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# **TITLE - A CODE FOR CITY OFFENSES INVOLVING PUBLIC SAFETY, HEALTH AND WELFARE**

## **ARTICLE I – GENERAL**

### **CHAPTER 1 – GENERAL**

#### **SECTION 1: TITLE**

- 1.1** This Code shall be known as, referred to and cited as “The City of Russellville, Arkansas, Code for Offenses Involving Public Safety, Health and Welfare.” Any reference to the word “Code” in this Chapter shall mean this Title and all Articles contained therein.

#### **SECTION 2: PRIOR ACTS OF THE CITY ELECTED OFFICIALS, CITY EMPLOYEES AND SAVINGS**

- 2.1** The repeal of any prior ordinance or portion thereof by adoption of this Code shall not affect or impair any act done or right vested or accrued before such repeal takes effect but every such act done or right vested or accrued shall remain in full force and effect to all intents and purposes as if such repeal had not taken place. No act or duty performed in the past by any City officials or employees shall be deemed invalid while the City officials or employees were operating under the authority of state law, prior ordinances or part thereof that are repealed by this Code. All acts prior to the passage of this Code viewed within all respects as if such prior ordinances or part thereof had not been repealed.
- 2.2** The repeal or amendment of prior ordinances does not release or extinguish any penalty, forfeiture, or liability incurred or right accruing or accrued under prior ordinances, unless the repealing or amending act so provides expressly. Those prior ordinances shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of the right, penalty, forfeiture, or liability.
- 2.3** The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.

#### **SECTION 3: SEVERABILITY**

- 3.1** If any Code, Article, Chapter, Section, Subsection, Provision, Paragraph, Sentence, Clause, or Phrase of this Code is declared unconstitutional or invalid for any reason by a court of competent jurisdiction, such decision shall not affect the validity of the remaining parts of this Code.

#### **SECTION 4: AMENDMENTS TO CODE.**

- 4.1** All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code, may be numbered in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repealed titles, chapters, sections or subsections or any part thereof, by subsequent ordinances, such

repealed portions may be excluded from the Code by omission from reprinted pages affected thereby.

- 4.2** Amendment to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section of the City of Russellville, Arkansas, Code for Offenses Involving Public Safety Code is hereby amended to read as follows:..." The new provisions shall then be set out in full.
- 4.3** In the event a new section not heretofore existing in this Code is to be added, the following language shall be used: "That the Code for Offenses Involving Public Safety is hereby amended by adding a section (or Codes or chapter) to be numbered which said section (or Code or chapter) reads as follows: The new provisions shall then be set out in full.
- 4.4** All sections, codes, chapters or provisions desired to be repealed must be specifically repealed by section, code, or chapter number, as the case may be.

## **SECTION 5: REPEALER**

- 5.1** Ordinance Nos. 490, 1564, 2122, 2125 and 2127 are hereby repealed in their entirety.
- 5.2** Ordinance Nos. 1515 and 1573 are hereby repealed in their entirety.
- 5.3** Ordinance No. 2002 is hereby repealed in its entirety.
- 5.4** Ordinance Nos. 1278, 2289 and 2291 are hereby repealed in their entirety.
- 5.5** Ordinance Nos. 1676, 1803, 1843, 1850, 1886, 1918, 1995, 2191, 2314, 2318 and 2447 are hereby repealed in their entirety.
- 5.6** Ordinance Nos. 32, 1765 and 2012 are hereby repealed in their entirety.
- 5.7** Ordinance Nos. 1895 and 1914 are hereby repealed in their entirety.
- 5.8** Ordinance Nos. 1847 and 2304 are hereby repealed in their entirety.
- 5.9** Ordinance No. 1724, 1750, 1752 and 1782 are hereby repealed in their entirety.
- 5.10** Ordinance Nos. 2449 and 2466 are hereby repealed in their entirety.
- 5.11** Ordinance Nos. 678 and 2207 are hereby repealed in their entirety.
- 5.12** Ordinance Nos. 628 and 1978 are hereby repealed in their entirety.
- 5.13** Ordinance No. 2084 is hereby repealed in their entirety.
- 5.14** Ordinance No. 551 is hereby repealed in its entirety.
- 5.15** Ordinance Nos. 55 and 372 are hereby repealed in their entirety.
- 5.16** Ordinance No. 1382 is hereby repealed in its entirety.
- 5.17** Any ordinance or code in conflict with this Code is hereby repealed.

## **SECTION 6: VIOLATION PENALTIES.**

- 6.1** Unless stated elsewhere specifically in a Chapter or Section, pursuant to A.C.A. §14-55-501, any person violates any Section of this Code shall be guilty of a misdemeanor and shall be liable to a fine of not less than \$100.00, up to, but not exceeding:
- 6.1.1** One thousand dollars (\$1,000.00) for the first offense;
  - 6.1.2** Two thousand dollars (\$2,000.00) for the second offense;
  - 6.1.3** Four thousand dollars (\$4,000.00) for each subsequent offense after the second offense;
  - 6.1.4** Plus court costs and applicable fees.
- 6.2** Each day such violation is permitted to exist shall constitute a separate offense.
- 6.3** If it is found that any violation of this Code is found to be continuous in respect to time, the fine or penalty for allowing the continuous thereof, in violation of this Code, shall not exceed five hundred dollars (\$500.00) for each day that it is unlawfully continued, plus court costs and applicable fees.

## **SECTION 7: DEFINITIONS**

The following definitions shall apply throughout this Title and Code:

- 7.1** “A.C.A.” mean the abbreviation "A.C.A." means the Arkansas Code of 1987 Annotated, as amended or revised in the future.
- 7.2** “City”, “*municipal corporation*” or “*municipality*” means the City of Russellville, Arkansas, a municipal corporation organized and incorporated under the laws of the State of Arkansas.
- 7.3** “*City council*” or “*council*” means the term "city council" or "council" means the City Council of the City of Russellville, Arkansas, organized as a Mayor-Council form of city government.
- 7.4** “*Code*” means all the various Codes contained in this Title.
- 7.5** “*County*” means Pope County, Arkansas.
- 7.6** “*Emancipated Juvenile*” means a juvenile 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.
- 7.6** “*Juvenile*” means any unemancipated or unmarried person under the age of eighteen (18) years of age.
- 7.7** “*Law Enforcement Officer*” or “*Police Officer*” as used in this Title and Code shall mean any appointed or elected law enforcement officer employed by the City public law enforcement department, office, or agency who: 1) is responsible for the prevention and detection of crime and the enforcement of the criminal, traffic, or highway laws of this state; 2) has met the selection and training requirements for certification set by the Arkansas Commission on Law Enforcement Standards and Training; and 3) vested by law with a duty to maintain order or to make arrests for offenses.

- 7.8** “*Minor*” means any unemancipated or unmarried person under the age of eighteen (18) years of age.
- 7.9** “*Motor vehicle*” means a self-propelled device or vehicle in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks
- 7.10** “*Parent*” means any person having legal custody of a juvenile: i) as a natural parent; ii) as an adoptive parent; iii) as a legal guardian; or, iv) as a person to whom legal custody has been given by order of a court.
- 7.11** “*Person*” means any individual person or a corporation, association, partnership, limited liability company, business trust, legal representative, organized group of individuals, or other entity, institution or organization, natural, business or legal, and commonly recognized by law as a unit.
- 7.12** “*Police Chief*” means the Police Chief of the Russellville Police Department, Russellville, Arkansas, or his representative or designee.
- 7.13** “*Responsible adult*” means a person at least twenty-one (21) years of age to whom a parent has expressly given permission to accompany a juvenile.
- 7.14** “*State*” means the State of Arkansas.
- 7.15** “*Title*” means all of the Articles, Chapters, Subchapters, Sections and Subsections within this document.

#### **SECTION 8: INTENT AND PURPOSE OF ARTICLE I AND CHAPTER 1**

- 8.1** It is the specific intent and purpose of the City that all of the Sections and terms found in Article I and Chapter 1 are to be applied throughout this Title and Code to each Article, Chapter, Subchapter, Section, Subsection and every provision contained within this Title and Code.

#### **SECTION 9: PROVISIONS CONSIDERED CONTINUATION OF EXISTING ORDINANCES**

- 9.1** The provisions of this Title and Code, so far as they are the same as ordinances existing at the time of adoption of this Title and Code, shall be considered as a continuation of such ordinances and not as new enactments.

#### **SECTION 10: INTERPRETATION**

- 10.1** Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this Title and Code as those governing the interpretation of state law.

#### **SECTION 11: REFERENCE TO OFFICES, ETC.**

- 11.1** Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this municipality exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

## **SECTION 12: ERRORS AND OMISSIONS**

- 12.1** If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express such intent, such spelling shall be corrected and such word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

## **SECTION 13: ORDINANCES UNAFFECTED**

- 13.1** All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this Title and Code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

## **SECTION 14: RULES OF CONSTRUCTION**

- 14.1** In the construction of this Title and Code, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the City.

**14.1.1** *Acts by assistants.* When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, such requisition shall be satisfied by the performance of such act by an authorized agent or deputy.

**14.1.2** *Conjunctions.* In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "*and*," "*or*" or "*either...or*," the conjunction shall be interpreted as follows, except that the terms "*and*" and "*or*" may be interchangeable when the context so requires:

**14.1.2.1** "*And*" indicates that all the connected terms, conditions, provisions or events apply.

**14.1.2.2** "*Or*" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.

**14.1.2.3** "*Or, And.*" "*Or*" may be read "*and*," and "*and*" may be read "*or*" if the sense requires it.

**14.1.2.4** "*Either...or*" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

**14.1.3** *Delegation of authority.* A provision that authorizes or requires a city officer or city employee to perform an act or make a decision authorizes such officer or employee to act or make a decision through subordinates.

**14.1.4** *Gender.* Words of one gender include all other genders and to firms, partnerships, and corporations.

**14.1.5** *Generally.*

**14.1.5.1** When provisions conflict, the specific prevails over the general.  
All provisions shall be liberally construed so that the intent of the city council may be effectuated.

**14.1.5.2** Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings shall be construed according to such meanings.

**14.1.5.3** Provisions shall be interpreted and applied so as to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare.

**14.1.5.4** Grammatical errors shall not vitiate, and a transposition of words and clauses may be resorted to when the sentence or clause is without meaning as it stands.

