

TITLE 7

PUBLIC PEACE, SAFETY AND MORALS

Chapters:

- 7.04 State Criminal Statutes and Penalties
- 7.08 Limitation on Youth in Public Places
- 7.12 Curfew
- 7.16 Regulations on Pool Rooms and Dance Houses
- 7.20 Special Events
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CHAPTER 7.04

STATE CRIMINAL STATUTES AND PENALTIES

Sections:

- 7.04.01 State criminal statutes adopted
- 7.04.02 State penalties adopted

7.04.01 State criminal statutes adopted All criminal statutes of the state relating to misdemeanors and the laws of criminal procedure in connection therewith, three (3) copies of which are on file in the City Clerk's office, are hereby enacted by the City Council to form a part of the laws of the city and any person, firm or corporation being found guilty of the violation of any such laws shall be deemed guilty of the violation of the ordinances of the city, and shall be fined or imprisoned or both in the manner set out under the state statutes.

7.04.02 State penalties adopted The same minimum and maximum penalties for the violation of misdemeanors as are provided in the state statutes are hereby adopted as the minimum and maximum fines for the violation of the same offenses which are prohibited by the ordinances of this city.

CHAPTER 7.08

LIMITATION ON YOUTH IN PUBLIC PLACES

Sections:

7.08.01	Definitions
7.08.02	Consent of parent or legal guardian
7.08.03	Authority to stop minors
7.08.04	Exceptions
7.08.05	Procedure if parent has not given consent
7.08.06	Procedure if minor shall claim parent has given consent
7.08.07	Procedure should minor be a nonresident
7.08.08	Responsibility of parent, penalty
7.08.09	Record keeping
7.08.10	Responsibility of owners of public places

7.08.01 Definitions For the purposes of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

City - the city of Helena-West Helena.

Consent - the actual authorization by a parent of legal guardian or is silent acquiescence by a parent or legal guardian having knowledge.

Emancipated minor - anyone under the age of 18 whose parent or legal guardian has renounced his right to the care, custody and earnings of said person.

Knowledge - need not be actual knowledge of the exact location of the minor in question, rather it may be imputed from the knowledge that the minor is not at home, that the minor has an ultimate destination, and that the minor may make a diversionary trip on his way to or from the ultimate destination.

Minor - anyone under the age of 18, whose care and custody as well as right to his earnings, repose in a parent or legal guardian. It does not include an emancipated minor or anyone under the age of 18, who is legally married.

Public place - any bar, bowling alley, cafe, drive-in restaurant, drive-in theater, drug store, grocery store, hamburger stand, hotel, ice cream parlor, lobby, parking lot, pool room, restaurant, saloon, shopping center, supermarket, theater, or any place dedicated to amusement and entertainment, to which the public is invited, whether enclosed or out of doors, and which

includes any accompanying parking lot or pedestrian walkway, or any appurtenance thereto which is used by the public.

REFERENCE: West Helena Ord. No. 1561.

7.08.02 Consent of parent or legal guardian No minor shall be present in or on any public street, park, square, or any public place within the city of Helena-West Helena between the hours of 11:00 p.m. and 5:00 a.m. of the following days, Sunday through Thursday nights and between the hours of 12:00 a.m. and 5:00 a.m. of the following days on Friday through Saturday without the knowledge and consent of a parent or legal guardian having the care and custody of said minor.

REFERENCE: West Helena Ord. No. 1561.

7.08.03 Authority to stop minors

- A. It shall be the duty of the Police Department of the city of Helena-West Helena to require identification from any person who loiters, idly remains, congregates, tarries or stays on any public street, park, square or any public place within the city of Helena-West Helena during the prescribed hours and whose actions, appearance, demeanor, or other fact within the knowledge of the police officer give rise to reasonable belief that the person stopped is a minor. Such identification shall include the person's name, age, home address, phone number and if the person's home address is outside the limits of the city of Helena-West Helena, the address within the city of Helena-West Helena at which he is staying.
- B. Should the person stopped and questioned not be a minor, he shall be allowed to proceed freely with no record made of the inquiry.
- C. Should the person stopped and questioned be a minor, the police officer shall inquire of him whether the parent or legal guardian having care and custody of such minor has knowledge of, and has give consent to the presence of said minor in or on the public street, park, square or public place involved.

REFERENCE: West Helena Ord. No. 1561.

7.08.04 Exceptions The following shall constitute valid exceptions to the operation of the ordinance:

- A. When a juvenile is accompanied by a parent of that juvenile.
- B. When a juvenile is accompanied by an adult authorized by a parent of that juvenile to take the parent's place in accompanying the juvenile for a designated period of time and purpose within a specified area.

- C. When the juvenile is on an errand as directed by the parent that juvenile the juvenile has in his or her possession a writing signed by the parent or guardian containing the following information: the name, signature, address and telephone number of the parent or guardian authorizing the errand, the telephone number where the parent or guardian may be reached during the errand, the name of the juvenile, a brief description of the errand, the juvenile's destination(s), and the hours the juvenile is authorized to be engaged in the errand.
- D. When a juvenile is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly.
- E. In case of reasonable necessity for the juvenile remaining in a public place but only after the juvenile's parent has communicated to the Chief of Police or the person designated by the Chief of Police to receive such notifications the facts establishing the reasonable necessity relating to a specified public place at a designated time for a described purpose including points of origin and destination.
- F. When a juvenile is returning home by a direct route (without any unnecessary detour or stop) from and within one (1) hour of the termination of a school activity or an activity or a religious or other voluntary association, or a place of public entertainment, such as a movie, play or sporting event.
- G. When the juvenile's gainful employment makes it necessary for such minor to be upon the street, alleys or other public places after the specified hours.
- H. When the juvenile is, with parental consent, engaged in normal interstate or intrastate travel through the city or originating or terminating in the city.
- I. When the juvenile is married or has been married pursuant to state law.

REFERENCE: NIMLO 13-104

7.08.05 Procedure if parent has not given consent A response by the minor that a parent or legal guardian neither has knowledge nor has given consent to his presence in or on the public street, park, square or public place in question, shall constitute grounds for the officer to escort the minor in question to the address given, to inform the parent or legal guardian of the actions of minor in question, and to inform the parent or legal guardian that he may be held responsible for the delinquency of the minor under Section 7 of this chapter, should the minor later be brought before the Juvenile Court or any other court of the city of Helena-West Helena or state of Arkansas, for delinquency or youthful offender proceedings. Should no parent or legal guardian be found at the address given the procedure found in section 6 shall be followed.

REFERENCE: West Helena Ord. No. 1561.

7.08.06 Procedure if minor shall claim parent has given consent A response by the minor that a parent or legal guardian has knowledge of and/or has given consent to his presence in or on the public street, park, square or public place in question shall constitute ground to call the parent or legal guardian of the minor, at the phone number given, or at the phone number registered and listed with the phone company, for a corroborating statement by the parent or legal guardian.

- A. Should the parent not corroborate the statement of the minor, or should no parent or legal guardian answer the phone, the police officer shall escort the minor home and shall follow the appropriate procedures for issuing citations and notifications of parents and appropriate authorities.
- B. Should the parent or legal guardian answering the phone corroborate the statement of the minor in question, the police officer shall inform the parent or legal guardian that continuous presence of a minor in or on the public streets, parks, squares or other public places during the prescribed hours may constitute lack of proper supervision and care by the parent or legal guardian of said minor and shall be considered prima facie evidence in criminal proceedings for aiding to the delinquency of a minor. The police officer shall then allow the child to continue on his way or shall escort the child home, as desired by the parent or legal guardian.

7.08.07 Procedures should minor be a nonresident Should the minor identify himself as a non-resident of the city of Helena-West Helena, the police officer shall check to see if the minor has been found present in or on a public street, park, square, or other public place within the previous 12 months.

- A. If not, the police officer shall inform the minor in question of this ordinance and shall escort him to the place within the municipal jurisdiction of the city of Helena-West Helena at which he is staying. If the minor is a transient who intends to leave the city of Helena-West Helena before the next morning, the police officer shall turn the minor over to the juvenile authorities who shall check the missing person files, locate and inform the parent or legal guardian of the presence of the minor within the city of Helena-West Helena and inform the parent or legal guardian that the minor in question will be detained if desired until the parent or legal guardian, or the designee of the parent or legal guardian, arrives to claim said minor. Should the name or description of the minor not be on the missing persons list and should the parent or legal guardian not be located, the juvenile authorities shall release the minor within twenty-four (24) hours.
- B. If the nonresident minor has been found present in or on a public street, park, square or other public place within the previous 12 months, the officer shall follow the procedure for transient minors, as found in sub-section (a) of this section, except that the Juvenile Authorities shall not release the minor until claimed by a parent or legal guardian, or the designee of the parent or legal guardian.

