter describing why the city or county is not in compliance with the Code no later than 60 days after the deadline.

Cities or towns enacting the Code should follow the procedures for adopting a technical code by reference. *See Ark. Code Ann. § 14-55-207.* The law requires publication in a newspaper of general circulation in the city giving notice that three copies of the Arkansas Energy Code have been filed either electronically or by hard copy with the clerk or recorder of the municipality in order to ensure the public has the opportunity to inspect the new standards before the passage of the ordinance. Note that in order to have the entire code you must have copies of (1) the Arkansas Energy Code for New Building Construction Supplements, (2) the 2003 version of the IECC, (3) the 2009 version of the IECC, and (4) the ASHRAE standards.

Copies of the 2003 and 2009 versions of the IECC may be obtained by visiting the International Code Council's website at www.iccsafe.org, or by calling 1-800-786-4452. The ASHRAE standards may be obtained by visiting the ASHRAE website at www.ashrae.org, or by calling 1-800-527-4723. The Arkansas Energy Code for New Building Construction Supplements and Amendments is available at: arkansasenergy.org/residential/builders/energy-code.aspx.

Summary of Arkansas Energy Code

By J.D. Lowery, Project Manager, Arkansas Energy Office

- The Arkansas Energy Code sets minimum efficiency standards for new construction.
- Energy codes provide a cost-effective step to mitigating problems associated with growing demand for energy and resources.
- Energy codes cover:
  - Building envelope
  - Mechanical system
  - Electrical & Lighting Systems
  - Service water heating
- Arkansas Energy Office promulgates rules, adopts the statewide code and provides education and outreach regarding the code and building practices that can be used to meet the code.
- While AEO has the authority to enforce the code, this traditionally has fallen to local municipalities with building code enforcement divisions.
- It is the responsibility of the builders/contractors to meet the code. Failure to comply can be verified by local municipality or AEO. Civil action can be taken by building owner.
- Municipalities can adopt their own code but cannot be less stringent than the Arkansas Energy Code.

Sample Ordinance -- 2011 ARKANSAS ENERGY CODE

ORDINANCE NO. _____

AN ORDINANCE PROVIDING MINIMUM ENERGY STANDARDS FOR THE DESIGN OF NEW BUILDINGS AND STRUCTURES OR PORTIONS AND ADDITIONS TO EXISTING BUILDINGS THAT PROVIDE FACILITIES OR SHELTER FOR PUBLIC ASSEMBLY, EDUCATION, BUSINESS, MERCANTILE, INSTITUTUIONAL, STORAGE, AND RESIDENTIAL OCCUPANCIES, AS WELL AS THOSE PORTIONS OF FACTORY AND INDUSTRIAL OCCUPANCIES DESIGNED PRIMARILY FOR HUMAN OCCUPANCY BY REGULATING THEIR EXTERIOR ENVELOPES AND THE SELECTION OF THEIR HVAC, SERVICE WATER HEATING, ELECTRICAL DISTRIBUTUION AND ILLUMINATING SYSTEMS AND EQUIPMENT FOR EFFECTIVE USE OF ENERGY.

Be in enacted by the City Council of _____, Arkansas,

Section 1. ADOPTION OF ENERGY CODE.

There is hereby adopted by the City Council of _____, Arkansas, for the purpose of establishing rules and regulations for energy efficient standards for new building construction, this code known as the 2011 Arkansas Energy Code, being particularly the 2011 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 2011 Arkansas Energy Code, have been and now are filed in the office of the Clerk or Recorder of the city of _____, Arkansas, and the same ordinance 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 _____, Arkansas.

Section 2. INCONSISTENT ORDINANCES REPEALED.

Ordinances or parts thereof in force at the time that this ordinance shall take effect, if inconsistent herewith, are hereby repealed.

Section 3. EMERGENCY CLAUSE.

Whereas it is of the utmost urgency that the city of _____, Arkansas, have an up-to-date Energy Code to protect the citizens of our city, therefore, an Emergency is hereby declared to exist and this ordinance being necessary for the immediate protection of the public shall take effect immediately on its passage and approval.

Signed: _____

Mayor

Attest: _____ (SEAL)

City Clerk or Recorder

Date Passed: _____

GREATER FORT SMITH ASSOCIATON OF
HOME BUILDERS

November 15, 2012

Mr. Wally Bailey
Building Department
City of Fort Smith
P. O. Box 1908
Ft. Smith, AR 72902

Dear Wally;

Our members and directors are aware of the City's proposed adoption of the updated Arkansas Energy Code. You and your staff have taken time to present a program to our membership and answer questions regarding this implementation. I appreciate your consideration of our industry.

While many of our members don't fully agree with some of the measures being imposed by the new Code, we understand the mandate.

I appreciate the open dialogue our members have with the City building department, through their affiliation with the GFSAHB, concerning issues of importance to the home building and development industry.

Best regards,

Dave Hughes
Executive Director

5111 Rogers Ave. Central Plaza, Suite 531 Fort Smith, AR 72903
(479) 452-6213 Fax (479) 452-9025
www.fortsmithhomebuilders.com

State of Arkansas
88th General Assembly
Regular Session, 2011

A Bill

SENATE BILL 816

By: Senator J. Jeffress
By: Representative T. Rogers

For An Act To Be Entitled

AN ACT TO AMEND THE ARKANSAS ENERGY REORGANIZATION AND POLICY ACT AS IT PERTAINS TO THE PROMULGATION OF RULES BY THE ARKANSAS ENERGY OFFICE; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE ARKANSAS ENERGY REORGANIZATION AND POLICY ACT AS IT PERTAINS TO THE PROMULGATION OF RULES BY THE ARKANSAS ENERGY OFFICE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 15-10-205(b)(3), concerning the powers and duties of the Arkansas Energy Office, is amended to read as follows:

(3) Promulgate reasonable rules ~~and regulations~~ for the purpose of:

(A) Implementing and prescribing enforcement for thermal and lighting efficiency standards for new building construction; ~~and~~

(B) Requiring a city or county that issues building permits for new building construction to adopt the ~~2004~~ Arkansas Energy Code for New Building Construction~~, as it existed on January 1, 2009~~; <u>and</u>