**14.1.6** *Include, including.* The term "include," "including" or any other similar term of inclusion means without limitation or restriction.

**14.1.7** *May.* The term "may" is to be construed as being permissive and not as being mandatory.

**14.1.8** *May not.* The term "may not" has a prohibitory effect and states a prohibition.

**14.1.9** *Must.* The term "must" is to be construed as being mandatory and not as being permissive.

**14.1.10** *Number.* Words used in the singular include the plural, and the plural includes the singular number.

**14.1.11** *Oath.* The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed".

**14.1.11** *Other City Officials or Officers.* Whenever reference is made to officials, boards, commissions, departments, etc., by title only, i.e., "clerk-treasurer", "police chief", etc., they shall be deemed to refer to the officials, boards, commissions and departments of the City.

**14.1.12** *Shall.* The term "shall" is to be construed as being mandatory.

**14.1.13** *Tenses.* The present tense of a verb includes the past and future tenses.  
The future tense includes the present tense, if applicable.

**SECTION 15: ALTERING CODE**

**15.1** It shall be unlawful for any person to purposefully change or amend by additions or deletions, any part or portion of this Title and Code, or to insert or delete pages, or portions thereof, or to alter or tamper with said Title and Code in any manner

whatsoever except by ordinance of the city council, which shall cause the law of the City to be misrepresented thereby.

## **SECTION 16: REFERENCE TO OTHER SECTIONS**

- 16.1** Whenever in one section reference is made to another section hereof, such reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

## **SECTION 17: AUTHORITY**

- 17.1** The provisions contained within this Title and Code formerly, currently or hereinafter enacted are based upon, derive authority from and are enacted pursuant to any and all of the power and authority conferred upon cities by the Arkansas Constitution and by the Arkansas General Assembly through its statutes, including, but not limited to, all of Title 14 Local Government of the Arkansas Code specifically including but not limited to Subchapter 6, Power Over Municipal Affairs of Chapter 43 Government of Cities of the First Class, Chapter 54 Powers of Municipalities, Chapter 55 Ordinances of Municipalities, Title 3, Alcoholic Beverages and any and all other state statutes or constitutional provisions that provide any authority to the City to enact ordinances, codes, or regulations within or referenced by the Title and Code. No specific reference to authority within any Title and Code Chapters or Section excludes the general authority of all state law and this Section.

## **ARTICLE II – OFFENSES INVOLVING PUBLIC SAFETY**

### **CHAPTER 1 – RESERVED**

### **CHAPTER 2 – CITY DISCHARGE OF FIREARMS AND HUNTING CODE**

#### **SECTION 1: TITLE OF CHAPTER**

- 1.1 Title.** The title of this Chapter shall be known as, referred to and cited as “The City of Russellville, Arkansas, Discharge of Firearms and Hunting Regulations Within the City Limits (“Firearms and Hunting Code”).”

#### **SECTION 2: INTENT OF CHAPTER 2**

- 2.1 Chapter not to restrict legal possession of firearms.** The provisions of this Chapter and Firearms and Hunting Code are not intended to restrict the possession of unloaded firearms if said possession is permissible under state law, and are not intended to conflict with the conduct allowed in Act No. 419 of 1995 (law allowing carrying of concealed handguns).
- 2.2 Chapter not applicable to self-defense.** This Chapter and Firearms and Hunting Code shall not apply to any individual acting in self-defense of his person or property as such action is defined in the laws of the State of Arkansas.
- 2.3 Chapter not to regulate permitted firing ranges.** This Chapter and Firearms and Hunting Code is not intended to regulate the conduct of individuals using firearms at approved firing ranges, skeet/trap ranges, or other such facilities, if said facilities have previously been permitted by the City of Russellville and approved by the Chief of Police.
- 2.4 Chapter to be enforced by the Russellville Police Department.** It is the intent of the Russellville City Council that this Chapter and Firearms and Hunting Code be enforced by the officers of the Russellville Police Department. Upon receiving a complaint relating to the possession or discharge of firearms or relating to an individual hunting inside the city limits, the Russellville Police Department shall respond to the scene of the complaint and ensure that the provisions of this Chapter and Firearms and Hunting Code are enforced. Individuals possessing or discharging firearms, or hunting in violation of this Chapter should be issued a citation directing that they appear in the Russellville District Court.

#### **SECTION 3: AUTHORITY**

- 3.1** This Chapter and Firearms and Hunting Code is passed pursuant to the authority granted to the City of Russellville, Arkansas (“City”) by the State of Arkansas under Ark. Code Ann. §§14-54-103(1), 14-54-103(2), 14-43-602, 14-54-1411 (b)(1)(B), 15-54-1502, 14-55-101 and 14-55-102.

#### **SECTION 4: GENERAL PROHIBITION TO DISCHARGE FIREARMS AND HUNT IN THE CITY**

- 4.1 Prohibition to discharge firearm within the City.** It shall be unlawful, a violation of this Chapter and Firearms and Hunting Code and punishable as provided under the provisions of this Title and Code for any person to discharge any type of firearm in the city limits of the City of Russellville.

- 4.2 Prohibition to hunt wildlife within the City.** It shall be unlawful, a violation of this Chapter and Firearms and Hunting Code and punishable as provided under the provisions of this Code for any person to kill, shoot at, or otherwise hunt wildlife within the City of Russellville with a firearm, bow and arrow or any other weapon or means whatsoever.

## **SECTION 5: EXCEPTIONS**

- 5.1 Exception to discharging and hunting prohibitions during Hunting Seasons.** Property owners with a minimum of forty (40) acres of vacant, wild and unimproved land shall be permitted to hunt on the land during open seasons.
- 5.1.1 Conditions of Exception for Property Owner.** Only the property owner, his/her immediate family or their invited guests shall be permitted to hunt.
- 5.1.2 Conditions of Exception for Persons other than Property Owner.** Persons other than the property owner/s or their minor children may not hunt unless they have written permission, in their possession, from the property owner. Said permission slip must have been signed within twelve (12) months of the date of the hunt.
- 5.1.3 Permitted Firearms Allowed.** No firearms of the handgun or rifle categories shall be permitted. Shotguns and bows and arrows are allowed, but rifled slugs for shotguns are not allowed only shot shells.
- 5.2 Exception to discharging and hunting prohibitions during Urban Deer Hunt.** Property owners with a minimum of twenty (20) acres of vacant, wild and unimproved land shall be permitted to hunt on the land during the time period of an Urban Deer Hunt. Subsection 5.2 only applies during the time period of an officially sanctioned Urban Deer Hunt by the Arkansas Game & Fish Commission for the City of Russellville, Arkansas.
- 5.2.1 Conditions of Exception for Property Owner.** Only the property owner, his/her immediate family or their invited guests shall be permitted to hunt.
- 5.2.2 Conditions of Exception for Persons other than Property Owner.** Persons other than the property owner/s or their minor children may not hunt unless they have written permission, in their possession, from the property owner. Said permission slip must have been signed within twelve (12) months of the date of the Urban Deer Hunt.
- 5.2.3 Permitted Firearms Allowed.** No firearms of the handgun or rifle categories shall be permitted. Shotguns and bows and arrows are allowed, but rifled slugs for shotguns are not allowed only shot shells.
- 5.2.4 Exception for Bow and Arrow during Urban Deer Hunt.** Any year in which the City agrees to participate in an Urban Deer Hunt and join the partnership with the Arkansas Game and Fish Commission and the Arkansas Bowhunters Association, the prohibitions in this Code shall not apply to any person discharging a bow and arrow for hunting deer during the time period as set by the Arkansas Game and Fish Commission, and if they have met all the requirements of the Urban Deer Hunt Protocol as

stated on the attachment with this Chapter and Firearms and Hunting Code and incorporated herein and any other requirements of the Arkansas Game and Fish Commission and the Arkansas Bowhunters Association.

**5.2.5 Failure to follow Exception to Bow and Arrow during Urban Deer Hunt.** Any person who does not follow the Urban Deer Hunt Protocol or otherwise fails to follow or meet the requirements of the Arkansas Game and Fish Commission or the Arkansas Bowhunters Association for the Urban Deer Hunt shall be subject to the prohibitions or violation penalties stated in this Title Code.

**5.2.6 Local Qualification for Urban Deer Hunt Does Not Relieve Participate from Complying with other State and Federal Laws.** Nothing in this Code shall be construed as to allowing any Arkansas Game and Fish and Arkansas Bowhunters Association qualified participant of the Urban Deer Hunt to disregard or disobey any other federal, state or local legislation.

**5.3 Exception to exterminate varmints.** Property owners may, on tracts of land two (2) acres or larger, use a handgun or a shotgun (any gauge) to exterminate varmints such as skunks, opossums, armadillos, snakes, etc.

**5.4 Exception for law enforcement officers.** Law enforcement officials acting in their official capacity shall be exempt from the prohibitions of this Chapter and Firearms and Hunting Code.

**5.5 Exception for military.** Military personnel discharging a firearm while acting within the scope of his or her official duty shall be exempt from the prohibitions of this Chapter and Firearms and Hunting Code.

## **SECTION 6: PERMITTING PROCEDURE FOR FIRING RANGE.**

**6.1 Application to Chief of Police.** Upon receiving a request for a permit for a public or private range, the Police Chief or his designee, shall inspect the site of the proposed range. If upon inspection, the range is determined to be located so that it may be operated safely, the Police Chief shall issue a permit to the owner/operator. No fee shall be required for private ranges. The owners/operators of public, for profit, ranges will be required to obtain a business permit before receiving a permit to operate a range.

**6.2 Appeal from Denial.** If the request for a permit to operate a range is denied by the Chief of Police, the applicant may appeal this decision, in writing, to the Mayor. If the request is denied by the Mayor, the Applicant may, upon written request, have his application reviewed by the City Council. An appeal of any decision made by the police Chief or Mayor must be submitted to the next level within fifteen (15) calendar days of the decision denying the request.

## **SECTION 7: DEFINITIONS**

**7.1 “Bow and arrow”** as used in this Chapter and Firearms and Hunting Code shall include any longbow, compound bow, crossbow; recurve bow; other such device designed, made or manufactured of a curved piece of wood, plastic, fiberglass,

metal or similar material strung taut from end to end to propel any arrow, dart or projectile, whether drawn manually or mechanically, more than twenty (20) feet; or a device composed of a bow fixed crosswise on a stock, on which stock arrows or other projectiles are directed by means of a groove and propelled more than twenty (20) feet and either drawn manually or mechanically.