REFERENCE: West Helena Ord. No. 1561.

7.08.08 Responsibility of parent: penalty No parent or legal guardian having the care and custody of a minor shall fail to properly supervise and care for such child in that such failure of supervision or care for such child in that such failure of supervision or care shall cause the child to be brought before the Juvenile Court or any other court of the city of Helena-West Helena or state of Arkansas, for delinquency or youthful offender proceedings. Continuous presence by a minor during the prescribed hours in or on the public streets, parks, squares or other public places shall constitute prima facie evidence of failure by the parent or legal guardian to properly supervise said minor and shall be considered a cause of the delinquency or offense committed. A violation of this section shall be a misdemeanor, punishable by a fine not exceeding One Hundred Dollars (\$100.00) or probationary proceedings for a period not longer than 6 months or both.

REFERENCE: West Helena Ord. No. 1561.

7.08.09 Record keeping It shall be the duty of the City Clerk of the city of Helena-West Helena to maintain records of those minors having been stopped by police officers, and of those parents or legal guardians having been informed of this ordinance. Such records shall include the name of the minor stopped and questioned, the name of the parent or legal guardian who was located and informed, the location at which the minor was stopped for questioning and the date on which it occurred. All information pertaining to the minor and not to the parent or legal guardian shall be maintained as privileged and confidential and shall not be used by the juvenile authorities or by any other agency of government or by any other person except as expressly authorized by this ordinance. The juvenile authorities shall review these records semi-annually and shall destroy records of those incidents having occurred more than thirty-six (36) months prior to such review.

REFERENCE: West Helena Ord. No. 1561.

7.08.10 Responsibility of owners of public places It shall be unlawful for any person, firm or corporation operating or having charge of any public place to knowingly permit or suffer the presence of minors under the age of eighteen (18) in violation of this chapter.

REFERENCE: West Helena Ord. No. 1561.

CHAPTER 7.12

CURFEW

Sections:

7.12.01	Civil emergencies
7.12.02	Congregating during state of emergency
7.12.03	Penalty for violation of Secs. 7.12.01 and 7.12.02
7.12.04	Curfew for minors - definitions
7.12.05	Penalties
7.12.06	Confidentiality of records
7.12.07	Construction and repealer

7.12.01 Civil emergencies The Mayor, any time a condition has arisen or is imminent, which in his judgment constitutes a civil disturbance, riot, insurrection or time of local disaster, may declare a state of emergency and impose a curfew for such time and for such areas as he deems necessary to meet such emergency. Provided, however, such curfew shall not extend for over a period of forty-eight (48) hours unless extended by a majority vote of the members of the governing body.

REFERENCE: A.C.A. 14-43-601; West Helena Ord. No. 908.

7.12.02 Congregating during state of emergency That no person or persons shall congregate, operate any businesses or be upon the streets or other public ways; unless on official business for the city or state, in any area or areas designated by the Mayor as curfew areas in the city during the time of any declared emergency.

REFERENCE: A.C.A. 14-43-601; West Helena Ord. No. 908.

7.12.03 Penalty for violation of Secs. 7.12.01 and 7.12.02 That any person, firm or corporation violating Secs. 7.12.01 and 7.12.02 of this chapter shall upon conviction thereof be punished by a fine not to exceed Five Hundred Dollars (\$500.00) or more than one (1) year imprisonment, or by both fine and imprisonment.

REFERENCE: A.C.A. 14-43-601; West Helena Ord. No. 908.

7.12.04 Curfew for minors - definitions

- A. For purposes of this minor curfew, the following terms, phrases, words and their derivations shall have the following meanings:

City - the city of Helena-West Helena, Arkansas.

Emancipated minor - a minor who no longer has a parent-child relationship as a result of marriage, or as a result of being recognized as an adult by order of a court of competent jurisdiction.

Legitimate parentally approved errand - a minor performing a necessary task at the direction of the minor's parent, and that the nonperformance of the errand, or delay of performance until after curfew hours have abated, would result in injury or undue hardship.

Minor - any unemancipated or unmarried person under the age of eighteen (18) years of age.

Parent - any person having custody of a minor (i) as a natural parent, (ii) as an adoptive parent, (iii) as a legal guardian, (iv) as a person to whom legal custody has been given by order of the court, or (v) as a person in loco parentis.

Public place - a publicly or privately owned place to which the public or substantial numbers of people have access, or an automobile. A public place does not include the residence of a minor's parent or a responsible adult.

Responsible adult - a person at least twenty-one years of age to whom a parent has expressly given permission to accompany a minor.

B. Curfew and truancy

Curfew It shall be unlawful for any minor to be upon the streets, sidewalks, parks, playgrounds, public places and vacant lots, or to ride in or upon, drive or otherwise operate or be a passenger of any automobile, bicycle, or other vehicle in, upon, over or through the streets, or other public places between the hours of 10:00 p.m. and 5:00 a.m., Sunday through Thursday, or between the hours of 11:00 p.m. and 5:00 a.m., Friday and Saturday.

Truancy It shall be unlawful for any minor to be upon the streets, sidewalks, parks, playgrounds, public places and vacant lots, or to ride in or upon, drive or otherwise operate or be a passenger of any automobile, bicycle, or other vehicle in, upon, over or through the streets, or other public places during normal school hours. The fact that a minor is in a public place between the hours of 9:00 a.m. and 2:30 p.m. Monday, Tuesday, Wednesday, Thursday, or Friday, shall create a rebuttable presumption that the minor is in violation of this section.

It shall be unlawful for any parent to permit, fail to control, or otherwise allow a minor to be upon the streets, sidewalks, parks, playgrounds, public places and vacant lots, or to ride in or upon, drive or otherwise operate a vehicle in, upon, over or through the streets, or other public places as set forth in subsections (1) or (2). The fact that a minor is in violation of the provisions of subsection (1) or

subsection (2) , without a defense as set forth in section E of this ordinance, shall create a rebuttable presumption that a parent is in violation of this section.

C. Exceptions

1. Notwithstanding the provisions of Section D, the minor curfew ordinance does not apply:
 - a. At any time that a minor is accompanied by a parent, or by a responsible adult authorized by a parent to take the parent's place to accompany the minor for a designated period of time and purpose within a specified area;
 - b. If the minor is employed, for the period of time 45 minutes before or after work, provided that circumstances suggest the minor is going to or returning from work from or to a place of residence.
 - c. When a minor is returning home from an activity that is supervised by adults and sponsored by the city of Helena-West Helena, a civic organization, a public or private school, or any entity that takes responsibility for the minor, provided that the activity has not concluded for more than 45 minutes;
 - d. At any time the minor is on a legitimate parentally approved errand;
 - e. At any time the minor is required to leave a residence or school because of an emergency;
 - f. At any time the minor is engaged in an activity that is protected by the United States Constitution or the Arkansas Constitution;
 - g. With the respect to the hours between 9:00 a.m. and 2:30 p.m. on Monday, Tuesday, Wednesday, Thursday or Friday only, it is a defense that the public or private school which the minor attends was not in session, that the minor is being home schooled in accordance with Arkansas law and a recess has been declared by the home school teacher, that the minor is a high school graduate or has an equivalent certification, or that the minor is on an excused absence from his or her place of schooling, provided that a disciplinary suspension or expulsion is not deemed an excused absence for the purpose of this ordinance.

- D.
1. It shall be the duty of the Police Department of the city of Helena-West Helena to require identification from any person who is in a public place during the prescribed hours and whose actions, appearance, demeanor, or other act within the knowledge of the police officer give rise to a reasonable belief that the person stopped is a minor.
 2. Should the person stopped and questioned not be a minor, such person shall be allowed to proceed freely with no record made of the inquiry.
 3. If any law enforcement officer has reasonable cause to believe any minor is in a public place within the city of Helena-West Helena, Arkansas, in violation of this ordinance, the officer, shall:
 - a. Notify the minor and the minor's parent that the minor is in violation of this ordinance;
 - b. Require the minor provide the officer with the minor's correct name, home address, home telephone number, an explanation of how to contact the minor's parent, and an explanation of the minor's presence upon the property prohibited at the time of the violation;
 4. At the discretion of the law enforcement officer, release the minor to immediately return home, immediately transport the minor to the minor's parent, or take the minor into custody and deliver the minor to an appropriate juvenile authority to be held until a parent can be located to take custody of the minor; and
 5. Issue the parent a written warning concerning the violation, if said violation constitutes the first occasion the minor or parent is in violation of this ordinance, and notify the parent that any subsequent violation will result in a warrant being issued for the parent's arrest; or
 6. Issue the parent a citation to appear in Helena-West Helena Municipal Court for each and every subsequent violation of this chapter for prosecution and enforcement of the penalties as set forth in section 7 below, and cause a report to be filed with the juvenile intake officer at the Phillips County Courthouse concerning the minor in the manner required for official allegations of juvenile delinquency;
 7. Nothing in this section shall preclude a law enforcement officer from taking any and/or all appropriate actions for a minor's violation of any other local, state, traffic or criminal law.