<u>(C) Complying with the Arkansas Administrative Procedures Act.</u>

APPROVED: 03/30/2011

Arkansas Energy Code for New Building Construction Supplements and Amendments

2011

Arkansas Energy Office
Arkansas Economic Development Commission

ARKANSAS ENERGY CODE FOR NEW BUILDING CONSTRUCTION SUPPLEMENTS AND AMENDMENTS

CONTENTS

INTRODUCTION..... 3
OVERVIEW 4
SUMMARY 5
ARKANSAS AMENDMENTS
Chapter 1—Administration and Enforcement 5
Chapter 2—Definitions 13
Chapter 3—Design Conditions..... 13
Arkansas Climate Zones for Residential Construction. Applies to Commercial Construction up to 12/31/2012 14
Chapter 4—Residential Building Design by Systems Analysis and Design of Buildings Utilizing Renewable Energy Sources 15
Chapter 5—Residential Building Design by Component Performance Approach..... 15
Chapter 6—Simplified Prescriptive Requirements for Detached One- and Two-Family Dwellings and Group R-2, R-4 or Townhouse Residential Buildings..... 16
Chapter 7—Building Design for All Commercial Buildings..... 16
Chapter 8—Design by Acceptable Practice for Commercial Buildings 17
Arkansas Commercial Climate Zones in effect on and after 1/1/2013 17
Chapter 10—Referenced Standards 18

Introduction

The Arkansas General Assembly authorized the Arkansas Energy Office to promulgate these regulations in Section 3(B)(2)(c) of Act 7 of 1981. These rules and regulations are in adherence with the Administrative Procedures Act.

For residential structures, Arkansas adopts the International Energy Conservation Code (IECC), 2003 Edition, published and copyrighted by the International Codes Council. The residential portion of the *Arkansas Energy Code for New Building Construction* is composed of the 2003 Edition of the International Energy Conservation Code (2003 IECC) combined with these *Supplements and Amendments.*

Chapters 2 through 6 of the 2003 IECC provide regulations for residential construction. To order copies of the *International Energy Conservation Code, 2003 Edition* contact:

International Code Council
900 Montclair Road
Birmingham, Alabama 35213-1206
Phone: 1-800-786-4452, Fax: 205-591-0775
Copyright © 1996-1998 Southern Building Code Congress International, Inc. All rights reserved.

For commercial structures, the Arkansas Energy Code for New Building Construction adopts by reference the *American Society of Heating, Refrigerating, and Air Conditioning Engineers* (ASHRAE) *ANSI / ASHRAE /IESNA Standard 90.1-2001 Energy Standard for Buildings Except Low-Rise Residential Buildings* which will be in effect until 12/31/2012. On and after 1/1/2013 Arkansas will adopt by reference *ANSI / ASHRAE /IESNA Standard 90.1-2007* , and as an alternative, Chapter 5 of the *2009 International Energy Conservation Code* with its associated definitions, general requirements and referenced standards. Both codes are available from the International Code Council at the above address.

To order copies of *American Society of Heating, Refrigerating, and Air-Conditioning Engineers ANSI/ASHRAE/IESNA Standard 90.1-2001* or *2007* contact:

American Society of Heating, Refrigeration and Air-Conditioning Engineers, Inc.
1791 Tullie Circle, N.E.
Atlanta, GA 30329
Phone: 404-636-8400, Fax: 404-321-5478
Web: www.ashrae.org

Questions, inquiries or request for copies of the *Arkansas Energy Code for New Building Construction Supplements and Amendments* may be addressed to:

Arkansas Energy Office
Attn: *Arkansas Energy Code for New Building Construction*
900 West Capitol
Little Rock, AR 72201
Phone: 800-558-2633 or 501-682-6103, Fax: 501-682-7499
Email: EnergyInfo@ArkansasEDC.com
Download code information and compliance tools at: www.ArkansasEnergy.org. Click on the Residential tab on top, then Builders and Energy Code on the left side.

OVERVIEW

This document supplements and amends the *International Energy Conservation Code (IECC), 2003 Edition*. In cases where there are differences between these "Supplements and Amendments" and the IECC 2003 Edition, or with *ANSI/ASHRAE/IESNA Standard 90.1-2001 or Standard 90.1-2007* or Chapter 5 of the 2009 IECC, these "Supplements and Amendments" shall take precedence.

Each of the following Chapters of this document associates directly with the corresponding chapters of the 2003 IECC unless otherwise noted.

RESIDENTIAL

- **Chapter 1.** Administration – Deleted. Replaced with the *Arkansas Energy Code for New Building Construction Supplements and Amendments, Chapter 1, Administration and Enforcement*.
- **Chapter 2**: **Definitions**.
- **Chapter 3**: **Design Conditions**. Establishes the design criteria for the entire state of Arkansas and defines Arkansas' four climate zones. The climate zones establish the design conditions for use with Chapters 4, 5, 6 and 8.

  This chapter has been modified to include a map of Arkansas with a list of counties and their associated climate zones, and a table identifying the Heating Degree Day (HDD) ranges associated with each zone.
- **Chapter 4**: Pertains to **residential building design by systems analysis**, as well as the use of renewable resources such as wind, solar, geothermal, etc.

  Section 402.2.3.1.3 has been deleted which required windows to have a 0.40 Solar Heat Gain Coefficient (SHGC) in homes located in areas experiencing less than 3,500 HDD.
- **Chapter 5**: **Residential compliance by designed component[1] performance**—this analyzes the total building for compliance one component at a time. Assuming each individual component of the building meets the thermal requirements of the code then the entire building is deemed to comply. This chapter offers the use of "trade-offs" to achieve compliance by allowing the builder to substitute or "trade-off" values between building components. A properly executed use of an Arkansas Energy Office approved compliance tool may be used to validate any trade-off.

  Section 502.1.5 has been deleted which required the 0.40 SHGC. The *R*-values in the Minimum Duct Insulation **Table 503.3.3.3** have been changed. Also **footnote "b"** under that same table has been deleted which stated that insulation on return ducts located in a basement is not required. All references to the *International Mechanical Code* have been changed to the *Arkansas Mechanical Code*.
- **Chapter 6**: Offers **residential prescriptive compliance** via the single step compliance method by selecting an option directly from the charts in the applicable climate zone. The values from the option show the minimum requirements for each component of a residential structure for the specific climate zone. An approved Arkansas Energy Office prescripive compliance tool may be used to validate code compliance.

  Section 602.2 has been deleted which required the 0.40 SHGC.