- 7.2** “*Discharge*” as used in this Chapter and Firearms and Hunting Code shall mean the expulsion of a projectile from a firearm or the operation of a firearm in such a manner so as to lead one to reasonably conclude by sight or sound, that a projectile was expelled from a firearm. If the firearm used is capable of the expulsion of a projectile, its firing alone shall be sufficient to constitute a discharge and no further proof of the expulsion of a projectile shall be necessary.
- 7.3** “*Firearm*” as used in this Chapter and Firearms and Hunting Code shall include handgun, rifle, shotgun, pellet gun and BB gun.
- 7.4** “*Firing or Shooting range*” shall mean for the purpose of this Chapter and Firearms and Hunting Code any outdoor, private or commercial facility designed for practice or target shooting. Any shooting range must be constructed to insure that the backstop, berm, bullet trap, escalator trap, or impact area is sufficient to prevent any discharge from any weapon traveling outside, around, over, or through the range area so as to constitute a hazard to adjoining property owners. The range must also be consistent with other industry standards such as the National Rifle Association Range Development Source Book.
- 7.5** “*Undeveloped land*” as used in this Chapter and Firearms and Hunting Code shall mean any lot, tract or parcel of land that has not been graded or in any other manner prepared for the construction of a building, improvement or otherwise developed.
- 7.6** “*Wild land*” as used in this Chapter and Firearms and Hunting Code shall mean any lot, tract or parcel of land that not only lacks the infrastructure, services and buildings, but also is in a natural state of growing freely without any development.

## **CHAPTER 3 – CITY FIREWORKS CODE**

### **SECTION 1: TITLE**

- 1.1 Title.** The title of this Chapter shall be known as, referred to and cited as “The City of Russellville, Arkansas, Prohibition of the Manufacture, Sale, Storage, Use and Discharge of Fireworks within the City Limits Code (“Fireworks Code”).”

### **SECTION 2: AUTHORITY**

- 2.1** This Chapter and Fireworks Code is passed pursuant to the authority granted to the City of Russellville, Arkansas (“City”) by the State of Arkansas under Ark. Code Ann. §§14-54-103(1), 14-54-103(2), 14-43-602, 14-55-101, 14-55-102 and 20-22-704.

### **SECTION 3: FINDINGS, PURPOSE AND INTENT OF CHAPTER 2**

- 3.1** The sale of fireworks within the city limits of the City of Russellville, Arkansas (“City”) has been prohibited since the passage of Ordinance No. 166 in December 1923.
- 3.2** The City also found that the manufacture, storage, sale, use and discharge of fireworks was dangerous and prohibited the manufacture, storage, sale, use and discharge of fireworks within the city limits when the City passed Ordinance No. 1515 on September 14, 1995.
- 3.3** The City did allow for use of fireworks on certain days and under certain conditions.
- 3.4** The intent of this Chapter and Fireworks Code is to continue the prohibitions and special use exemptions established by Ordinance 1515 and in no way should the language in this Chapter and Fireworks Code be construed as to repeal, remove or replace the general prohibitions on the manufacture, storage, sale, use and discharge of fireworks within the city limits that Ordinance No. 1515 established. The provisions of this Chapter and Fireworks Code shall be construed to keep in effect the prior general prohibitions on the manufacture, storage, sale, use and discharge of fireworks within the city limits that Ordinance No. 1515 established.

### **SECTION 4: DEFINITIONS**

- 4.1** “*Buyer*” means a person who buys or contracts to buy a firework.
- 4.2** “*City*” means the City of Russellville, Arkansas, a municipal corporation organized and incorporated under the laws of the State of Arkansas.
- 4.3** “*Firework(s)*” Any composition or device for producing a visible, audible or both visible and audible effect by combustion, deflagration or detonation and that meets the definition of consumer, proximate or display fireworks as set forth by 49 CFR Part 171 *et seq.*, United States Department of Transportation hazardous materials regulations. The term *firework* shall not include any auto flares, paper caps containing not in excess of an average of twenty-five hundredths (0.25) of a grain of explosive content per cap, and toy pistols, toy canes, toy guns or other devices for use of such caps, the sale and use of which shall be permitted at all times.

- 4.4** *“Manufacture of Fireworks”* The process of making fireworks by which an entity uses raw materials or one (1) or more components, none of which in and of themselves constitute fireworks, required to assemble a firework and produces a finished firework device for purposes of sale, distribution or for the manufacture’s own use, or the processing of fireworks.
- 4.5** *“Resale of Fireworks”* means: 1) where a seller who has sold fireworks to a buyer sells them again to another different buyer with or without a reservation to do so; or 2) where a buyer of fireworks then sells the same fireworks, either in their original form, or in an altered form, or as a part, component or ingredient of another firework.
- 4.6** *“Sale of Fireworks”* means an agreement between a seller and a buyer by which a seller sells, the ownership of fireworks to a buyer in exchange for a money price or other consideration.
- 4.7** *“Sell”* means any arrangement between two (2) or more persons as a result of which there is an agreement between a seller and a buyer by which a seller transfers, agrees to transfer, exchanges, contracts to sell, consigns for sale, ships for sale, or other disposition, the ownership of fireworks to a buyer in exchange for a money price or other consideration.
- 4.8** *“Seller”* means a person who sells or contracts to sell a firework.
- 4.9** *“Storage of Fireworks”* means the possession, keeping, containment, holding, placement or maintenance of fireworks that are not in transit but in a stall, room, building, trailer, structure, portable container, any other permanent or temporary facility or outside of a building, structure or facility with the intent of the individual, entity or person storing the fireworks to sale or re-sale the fireworks to the public for retail or commercial sale.
- 4.10** *“Use a/of Firework(s)”* The detonation, discharge or exploding of a firework within the city limits of the City by a person.

## **SECTION 5: PROHIBITIONS**

- 5.1** It shall be unlawful, a violation of this Chapter and Fireworks Code and punishable as provided under the provisions of this Title and Code, for any person to manufacture, sell or store fireworks in the city limits of the City.
- 5.2** It shall be unlawful, a violation of this Chapter and Fireworks Code and punishable as provided under the provisions of this Code, for any person to store fireworks within the city limits of the City for the purpose of sale or resale of fireworks. It shall be presumed that persons possessing more than five (5) pounds of fireworks shall be possessing and storing for the purpose of selling the fireworks. Fireworks may be stored on private, non-commercial, residential property so long as the aggregate amount of all fireworks stored or possessed by any person or at any one (1) storage location does not exceed five (5) pounds.
- 5.3** It shall be unlawful, a violation of this Chapter and Fireworks Code and punishable as provided under the provisions of this Code, for any person to use a firework in the city limits of the City, except as hereinafter provided:

- 5.3.1.** The Fire Chief, upon written approval from the Mayor, may issue a permit for the use of fireworks for public or private displays. Every such use or display shall be handled by a competent operator approved by the Fire Chief, and shall be of such character and so located, discharged, or fired so as not to be hazardous to property, or endanger any person. The Fire Chief may attach to any such permit issued written requirements regulating to use and discharge of said fireworks.
- 5.3.1.1** Any person applying to receive such a permit from the Fire Chief shall furnish a bond or certificate of general liability insurance, in an amount deemed adequate by the Fire Chief, for the payment of all damages that may be caused either to a person or persons or to property by reason of the permitted display, and arising from any acts of the permit holder, his agents, employees, or subcontractors. Persons receiving permits shall be required to pay a fee of \$100.00. Said fee may be waived, by the mayor, upon a showing of good cause.
- 5.3.1.2** It shall be unlawful, a violation of this Chapter and Fireworks Code and punishable as provided under the provisions of this Code, for any person to use a firework in any city park owned, leased or possessed by the City unless the person has a permit for the use of fireworks for public or private displays within a city park.
- 5.3.2** Adults, or minors acting under adult supervision, may use and discharge fireworks on property owned by the persons engaged in the discharge of the fireworks, between the hours of 10:00 A.M. and 10:00 P.M. on January 1, June 19, July 2, 3, 4, or 5, and December 31 of each year For purposes of celebrating New Year's Eve, adults and minors acting under adult supervision, may discharge fireworks starting at 11:30 P.M. on December 31 and ending at 1:00 A.M., on January 1 of each year. The discharge or use of fireworks upon the property of another person, or allowing a fireworks projectile (such as a bottle rocket) to travel onto the property of another person or onto a public street, shall be deemed a violation of this Chapter. [Amended by Ordinance No. 2489]
- 5.3.2.1** It shall be unlawful, and a violation of this Chapter, for any person, adult, or minor, to discharge or use a firework inside the city limits on any day other than January 1, June 19, July 2, 3, 4, or 5, and December 31 of each year. Persons that have obtained a permit from the Fire Chief, as outlined above, are exempt from this provision. [Amended by Ordinance No. 2489]
- 5.3.3** The discharge of fireworks is prohibited, by any and all individuals, including those with permits, on any day that has been designated by the Russellville Fire chief, as a "Burning Ban" day.

**5.3.4** Any discharge of fireworks which the City or one of its Departments has authorized as an event for the public display of display fireworks shall be exempt from the provisions of this Chapter and Fireworks Code.

## **SECTION 6: SEIZURE OF FIREWORKS**

- 6.1 Removal.** The Fire Chief, or their representative, or the Police Chief, or their representative, shall seize, take, remove, or cause to be removed at the expense of the owner all stocks of fireworks offered or exposed for sale, stored, or held in violation of this Chapter.
- 6.1.1** The Fire Chief, members of the Russellville Fire Department, Police Chief and members of the Russellville Police Department are authorized to seize fireworks found in the possession of minors that are engaging in the discharge of fireworks without adult supervision, or from adults found possessing or discharging fireworks in violation of any of the provisions of this Chapter and Fireworks Code.
- 6.2 Disposal.** If any fireworks or explosives are deemed by the Fire Chief to be in such a state or condition as to constitute a hazard to life or property, the Fire Chief may dispose of such fireworks or explosives without further process of law.
- 6.2.1** If any person is found guilty of violating the provisions of this Chapter and Fireworks Code with regard to manufacture, possession, handling, sale, resale or storage of fireworks or explosives, the Fire Chief is authorized to dispose of all confiscated fireworks and materials in such a way as he shall deem equitable. Unless there is a hazard to life or property, seized fireworks shall not be disposed of until after all court actions, both criminal and civil, have been completed, including appeals.