REFERENCE: A.C.A. 14-43-601; West Helena Ord. No. 908.

7.12.05 Penalties The penalties as set forth below, shall apply to any violation of this ordinance:

- A. A parent found to be in violation of this ordinance may be fined not less than \$50 and not more than \$500; or
- B. A parent found to be in violation of this ordinance may be required to attend any available programs designed to improve the parent-child relationship or parenting skills, counseling, or directed to perform community service, in addition to the payment of fines as set forth above.

REFERENCE: A.C.A. 14-43-601; West Helena Ord. No. 908.

7.12.06 Confidentiality of records It shall be the duty of the City Clerk of Helena-West Helena to maintain the reports and records of those minors who have been stopped by police officers, and of those parents who have been warned or cited for a violation of this ordinance. All information pertaining to the minor, and not to the parent, shall be maintained as privileged and confidential, and access to the reports and/or records is restricted except to justice system officials or by court order.

REFERENCE: A.C.A. 14-43-601; West Helena Ord. No. 908.

7.12.07 Construction and repealer Where possible, other ordinances or parts of ordinances of the city of Helena-West Helena, Arkansas, seemingly or apparently in conflict with the provisions of this ordinance shall be construed in accordance with the provisions and common meanings of the words of this ordinance. Where this is not possible, all other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. All other minor curfew ordinances of the city of West Helena are hereby repealed. It is the intent of the City Council that this chapter be interpreted to comply, and to not conflict, with the Arkansas Juvenile Code, the laws of the state of Arkansas, and the United States Constitution.

REFERENCE: A.C.A. 14-43-601; West Helena Ord. No. 1632.

CHAPTER 7.16

REGULATIONS ON POOLROOMS AND DANCE HOUSES

Sections:

- 7.16.01 Closing time
- 7.16.02 Penalty

7.16.01 Closing time All poolrooms and public dance houses shall close promptly at 12:00 o'clock midnight each Saturday night and remain closed until the following Monday morning at 6:00 o'clock a.m.

7.16.02 Penalty Any person, firm or corporation violating this chapter shall be guilty of a misdemeanor and shall be fined not less than Five Dollars (\$5.00) nor more than Twenty-Five Dollars (\$25.00) for each offense.

REFERENCE: A.C.A. 14-54-103; West Helena Ord. No. 254.

CHAPTER 7.20

SPECIAL EVENTS

Sections:

- 7.20.01 Parades
- 7.20.02 Special events

7.20.01 Parades

- A. That it shall be unlawful for any person, or persons to conduct or to participate in any parade, marching or demonstration on the sidewalks or streets of the city or to move or stand on the sidewalks or streets, carrying banners, placards, signs or the like, or to sit, kneel, or lie on the sidewalks or streets, or curbs of said city in such a manner as to obstruct the flow of traffic or orderly movement of pedestrians on such sidewalks or streets of said city, or for any person, or persons, to engage in any shouting, singing, orating, public speaking or any other distracting activities of any kind on any of the sidewalks or streets of the city without the written permission of the chief of police of said city. Pursuant to this section any person or persons shall be required to obtain said permission not less than twenty-four (24) hours prior to the time of the anticipated display.
- B. That any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor and be punishable by a fine of not more than One Hundred Dollars (\$100.00) or by imprisonment in the city jail for not more than thirty (30) days, or by both such fine and imprisonment.

REFERENCE: West Helena Ord. No. 901.

7.20.02 Special events

- A. Individuals, groups, agencies, organizations, firms, or corporations (hereinafter referred to as "Sponsor") desiring to use the public streets and rights-of-way within the corporate limits of the city of Helena-West Helena for any special events shall make a written request for a special event permit to the office of the City Clerk no less than thirty (30) days prior to the date of the special event. The 30 day advance application deadline may be waived by a majority vote of the City Council in the event of extraordinary circumstances of little impact on public safety or convenience. Each special event permit application shall be reviewed by the Community Development Committee of the City Council who shall submit a recommendation to the full body of the City Council. The City Council shall either approve, modify or deny the permit application. If approved or modified, the office of the City Clerk shall issue the special event permit together with a copy of the requirements of this ordinance to the Sponsor. The office of the City Clerk shall provide duplicates of the permit to all department heads.
- B. The following guidelines shall apply to all special event permits which use the public streets:
1. Emergency vehicles shall be allowed access to the enclosed area at all times;
 2. Signage advising the public of the street closings and alternate routes may be required at the discretion of the Mayor or his designee;
 3. The Sponsor will be responsible for all security, parking and traffic control (including payment of off-duty police officers) in accordance with a plan approved by the city;
 4. The Sponsor will be responsible for picking up all litter associated with the event and placing it in a location as determined by the city. The Sponsor shall make all necessary arrangements for pickup from the designated location in accordance with a trash removal plan approved by the city; and
 5. The city may require the Sponsor to furnish proof of hazard, liability or any other type of insurance in an amount set by the City Council and to list the city as an additional insured.
- C. The city may charge fees for the use and/or rental of public property for special events and may expend funds in excess of Ten Thousand Dollars (\$10,000.00) to sponsor and/or co-sponsor special events.

D. The Helena-West Helena Police Department shall be responsible for enforcing the provisions of this ordinance.

REFERENCE: West Helena Ord. No. 3494.

CHAPTER 7.24

FIREWORKS

Sections:

7.24.01 Illegal to possess
7.24.02 Illegal to discharge
7.24.03 Penalty

7.24.01 Illegal to possess It shall be illegal for any person to keep on hand, sell, or offer for sale any firecrackers, Roman candles, sky rockets, or any other kind of fireworks within the corporate limits.

REFERENCE: West Helena Ord. No. 88.

7.24.02 Illegal to discharge It shall be illegal for any person to shoot off, fire, or discharge within the city limits fireworks of any kind or description whatever.

REFERENCE: West Helena Ord. No. 88.

7.24.03 Penalty That any person who shall violate any of the provisions of this chapter shall upon conviction be fined in any sum of not more than Twenty-Five Dollars (\$25.00) for each offense.

REFERENCE: West Helena Ord. No. 88.

CHAPTER 7.28

WEAPONS

Sections:

7.28.01 Prohibitions on discharges, etc.
7.28.02 Restrictions on gas, air or spring operated weapons

7.28.01 Prohibitions on discharges, etc.

- A. Due to the potential and for the safety, health and welfare of the citizens of this city, it is necessary for the protection of its citizens that the city enact certain laws and regulations prohibiting and regulating the use of certain instruments capable of discharging projectiles within the boundaries of the city limits.
- B. No person or persons shall discharge any firearm within the city limits of Helena-West Helena, Arkansas; provided that this section shall not be construed to prohibit any officer of the law from discharging a firearm in the performance of his duty.
- C. No person or persons shall carry, use or discharge any or all types of pellet, "B-B", air rifle or pistol, or any other such weapon which is gas, air or spring-operated within the confines of this city; further, that if any minor child or children discharges such fire so described herein, their parent, parents, or those having actual custody and care of such respective minor shall be therefore held liable for such acts of said child or children and shall be subject to the penalty provisions provided herein.
- D. No person or persons shall discharge or cause to discharge a bow instrument such as a compound bow, crossbow, recurved bow, long bow, or other bow-instrument capable of discharging an arrow wherein the weight or pull of the bow is forty (40) pounds or more.
- E. Any person, parent and/or legal guardian and/or person having control and custody of the minor child or children, in violation of the provisions of this ordinance shall upon conviction thereof be fined not less than Twenty-Five Dollars (\$25.00) nor more than Two Hundred Fifty Dollars (\$250.00) for each and every offense.

REFERENCE: A.C.A. 14-54-1411; West Helena Ord. No. 1505.