COMMERCIAL

- **Chapter 7**: Pertains to **building design for commercial buildings**, except those that comply with Chapter 8. *ANSI/ASHRAE/IESNA Standard 90.1 2001* is adopted by reference and will be in effect until 12/31/2012. On and after 1/1/2013 *ANSI/ASHRAE/IESNA Standard 90.1 2007* will be in effect. An approved Arkansas Energy Office compliance tool may be used to validate compliance.

- **Chapter 8**: Chapter 8 of the 2003 IECC is in effect until 12/31/2012. On and after 1/1/2013 Chapter 8 is removed in its entirity and replaced with Chapter 5 of the 2009 International Energy Conservation Code (2009 IECC) with its associated definitions, general requirements and referenced standards. All references to the *International Mechanical Code* have been changed to the *Arkansas Mechanical Code*. An approved Arkansas Energy Office compliance tool may be used to validate compliance.

---

[1] The word "component" for the purposes of this code is defined as being a particular segment of a building such as a wall, ceiling, or floor. Hence, the terms *wall component* or *ceiling component*.

SUMMARY

Chapters 4, 5 and 6 of the 2003 IECC offer different methods to achieve code compliance for low-rise residential construction. For commercial and high-rise residential construction Chapters 7 and 8 offer different methods to achieve code compliance for commercial and high-rise residential construction and refer to ASHRAE 90.1-2001 which is in effect until 12/31/2012. On and after 1/1/2013 ASHRAE 90.1-2007 becomes effective for commercial and high-rise residential construction and Chapter 8 of the 2003 IECC is removed and replaced with Chapter 5 of the 2009 IECC.

These amendments have five significant changes:

1) Chapter 1 – Administration was deleted and replaced with the *Arkansas Energy Code for New Building Construction Supplements and Amendments*, *Chapter 1, Administration and Enforcement*.
2) The requirement of a 0.4 Solar Heat Gain Coefficient in Chapters 4, 5 and 6 was deleted.
3) The residential duct insulation requirement was changed.
4) *ANSI/ASHRAE/IESNA 90.1-2001* is referenced for commercial buildings and high-rise residential buildings in Chapters 7 and 8 until 12/31/2012. On and after 1/1/2013 *ANSI/ASHRAE/IESNA 90.1-2007* is referenced for commercial buildings and high-rise residential buildings.
5) On and after 1/1/2013 Chapter 8 of the 2003 IECC is deleted and replaced with Chapter 5 of the 2009 IECC.

ARKANSAS AMENDMENTS

** Revise the Arkansas Energy Code for New Building Construction Supplements and Amendments (the 2003 Edition of the International Energy Conservation Code), as follows:*

CHAPTER 1
ADMINISTRATION

Delete entire CHAPTER 1 ADMINISTRATION. Replace with the *Arkansas Energy Code for New Building Construction Supplements and Amendments*, *CHAPTER 1, ADMINISTRATION AND ENFORCEMENT* as follows.

CHAPTER 1

ADMINISTRATION and ENFORCEMENT

SECTION 101
GENERAL

101.1 Title. These regulations shall be known as the *Arkansas Energy Code for New Building Construction Supplements and Amendments*, and shall be cited as such. Unless otherwise specified, this *Arkansas Energy Code for New Building Construction Supplements and Amendments*, the 2003 International Energy Conservation Code, ASHRAE 90.1-2001, ASHRAE 90.1-2007 and Chapter 5 of the 2009 IECC are referred to herein as "this Code" or "the Arkansas Energy Code."

101.2 Scope. This Code establishes minimum prescriptive and performance-related regulations for the design of energy-efficient buildings and structures or portions thereof that provide facilities or shelter for public assembly, educational, business, mercantile, institutional, storage and residential occupancies, as well as those portions of factory and industrial occupancies designed primarily for human occupancy. This Code thereby addresses the design of energy-efficient building envelopes and the selection and installation of energy-efficient mechanical, service water-heating, electrical distribution and illumination systems and equipment for the effective use of energy in these buildings and structures. NOTE: All referenced Chapters, Sections and Tables in this Chapter correspond directly to the *International Energy Conservation Code, 2003 Edition* unless otherwise noted.

101.2.1 Exempt buildings. Buildings and structures indicated in Sections 101.2.1.1 through 101.2.1.5 shall be exempt from the building envelope provisions of this Code, but shall comply with the provisions for building, mechanical, service water heating and lighting systems.

101.2.1.1 Separated buildings. Buildings and structures, or portions thereof separated by building envelope assemblies from the remainder of the building, that have a peak design rate of energy usage less than 3.4 Btu/h per square foot (10.7 W/m^2) or 1.0 watt per square foot (10.7 W/m^2) of floor area for space conditioning purposes.

101.2.1.2 Unconditioned buildings. Buildings and structures or portions thereof, which are neither heated nor cooled.

101.2.1.3: Buildings and structures or portions thereof that are exclusively heated or cooled by renewable fuels.

101.2.1.4: Mobile homes

101.2.1.5: Temporary use structures such as hunting and fishing camps, boat houses, remote cabins, etc. that do not meet the definition of "dwelling units" in Section 202; General Definitions.

101.2.2 Applicability. The provisions of this Code shall apply to all matters affecting or relating to structures and premises, as set forth in Section 101. Where, in a specific case, different sections of this Code specify different materials, methods of construction or other requirements, the most restrictive shall govern.

101.2.2.1 Existing installations. Except as otherwise provided for in this chapter, a provision in this Code shall not require the removal, alteration or abandonment of, nor prevent the continued utilization and maintenance of, an existing building envelope, mechanical, service water-heating, electrical distribution or illumination system lawfully in existence at the time of the adoption of this Code.

101.2.2.2 Additions to Existing Buildings: Additions to existing buildings or structures may be made to such buildings or structures without making the entire building or structure comply. The new addition shall conform to the provisions of this Code as they relate to new construction only.

101.2.2.3 Renovations: Any rehabilitation of an existing building that requires more than 25 percent of the gross floor area or volume of the entire building to be rebuilt shall comply with this Code. Cosmetic work such as painting, wall covering, wall paneling, and floor covering shall not be included.

101.2.2.4 Historic buildings. The provisions of this Code relating to the construction, alteration, repair, enlargement, restoration, relocation or movement of buildings or structures shall not be mandatory for existing buildings or structures specifically identified and classified as historically significant by the state or local jurisdiction, listed in *The National Register of Historic Places* or which have been determined to be eligible for such listing.