## **SECTION 7: PENALTY**

- 7.1** Each and every day of the storage of fireworks by an individual in violation of the provisions of this Chapter and Fireworks Code shall constitute a separate violation or offense of this Chapter and Fireworks Code when assessing the application of penalties and fines listed in this Title and Code.

## **CHAPTER 4 – CITY NOVELTY LIGHTER CODE**

### **SECTION 1: TITLE**

- 1.1** The title of this Chapter shall be known as, referred to and be cited as “The Novelty Lighter Prohibition Code (“Novelty Lighter Code”).”

### **SECTION 2: FINDINGS, PURPOSE AND INTENT**

- 2.1** The prohibiting the sales and distribution of novelty lighters, in conjunction with the continuance of fire safety education programs within the community, including promoting the use of smoke alarms, may reduce the incidence of accidental fire deaths in the City of Russellville, Arkansas (“City”).
- 2.2** Youth fire setting has been identified as a leading cause of accidental fire in the home across the United States.
- 2.3** Novelty lighters have features which are attractive to children, including visual effects, flashing lights, musical sounds and toy-like designs.
- 2.4** The U. S. Consumer Product Safety Commission has recalled thousands of novelty lighters since 1996 due to the danger posed to public safety.
- 2.5** The functions of novelty lighters can be achieved without posing a danger to public health and safety.
- 2.6** Many public safety agencies support the prohibition of the sale and distribution of novelty lighters; the National Fire Protection Association, Western Fire Chiefs Association and the National Association of State Fire Marshals have lent their support to this issue.
- 2.7** The Russellville Fire Department supports this Chapter to enhance and compliment the current and future editions of the Arkansas Fire Prevention Code in order to protect the lives of the citizens and residents of the City.
- 2.8** It is found to be in the best interests of the citizens, inhabitants, residents and visitors of the City that the sale and distribution of novelty lighters be prohibited.

### **SECTION 3: AUTHORITY**

- 3.1** This Chapter and Novelty Lighter Code is passed pursuant to the power granted to the City of Russellville by the State of Arkansas by A.C.A. §§14-43-602, 14-54-103, 14-54-1502, 14-55-101, and 14-55-102.

### **SECTION 4: DEFINITIONS**

For the purpose of this Chapter and Novelty Lighter Code, the following terms mean the following:

- 4.1** “*Novelty lighter*” means a lighter that has entertaining audio or visual effects, or that depicts (logos, decals, art work, etc.) or resembles in physical form or function articles commonly recognized as appealing to or intended for use by

children ten years of age or younger. This includes, but is not limited to, lighters that depict or resemble cartoon characters, toys, guns, watches, musical instruments, vehicles, toy animals, food or beverages, or that play musical notes or have flashing lights or other entertaining features. A novelty lighter may operate on any fuel, including butane or liquid fuel.

**SECTION 5: PROHIBITION OF SALE OR DISTRIBUTION WITHIN THE CITY**

- 5.1** The retail sale, offer of retail sale, gift or distribution of any novelty lighter within the territorial jurisdiction of the City is unlawful and prohibited.
- 5.2** This prohibition is inapplicable to:
  - 5.2.1** Novelty lighters which are only being actively transported through the City; or
  - 5.2.2** Novelty lighters located in a warehouse closed to the public for purposes of retail sales.

**SECTION 6: EXCLUSIONS**

- 6.1** The term “novelty lighter” excludes: (1) any lighter manufactured prior to 1980; and (2) any lighter which lacks fuel or a device necessary to produce combustion or a flame.

**SECTION 7: ENFORCEMENT**

- 7.1** The provisions of this Chapter shall be enforced by the City fire marshal, law enforcement officers, code enforcement officer, and any other City official authorized to enforce the provisions of this Chapter and Novelty Lighter Code.

**SECTION 8: PENALTY**

- 8.1** Any person or entity violating any provision of this Chapter and Novelty Lighter Code is guilty of a misdemeanor, and upon conviction therefor, shall be subject to a fine or penalty of as set out in this Title and Code.

## **CHAPTER 5 – CITY PRIVATE CLUB PERMIT CODE**

### **SECTION 1: TITLE**

- 1.1 The title of this Chapter shall be known as, referred to and cited as “The Private Club Permit Code for the City of Russellville, Arkansas (“Private Club Permit Code”).”

### **SECTION 2: FINDINGS, PURPOSE AND INTENT**

- 2.1 The legislature for the State of Arkansas passed Act 1112 of 2017 which now requires under A.C.A. §3-9-222 local city council approval of all applications for a private club permit prior to them being submitted to the Alcoholic Beverage Control Division.
- 2.2 The City Council of the City of Russellville, Arkansas (“City”), hereby establishes a procedure for this approval process to be in compliance with Act 1112 of 2017.
- 2.3 Title 3 of Arkansas Code relating to Alcoholic Beverages recognizes the power of local governmental bodies to regulate the operation of establishments under that Title as may be necessary for the protection of the public health, safety and welfare.
- 2.4 Chapter 9 of Title 3 of the Arkansas Code authorizes cities to charge a private club permit fee and levy a tax and supplemental tax on the sales of alcoholic beverages at the permitted premise.

### **SECTION 3: AUTHORITY**

- 3.1 This Chapter and Private Club Permit Code is passed pursuant to the authority granted to the City of Russellville by the State of Arkansas under A.C.A. §3-9-201 *et. seq.*, and specifically Act 1112 of 2017.

### **SECTION 4: DEFINITIONS**

These terms shall have the following meanings for the purpose of this Chapter and Private Club Permit Code:

- 4.1 “*Alcoholic Beverages*” means all intoxicating liquors of any sort, including beer and wine.
- 4.2 “*Controlled Beverages*” means all beverages of any kind subject to regulation under any alcoholic beverage control law of the State of Arkansas and this Ordinance.
- 4.3 “*On-premises Consumption*” means the sale or dispensing of alcoholic beverages by the drink or in opened or unsealed containers for consumption on the premises where sold or dispensed.
- 4.4 “*Permit*” means any authorization issued by any law passed by the General Assembly of the State of Arkansas; the Alcoholic Beverage Control Division of

the State of Arkansas or by the city pursuant to any Arkansas Alcoholic Beverage Control Division regulation or this Ordinance whether described as a permit, license or otherwise.

- 4.5 “*Permittee*” means the person to whom a permit or license to sell, dispense, or distribute alcohol has been granted.
- 4.6 “*Private Club*” means a nonprofit corporation organized and existing under the laws of this state authorized to serve alcohol by the State of Arkansas and the Alcoholic Beverage Control Division.

## **SECTION 5: PERMITS REQUIRED**

- 5.1 It shall be unlawful for any person to engage in the business of distributing, selling, or dispensing within any private club for on-premises consumption, any controlled beverage, within the City without a permit issued by the City, or with an expired permit.
- 5.2 The provisions of this Chapter and Private Club Permit Code shall not apply to the manufacture, sale, and distribution of wines or vinous liquors manufactured, sold, and distributed by residents of Arkansas.

## **SECTION 6: APPLICATION FOR PRIVATE CLUB PERMITS**

- 6.1 An application for a private club permit required by this Chapter and Private Club Permit Code shall be in writing on a form prescribed by the City and shall be accompanied by the required fee and a copy of the applicant’s state private club permit application. A copy of the private club permit application will be available at the Finance Department and on the City’s website.
- 6.2 Only one location per application.
- 6.3 The application shall be submitted to the City with a one time, non-refundable application fee in the amount of \$750.00. This fee is completely separate from any licensing fees which may later be due to the City of Russellville to operate a business in the City of Russellville.
- 6.4 No City permit will be issued until approved by the City Council by ordinance.
- 6.5 It shall be unlawful for any person to make any false statement or representation in any application required by this section or to give any false answer to any question contained therein.
- 6.6 It shall be unlawful to operate a private club or sell alcoholic beverages for on-premises consumption in Russellville before being permitted by the appropriate State agency.
- 6.7 Permits required by this Chapter and Private Club Permit Code shall run for one (1) calendar year. Annual permit renewal fees of \$750.00 shall be due and payable starting December 1st thru December 31st of each year for the succeeding year beginning January 1st.
- 6.8 The City will not issue or renew any permits pursuant to this Section until all outstanding supplemental beverage taxes, if applicable, are paid.

- 6.9** All permits issued by the City pursuant to this Chapter and Private Club Permit Code shall be prominently displayed on the permitted premises by the permittee in the same manner as required by the state for state permits.
- 6.10** When any State permit is revoked by the state or required to be returned to the State for any reason, the City permit shall be returned to the City. The City will restore the permit upon proof that the State permit has been restored to the applicant, provided that no reclaimed permit will be restored to an applicant until all outstanding advertising and promotion taxes and/or supplemental beverages taxes, if applicable, are paid.
- 6.11** All fees taxes and penalties received by the City pursuant to this chapter shall be used for general purposes within the City of Russellville pursuant to A.C.A § 3-9-223(f).
- 6.12** Permits shall not be transferable or assignable unless and until approval is granted by the Alcoholic Beverage Control Division and notice is provided to the City of Russellville and all other requirements of this ordinance are met.
- 6.13** A City permit, if granted, shall be specific to the proposed location and to the applicant listed in the application.

**SECTION 7: RIGHT OF CITY TO INSPECT RECORDS**

- 7.1** The Finance Director or their designee of the City shall have the right to inspect and examine the records of any permittee subject to any tax or permit fee based on the gross sales or receipts pursuant to A.C.A. §3-2-211 and any other employee information required pursuant to the regulations of the Alcoholic Beverage Control Division, Title 1, Subtitle G, Section 1.70(37).

**SECTION 8: FRAUD AND MISREPRESENTATION BY APPLICANT**

- 8.1** Any person who acquires a permit or a renewal of same in violation of this Chapter and Private Club Permit Code by any misrepresentation or fraudulent statement shall be deemed guilty of an offense and upon conviction thereof shall be punished in accordance with the penalties outlined in this Title and Code.
- 8.2** Any untrue or misleading information contained in, or material omission left out of, an original, renewal or transfer Application for a permit shall be cause for the denial thereof and, if any Permit has been granted under these circumstances, there shall be cause for the revocation of the same.