7.28.02 Restrictions on gas, air or spring-operated weapons

- A. Due to the injury which affects the citizenry and because of safety, health and welfare of the citizens of this city, the operation of any gas, air or spring-type rifle, "B-B", pellet gun or pistol, that if such is used and discharged in public limits of this city, shall be declared illegal and punishable as a misdemeanor.
- B. No person or persons shall carry, use or discharge any or all types of such pellet, "B-B", air rifle or pistol, or any other such weapon which is gas, air or spring-operated within the confines of this city; further, that if any minor child or children discharge such firearms so described herein, their parent, parents, or

those having actual custody and care of such respective minors shall therefore be held liable for such acts of said child or children and shall be subject to the penalty provision of this ordinance cited in Section III herein.

- C. Any person, persons, parent and/or legal guardian and/or person having control and custody of a minor child or children, in violation of the provisions of this ordinance shall upon conviction thereof be fined not less than Five Dollars (\$5.00) nor more than Twenty-Five Dollars (\$25.00) for each and every offense.

REFERENCE: A.C.A. 14-54-103; West Helena Ord. No. 1217.

CHAPTER 7.32

FOLLOWING FIRE TRUCKS

Sections:

7.32.01	Restrictions on following fire trucks
7.32.02	Duty of firemen
7.32.03	Duty of motorist
7.32.04	Penalty

7.32.01 Restrictions on following fire trucks No person driving a vehicle upon the streets within the city, other than on official business, shall follow any fire apparatus, or volunteer firemen traveling in response to a fire alarm closer than 500 feet, or drive, or park any vehicle within the city block where a fire apparatus has stopped.

REFERENCE: A.C.A. 14-54-103; West Helena Ord. No. 522.

7.32.02 Duty of firemen It shall be the duty of the driver of all fire apparatus and all volunteer firemen to sound a siren at regular intervals while responding to a fire alarm.

REFERENCE: A.C.A. 14-54-103; West Helena Ord. No. 522.

7.32.03 Duty of motorist It shall be the duty of each motorist upon the city streets upon hearing a siren from a fire apparatus, or volunteer fireman, to pull his vehicle as far to his right as can be done with safety and to bring his vehicle to a complete stop until the fire apparatus and/or volunteer fireman has passed.

REFERENCE: A.C.A. 14-54-103; West Helena Ord. No. 522.

7.32.04 Penalty Any person who shall violate any section of this chapter shall, upon conviction, be deemed guilty of a misdemeanor.

REFERENCE: A.C.A. 14-54-103; West Helena Ord. No. 522.

CHAPTER 7.36

OUTSIDE FIRE SERVICE

Sections:

7.36.01	Authority to dispatch
7.36.02	Restrictions
7.36.03	Cost of aid without mutual aid agreement
7.36.04	Mutual aid agreement
7.36.05	Payment of money collected

7.36.01 Authority to dispatch No Fire Department apparatus shall be taken beyond the corporate limits of the city to assist at any fire or for any other purpose, except by order of the mayor or Fire Chief or such other person as they may designate, and subject to the restrictions and conditions hereinafter set forth.

REFERENCE: A.C.A. 14-53-102; West Helena Ord. No. 1075.

7.36.02 Restrictions The Mayor or Fire Chief or such other person as they may designate are authorized, in their discretion, to aid in the extinguishing of fires in another city, (or town), public institutions, corporation, or other properties within a reasonable distance from the city or on property immediately adjacent to the city in which there is a possibility of fire spreading within the corporate limits, under the following conditions:

- A. A request from a city or incorporated town for assistance must come only from the Mayor, Fire Chief or such other person as may be designated by mutual agreement.
- B. Calls may be responded to only by such apparatus which in the judgment of the Mayor or Fire Chief or such other person as they may designate can be safely sent without unduly impairing the fire protection within the city, and when highways and weather conditions are favorable.
- C. The city, incorporated town, public institution, corporation, or individual requesting assistance must pay the charge for apparatus and service hereinafter provided unless there exists a mutual aid agreement.

- D. The city, incorporated town, public institution, corporation or individual must compensate the city for any loss or damage to such apparatus while answering such call, and be responsible to the members of the Fire Department of the city for any injuries suffered or incurred by them while responding to such calls and while working at such fire, unless otherwise covered by insurance.

REFERENCE: A.C.A. 14-53-102; West Helena Ord. No. 1075.

7.36.03 Cost of aid without mutual aid agreement Unless there exists a mutual aid agreement, every municipality, institution, corporation, or individual requesting and receiving service of the Fire Department of the city shall pay for such service and the use of apparatus as follows:

Each person, city, firm, or corporation receiving service of the Fire Department, unless there exists a mutual aid agreement, shall pay to the city for each fire the sum of Two Hundred Seventy-Five Dollars (\$275.00) for the first hour and One Hundred Dollars (\$100.00) per hour for each additional hour or fraction thereafter. This sum shall apply wherein a maximum of four (4) firemen respond to the call. An additional charge shall be assessed at the rate of \$20.00 per man-hour for each additional man responding in excess of four (4). Time shall be computed and shall commence from the time the fire apparatus leaves the Fire Station until it is returned. These charges shall apply to residential, farm, and small commercial properties. In the event response is made to industrial or large commercial establishments, the Fire Chief shall prepare a fair and proper charge for that service and secure approval of the Mayor and/or Council prior to submitting a statement for said services. The payments herein stipulated shall be made to the City Treasurer within fifteen (15) days after demand.

REFERENCE: A.C.A. 14-53-102; West Helena Ord. No. 1326.

7.36.04 Mutual aid agreement The Mayor and Chief of the Fire Department are hereby authorized to enter into mutual aid agreements with other municipalities, firms, corporations, or individuals, for the rendering of fire service, subject to the following conditions:

- A. That the parties with whom such mutual aid agreements are entered into shall agree to indemnify the city against any or all loss, cost, and damage which it may suffer or sustain by reason of damage to any apparatus arising from any cause whatsoever while such apparatus is going to or from the scene of the fire or while at the scene of the fire. The duty to indemnify shall be performed within fifteen (15) days after demand.
- B. As to each fire driver injured while driving to or from the fire, or while at the scene of the fire, and as to each fireman helping at the fire, injured between the time he reports to the foreman of his company and the time his service ends, the person entering into such mutual aid agreements shall pay within fifteen (15) days

after demand to the city a sum sufficient to cover the medical and hospital expenses by such injured driver or fireman.

REFERENCE: A.C.A. 14-53-102; West Helena Ord. No. 1075.

7.36.05 Payment of money collected From those moneys collected under the terms of Section 7.48.03 of this chapter, the off-duty and volunteer firemen that answer the call shall be paid at the rate of Ten Dollars (\$10.00) per hour for their services.

REFERENCE: West Helena Ord. No. 1326.

CHAPTER 7.40

SOLICITORS, PEDDLERS, VENDORS

Sections:

7.40.01	Bond
7.40.02	Payment in advance, minimum
7.40.03	Payable
7.40.04	Recovery allowable
7.40.05	Limit on bond required
7.40.06	Administer
7.40.07	Penalty

7.40.01 Bond Solicitors of book and magazine subscriptions, as well as itinerant peddlers, itinerant hawkers, itinerant merchants, itinerant vendors of merchandise and/or services shall enter into a bond with good and sufficient surety to the city for the use and benefit of any person damaged by a breach thereof, as hereinafter provided, to insure performance of services, delivery of merchandise and proper application of monies received therefore.

REFERENCE: A.C.A. 14-54-1407; West Helena Ord. No. 712.

7.40.02 Payment in advance, minimum This bond shall be made in advance of any active soliciting, peddling, hawking, or vending contemplated herein and must be in an amount, approved by the City Clerk and Chief of Police which is found as a fact, after considering the sums of money likely to be involved or the value of services to be rendered or merchandise delivered, to be adequate to protect the public against fraud or dishonest dealing. However, this bond shall not be in an amount less than Five Hundred Dollars (\$500.00).

REFERENCE: A.C.A. 14-54-1407; West Helena Ord. No. 712.

7.40.03 Payable The bond shall be payable to the city for the use and benefit of any person damaged by the breach thereof.

REFERENCE: A.C.A. 14-54-1407; West Helena Ord. No. 712.

7.40.04 Recovery allowable A person damaged by a breach of the bond provided for herein is entitled to recover on the bond the amount of his damages proved plus costs in a civil action in any court having jurisdiction.

REFERENCE: A.C.A. 14-54-1407; West Helena Ord. No. 712.

7.40.05 Limit on bond required In no event shall the amount required be more than is necessary to effectuate the purposes of this chapter for the protection of the public.

