

**IN THE CIRCUIT COURT OF IZARD COUNTY, ARKANSAS
CIVIL DIVISION**

**CITY COUNCIL OF HORSESHOE BEND, ARKANSAS,
By and through its Members,**

PETITIONER

v.

Case No. 33CV-25-155

**DUANE DeLAIR, in his official capacity as
Mayor of the City of Horseshoe Bend, Arkansas,**

RESPONDENT

**MAYOR DUANE DELAIR’S MOTION TO DISMISS
PETITION FOR WRIT OF MANDAMUS**

COMES NOW, Duane DeLair, in his official capacity as Mayor of the City of Horseshoe Bend, Arkansas, (the “Mayor”) by and through his attorneys, Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C., and, Pursuant to Ark. R. Civ. P. 12(b)(2), 12(b)(5), 12(b)(6), and Ark. Code Ann. § 16-115-106, respectfully moves this Court to dismiss *with prejudice* the October 14, 2025 Petition a Writ of Mandamus (the “Petition”) filed by The City Council of Horseshoe Bend, Arkansas (the “Council”) in this matter.

In support of his Motion, the Mayor incorporates his accompanying Brief in Support, and relies on the facts, authorities, and arguments set forth therein, and further states as follows:

1. The City Council of Horseshoe Bend, Arkansas, seeks through its October 14, 2025 Petition a Writ of Mandamus directing the Mayor to “sign and authenticate all ordinances and resolutions duly passed by the City Council, past, present, and future, as required by Ark. Code Ann. 14-55-205,” among other relief.

2. Pursuant to Ark. R. Civ. P. 12(b)(2), 12(b)(5), 12(b)(6), and Ark. Code Ann. § 16-115-106, and as and for his response to the Petition, the Mayor respectfully states that there is good cause *not only* to deny the Petition but rather to dismiss it altogether and to do so *with prejudice*.

3. First, the Court should dismiss the Petition pursuant to Ark. R. Civ. P. 12(b)(5) for insufficient service of process because the Council failed to strictly comply with Ark. R. Civ. P. 4(f)(17).

4. The Council's failure to obtain valid service of process on the Mayor also means the Court lacks personal jurisdiction over him. Ark. R. Civ. P. 12(b)(2).

5. Second, the Court should dismiss the Petition pursuant to Ark. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief may be granted because the Council as an entity lacks capacity and standing to bring a Petition for Writ of Mandamus.

6. Third, the Court should dismiss the Petition pursuant to Ark. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief may be granted because the Council as an entity lacks capacity and standing to bring a prayer for declaratory relief.

7. Fourth, the Court should dismiss the Petition pursuant to Ark. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief may be granted because the matter is moot, there is no justiciable issue, and the court can afford no relief. The Ordinances and Resolutions complained of are effective as a matter of law and the premise of the Council's entire Petition therefore is fatally flawed. The Mayor's written veto *is* his signature for purposes of Ark. Code Ann. § 14-55-205.

8. Besides, the Mayor has no obligation to authenticate and record Resolutions or non-permanent, non-general Ordinances.

9. Finally, the Court should Dismiss the Petition because the record before it is inadequate.

WHEREFORE, for each of these reasons, and for all of them, the Court should dismiss the Council's Petition *with prejudice*, declare the Mayor's conduct lawful (to the extent it construes

the Council's Petition as a prayer for declaratory judgment), award to the Mayor all recoverable costs, and render any and all other relief to which he is entitled in law or equity.

Respectfully submitted,

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Duane DeLair, in his official capacity as
Mayor of the City of Horseshoe Bend, Arkansas

CERTIFICATE OF SERVICE

I, Drew J. Cunningham, do hereby certify that I served a copy of the foregoing to the below named persons via the Court's electronic filing system on this 19th day of November 2025:

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by and through its Members*



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