**CHAPTER 9: PAYMENT OF FEE**

- 9.1** The Permit fee paid must be paid of the date of the delivery of the Application to the City.
- 9.2** The Permit fee shall be paid to the Finance Department.

**SECTION 10: BUSINESS OPENING WITHIN SIX MONTHS FROM PERMIT;  
ISSUANCE REQUIRED**

- 10.1** All holders of Permits shall, within six (6) months after the issuance of the Permit, open for business the establishment referred to in the Permit and begin dispensing

the products authorized by the Permit. Failure to open the establishment and begin business as referred to above within the six (6) month period shall serve as automatic forfeiture and cancellation of the unused Permit, and no refund of Permit fee shall be made to the Permit holder.

**SECTION 11: EFFECT OF FAILURE TO OPERATE BUSINESS FOR SIX (6) CONSECUTIVE MONTHS**

- 11.1** Any holder of a Permit who shall begin the operation of the business and dispensing the products as authorized in the Permit, but who shall, for a period of six (6) consecutive months thereafter, cease to operate the business or dispensing the products authorized in the Permit, shall upon completion of the six (6) month period automatically forfeit the Permit, which Permit shall, by virtue of that failure to operate, be canceled without the necessity of any further action of the City.

**SECTION 12: DISPENSING ALCOHOLIC BEVERAGES OUTSIDE OF PERMITTED PREMISES**

- 12.1** It shall be unlawful for any alcoholic beverage to be dispensed, or otherwise provided outside of the enclosed building, premise or place of business permitted for such unless such place permitted is located within the City's Downtown Entertainment District.

**SECTION 13: SAME PAYMENT DATES; PRORATION**

- 13.1** All Permit fees shall be paid between December 1st and December 31st of each year. Permits obtained after July 1st of each year shall pay one half of the annual fee. Delinquent Permit fees shall be subject to a delinquent penalty of twenty-five (25%) percent of the Permit fee for each thirty (30) day period the fee remains unpaid.

**SECTION 14: TERM OF PERMIT**

- 14.1** No Permit shall Issue for more than the remainder of the calendar year, and all shall expire at midnight, December 31 of each year. In case of the revocation or surrender of such Permit before the expiration of such calendar year period, the holder thereof shall not be entitled to receive any refund whatsoever.

**SECTION 15: TRANSFERABILITY OF PERMITS**

- 15.1** Permits shall not be transferable, except as otherwise provided herein.
- 15.2** All Applications for transfer of locations shall comply with the provisions herein set forth governing new Permits.

**SECTION 16: NOTICE OF TRANSFER OF BUSINESS**

- 16.1** Should any Permit holder make a request to the Alcoholic Beverage Control Division to transfer their permit to another location, individual or organization, the Police Chief shall be notified in writing of such request within seven (7) days.

**SECTION 17: DISPLAY OF PERMIT**

- 17.1** Every person or organization issued a Permit pursuant to this section shall be required to display this Permit in the same location as is displayed the State Controlled Beverage Permit.

**SECTION 18: SUSPENSION OR REVOCATION OF PERMIT**

- 18.1** Whenever the State shall revoke any Permit, the City Permit to deal in such products shall thereupon be automatically revoked without any action by the City or any municipal officer.
- 18.2** Should any person, firm or corporation that operates a business which is subject to the requirements of the Advertising & Promotions tax found in the City Administration Code, Title I, Article II, Chapter 2, adopted by Ordinance No. 2460, and its enabling statutes, failed to obtain any permits required for that type of business, then the City Alcohol Beverage Permit shall thereupon be automatically revoked.
- 18.3** Should any person, firm or corporation that operates a business which is subject to the requirements of the Advertising & Promotions tax found in the City Administration Code, Title I, Article II, Chapter 2, adopted by Ordinance No. 2460, and its enabling statutes, become subject to unsatisfied Certificates of Indebtedness filed pursuant to the Advertising & Promotions ordinance and statutes, then the City Alcohol Beverage Permit shall thereupon be automatically revoked.

**SECTION 19: TYPE OF PERMIT COVERED BY ORDINANCE AND HOURS OF OPERATION**

- 19.1** *Private club permit.* Authorizes the purchase of any controlled beverages from persons holding an off-premises retail liquor or beer permit who have been designated by the director of the State Alcoholic Beverage Control Board as a private club distributor, and authorizes the dispensing of such beverages for consumption on the premises of the private club to members and guests only of the private club.
- 19.2** *Hours of operation.* Hours of operation shall be in conformance with state statute, including Title 3 of the Arkansas Code relating to Alcoholic Beverages.

**SECTION 20: LEVY OF ALCOHOLIC BEVERAGE SUPPLEMENTAL TAX UNDER THE AUTHORITY OF A.C.A. §3-9-223(b)(1).**

- 20.1** There is hereby imposed and levied under the authority of A.C.A. §3-9-223(b)(1) a City tax of five percent (5%) upon the annual gross proceeds or annual gross receipts which are derived by such private club from charges to the members or their guests for the following services drawn from the private stocks of the members as provided for in A.C.A. §3-9-221, for consumption only on the premises where served:
- 20.1.1** For the preparation and serving of mixed drinks, and
- 20.1.2** For the cooling and serving of beer, light wine, and wine.

- 20.2** The city's supplemental tax in this Section is in addition to the state supplemental tax on private clubs and shall be paid to the Finance Department of the City, shall be due monthly at the same time that the state supplemental tax is due, and shall be accompanied by one (1) copy of the state supplemental tax return. If any permittee shall fail to remit the City supplemental tax within the time period that the state supplemental tax is due, a penalty of ten percent (10%) of the supplemental tax due shall be due and payable in addition to the supplemental tax.

**SECTION 21: LEVY OF ALCOHOLIC BEVERAGE SUPPLEMENTAL TAX UNDER THE AUTHORITY OF A.C.A. §3-9-223(b)(2).**

- 21.1** In addition to Section 20, there is hereby imposed and levied under the authority of A.C.A. §3-9-223(b)(2) a City supplemental tax of two percent (2%) upon the annual gross receipts which are derived by such private club from charges to the members or their guests for the following drawn from the private stocks of the members as provided for in A.C.A. §3-9-221, for consumption only on the premises where served:

**21.1.1** For the preparation and serving of mixed drinks

- 21.2** The city's supplemental tax in this Section is in addition to the state supplemental tax on private clubs and shall be paid to the Finance Department of the City, shall be due monthly at the same time that the state supplemental tax is due, and shall be accompanied by one (1) copy of the state supplemental tax return. If any permittee shall fail to remit the City supplemental tax within the time period that the state supplemental tax is due, a penalty of ten percent (10%) of the supplemental tax due shall be due and payable in addition to the supplemental tax.

**SECTION 22: PENALTY**

- 22.1** Any person violating the provisions of this Chapter and Private Club Permit Code or any person who makes a false affidavit or statement or report or application to the City as part of the procedures of this Chapter and Private Club Permit Code shall be deemed guilty of a misdemeanor and upon conviction be fined in according with the provisions of this Title and Code.

**SECTION 23: CUMULATIVE TO OTHER CITY TAXES AND FEES.**

- 23.1** The fees and taxes assessed by this Chapter and Private Club Permit Code shall in no way bar collection for any other federal, state or city taxes or fees.

## **CHAPTER 6 – ANIMAL CONTROL CODE**

### **SECTION 1: TITLE**

- 1.1** This Chapter shall be known as, referred to and cited as the "City of Russellville Animal Control Code ("Animal Control Code)."

### **SECTION 2: FINDINGS, PURPOSE AND INTENT**

- 2.1** It is the purpose of this Chapter and Animal Control Code to control hazards to the physical and mental health of the public caused by animals, and to prevent cruelty to animals, by establishing standards of control.
- 2.2** It is the specific intent of this Chapter and Animal Control Code to place the obligation of complying with its requirements upon the owners and possessors of animals.
- 2.3** Nothing contained in this Chapter and Animal Control Code is intended to be, nor shall be construed to create or form the basis for any liability on the part of the City or its officers, employees or agents, for any injury or damage resulting from the failure of any person to comply with the terms of this Chapter and Animal Control Code, or by reason or in consequence of any omission in connection with the implementation or enforcement of this Chapter and Animal Control Code on the part of the City by its officers, employees or agents.
- 2.4** Animals owned by the Russellville Police Department and used to assist in the law enforcement and the carrying out of its duties shall be exempt from the provisions of this Chapter and Animal Control Code.

### **SECTION 3: AUTHORITY**

- 3.1** This Chapter and Animal Control Code is passed pursuant to the power granted to the City of Russellville by the State of Arkansas by A.C.A. §§14-43-602, 14-54-103, 14-55-101, 14-55-102 and 20-19-303.

### **SECTION 4: DEFINITIONS**

The following words and phrases have the following meanings for the purpose of this Chapter and Animal Control Code:

- 4.1** "*Animal*" means any description of vertebrate excluding homo-sapiens.
- 4.2** "*Animal Control Department*" means the officers and employees of the City of Russellville Animal Control Department.
- 4.3** "*Animal establishment*" means any kennel, grooming shop, auction, performing animal exhibition or other facility engaged in the handling of animals, excluding licensed veterinarians, veterinary clinics and hospitals. All commercial animal establishments must be located in commercial or industrial zones.
- 4.4** "*Animal Shelter*" means all facilities designated by the City for the purpose of impounding and caring for animals held under the authority of this Chapter and Animal Control Code.