REFERENCE: A.C.A. 14-54-1407; West Helena Ord. No. 712.

7.40.06 Administer The Chief of Police is empowered to administer the provisions hereof.

REFERENCE: A.C.A. 14-54-1407; West Helena Ord. No. 712.

7.40.07 Penalty Any person who violates any provision of this chapter shall be fined not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00) or imprisoned for not more than thirty (30) days or both. Each violation is a separate offense.

REFERENCE: A.C.A. 14-54-1407; West Helena Ord. No. 712.

CHAPTER 7.44

LOITERING

Sections:

- 7.44.01 Illegal
- 7.44.02 Definitions
- 7.44.03 Penalty

7.44.01 Illegal It shall be unlawful for any person to loiter upon or frequent the sidewalks, streets, highways, alleys or other public places within the city.

7.44.02 Definitions A person commits the offense of loitering if he:

- A. lingers, remains, or prowls in a public place or the premises of another without apparent reason and under circumstances that warrant alarm or concern for the safety of person or property in the vicinity, and, upon inquiry by a law enforcement officer, refuses to identify himself and give a reasonably credible account of his presence and purpose; or
- B. lingers, remains, or prowls in or near a school building, not having any reason or relationship involving custody of or responsibility for a student, and not having written permission from anyone authorized to grant the same; or
- C. lingers or remains in a public place or on the premises of another for the purpose of begging; or
- D. lingers or remains in a public place for the purpose of unlawfully gambling; or
- E. lingers or remains in a public place for the purpose of engaging or soliciting another person to engage in prostitution or deviate sexual activity; or
- F. lingers or remains in a public place for the purpose of unlawfully buying, distributing, or using a controlled substance; or
- G. lingers or remains on or about the premises of another for the purpose of spying upon or invading the privacy of another.

Among the circumstances that may be considered in determining whether a person is loitering are that the person:

- A. takes flight upon the appearance of a law enforcement officer; or
- B. refuses to identify himself; or
- C. manifestly endeavors to conceal himself or any object.

Unless flight by the actor or other circumstances make it impracticable, a law enforcement officer shall, prior to an arrest for an offense under subsection A of this section, afford the actor an opportunity to dispel any alarm that would otherwise be warranted by requesting him to identify himself and explain his presence and conduct. It shall be a defense to a prosecution under 7.44.02A that the law enforcement officer did not afford the defendant an opportunity to identify himself and explain his presence and conduct, or if it appears at trial that an explanation given by the defendant to the officer was true, and, if believed by the officer at that time, would have dispelled the alarm.

7.44.03 Penalty As set out in A.C.A. 5-71-213, loitering is a Class C misdemeanor punishable by a maximum fine of One Hundred Dollars (\$100.00) .

REFERENCE: A.C.A. 5-71-213.

CHAPTER 7.48

TRANSPORTING HAZARDOUS MATERIALS

Sections:

7.48.01 Hazardous materials

7.48.01 Hazardous materials

- A. It is the purpose of this ordinance to restrict the carrying or hauling of any hazardous materials on Philips Street between Columbia Street and Don Street, and on Don Street between Phillips Street and Moore Street.

REFERENCE: West Helena Ord. No. 3498.

- B. The Helena Municipal Water Company will install and maintain proper signage to inform the public of this prohibition.

REFERENCE: West Helena Ord. No. 3498.

CHAPTER 7.52

HISTORIC DISTRICT

Sections:

7.52.01 Created
7.52.02 Area
7.52.03 Definitions
7.52.04 Certificate of Appropriateness

7.52.05	Hearings
7.52.06	Ordinary maintenance and repair
7.52.07	Appeals
7.52.08	Filing fee
7.52.09	Members of Commission
7.52.10	Fine

7.52.01 Created It is hereby found and determined that certain areas, improvements, and districts within the city have a special character of special historic or aesthetic interest of value and represent architectural products of distinct periods in the history of the city, and that said areas, improvements, and districts are in danger of being uprooted or having their distinctiveness destroyed without adequate consideration of the irreplaceable loss of the aesthetic, cultural, and historic values represented by such areas, improvements and districts, and therefore the preservation thereof is both feasible and desirable to the people of the city.

It is hereby declared as a matter of public policy that the protection, enhancement, perpetuation and use of such areas, improvements, and districts of special character or special historic or aesthetic interest or value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the people of this city. The purpose of this ordinance is to

- A. Effect and accomplish the protection, enhancement, and perpetuation of such areas and improvements and of district which represent or reflect elements of the city's cultural, social, economic, political, and architectural history;
- B. Safeguard the city's historic, aesthetic, and cultural heritage, as embodied and reflected in such areas, improvements and districts;
- C. Stabilize and improve property values in such districts;
- D. Foster civic pride in the beauty and accomplishments of the past;
- E. Protect and enhance the city's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided;
- F. Strengthen the economy of the city; and
- G. Promote the use of historic districts and landmarks for the education, pleasure, and welfare of the people of the city. (Ord. No. 2006-3, Sec. 1.)

7.52.02 Area The Historic District hereby created shall consist of that area of the city shown on Exhibit "A: which is attached hereto and made a part thereof and more particularly described as follows, to-wit:

The Old Helena Historic District begins at a point which is the intersection of the centerlines of Missouri and Yazoo Streets from said point runs north along the centerline of the alley between Cherry and Walnut Streets to the centerline of Perry Street; thence runs east to the centerline of Perry Street and the alley behind the Phillips County Courthouse (½ block east of Cherry Street). From said point the district boundary extends south down the centerline of said alley to the point where this line intersects the centerline of Porter Street; thence runs east to the Mississippi River levee. From this point the boundary extends south along the levee (to include the geographic area that contains the old railroad tressel apparatus) to the southeast corner of the railroad depot located on Natchez Street. From this point on the levee, the boundary runs west to the centerline of Yazoo Street (to include all of the buildings that face Missouri and Cherry Streets). From said point on Yazoo Street the boundary runs north to the point of beginning, which is, the intersection of the centerlines of Missouri and Yazoo Streets. All property within the defined boundary lines would comprise the Old Helena Historic District. (Ord. No. 2006-3, Sec. 2.)

7.52.03 Definitions

Alteration – any project involving change to an existing building, site, or grounds.

Area of influence – the affected area to be notified for a public hearing is constituted by those properties located within a 150 foot radius of the subject property.

Building – any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, or business activities.

Color – a good color scheme will favorably accent a building's features and express individuality while complementing the neighborhood. Any color scheme should start with the selection of wall color. Color can be accented by using a lighter or darker tone in the same color range or a different color for the trim. If no accent is desired, the trim can be the same color as the walls.

Detailing – architectural aspects that, due to particular treatment, draw attention to certain parts or features of a building.

Entrance area – the area of access to the interior of the building including the design, location, and materials.

Exterior architectural features – the architectural style, general design, and arrangement of the exterior of a structure.

Façade – any exterior portion of a building that is readily visible from a public street.

Height – the vertical distance as measured through the central axis of the building from the elevation of the lowest finished floor level to the highest point of the building.

Massing – volume, magnitude, or overall size of a building.

Ordinary maintenance – those improvements which do not change but simply upgrade a structure, including but not limited to: repairing broken windows and gutters, repairing awnings, repairing roofs sidewalks, and parking lots.

Pitch – degree of inclination.

Proportion – relationship of height to width of the building outline as well as individual components.

Roof area – the outside covering of a building or structure extending above the vertical walls.

Rhythm - a harmonious or orderly recurrence of compositional elements at regular intervals, including the location of doors and the placement of windows.

Scale – the relative dimension, size, degree, or proportion of parts of a building to one another or group of buildings.

Sidelight – a narrow window flanking a door.

Siting – location of building in relationship to the legal boundaries and setbacks, adjacent properties, and the natural conditions of the site.

Structure – any improvement on the land which extends above ground level.

Texture – the visual or tactile surface characteristics created by shape, arrangement, and distribution of the component materials.

Wall areas – the vertical architectural member used to define and divide space including the kind and texture and exposure of wall sidings and trims, and the location, number, and design of all window and door openings. (Ord. No. 2006-3, Sec. 3.)

7.52.04 Certificate of Appropriateness No exterior façade alteration or restoration (including the addition of new signs), no erection, moving or demolition of any building or appurtenant fixtures shall take place within said Historic District until after an application for a Certificate of Appropriateness as to the exterior architectural changes has been submitted to and approved by the Helena-West Helena Historic District Commission. An application for a

Certificate of Appropriateness shall have been issued by the Commission prior to the issuance of a building permit or other permit granted for purposes of constructing or altering structures within said district.