101.2.3 Mixed occupancy. When a building houses more than one occupancy, each portion of the building shall conform to the requirements for the occupancy housed therein. Where minor accessory uses do not occupy more than 10 percent of the area of any floor of a building, the major use shall be considered the building occupancy. Buildings, other than detached one- and two-family dwellings and townhouses, with a height of four or more stories above grade shall be considered commercial buildings for purposes of this Code, regardless of the number of floors that are classified as residential occupancy.

101.3 Intent. The provisions of this Code shall regulate the design of building envelopes for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, service water-heating and illumination systems and equipment which will enable effective use of energy in new building construction. It is intended that these provisions provide flexibility to permit the use of innovative approaches and techniques to achieve effective utilization of energy. This Code is not intended to abridge safety, health or environmental requirements under other applicable codes or ordinances.

101.4 Compliance. Compliance with this Code shall be determined in accordance with Sections 101.4.1 and 101.4.2.

101.4.1 Residential buildings. For residential buildings the following shall be used as the basis for compliance assessment: a systems approach for the entire building (Chapter 4), an approach based on performance of individual components of the building envelope (Chapter 5), an approach based on performance of the total building envelope (Chapter 5), an approach based on acceptable practice for each envelope component (Chapter 5), an approach by prescriptive specification for individual components of the building envelope (Chapter 5), or an approach based on simplified, prescriptive specification (Chapter 6) where the conditions set forth in Section 101.4.1.1 or 101.4.1.2 are satisfied.

101.4.1.1 Detached one- and two-family dwellings. When the glazing area does not exceed 15 percent of the gross area of exterior walls.

101.4.1.2 Residential buildings, Group R-2, R-4 or townhouses. When the glazing area does not exceed 25 percent of the gross area of exterior walls.

101.4.2 Commercial buildings. For commercial buildings, a prescriptive or performance-based approach (Chapter 7) or as specified by acceptable practice (Chapter 8) shall be used as the basis for compliance assessment up to 12/31/2012. On and after 1/1/2013 ANSI/ASHRAE/IESNA 90.1-2007 or Chapter 5 of the 2009 IECC shall be used as a basis for compliance assessment.

101.4.3 Builder Acknowledgement. Cities or counties that issue building permits for new building construction are required to record that the builder has certified that the proposed building will comply with the Arkansas Energy Code.

101.5 Adoption. Arkansas Code § 15-10-205(b)(3)(B) requires that any city or county in Arkansas which issues building permits for new building construction (referred to herein as "applicable cities or counties") shall adopt the Arkansas Energy Code as amended.

101.5.1 Date of Adoption. Applicable cities or counties shall adopt the Arkansas Energy Code prior to December 31, 2012.

101.5.2 Acknowledgement of Adoption. Upon adoption of the Arkansas Energy Code, applicable cities or counties are required to submit a copy of the adoption ordinance to the Arkansas Energy Office. If the applicable city or county has not adopted the Arkansas Energy Code by December 31, 2012, the mayor and/or county judge is required to submit a letter to the Arkansas Energy Office, no later than 60 days after this deadline, describing why the city or county is not in compliance with Arkansas Code § 15-10-205(b)(3)(B).

SECTION 102
MATERIALS, SYSTEMS AND EQUIPMENT

102.1 General. Materials, equipment and systems shall be identified in a manner that will allow a determination of their compliance with the applicable provisions of this Code.

102.2 Materials, equipment and systems installation. All insulation materials, caulking and weatherstripping, fenestration assemblies, mechanical equipment and systems components, and water-heating equipment and system components shall be installed in accordance with the manufacturer's installation instructions.

102.3 Maintenance information. Required regular maintenance actions shall be clearly stated and incorporated on a readily accessible label. Such label shall include the title or publication number, the operation and maintenance

manual for that particular model and type of product. Maintenance instructions shall be furnished for equipment that requires preventive maintenance for efficient operation.

102.4 Insulation installation. Roof/ceiling, floor, wall cavity and duct distribution systems insulation shall be installed in a manner that permits inspection of the manufacturer's *R*-value identification mark.

102.4.1 Protection of exposed foundation insulation. Insulation applied to the exterior of foundation walls and around the perimeter of slab-on-grade floors shall have a rigid, opaque and weather-resistant protective covering to prevent the degradation of the insulation's thermal performance. The protective covering shall cover the exposed area of the exterior insulation and extend a minimum of 6 inches (153 mm) below grade.

102.5 Identification. Materials, equipment and systems shall be identified in accordance with Sections 102.5.1, 102.5.2 and 102.5.3.

102.5.1 Building envelope insulation. A thermal resistance (R) identification mark shall be applied by the manufacturer to each piece of building envelope insulation 12 inches (305 mm) or greater in width. Alternatively, the insulation installer shall provide a signed and dated certification for the insulation installed in each element of the building envelope, listing the type of insulation installations in roof/ceilings, the manufacturer and the *R*-value. For blown-in or sprayed insulation, the installer shall also provide the initial installed thickness, the settled thickness, the coverage area and the number of bags installed. Where blown-in or sprayed insulation is installed in walls, floors and cathedral ceilings, the installer shall provide a certification of the installed density and *R*-value. The installer shall post the certification in a conspicuous place on the job site.

102.5.1.1 Roof/ceiling insulation. The thickness of roof/ceiling insulation that is either blown in or sprayed shall be identified by thickness markers that are labeled in inches or millimeters installed at least one for every 300 square feet (28 m^2) throughout the attic space. The markers shall be affixed to the trusses or joists and marked with the minimum initial installed thickness and minimum settled thickness with numbers a minimum of 1 inch (25 mm) in height. Each marker shall face the attic access. The thickness of installed insulation shall meet or exceed the minimum initial installed thickness shown by the marker.

102.5.2 Fenestration product rating, certification and labeling. *U*-factors of fenestration products (windows, doors and skylights) shall be determined in accordance with NFRC 100 by an accredited, independent laboratory, and labeled and certified by the manufacturer. The solar heat gain coefficient (SHGC) of glazed fenestration products (windows, glazed doors and skylights) shall be determined in accordance with NFRC 200 by an accredited, independent laboratory, and labeled and certified by the manufacturer. Where a shading coefficient for a fenestration product is used, it shall be determined by converting the product's SHGC, as determined in accordance with NFRC 200, to a shading coefficient, by dividing the SHGC by 0.87. Such certified and labeled *U*-factors and SHGCs shall be accepted for purposes of determining compliance with the building envelope requirements of this Code.