- 4.5** “*At large*” means any animal is at large when off the premises of the owner and not under the control of a responsible person.
- 4.6** “*Control*” means any animal shall be considered under control if it is confined to the premises of its owner or is secured by a leash or lead of sufficient strength to prevent it from escaping, or is confined in an automobile when away from the premises of the owner.
- 4.7** “*Cruelty to animals*” means a person commits the offense of cruelty to animals if, except as authorized by law, he/she knowingly:
- 4.7.1** Abandons any animal;
- 4.7.2** Subjects any animal to cruel treatment;
- 4.7.3** Subjects any animal in his custody to cruel neglect; or
- 4.7.4** Kills or injures any animal belonging to another without legal privilege or consent of the owner.
- 4.7.5** As used in this section, "knowingly" shall mean the following:  
A person acts knowingly with respect to his or her conduct or the attendant circumstances when he or she is aware that his or her conduct is of that nature or that such circumstances exist. A person acts knowingly with respect to the result of his or her conduct when he or she is aware that it is practically certain that his or her conduct will cause such a result.
- 4.8** “*Health officer*” means the designated official of the state Department of Health or any local health official whose duties may involve conditions or investigations relevant to animal control.
- 4.9** “*Humane manner*” means the care of an animal to include, but not limited to, adequate heat, ventilation and sanitary shelter, and wholesome food and water, consistent with the normal requirements and breeding habits of the animal's size, species and bred. Fresh clean water shall be available at all times. It is the duty of the animal caretaker or owner to provide a water container that the animal cannot knock over.
- 4.10** “*Kennel*” means any person or business that engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling animals.
- 4.11** “*Livestock*” means animals kept or raised for use or pleasure, especially farm animals. Livestock does not include "Wild Animals" as defined in this Chapter and Animal Control Code but does include, but is not limited to the following:  
Domestic Horses; Asses/Donkeys; Cattle; Sheep; Goats; Swine; Poultry; Rabbits; Ducks, Doves, and Pigeons.
- 4.12** “*Licensing authority*” means the Animal Control Department and any other agency or department of the city, or any designated representative thereof, including licensed (State of Arkansas) veterinarians, charged with administering the issuance and/or revocation of certificates and licenses under the provisions of this Chapter and Animal Control Code.

- 4.13** *“Neutered”* and *“Spayed”* means incapable of sexual reproduction/breeding.
- 4.16** *“Nuisance”* means an animal shall be considered a nuisance if it damages, soils, defiles, or defecates on private property other than the owner's or public walks and recreation areas; causes unsanitary, dangerous, or offensive conditions; causes a disturbance by excessive barking or other noise making; molests, attacks, or interferes with persons in the public right-of-way; or chases vehicles or attacks domestic animals.
- 4.17** *“Owner”* means any person having a right of property or custody of an animal or who keeps or harbors an animal or knowingly permits an animal to remain on or about any premises occupied by the person, or over which that person has substantial control.
- 4.18** *“Pens and Enclosures”* means that for purposes of Section 14 hereof, pens and enclosures shall mean any area, regardless of size, confining or intended to confine or shelter animals. Pens and enclosures shall include, but are not limited to, fenced pastures and fields, corrals, paddocks, yards, cages, pens, coops, hutches, stables, stalls, chicken houses, barns, sheds and similar facilities or areas where animals are kept.
- 4.19** *“Pet shop”* means any person engaged in the business of buying or selling two (2) or more species of live animals with the intent that they be kept as pets. Must be in a commercial zone.
- 4.20** *“Private kennel”* means any person or business, excluding kennels, pet shops and veterinary clinics and hospitals, who keeps, harbors or knowingly permits to remain on or about his premises, more than four (4) dogs or four (4) cats, over three (3) months of age.
- 4.21** *“Restraint”* means an animal is under restraint if it is controlled by a leash or within a vehicle being driven or parked on a street, or confined on the property of its owner or keeper,
- 4.22** *“Veterinary clinic or hospital”* means a clinic or hospital operated by a licensed (State of Arkansas) veterinarian.
- 4.23** *“Vicious animal”* means any animal that attacks or bites humans or other domestic animals, or otherwise jeopardizes the well-being of humans or other domestic animals.
- 4.24** *“Wild animal”* means any living member of the Animal Kingdom, including those born or raised in captivity, except the following:  
Human beings; domestic dogs, including hybrids with wolves, domestic cats, excluding hybrids with ocelots or margays; domestic horses, asses/donkeys, cattle; sheep, goats, swine; poultry, domesticated rats or mice, sugar gliders, hamsters, gerbils, guinea pigs, ferrets, hedge hogs, rabbits, non-poisonous snakes, non-poisonous lizards, non-poisonous frogs, caimans, tarantula, all parrots, parakeets, ducks, finches, doves, pigeons, fish, hermit crabs, and turtles

## **SECTION 5: LICENSING AND VACCINATION**

- 5.1 Generally.** No person shall own, keep or harbor any dog within the City unless such dog is vaccinated as herein provided.
- 5.2** The Licensing Authority shall maintain a record of all certificates issued, and make such records available to the Animal Control Department.
- 5.3 Rabies vaccination.** All dogs and cats over three (3) months of age within the city shall be vaccinated against rabies once each year by a licensed veterinarian, who will issue to the owner a durable metal tag and a certificate of vaccination approved by the Animal Control Department. Tags must be attached to the collar or harness of the dog or cat and be worn at all times. Tags are not transferable from one dog or cat to another dog or cat.

## **SECTION 6: RESTRAINT**

- 6.1 Maintenance of premises and disturbing noises.** *Nuisance generally.* An owner of an animal shall maintain his premises in such a manner as not to constitute either a private nuisance to adjoining property owners or a nuisance to the public generally.
- 6.2 Nuisance odors.** Pens in which animals are confined or maintained shall be cleaned regularly so that they are kept free from offensive odors, which would disturb any person residing within a reasonable distance of said premises.
- 6.3 Nuisance restraint of animal regarding noise.** Animals shall be restrained in such a fashion that noise emanating therefrom shall not be disturbing to such persons.
- 6.4 Nuisance noise.** Special care shall be given to ensure that a barking dog(s), maintained at any location, shall not bark or howl in an excessive manner so as to disturb neighboring individuals.
- 6.5 Nuisance enforcement.** The employees of the Animal Control Department, and officers of the Russellville Police Department, shall attempt to ensure that the owners of dogs that engage in excessive barking or howling shall control said dog(s) and stop the excessive barking or noise, especially during the hours of 9:00 p.m. to 7:00 a.m.
- 6.6 Restraint in transit.** It shall be unlawful for any person to transport any animal in an open vehicle without said animal being restrained in such a manner as to prohibit such animal from leaving or being thrown out of the vehicle while in a public place or upon the public streets. If the animal is tethered, it shall be done in a manner as to prevent such animal from exiting the vehicle and from causing harm to said animal or persons. The intent of this Section is to ensure that an animal in transit is humanely and adequately restrained within the confines of the transporting vehicle.
- 6.7 Confinement.** An owner of a dog, whether vaccinated or unvaccinated, shall confine such dog within an adequate fence or enclosure or within a house, garage or other building, or shall confine such dog adequately to prevent the dog from running at large.

- 6.8** It shall further be the duty of any owner, possessor or keeper of any dog to keep such dog under such control so as to:
- 6.8.1** Prevent such dog from becoming a danger to persons or property, or trespassing upon another person's property without that person's permission; and
  - 6.8.2** Prevent such dog from running at large upon the streets, sidewalks, alleys, parks or other public places of the city. However, an owner of a dog shall be able to obedience train their dog at an area designated by sign in Pleasant View Park on Sunday through Saturday during the times of 6:00 a.m. to 10:00 a.m. and 6:00 p.m. until dark as long as there is no Parks and Recreation Department scheduled activity, event or program occurring during those times listed.
- 6.9** An owner of a vicious animal shall confine it within a building or secure enclosure and not release it therefrom unless it is securely muzzled. Any vicious animal trespassing or running at large is hereby declared a nuisance and may be impounded pursuant to the provisions of Section 11 hereof or ordered confined by the animal control department, or killed if impoundment is not possible without risk or physical harm to any person. Further, in any prosecution of an owner or keeper of any such vicious animal for trespassing or running at large, the District Court may, upon conviction entered, order that such animal be humanely destroyed. The Court may further order that an animal seized by the Animal Control Department not be returned to the animal's owner, after the conviction of the owner in District Court for a violation of state law or the provisions of this Code, until such time as court ordered fees are paid, or court ordered conditions are met.
- 6.10** Every female dog or cat in heat shall be kept confined in a building or secure enclosure or in a veterinary clinic or hospital or in a kennel in such a manner that such female dog or cat cannot come into contact with another dog or cat, except for intentional breeding purposes. No more than four (4) dogs, or four (4) cats, older than three (3) months of age, may be kept at any residential structure or premises.
- 6.11** It shall be unlawful for any owner to allow his dog or cat to enter any food store or place where food is exhibited for sale.
- 6.12** It shall be unlawful for any person owning or having control of any chickens, ducks or other fowl within the city to permit them to run at large.
- 6.13** The owners of all cats shall maintain those animals on their own premises in a manner so as to not annoy their neighboring property owners. The owners of cats shall ensure that their cats shall not damage or soil property (flower beds, vehicles, screens, etc.) or annoy persons with fighting or excessive noise, especially late at night. Failure to maintain a cat or cats in a manner so as to not annoy neighboring property owners, or so as to avoid property damage, shall be considered a violation of this Chapter and Animal Control Code.

- 6.14 Rabid animals or animals suspected of having rabies.** Every veterinarian shall report promptly to the health officer or animal control authority all cases of rabies in animals treated by him, giving name and address of the owner; and the name of the owner and address of any animal(s) bitten or attacked by such rabid animal, so far as known.
- 6.15** Any person having knowledge that an animal, domestic or wild, is rabid or suspects an animal of having rabies, or knowledge that an animal has been bitten or attacked by a rabid animal, shall promptly report such information, to the extent known, to the health officer or the Animal Control Department.
- 6.16** It shall be the duty of the owner, the Health Department, or the person or agency gaining information that any domestic animal or person has been bitten, or is probably infected with rabies, to incarcerate or impound the animal in the institution of some licensed veterinarian within this city or county, or in the Animal Control Department shelter, where the animal shall be held for observation for such period of time as may be reasonably necessary to determine whether the animal is infected with rabies.
- 6.17 Containment of Animals; Electric or Invisible Fences; Warning Requirement for Owners of Electric or Invisible Fences.** Animals, whether vaccinated or unvaccinated, shall be confined within an adequate fence or enclosure, or within a house, garage, or other building. Animals shall not be chained to any stationary object.
- 6.18** Any “electric” or “underground invisible” enclosure or fence must be clearly marked and identified as the same by appropriate signage. The signage must sufficiently warn persons lawfully entering upon a property as to the presence of the enclosure and the possible presence of an animal therein. Size or placement of the signage must be such that persons are provided reasonable notice prior to coming into the area of the electric or underground fence.