In its deliberation under this ordinance, said Commission shall not consider interior arrangement or use and shall take no action hereunder except for the purpose of preventing the construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures or appurtenant fixtures in said District, which are deemed by the Commission to be obviously incongruous with the historic aspects of the District.

In making such determinations the Commission shall use as its review guidelines the National Trust for Historic Preservation's publication *Main Street: Keeping Up Appearances* and the Secretary of the Interior's *Standards for Rehabilitation*, and shall consider without being limited to the following criteria:

- A. Proposed repairs, alterations, new construction, moving or demolition in the Historic District shall respect and relate to the special character of the District. Changes shall be evaluated on the basis of:
 - 1. The purpose of the ordinance;
 - 2. The architectural or historic value of significance of a building and its relationship to the surrounding area;
 - 3. The general compatibility of proposed changes; and
 - 4. Any other factor, including visual and aesthetic, considered pertinent.
- B. Repairs considered as part of a building's ordinary maintenance are those that do not change but simply upgrade a structure, including painting, repairing broken windows and gutters, repairing and replacing roofs, repair of awnings, repairing sidewalks and parking lots. These repairs shall not require a Certificate of Appropriateness.

Maintenance and repair The owner or other person having legal custody of any building or structure within the Cherry Street Historic District shall keep the structure property maintained and repaired. It will be the responsibility of such owners to repair a structure if it is found to have deterioration, within the context of the U.S. Secretary of the Department of the Interior' *Guidelines for Rehabilitation of Historic Buildings*, but not limited to:

- 1. The deterioration of exterior walls or other vertical support;
- 2. The deterioration of external chimneys;
- 3. The deterioration of roofs or other horizontal members;
- 4. The ineffective waterproofing of exterior walls, roofs, foundations, including broken windows and doors;

5. The peeling of paint, rotting, holes and other forms of decay;
6. The lack of maintenance of surrounding environment, e.g., fences, gates, sidewalks, steps, signs, and ancillary structures.

The HDC may notify the property owner in written personally or be certified mail of any violations of these maintenance requirements by giving details of the violation along with a time period no shorter than sixty (60) days, but no longer than a time period that as required to remedy the violation and consequences of failure to remedy the violation. (Ord. No. 2007-12, Sec. 1.)

- C. The Commission shall encourage proposed changes which reflect the original design of the structure, based on photographs, written description or other historical documentation, and be guided by the following preferences:
1. It is preferable to preserve by maintenance rather than to repair original features of the building.
 2. It is preferable to repair rather than to reconstruct if possible.
 3. It is preferable to restore by reconstruction of original features rather than to remove or remodel.
- D. When evaluating the general compatibility of alterations to the exterior of any building in the Historic District, the Commission shall consider, but not be limited to, the following factors within the building's area of influence:
1. Siting
 2. Height
 3. Proportion
 4. Rhythm
 5. Roof area
 6. Entrance area
 7. Wall areas
 8. Detailing
 9. Façade
 10. Scale
 11. Massing
 12. Signage
 13. Paint color

All of these terms are defined in 7.52.03 above.

- E. Additions to existing buildings shall be judged in the same manner as new construction and shall complement the District and the building's area of

influence, and should not interfere with any outstanding architectural feature. Decoration of the exterior should blend with existing window hoods, glass transoms, ornamental ironwork, brick, and terra cotta decoration.

- F. Generally, new construction shall be judged on its ability to blend with the existing district and area of influence. The Commission shall consider, but not be limited to the factors listed for alterations in Subsection (D). New buildings or additions need not replicate earlier styles or building practices but should be able to stand as compatible contemporary designs of cohesive architecture to period buildings.
- G. A Certificate of Appropriateness is not required for repairs, alterations, new construction, moving or demolitions that are not visible from the street or streets which abut the subject property. (Ord. No. 2006-3, Sec. 4.)

7.52.05 Hearings

- A. Upon receipt of an application for a Certification of Appropriateness, the Helena-West Helena Historic District Commission shall make a preliminary determination as to the properties, if any, which will be materially affected by any of the changes proposed in said application, which shall include all properties located within a 150 foot radius of the property which is the subject of the application. The Commission shall forthwith send by mail, postage prepaid, to the applicant and to the owners of all such affected properties, a notice of hearing to be held by the Commission on said application. Notices of the public hearing shall be mailed at least ten (10) days prior to the hearing, and a notice of such hearing shall be published in a newspaper having circulation throughout the city of Helena-West Helena fifteen (15) days prior to the hearing. The cost of such notices shall be paid by the applicant through the application fee.
- B. At the public hearing, the Commission shall hear all persons desiring to present information regarding the application. After such public hearing, the Helena-West Helena Historic District Commission shall make its determination as to the appropriateness of the proposed change. The Commission may immediately announce its decision or defer the matter to its next regularly scheduled meeting or reschedule the application for further consideration at such other public hearings as are deemed necessary or desirable in order to fully develop the facts and circumstances surrounding any one particular application. No application or Certificate of Appropriateness for a purpose other than demolition shall be deferred at the instance of the Commission longer than ninety (90) days from the date of the first public hearing without consent of the applicant. Further, if the Commission has rendered no decision on the application for a purpose other than

demolition within ninety (90) days from the time of the first public hearing unless having been approved by the applicant, the Certificate of Appropriateness shall be issued.

- C. If the application for a Certificate of Appropriateness involves the demolition of a building which the Commission initially determines to be an inappropriate demolition, then notwithstanding said determination the Commission may defer the matter until such time as the Commission has had an opportunity to consider the following alternatives to the demolition of subject property.
1. Sources of funding for preservation and restoration activities, if lack of such funds is the reason for the request to demolish.
 2. Adaptive use changes, if there are conditions under which the required preservation of a historic landmark would cause undue hardship to the owner or owners, so long as such changes are in keeping with the spirit and intent of this ordinance.
 3. An attempt to find a purchaser for the property who would maintain the landmark in a suitable and acceptable manner within the limits of the Commission ordinance.
 4. The feasibility of moving the structure to another appropriate location.
 5. Any other solution as maybe deemed advisable and in keeping with the spirit and intent of this ordinance.

During the time the Commission is considering any one of the alternatives herein set out, progress reports shall be made by the Commission and/or its staff at each regularly scheduled meeting of the Commission. If at the expiration of six (6) calendar months from the date of the first public hearing of an application for demolition, the Commission has not found a viable alternative to the demolition of the property, the Commission shall reschedule the matter for public hearing requiring notices as aforesaid, and upon said public hearing, make its final determination as to the application. In such cases, the public hearing for final determination shall be held within one (1) calendar month after the expiration of the six (6) months from the date of the first public hearing, and at the second public hearing, the Commission may hear such matters as are considered necessary or desirable to fully advise the Commission of all facts and circumstances as then exist as they pertain to the proposed demolition. At the second public hearing, the Commission may immediately announce its decision or take the matter under advisement to its next regularly scheduled meeting for the

purpose of further consideration, but in no event longer than two (2) calendar months after the expiration of the six (6) months following the first public hearing, the Commission shall consider the application as having been approved and shall issued a Certificate of Appropriateness.

- D. In addition to considering the matters brought to the Commission's attention and the criteria herein above set out in 7.52.04, the Commission may determine that failure to issue a Certificate of Appropriateness will involve a substantial hardship to the applicant, and notwithstanding that it may be inappropriate, owing to conditions especially affecting the structure but not affecting the District generally. Such certificate may be issued without substantial detriment to the public welfare and without substantial derogation from the intent and purpose of this ordinance, and the Commission may approve such application and grant a Certificate of Appropriateness for the activity proposed.
- E. If the Commission determines that a Certificate of Appropriateness should not be issued, it shall place upon its record the reasons for such determination and may include recommendations respecting the proposed construction, reconstruction, alteration, restoration, moving or demolition.
- F. No person shall be granted a building permit or other construction permit by the city with reference to any structure located within the District until all requirements of this ordinance have been complied with. (Ord. No. 2006-3, Sec. 5.)

7.52.06 Ordinary maintenance and repair Nothing in this ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the District which does not involve a change in design, material, color, or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration or demolition of any such feature which the Building Inspector of similar agenda of the city prior to the effective date of the establishment of said District. A copy of any condemnation notice or demolition permit issued by the Building Inspector for a building in the District must be submitted to the Commission for its review within ten (10) days of filing with the city. (Ord. No. 2006-3, Sec. 6.)