When a manufacturer has not determined product *U*-factor in accordance with NFRC 100 for a particular product line, compliance with the building envelope requirements of this Code shall be determined by assigning such products a default *U*-factor in accordance with Tables 102.5.2(1) and 102.5.2(2). When a SHGC or shading coefficient is used for code compliance and a manufacturer has not determined product SHGC in accordance with NFRC 200 for a particular product line, compliance with the building envelope requirements of this Code shall be determined by assigning such products a default SHGC in accordance with Table 102.5.2(3). Product features must be verifiable for the product to qualify for the default value associated with those features. Where the existence of a particular feature cannot be determined with reasonable certainty, the product shall not receive credit for that feature. Where a composite of materials from two different product types is used, the product shall be assigned the higher *U*-factor.

102.5.3 Duct distribution systems insulation. A thermal resistance (R) identification mark shall be applied by the manufacturer in maximum intervals of no greater than 10 feet (3048 mm) to insulated flexible duct products showing the thermal performance *R*-value for the duct insulation itself (excluding air films, vapor retarders or other duct components).

TABLE 102.5.2(1)
U-FACTOR DEFAULT TABLE FOR WINDOWS, GLAZED DOORS AND SKYLIGHTS

FRAME MATERIAL AND PRODUCT TYPE[a]	SINGLE GLAZED	DOUBLE GLAZED
Metal without thermal break:		
Curtin wall	1.22	0.79
Fixed	1.13	0.69
Garden window	2.60	1.81
Operable (including sliding and swinging glass doors)	1.27	0.87
Site-assembled sloped/overhead glazing	1.36	0.82
Skylight	1.98	1.31
Metal with thermal break:		
Curtain wall	1.11	0.68
Fixed	1.07	0.63
Operable (including sliding and swinging glass doors)	1.08	0.65
Site-assembled sloped/overhead glazing	1.25	0.70
Skylight	1.89	1.11
Reinforced vinyl/metal clad wood:		
Fixed	0.98	0.56
Operable (including sliding and swinging glass doors)	0.90	0.57
Skylight	1.75	1.05
Wood/vinyl/fiberglass:		
Fixed	0.98	0.56
Garden window	2.31	1.61
Operable (including sliding and swinging glass doors)	0.89	0.55
Skylight	1.47	0.84

a. Glass block assemblies with mortar but without reinforcing or framing shall have a *U*-factor of 0.60.

TABLE 102.5.2(2)
U-FACTOR DEFAULT TABLE FOR NONGLAZED DOORS

DOOR TYPE	WITH FOAM CORE	WITHOUT FOAM CORE
Steel doors (1.75 inches thick)	0.35	0.60
	WITH STORM DOOR	**WITHOUT STORM DOOR**
Wood doors (1.75 inches thick)		
Hollow core flush	0.32	0.46
Panel with 0.438-inch panels	0.36	0.54
Panel with 1.125-inch panels	0.28	0.39
Solid core flush	0.26	0.40

For SI: 1 inch = 25.4 mm.

TABLE 102.5.2(3)
SHGC DEFAULT TABLE FOR FENESTRATION

PRODUCT DESCRIPTION	SINGLE GLAZED				DOUBLE GLAZED			
	Clear	Bronze	Green	Gray	Clear + Clear	Bronze + Clear	Green + Clear	Gray + Clear
Metal frames								
Fixed	0.78	0.67	0.65	0.64	0.68	0.57	0.55	0.54
Operable	0.75	0.64	0.62	0.61	0.66	0.55	0.53	0.52
Nonmetal frames								
Fixed	0.75	0.64	0.62	0.61	0.66	0.54	0.53	0.52
Operable	0.63	0.54	0.53	0.52	0.55	0.46	0.45	0.44

SECTION 103
ALTERNATE MATERIALS—METHOD OF CONSTRUCTION, DESIGN OR INSULATING SYSTEMS

103.1 General. The provisions of this Code are not intended to prevent the use of any material, method of construction, design or insulating system not specifically prescribed herein, provided that such construction, design or insulating system has been approved by the code official as meeting the intent of the Code.

Compliance with specific provisions of this Code may be determined through the use of deemed to comply computer software, worksheets, compliance manuals and other similar materials when they have been approved by the Arkansas Energy Office.

SECTION 104
CONSTRUCTION DOCUMENTS

104.1 General. Construction documents and other supporting data shall be submitted in one or more sets with each application for a permit. The construction documents and designs submitted under the provisions of Chapter 4 shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the code official is authorized to require additional construction documents to be prepared by a registered design professional.

Exceptions:

1. The code official is authorized to waive the submission of construction documents and other supporting data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that reviewing of construction documents is not necessary to obtain compliance with this Code.

2. For residential buildings having a conditioned floor area of 5,000 square feet (465 m^2) or less, designs submitted under the provisions of Chapter 4 shall be prepared by anyone having qualifications acceptable to the code official.

104.2 Information on construction documents. Construction documents shall be drawn to scale upon suitable material. Electronic media documents are permitted to be submitted when approved by the code official. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in sufficient detail pertinent data and features of the building and the equipment and systems as herein governed, including, but not limited to, design criteria, exterior envelope component materials, *U*-factors of the envelope systems, *U*-factors of fenestration products, *R*-values of insulating materials, size and type of apparatus and equipment, equipment and systems controls and other pertinent data to indicate compliance with the requirements of this Code and relevant laws, ordinances, rules and regulations, as determined by the code official.

104.3 Design Professional: Architects and engineers employed to prepare plans and specifications for new buildings shall ensure the plans and specifications comply with the provisions of this Code in a manner consistent with their obligations under Arkansas State law (see also the *Arkansas Fire Prevention Code 2007 Edition*, Volume I Fire, Volume II Building and Volume III Residential).

SECTION 105
CONTRACTOR / BUILDER COMPLIANCE

105.1 General: Compliance with this Code shall be the obligation of the licensed builder or contractor.

105.1.1 Compliance: Compliance signifies that the licensed builder or contractor has constructed or will construct or renovate the building in compliance with the requirements of this Code, and that by inspection within a two-year period from the date of completion, if the building fails to meet the Code's specifications, understands that he or she is responsible for bringing the building into compliance with this Code.