## **SECTION 7: CRUELTY**

- 7.1 Prohibited treatment; removal of mistreated animals; payment of expenses.** It shall be unlawful for any person to:
- 7.1.1** Overdrive, overload, overwork, torture, beat, mutilate, kill needlessly, carry or confine in a vehicle in an inhumane manner, or otherwise mistreat, any animal;
- 7.1.2** Fail to provide any animal with proper food, drink, protection from the weather and veterinary care. Proper shelter shall be:
- 7.1.2.1** A plastic barrel, not a metal barrel, in a shady area; or
- 7.1.2.2** A dog house consisting of three (3) sides, a roof, and bottom; to prevent wind, rain, snow, and other elements from blowing in, and providing a dry place to lay and protection from extreme temperatures;
- 7.1.3** Abandon any animal;

- 7.1.4 Intentionally poison any animal;
  - 7.1.5 Allow or promote any fight between animals, or to allow or permit any such fight in or upon any premises in his possession or under his control;
  - 7.1.6 Allow an animal to be kept in unsanitary conditions;
  - 7.1.7 Animals shall be provided reasonable exercise room based on the animals size, species, and breed. Any animal restraint used shall be set up in a manner as to not entangle with objects that would limit the range of the animal while attached to the restraint and subsequently prevent the animal from accessing water, food or shelter; or
  - 7.1.8 Keep or confine an animal in other way than in a humane manner.
- 7.2 The Animal Control Department may remove any animal kept or confined under such conditions and may impound such animal pursuant to the provisions of Section 11 hereof.

## **SECTION 8: WILD ANIMALS**

- 8.1 **Prohibitions.** No person may own, possess or have custody of any wild animal, unless the person obtains a permit from the animal control authority as provided herein.
- 8.2 No person may sponsor, promote or train a wild animal to participate or contribute to the involvement of a wild animal in, or attend as a spectator, in any activity or event in which any wild animal engages in unnatural behavior or is wrestled, fought, mentally or physically harassed, or displayed in such a way that the animal is abused or stressed mentally or physically. This prohibition applies to events and activities taking place in either public or private facilities or property, and applies regardless of the purpose of the event or activities, irrespective of whether or not a fee is charged to spectators and regardless of whether or not a permit to own, possess or have custody of a wild animal has been issued as provided herein.
- 8.3 **Jurisdiction.** The Animal Control Department shall enforce the provisions of this Section and is authorized to issue permits for the ownership, possession or custody of wild animals in accordance herewith.
- 8.4 The Animal Control Department, with assistance from the Russellville Police Department, shall make investigations or inspections to determine whether any permit holder has violated or is violating any provisions hereof or any regulation issued hereunder, and for such purposes, the Animal Control Department shall at all reasonable times, have access to all facilities where wild animals are held pursuant to permits issued hereunder. The Animal Control Department is specifically authorized and directed to make random and unannounced inspections of such facilities at any reasonable time.
- 8.5 The Animal Control Department shall adopt rules and regulations prescribing standards for the humane handling, care, treatment and transportation of wild

animals, including the standards by which the Animal Control Department shall determine whether to issue a permit as provided for herein.

- 8.6 Permits.** Any person applying for a permit to own, possess or have custody of a wild animal must demonstrate to the Animal Control Department that the applicant will be able to comply with the standards adopted by the Animal Control Department.
- 8.7** Each application for issuance of a permit hereunder shall be accompanied by a fee in the sum of one hundred dollars (\$100.00).
- 8.8** Each permit issued hereunder shall be effective for a period of one year and must be renewed by re-application as provided for herein, together with payment of the application fee.
- 8.9 Notice required.** Any animal establishment offering a wild animal for sale shall post conspicuously, at the place of sale or display, a copy of this Section and a copy of the rules and regulations adopted pursuant hereto by the Animal Control Department.
- 8.10 Impoundment and disposal.** Notwithstanding the provisions of Section 11 hereof, the Animal Control Department is empowered to impound any wild animal being kept, harbored or maintained in violation of this Chapter and Animal Control Code or of rules and regulations adopted by the Animal Control Department, and upon conviction of the owner or any other person for violation hereof, the Court may order that the animal control authority may humanely destroy or otherwise dispose of such wild animal, including but not limited to, donating and transferring ownership of such wild animal to a zoo or other facility deemed appropriate by the Animal Control Department.

## **SECTION 9: ANIMAL ESTABLISHMENTS**

- 9.1 Permit required; term; removal; one per establishment; display.** No person shall operate an animal establishment without first obtaining a permit from the Animal Control Department in compliance with this Section, nor may any person operate an animal establishment in a manner in violation of any provision of this Chapter and Animal Control Code. The permit shall be in lieu of the required business permit, and the fee for this permit shall be the same as the City business permit fee.
- 9.2** The permit period shall begin with the first day of the calendar year and shall run for one year. Renewal application for permits shall be made thirty (30) days prior to and up to sixty (60) days after January 1st of each year. Application for a new establishment under the provisions of this Chapter and Animal Control Code shall be made within sixty (60) days of the start of business or operation.
- 9.3** Every facility regulated by this Section shall be considered a separate enterprise, requiring an individual permit (e.g., two (2) kennels at different locations but owned by the same person, shall be considered as two (2) animal establishments).
- 9.4** Permits obtained in accordance with this Section shall be displayed in a prominent location on the premises of the animal establishment.

- 9.5 Application procedure.** Each animal establishment shall annually file an application for permit with the Animal Control Department within the time periods provided in Section 9.2 hereof, provided that all preexisting establishments shall have ninety (90) days from the effective date of this Chapter and Animal Control Code to file such application.
- 9.6** The permit application shall be made on a form provided by the Animal Control Department.
- 9.7** Upon receipt of a completed application, the Animal Control Department shall make an inspection of the facility to ensure that all animals are provided for in a humane manner and that the establishment is in compliance with all provisions of this Chapter and Animal Control Code. The Animal Control Department shall be permitted to make such inspections of any animal establishment at any reasonable time during normal business hours.
- 9.8** The Animal Control Department shall either issue a permit to the applicant or, if a permit is not granted, the Animal Control Department shall notify the applicant in writing of the specific reasons for denial.
- 9.9** Any animal establishment denied a permit may not reapply for a period of at least thirty (30) days. Each reapplication shall describe any previous denial or revocation.
- 9.10** If an applicant is shown to have withheld or falsified any material information on the application, the Animal Control Department may refuse to issue or may revoke a permit.
- 9.11 Revocation of permits.** The Animal Control Department may revoke any permit if the person holding the permit refuses or fails to comply with this Chapter and Animal Control Code, or any other law or regulation governing the protection and keeping of animals, including refusal to allow inspection of the animal establishment as provided in this Section.
- 9.12** Whenever a permit is revoked for cause, or pending any proceedings to contest such action, the Animal Control Department shall have power of entry to inspect all premises where the animals are being kept and shall notify the owner in writing as to the period of time that reasonably shall be allowed for removal of animals from such premises, and shall state the specific reasons for revocation. In the event any such owner shall fail to remove such animals as directed, the Animal Control Department may impound such animals pursuant to Section 11 hereof.
- 9.13 Compliance with Chapter and Animal Control Code.** An animal establishment shall not sell, trade or give away any dog or cat over three (3) months of age, unless the dog or cat has been licensed and/or vaccinated as required by this Chapter and Animal Control Code.
- 9.14** The Animal Control Department shall be permitted to inspect any animal establishment and all animals and the premises where such animals are kept at

any reasonable time during normal business hours to ensure compliance with all provisions of this Section and the Animal Control Code.

**9.15 Standards for commercial kennels.** All kennels shall, in addition to the other requirements of this Chapter and Animal Control Code, comply with the minimum standards of this Section. Failure to meet these standards shall be grounds for denial of a permit or revocation of a permit. Standards for kennels are as follows:

**9.15.1** Enclosures must be provided which shall allow adequate protection against weather extremes. Floors of buildings, runs and walls shall be of an impervious material to permit proper cleaning and disinfecting. Enclosures for animals must be at least two hundred (200) feet from the nearest residential structure not owned by the owner of the kennel.

**9.15.2** Building temperature shall be maintained at a comfortable level. Adequate ventilation shall be maintained.

**9.15.3** Each animal shall have sufficient space to stand up, lie down and turn around without touching the sides or top of cages.

**9.15.4** Cages are to be of material and construction that permit cleaning and sanitizing.

**9.15.5** Cage floors of concrete, unless radiantly heated, shall have a resting board or some type of adequate bedding.

**9.15.6** Runs shall provide an adequate exercise area and protection from the weather. Runs shall have an impervious surface.

**9.15.7** All animal quarters and runs are to be kept clean, dry and in a sanitary condition.

**9.15.8** The food shall be free from contamination, wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the animal.

**9.15.9** All animals shall have fresh water available at all times.

## **SECTION 10: PRIVATE KENNELS**

**10.1 Standards.** All private kennels shall, in addition to the other requirements of this Chapter and Animal Control Code, comply with the minimum standards of this Section. Standards for private kennels are as follows:

**10.1.1** No person shall operate a private kennel without first obtaining an annual permit from the Animal Control Department. Permits shall be based upon calendar years. Application for renewal of a permit shall be made between thirty (30) days prior to and sixty (60) days following January 1st of each year.

**10.1.2** Upon receipt of a completed application, the animal control department shall make an inspection of the facility to ensure that all animals are

provided for in a humane manner and that the private kennel is in compliance with all provisions of this Chapter and Animal Control Code.

- 10.1.3** Upon receiving a complaint concerning a private kennel, the Animal Control Department may make an inspection of the facility to ensure that the facility is in compliance with all provisions of this Chapter and Animal Control Code.
- 10.1.4** All animals shall have adequate space for proper shelter against weather extremes, and for proper exercise.
- 10.1.5** All kennel areas shall be maintained in such a manner as not to constitute either a private nuisance to adjoining property owners or a nuisance to the public generally. Kennel areas in which animals are confined or maintained shall be cleaned regularly so that they are kept free from offensive odors, which would disturb any person working or residing within a reasonable distance of said premises; and the animals themselves shall be restrained in such a fashion so that noise emanating therefrom shall not be disturbing to such persons.
- 10.1.6** Proper food of sufficient quantity and nutritive value to meet the normal daily requirements for condition and size of animals shall be provided.
- 10.1.7** Fresh water shall be available at all times.
- 10.1.8** Private kennels shall not house more than eight (8) animals unless said kennel is located in a nonresidential zone, and is at least two hundred (200) feet from the nearest residential structure.