7.52.07 Appeals A decision made by the Commission is, in the city's opinion, final. Any applicant aggrieved by the determination of the Commission, may, within thirty (30) days after the making of such decision, appeal the determination to the Phillips County District Court. The Court shall hear all pertinent evidence and shall annul the determination of the Commission if it finds and can demonstrate that the reasons given for such determination to be unsupported by the evidence and may make such other decree as justice and equity may require. The remedy provided in this section shall be exclusive, but the applicant shall have all rights of appeal as in other equity cases. (Ord. No. 2006-3, Sec. 7.)

7.52.08 Filing fee Applicant for Certificate of Appropriateness must contact the office of the City Clerk of the city of Helena-West Helena for information concerning applications. All applications must be filled out completely and a filing fee of Twenty-Five Dollars (\$25.00) must be paid upon submission of the completed application. This fee shall be designated for a fund which will directly support the administration of this ordinance. (Ord. No. 2007)

7.52.09 Members of Commission The Commission will consist of nine (9) members appointed by the Mayor. Their terms will be determined by applicable state law. Their bylaws and operation will be in compliance with applicable state law. (Ord. No. 2006-3, Sec. 8.)

7.52.10 Fine Any property owner who violates any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than Fifty Dollars (\$50.00) or more than One Thousand Dollars (\$1,000.00) each day that a violation continues to exist shall constitute a separate offense. (Ord. No. 2007.)

CHAPTER 7.56

FALSE ALARMS

Sections:

7.56.01	Title
7.56.02	Purpose
7.56.03	Definitions
7.56.04	Exclusions
7.56.05	Monitoring stations
7.56.06	Monitoring station's notice to alarm users
7.56.07	Duties of alarm user
7.56.08	Penalty
7.56.09	Defective systems and notices
7.56.10	Connection to telephone lines
7.56.11	Additional alarm system requirements
7.56.12	Penalties

7.56.01 Title This ordinance may be known and cited as the False Alarm Reduction Ordinance. (Ord. No. 2007, Jun. 19.)

7.56.02 Purpose The purpose of this ordinance is to encourage alarm owners and alarm monitoring businesses to assume appropriate responsibility for the maintenance and mechanical

reliability of alarm systems; to prevent unnecessary responses to unwarranted or false by emergency personnel and equipment; and, or protect all citizens from the dangers of emergency personnel and equipment being inappropriately utilized because of answers to unwarranted alarms. (Ord. No. 2007, Jun. 19.)

7.56.03 Definitions The following words as used in this ordinance shall be defined as follows unless the context clearly indicates differently.

Alarm agent means an individual, partnership, corporation or other entity in the business of monitoring, or causing to be monitored, any alarm system in or upon any building, structure, or facility.

Alarm system means any assembly of electrical, electronic or mechanical equipment, arranged to signal the occurrence of an illegal entry of activity requiring urgent attention and to which emergency personnel are notified to respond.

Alarm user means any person, firm, partnership, corporation, company, or organization of any kind, which owns, controls, or occupies any building, structure, or facility wherein an alarm system is maintained unless the system is designed and intended only to alert persons inside the building, structure, or facility and does not employ any audible signal emitting sounds, a flashing light, or a beacon designated to signal persons outside the premises.

Automatic dialing device means a device that is interconnected to a telephone line and is programmed to select a predetermined telephone number and transmit a voice message or code signal an emergency indication a need for emergency.

Emergency personnel means any sworn police officer or certified firefighter of the city of Helena-West Helena.

False alarm means any request for immediate assistance of emergency personnel that is not a response to an actual emergency situation or threatened criminal activity. The term "false alarm" includes any negligently or accidentally activated signals, as well as any signal that is the result of faulty, malfunctioning, or improperly installed or maintained equipment, or as an act of God, or any signal or call of any type that is purposely activated to summon a law enforcement of Fire Department agency in a non-emergency situation. The term "false alarm" also includes any emergency call for help, which results in an emergency response that is later determined to be totally unnecessary.

Monitoring station means an office to which an alarm system is connected so operators can supervise either the alarm circuits or answer incoming alarm telephone signals, and where human operators then notify the city 9-1-1 center or a private security agency to investigate that alarm.

Sound emission cutoff feature means a feature of an alarm system, which causes an audible alarm to stop, emitting, sound within fifteen (15) minutes of being activated. (Ord. No. 2007, Jun. 19.)

7.56.04 Exclusions Notwithstanding any other provision of this ordinance, the term “false alarm” does not include:

- A. A signal willfully activated by an alarm user, or by an alarm agent, upon good faith belief that an actual or threatened emergency situation is about to occur.
- B. A signal from a health care facility, hotel, or residential housing facility which maintain its own alarm system and has trained personnel of staff to deal with alarm maintenance. (Ord. No. 2007, Jun. 19.)

7.56.05 Monitoring stations No monitoring station shall monitor an alarm system within the city of Helena-West Helena unless they first provide the City Council with the following information:

- A. Each location where a monitoring station is to be located;
- B. The name, address, and telephone number of the monitoring station, and;
- C. The type of business organization that (individual, partnership, or corporation).

If the monitoring station is an individual proprietorship, the name, address, and telephone number of each partner shall also be provided. If the monitoring station is a corporation, the name and address of its registered agent, and the state where incorporated shall be provided. (Ord. No. 2007, Jun. 19)

7.56.06 Monitoring station’s notice to alarm users

- A. It is the duty of the alarm agent or monitoring station to promptly notify the alarm user, or its designated representative, of any activation of the alarm user’s alarm system to which emergency personnel will be requested.
- B. When an alarm agent or monitoring station’s service to its subscribers is disrupted or any reason by the alarm agent or monitoring station becomes aware of such disruption, it shall promptly notify its subscribers that protection is no longer being provided unless written instructions from the subscriber request such notification not be made during certain hours. (Ord. No. 2007, Jun. 19.)

7.56.07 Duties of alarm user Any alarm user who has not contracted with an alarm agent to respond to the scene of alarm activations shall respond to the scene within fifteen (15) minutes after alarm activation unless good cause is shown.

- A. If an alarm user request an emergency response to an alarm activation, the user shall, in addition to other relevant information, provide the city 9-1-1 Center with:
1. The identity of the caller;
 2. The name of the system owner, and
 3. The address of the system owner.
- B. The information required in this section is not a prerequisite to the provision of emergency services. Any caller unable to provide the required information due to exigent circumstances shall receive prompt response as though the information had been provided.
- C. The failure of an alarm user, or his agent, to respond to the scene of an alarm activation after a request to do so, or failure to respond within the time required by this ordinance, shall be a violation of this ordinance and shall be subject to the penalties set forth in 7.56.08, in addition to any civil penalties which may be imposed. (Ord. No. 2007, Jun. 19.)

7.56.08 Penalty An alarm system that is either negligently or accidentally activated as the result of faulty, malfunctioning, or improperly installed or maintained equipment, or as a result of an act of God, or purposely activated when there is no emergency shall be subject to civil or criminal penalty, or both as set out below. The Helena-West Helena Police Department or the Helena-West Helena Fire Department upon notice may issue a citation for "false alarm" to an alarm user or alarm agent, if the number of false alarms not purposely initiated to which any such agency actually responds exceeds three (3) responses within a 12 month period or bill the alarm user or other such person as set out below. Or such person may be subject to both civil and criminal penalties. Any person purposely activating a false alarm may be subject to civil and/or criminal penalties for each such occurrence, or both civil penalties and criminal penalties. Prosecution of criminal violations shall be heard in the Helena-West Helena District Court.

Civil violations and penalties Violation of any of the provisions of this ordinance shall result in a civil penalty as follows:

- A. For the first finding that this ordinance has been violated, a civil penalty of Twenty-Five Dollars (\$25.00);
- B. For the second finding within a 12 month period that this ordinance has been violated, a civil penalty of Fifty Dollars (\$50.00);
- C. For the third, or any subsequent finding within a 12 month period that this ordinance had been violated, or for each violation wherein a false alarm has been purposely activated, a civil penalty of Seventy-Five Dollars (\$75.00).

Note: This also includes 9-1-1 call received because of minor children playing with a telephone.

Administrative hearing The Helena-West Helena City Council shall designate a hearing officer to hear administrative appeals of civil penalties. The party desiring a hearing shall notify the hearing officers in writing within ten (10) working days of assessment of the civil penalty. The hearing officer may review written evidence, testimony, or both, in making his determination. His decision shall be communicated in writing to the appellant and the department affected. (Ord. No. 2007, Jun. 19.)