105.1.2 Compliance Materials: Compliance materials, instructions and Arkansas Energy Office approved tools and third-party services, are made a part of this Code by reference.

105.1.3 Compliance by Self-Builders: Compliance with this Code by builders who build, or contract to build, single-family buildings for their own occupancy is voluntary.

105.2 Compliance Alternatives

105.2.1 Alternative Compliance Tools: Arkansas Energy Office approved alternative compliance tools may be used to validate code compliance.

105.2.2 Federally Financed Homes: Newly constructed single and multi-family buildings financed through HUD/FHA, VA, and USDA Rural Development programs shall meet the thermal performance requirements of this Code.

SECTION 106
INSPECTIONS

106.1 General. Construction or work that must comply with this Code shall be subject to inspection by the Arkansas Energy Office or its agent, or by the code official.

106.2 Final inspection. Code officials within a county or municipality who have adopted this Code and conduct final inspections as a part of their normal operations shall perform a final inspection and approval for buildings when completed and ready for occupancy.

106.3 Reinspection. The Arkansas Energy Office or its agent or code official may cause a structure to be reinspected.

SECTION 107
ENFORCEMENT

107.1 General: Enforcement of this Code shall be the responsibility of the Arkansas Energy Office or local government (when adopted).

107.2 Local Government: All counties, cities or municipalities that issue building permits for new building construction are required to adopt this Code for new construction, additions and renovation of existing structures. However, the local municipality shall not in any way modify the energy conservation standards in this Code or promulgate or adopt rules or regulations that are less stringent than this Code.

A local government may exercise other administrative and enforcement procedures that it deems necessary to affect the purposes of this Code, including, but not limited to, prior plan approval, building permit requirements, and inspections during the course of construction.

SECTION 108
APPEALS

108.1 Board of Appeals: Any appeal of the energy conservation standards contained in this Code shall be made to the Board of Appeals established by the Arkansas Energy Office, and a decision on an appeal will be made within 45 days of its filing.

108.2 Local Government: In any county or municipality where this Code is adopted, the governing body shall establish a Board of Appeals to adjudicate complaints arising from the application of the Code. When a Board of Appeals is established, the governing body shall prescribe procedures for providing a fair and reasonable hearing of the appeal.

SECTION 109
VALIDITY

109.1 General. If a section, subsection, sentence, clause or phrase of this Code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Code.

SECTION 110
RESPONSIBILITY

110.1 These minimum standards shall not be construed as relieving the licensed builder or contractor of his or her responsibility for compliance with local ordinances, codes, and regulations.

SECTION 111
REFERENCED STANDARDS

111.1 General. The standards, and portions thereof, which are referred to in this Code and listed in Chapter 10, shall be considered part of the requirements of this Code to the extent of such reference.

111.2 Conflicting requirements. When a section of this Code and a section of a referenced standard from Chapter 10 specify different materials, methods of construction or other requirements, the provisions of this Code shall apply.

SECTION 112
EFFECTIVE DATE

112.1 The effective date of this Code for residential buildings, as defined herein, is 10/1/2004. ASHRAE 90.1-2001 and Chapter 8 of the 2003 IECC are in effect for commercial buildings until 12/31/2012. The effective date for ASHRAE 90.1-2007 and Chapter 5 of the 2009 IECC for commercial buildings, as defined herein, is 1/1/2013.

CHAPTER 2
DEFINITIONS

* Revise Section 202 GENERAL DEFINITIONS to read as follows:

EFFICIENCY, HVAC SYSTEM. The ratio of useful energy output (at the point of use) to the energy input in consistent units for a designated time period, expressed in percent.

RECOOLING. The removal of heat by sensible cooling of the supply air (directly or indirectly) which has been previously heated above the temperature to which the air is to be supplied to the conditioned space for proper control of the temperature of that space.

RECOVERED ENERGY. Energy utilized which would otherwise be wasted (i.e., not contribute to a desired end use) from an energy utilization system.

RESET. Adjustment of the set point of a control instrument to a higher or lower value automatically or manually to conserve energy.

RESIDENTIAL BUILDING. Detached one- and two-family dwellings.

CHAPTER 3
DESIGN CONDITIONS

TABLE 302.1
EXTERIOR DESIGN CONDITIONS

* Revise footnotes *b* and *c* and add footnote *d* under table 302.1 as follows:

b. The degree days heating (base 60°F) and cooling (base 60°F) shall be selected from NOAA "Annual Degree Days to Selected Bases Derived from the 1961-1990 Normals," the ASHRAE *Handbook of Fundamentals*, data available from adjacent military installations, or other source of local weather data acceptable to the code official.
c. The climate zone shall be selected from the map provided in Figure 302.1(1) on the following page.
d. Load calculations may be determined by using ACCA Manual J for residential, and ACCA Manual N for commercial.

* Add the following FIGURES: 302.1(1) showing the four climate zones in Arkansas with a list of counties and their associated climate zones, and Table 302.2 Arkansas HDD and zones; and add FIGURE 501.3 showing the two commercial climate zones in Arkansas that apply to Chapter 5 of the 2009 IECC and ASHRAE 90.1-2007.

Arkansas Climate Zones for Residential Construction. Applies to Commercial Construction up to 12/31/2012

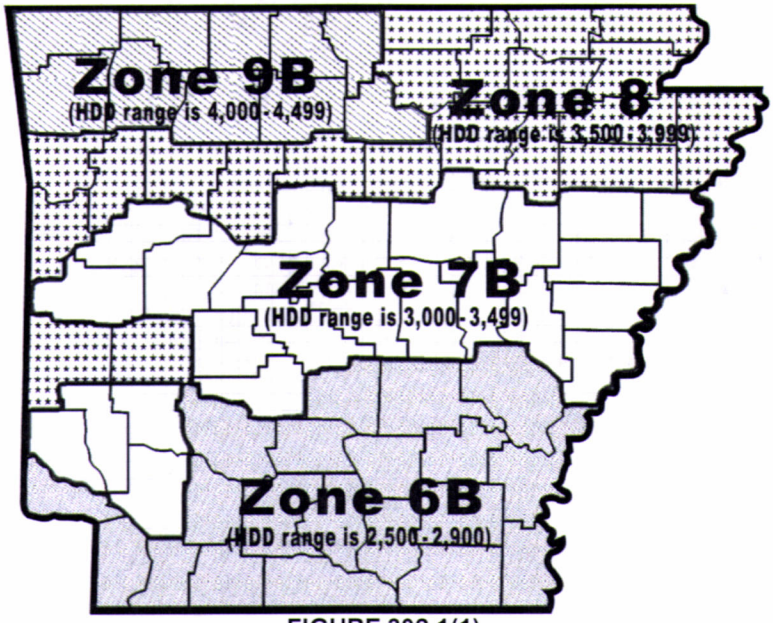

FIGURE 302.1(1)
ARKANSAS

Zone	County
6B	Arkansas (H)
6B	Ashley (H)
9B	Baxter
9B	Benton
9B	Boone
6B	Bradley (H)
6B	Calhoun (H)
9B	Carroll
6B	Chicot (H)
6B	Clark (H)
8	Clay
8	Cleburne
6B	Cleveland (H)
6B	Columbia (H)
7B	Conway (H)
8	Craighead
8	Crawford
7B	Crittenden (H)
7B	Cross (H)
6B	Dallas (H)
6B	Desha (H)
6B	Drew (H)
7B	Faulkner (H)
8	Franklin
8	Fulton
7B	Garland (H)
6B	Grant (H)
8	Greene
7B	Hempstead (H)
7B	Hot Spring (H)
7B	Howard (H)
8	Independence
8	Izard
8	Jackson
6B	Jefferson (H)
8	Johnson
6B	Lafayette (H)

Zone	County
8	Lawrence
7B	Lee (H)
6B	Lincoln (H)
6B	Little River (H)
7B	Logan (H)
7B	Lonoke (H)
9B	Madison
9B	Marion
6B	Miller (H)
8	Mississippi
7B	Monroe (H)
8	Montgomery
6B	Nevada (H)
9B	Newton
6B	Ouachita (H)
7B	Perry (H)
7B	Phillips (H)
7B	Pike (H)
8	Poinsett
8	Polk
8	Pope
7B	Prairie (H)
7B	Pulaski (H)
8	Randolph
7B	Saline (H)
7B	Scott (H)
9B	Searcy
8	Sebastian
7B	Sevier (H)
8	Sharp
7B	St Francis (H)
9B	Stone
6B	Union (H)
8	Van Buren
9B	Washington
7B	White (H)
7B	Woodruff (H)
7B	Yell (H)

Table 302.2 Arkansas HDD* and zones

Zone	HDD
6B	2,500 – 2,999
7B	3,000 – 3,499
8	3,500 – 3,999
9B	4,000 – 4,499

* HDD = Heating Degree Days

Note: Counties identified with (H) shall be considered "hot and humid climate areas" for purposes of the application of Section 502.1.1.

CHAPTER 4
RESIDENTIAL BUILDING DESIGN BY SYSTEMS ANALYSIS AND DESIGN OF BUILDINGS UTILIZING RENEWABLE ENERGY SOURCES

* Delete Section 402.2.3.1.3 FENESTRATION SYSTEM SOLAR HEAT GAIN COEFFICIENT, STANDARD DESIGN without substitution.

CHAPTER 5
RESIDENTIAL BUILDING DESIGN BY COMPONENT PERFORMANCE APPROACH

* Revise Exception 2 in Section 502.1.1 MOISTURE CONTROL as follows:

2. Vapor retarders shall not be required where the county in which the building is being constructed is considered a hot and humid climate area and identified as such in Figure 302.1(1).

* Delete Section 502.1.5 FENESTRATION SOLAR HEAT GAIN COEFFICIENT without substitution.

* Revise Table 503.3.3.3 MINIMUM DUCT INSULATION as follows:

TABLE 503.3.3.3
MINIMUM DUCT INSULATION [a]

ANNUAL HEATING DEGREE DAYS	Insulation *R*-value [d]			
	Ducts in unconditioned attics or outside building		Ducts in unconditioned basements, crawl spaces, garages, and other unconditioned spaces [c]	
	Supply	Return	Supply	Return
< 1,500	8	4	4	0
1,500 to 3,500	5.6	5.6	5.6	5.6
3,501 to 7,500	5.6	5.6	5.6	5.6
> 7,500	11	6	11	2

* Delete footnote b in Table 503.3.3.3 without substitution.

SECTION 503
BUILDING MECHANICAL SYSTEMS AND EQUIPMENT

* Replace the *International Mechanical Code* with the *Arkansas Mechanical Code* in Sections 503.3.3.4 DUCT CONSTRUCTION, 503.3.3.4.1 HIGH-AND MEDIUM-PRESSURE DUCT SYSTEMS and 503.3.3.4.2 LOW-PRESSURE DUCT SYSTEMS.

CHAPTER 6
SIMPLIFIED PRESCRIPTIVE REQUIREMENTS FOR DETACHED ONE- AND TWO-FAMILY DWELLINGS AND GROUP R-2, R-4 OR TOWNHOUSE RESIDENTIAL BUILDINGS

* Revise Section 601.2 COMPLIANCE to include deemed to comply tools that are approved by the Arkansas Energy Office.

601.2 Compliance. Compliance shall be demonstrated in accordance with Section 601.2.1 or 601.2.2. Deemed to comply tools that are approved by the Arkansas Energy Office shall be permitted to demonstrate compliance.

* Revise Section 601.3.2.1 DEFAULT FENESTRATION PERFORMANCE as follows:

601.3.2.1 Default fenestration performance. Where a manufacturer has not determined a fenestration product's *U*-factor in accordance with NFRC 100, compliance shall be determined by assigning such products a default *U*-factor from Tables 102.5.2(1) and 102.5.2(2).

* Modify Exception in Section 602.1.6 SLAB-ON-GRADE FLOORS as follows:

Exception: Slab perimeter insulation is not required for unheated slabs in areas of moderate to very heavy termite infestation probability as shown in Figure 502.2(7). Where this exception is used, building envelope compliance shall be demonstrated by using Section 502.2.2 or Chapter 4 with the actual "Slab perimeter *R*-value and depth" in Table 602.1, or by using Section 502.2.4.

* Delete Section 602.2 MAXIMUM SOLAR HEAT GAIN COEFFICIENT FOR FENESTRATION PRODUCTS without substitution.