7.56.09 Defective systems and notices

- A. No person shall permit a defective alarm system to be in operation on property that they own or control.
- B. An alarm system is presumed to be defective if more than three (3) false alarms occur within a 12 month period.
- C. A lack of physical evidence of an attempt to break into a residence or business, or the lack of physical evidence of a fire or smoke, or other emergency, shall create a rebuttable presumption that an alarm system is defective.
- D. Any person convicted of violating the provisions of this section shall be subject to punishment in accordance with 7.56.09 of this code.
- E. It shall be an affirmative defense to prosecution under this section that an alarm user contracted with an alarm agent or other agency to maintain, repair, modify or replace a defective alarm system and that the alarm agent failed or refused to promptly make such maintenance, repair, modification or replacement, resulting in the false alarm. (Ord. No. 2007, Jun. 19.)

7.56.10 Connection to telephone lines It shall be unlawful for any person to program an automatic dialing device to select any telephone line assigned to the city, and it is unlawful for an alarm user to fail to disconnect or reprogram such a device within twelve (12) hours of receipt of written notice from the city that an automatic dialing device is so programmed. (Ord. No. 2007, Jun. 19.)

7.56.11 Addition alarms system requirements Any alarm system which can be heard outside the building, structure, or facility of the alarm user shall be equipped to:

- A. Automatically silence the annunciation within fifteen (15) minutes after the activation; and
- B. Permit an accidental or negligent alarm activation to be halted or reset. (Ord. No. 2007)

7.56.12 Penalties Unless specifically enumerated herein, any person convicted of violation of any of the provisions of this article shall be punished as provided in 7.56.08. (Ord. No. 2007, Jun. 19.)

CHAPTER 7.60

SMOKING IN PUBLIC PLACES

Sections:

7.60.01	General restrictions
7.60.02	Voluntary smoke free policy
7.60.03	General restrictions for workplaces
7.60.04	Non-retaliation
7.60.05	Outdoor restrictions
7.60.06	Posting signs
7.60.07	Public education
7.60.08	Enforcement
7.60.09	Penalties
7.60.10	Power to adopt more comprehensive policies
7.60.11	Other applicable laws

7.60.01 General restrictions Smoking shall be prohibited at all times in all enclosed public places within Helena-West Helena including, but not limited to, the following places:

- A. All enclosed areas available to and customarily used by the general public and all areas of business establishments and non-profit entities generally accessible to the public, including, but not limited to, the public areas of retail stores, banks, offices, movie theaters, laundromats, hotels, motels, sports arenas, bowling facilities.
- B. All restaurants and bars in accordance with N.J.S.A. 26: 3E-7 to 26: 3E-13.
- C. All outdoor areas within ten (10) linear feet from any and all entrances and exits of any and all enclosed indoor areas where smoking is prohibited, to ensure that tobacco smoke does not enter the smoke free indoor areas through entrances, windows, ventilation systems, or any other means.
- D. All rest rooms, lobbies, reception areas, hallways, elevators, service lines, and any other common-use areas in enclosed public places.

- E. All polling places.
- F. All places that host bingo games.
- G. All lobbies, hallway, elevators, and other common areas of multi-unit residential buildings, including, but not limited to, apartment buildings, condominiums, town houses, trailer parks, retirement facilities, and nursing homes.
- H. All buses, taxis, other means of public transit and waiting areas of public transit depots, and limousine and car services.
- I. All private residences that are used as childcare or healthcare facilities.
- J. All healthcare facilities, including but not limited to, clinics, physical therapy facilities, and offices of doctors, dentists, chiropractors, and psychiatrists.
- K. All enclosed facilities owned, leased or operated by [municipality name].
(Ord. No. 2008-6, Sec. 1.)

7.60.02 Voluntary smoke free policy Notwithstanding any other provision of this section, any owner, operator, manager, or other person who controls any establishment or facility may declare that entire establishment or facility as a smoke free establishment. (Ord. No. 2008-6, Sec. 2.)

7.60.03 General restriction for workplaces All employers within the boundaries of Helena-West Helena shall provide a smoke free workplace for all employees. Smoking shall be prohibited in all enclosed facilities within the workplace at all times without exception. This includes, but is not limited to, all common work areas, private offices and work areas, meeting rooms, conference rooms, auditoriums, classrooms, hallways, elevators, stairs, cafeterias, employee lounges, rest rooms, medical facilities, and all other enclosed areas, including vehicles. The employer shall adopt and provide a written policy within ninety (90) days of the effective date of this ordinance, and that smoke free policy shall be in effect, making that workplace smoke free within one hundred twenty (120) days of the effective date of this ordinance. The employer will provide all employees with a copy of the policy within two (2) weeks of its adoption. All prospective employees will receive a copy of the policy. (Ord. No. 2008-6, Sec. 3.)

7.60.04 Non-retaliation No person or employer shall discharge, refuse to hire, or in any manner retaliate against any employee or applicant for requesting or promoting a smoke free workplace or filing a complaint with the city regarding a smoke free workplace. (Ord. No. 2008-6, Sec. 4.)

7.60.05 Outdoor restrictions It is unlawful for any person to smoke tobacco on the property of any and all educational facilities, and at any and all recreational facilities, parks, playgrounds, sports field, and recreational properties that are owned, lease, or operated by the city of Helena-West Helena or the city of Helena-West Helena Housing Commission. (Ord. No. 2008-6, Sec. 5.)

7.60.06 Posting signs

- A. A "No Smoking" sign shall be clearly, sufficiently, and conspicuously posted at every entrance to every public place where smoking is prohibited by this ordinance.
- B. The sign(s) shall be posted by the owner, operator, manager, or other person having control of such building or other area.
- C. The sign(s) shall have the words "No Smoking" in lettering that is not less than two (2) inches in height, or shall contain the international no smoking sign or symbol (consisting of a pictorial representation of a burning cigarette enclosed in a circle with a bar diagonally through the cigarette) that is not less than two (2) inches in height.
- D. Signs that are removed shall be replaced within five (5) working days by the owner, operator, manager, or other person having control of such building or other area. (Ord. No. 2008-6, Sec. 6.)

7.60.07 Public education The Health Officer, or designee, shall engage in a continuing program to explain and clarify the purpose and requirements of this ordinance to citizens affected by this ordinance, and to guide owners, operators, and managers in their compliance. Such a program may include publications explaining the provisions of this ordinance. (Ord. No. 2008-6, Sec. 7.)

7.60.08 Enforcement The Health Officer, or designee, and the Police Department are hereby charged with the enforcement of this ordinance. All members of the Health Department and the Police Department are hereby designated as enforcement officers for the purpose of enforcement of this ordinance. Enforcement shall be implemented by the Mayor or his designee. Notices of this ordinance shall be given to all applicants for a business license in Helena-West Helena. Any employee or person who desires to register a complaint under this ordinance may initiate enforcement with the Code Enforcement Officer.

Notwithstanding any other provision of this article, any person or employee may bring legal action to enforce this article. The legal action anticipated by the ordinance is the filing on an affidavit in Phillip County/Helena-West Helena District court for a warrant of arrest for an

alleged violator of this ordinance. Any owner, manager, operator, or employee of any establishment regulated by this article may inform persons violating this article of the appropriate provisions thereof. (Ord. No. 2008-6, Sec. 8.)

7.60.09 Penalties It shall be a violation of this ordinance for any owner, operator, manager, or person who controls any premises subject to this ordinance to fail to comply with any of its provisions. It shall be unlawful to smoke or carry a lighted cigarette, cigar, or pipe where smoking is prohibited.

Any person who violates any provision of this ordinance shall be guilty of an infraction, punishable by:

- A. A fine not exceeding One Hundred Dollars (\$100.00) for the first violation.
- B. A fine not exceeding Two Hundred Dollars (\$200.00), but no less than One Hundred Dollars (\$100.00), for the second violation.
- C. A fine not exceeding Five Hundred Dollars (\$500.00), but no less than Two Hundred Dollars (\$200.00), for the third violation.
(Ord. No. 2008-6, Sec. 9.)

7.60.10 Power to adopt more comprehensive smoke free policies Notwithstanding any other provision of this ordinance, any owner, operator, manager, employer, or other person who controls any establishment or place of employment regulated by this ordinance may adopt policies relating to smoking which are more comprehensive than those provided herein. (Ord. No. 2008-6, Sec. 10.)

7.60.11 Other applicable laws No provision in this ordinance shall be construed or interpreted to allow smoking where it is otherwise restricted by other laws. (Ord. No. 2008-6, Sec. 11.)