CHAPTER 7
BUILDING DESIGN FOR ALL COMMERCIAL BUILDINGS

* Chapter 7 will be in effect until 12/31/2012. Revise ASHRAE/IESNA 90.1 to ANSI/ASHRAE/IESNA 90.1-2001 in the following section:

701.1 Scope. Until 12/31/2012 commercial buildings shall meet the requirements of ANSI/ASHRAE/IESNA 90.1-2001. On and after 1/1/2013 commercial buildings shall meet the requirements of ANSI/ASHRAE/IESNA 90.1-2007 with the following exception.

Exception: Commercial buildings that comply with Chapter 5 in the 2009 IECC with its associated definitions, general requirements and reference standards.

Chapter 8 of the 2003 IECC is in effect until 12/31/2012. On and after 1/1/2013 Chapter 8 is removed in its entirety and replaced with Chapter 5 of the 2009 International Energy Conservation Code (2009 IECC) with its associated definitions, general requirements and referenced standards.

CHAPTER 8—In effect until 12/31/2012
DESIGN BY ACCEPTABLE PRACTICE FOR COMMERCIAL BUILDINGS

* Replace the *International Mechanical Code* with the *Arkansas Mechanical Code* in Sections 803.2.5 VENTILATION, 803.2.6 COOLING WITH OUTDOOR AIR, 803.2.8.1 DUCT CONSTRUCTION, 803.2.8.1.1 HIGH- AND MEDIUM-PRESSURE DUCT SYSTEMS, 803.2.8.1.2 LOW-PRESSURE DUCT SYSTEMS, 803.3.4 REQUIREMENTS FOR COMPLEX MECHANICAL SYSTEMS SERVING MULTIPLE ZONES, and 803.3.8.1 AIR SYSTEM BALANCING.
* Replace ASHRAE/IESNA 90.1 with ANSI/ASHRAE/IESNA 90.1-2001 in Sections 801.2 APPLICATIONS, SECTION 802 BUILDING ENVELOPE REQUIREMENTS, 802.1 GENERAL, and 802.2 CRITERIA.

Arkansas Commercial Climate Zones in effect on and after 1/1/2013

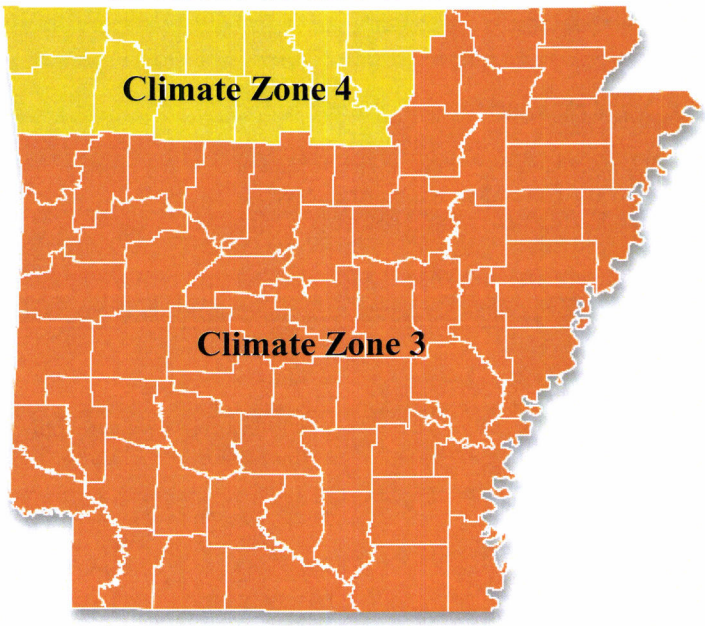

FIGURE 501.3
ARKANSAS COMMERCIAL CLIMATE ZONES

Climate Zones 3 and 4 are referenced in ANSI/ASHRAE/IESNA 90.1-2007 and Chapter 5 of the 2009 International Energy Conservation Code. These codes take effect on and after 1/1/2013.

Climate Zone 4 contains counties of Baxter, Benton, Boone, Carroll, Fulton, Izard, Madison, Marion, Newton, Search, Stone and Washington.

Climate Zone 3 contains counties of Arkansas, Ashley, Bradley, Calhoun, Chicot, Clark, Clay, Cleburne, Cleveland, Columbia, Conway, Craighead, Crawford, Crittenden, Dross, Dallas, Desha, Drew, Faulkner, Franklin, Garland, Grant, Greene, Hempstead, Hot Spring, Howard, Independence, Jackson, Jefferson, Johnson, Lafayette, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Miller, Mississippi, Monroe, Montgomery, Nevada, Ouachita, Perry, Phillips, Pike, Poinsett, Polk, Pope, Prairie, Pulaski, Randolph, Saline, Scott, Sebastian, Sevier, Sharp, St. Francis, Union, Van Buren, White, Woodruff and Yell.

CHAPTER 10
REFERENCED STANDARDS

* Revise Chapter 10 REFERENCED STANDARDS to include the following:

AFC

Arkansas Fire Prevention Code
State Fire Marshal's Office
#1 State Police Plaza Dr
Little Rock, AR 72209
(501) 618-8624
Fax (501) 618-8621

Standard Reference Number	Title	Referenced in Code Section Number
AFC	.....	104.3

AMC

Arkansas Mechanical Code
Department of Health
Division of Protective Health Codes
4815 West Markham Street, Slot 24
Little Rock, AR 72205-3867
(501) 661-2642
Fax (501) 661-2671
http://www.healthy.arkansas.gov/programsServices/environmentalHealth/ProtectiveHealthCodes/Pages/default.aspx

Standard Reference Number	Title	Referenced in Code Section Number
AMC		The following references apply to the residential section of the 2003 IECC: 503.3.3.4, 503.3.3.4.1 and 503.3.3.4.2. The following references apply to the commercial section of the 2003 IECC and will be in effect until 12/31/2012. 803.2.5, 803.2.6, 803.2.8.1, 803.2.8.1.1, 803.2.8.1.2, 803.3.4 803.3.8.1. The following references apply to the commercial section of the 2009 IECC and will be in effect on and after 1/1/2013: 503.2.5, 503.2.5.1, 503.2.6, 503.2.7, 503.2.7.1, 503.2.7.1.1, 503.2.7.1.2, 503.2.9.1, 503.3.1 and 503.4.5.