## **SECTION 11: IMPOUNDMENT; ADOPTION**

- 11.1 Impoundment.** Any animal at large or otherwise in violation of the provisions of this Chapter and Animal Control Code may be impounded in the Animal Control Department in a humane manner for a period of not less than five (5) business days; and if within such time, an animal so impounded has not been reclaimed by its owner in accordance with the provisions of this Chapter and Animal Control Code, such animal shall become the absolute property of the Animal Control Department, which may convey ownership of such animal to any responsible person, on such conditions as Animal Control Department may prescribe, or the Animal Control Department may humanely destroy such animal.
- 11.2** The Animal Control Department shall make a reasonable effort to notify the owner of any animal impounded in the Animal Control Department shelter that the animal has been impounded, of the manner by which the animal may be reclaimed and that the animal may be destroyed or become the property of the animal control department as provided herein.
- 11.3** Prior to destruction of a dog at large which carries its owner's address and which is impounded in the Animal Control Department shelter, the Animal Control Department shall mail a letter giving the owner five (5) days' notice of the proposed destruction.

- 11.4** Notwithstanding any provision of this Chapter and Animal Control Code to the contrary, the Animal Control Department may refuse to release any animal impounded in the Animal Control Department shelter for rabies or contagious disease, quarantine, or for use as evidence in a criminal prosecution, for such time period as the Animal Control Department may determine. After a court appearance resulting in a conviction, the Court may order that any animal seized as the result of a violation of this Chapter and Animal Control Code not be returned to the owner until any condition imposed by the Court, relating to the confinement or care for said animal, has been met.
- 11.5** Notwithstanding any provision of this Chapter and Animal Control Code to the contrary, the Animal Control Department may humanely destroy any animal impounded in the Animal Control Department upon the written opinion of a licensed veterinarian that destruction of the animal is necessary to prevent disease or injury to other animals or to humans due to overcrowding in the Animal Control Department shelter, the presence or threatened presence of contagious disease, or any other condition.
- 11.6** Notwithstanding any provision of this Chapter and Animal Control Code to the contrary, the Animal Control Department may humanely destroy any animal impounded in the Animal Control Department shelter when the Animal Control Department reasonably believes the animal has sustained an injury or disease which will likely result in maiming, prolonged and severe suffering, or death.
- 11.7 Reclaiming impounded animals.** The owner of an animal impounded in the Animal Control Department shelter may reclaim the animal upon presenting evidence satisfactory to the Animal Control Department of compliance with all provisions of this Chapter and Animal Control Code, and upon payment of fees and charges as hereinafter provided, credited to the account of the Animal Control Department, and shall not be in lieu of any fine or penalty otherwise provided by law.
- 11.8** Fees (per animal) for reclaiming impounded animals are as follows:
- |   |          |
|---|----------|
| <b>11.8.1</b> First offense   | \$50.00  |
| Second offense  | \$100.00 |
| Third offense   | \$150.00 |
| Subsequent offense  | \$150.00 |
| <b>11.8.2</b> Lack of rabies vaccination  | \$250.00 |
| <b>11.8.3</b> Rabbits, poultry and birds, each offense  | \$30.00  |
| <b>11.8.4</b> Other animals, each offense   | \$100.00 |
| <b>11.8.5</b> Animals impounded for rabies quarantine or for use as evidence in a criminal prosecution, per day               | \$15.00  |
| <b>11.8.6</b> In addition to the foregoing fees, the per day board for each day the animal is impounded in the animal shelter | \$15.00  |

- 11.9** The owner of an animal impounded in the Animal Control Department shall be liable for the forgoing fees and charges, notwithstanding the destruction or adoption of the animal.
- 11.10 Adoption.** The Animal Control Department may convey ownership (permit adoption of) any animal which has become the property of the Animal Control Department to a responsible person subject to such conditions as may be prescribed by the Animal Control Department, including, without limitation, to the following:
- 11.10.1** Payment of a forty dollar (\$40.00) adoption fee for a dog, twenty dollar (\$20.00) fee for a cat; and,
- 11.10.2** Evidence satisfactory to the Animal Control Department that the animal has, or will be examined by veterinarian and vaccinations against rabies and other disease administered.
- 11.10.3** Evidence satisfactory to the Animal Control Department that the animal has, or shall be, neutered or spayed.
- 11.10.4** The following fees shall apply to all animals turned into the Animal Control Department:
- 11.10.4.1** Animals turned into the Animal Control Department by residents of the City of Russellville . . . \$5.00
- 11.10.4.2** Animals turned into the Animal Control Department by residents of Pope County that do not reside in the City of Russellville . . . \$10.00
- 11.10.4.3** Animals turned into the Animal Control Department by residents who reside outside of Pope County . . . \$20.00

## **SECTION 12: ENFORCEMENT/ PENALTIES**

- 12.1 Enforcement responsibility.** The provisions of this Chapter and Animal Control Code shall be enforced by the Animal Control Department and by the Russellville Police Department, and by the City Attorney, upon receipt of a complaint, or violations observed by either Department.
- 12.2 Interference.** No person shall interfere with, hinder or harass the employees of the Animal Control Department in the performance of their duties or seek to release any animal in the custody of the Animal Control Department, except as herein provided.
- 12.3 Citations.** The employees of the Animal Control Department and officers of the Russellville Police Department, are hereby authorized to issue a citation to any person for violation of any provision of this Chapter and Animal Control Code. The citation shall be in a form approved by the District Court, shall designate the offense charged and shall require the person so charged to appear before the District Court on a date certain to answer the charges therein contained.
- 12.4 Penalties for violations.** Any person who commits the state criminal offense of cruelty to animals shall be deemed guilty of a Class A misdemeanor, and shall be

subject to fines and penalties as prescribed in A.C.A. §§5-4-201 and 5-4 401 (the sentence shall not exceed one (1) year and the fine shall not exceed two thousand five hundred dollars (\$2,500.00).

- 12.5** Any person violating any other provision of this Chapter and Animal Control Code shall be deemed guilty of a misdemeanor and upon conviction be fined in according with the provisions of this Title and Code.
- 12.6** In addition to the punishment provided in Subsection 12.4 and 12.5 of this Section the Court may imposed conditions that must be met by the owner of an impounded animal prior to the release of the animal as provide for in Section 11.4 of this Chapter and Animal Control Code.
- 12.7 Equipment.** The Animal Control Department is authorized to employ any equipment it deems necessary to enforce the provisions of this Chapter and Animal Control Code, including, without limitation, humane wire box traps; and Animal Control Department may, subject to conditions it may determine, lend such traps or other equipment to private persons for the purpose of preventing nuisances resulting from animals at large.
- 12.8** These traps will be loaned to persons for a \$30.00 deposit on cat traps and \$200.00 deposit on dog traps, in the form of a check. The deposit (check) will be returned to the person upon return of the trap in an undamaged condition. Failure to return a trap loaned by the City, in undamaged condition, shall result in loss of the deposit. Said trap shall be returned within thirty (30) days of receipt thereof.
- 12.9 Outside cage.** It is unlawful to release dogs that are in the City's after hours drop pen, or release animals or disturb any trap used.
- 12.10 Exclusion.** Any animal establishment or veterinary clinic existing prior to the date of adoption of this Chapter and Animal Control Code shall not be required to relocate as a result of the provisions of this Chapter and Animal Control Code. Said pre-existing animal establishments shall be required to comply with all other provisions of this Chapter and Animal Control Code.

### **SECTION 13: RECORDS**

- 13.1 Records required to be kept.** It shall be the duty of the Animal Control Department to keep, or to cause to be kept, accurate and detailed records of the licensing, impoundment and disposition of all animals coming into its custody. Said records will be maintained for a minimum of four (4) years.

### **SECTION 14: LIVESTOCK**

- 14.1 Keeping of hooved livestock.** The keeping within the corporate limits of the City of cows, mules, horses, swine, sheep, goats or other hooved livestock shall be allowed subject to the provisions of this Section and the applicable provisions of the City's Zoning Code, as amended.
- 14.2** All pens or enclosures including veterinary clinics, where hooved livestock are kept shall be not less than one hundred (100) feet from any residence or business

establishment; provided, however, that this restriction shall not apply to a residence or business of the livestock's owner.

- 14.3** Pens and enclosures for hoofed livestock (except enclosures at veterinary clinics for the temporary housing of livestock) shall meet the following minimum requirements:
- 14.3.1** Horses, Cows, Swine and other large hoofed livestock.
- 14.3.1.1** Two acres per two horses, Cows, swine or other large hoofed livestock or combination thereof, minimum of two acres for first such animals a maximum of six (6) large hoofed livestock may be kept in the City.
- 14.3.1.2** A minimum five-foot fence when the livestock are horses, mules, asses or donkeys; a minimum three-foot, six-inch high fence for all other livestock specified in Section 4.12 (Livestock). Said fence shall be of a standard design and material for the proper constraint of the type of livestock kept;
- 14.3.1.3** Adequate shelter from weather elements which provides the animals adequate space to stand, turn and stretch comfortably; provided, however, that cows are excluded.
- 14.3.2** Sheep, goats and other small hoofed livestock.
- 14.3.2.1** One acre per two sheep, goats or other small hoofed livestock or combination thereof, minimum of one acre for first such animal. A maximum of eight (8) small hoofed livestock may be kept in the City;
- 14.3.2.2** Adequate shelter from weather elements, which provides the animals adequate space to stand, turn and stretch comfortably; and
- 14.3.2.3** Pen or enclosure of standard design and material for the proper constraint of the type of small-hoofed livestock kept.
- 14.3.3** A maximum of six (6) large hoofed livestock may be kept in the City. A maximum of eight (8) small hoofed livestock may be kept in the City.
- 14.4** Persons currently keeping livestock in the City in numbers greater than six (6) large hoofed or eight (8) small hoofed, shall be allowed to maintain said livestock, or their numerical replacement, upon applying for and receiving a written permit from the Animal Control Department. Said application must be submitted within ninety (90) days of passage of this Chapter and Animal Control Code. The numerical limits relating to livestock contained in this Chapter and Animal Control Code shall not apply to livestock maintained on property zoned A-1 (agricultural) in the City.
- 14.5** There shall be no limitation on the number of livestock that may be kept in an agricultural (A-1) zone. Livestock maintained in an A-1 zone shall be enclosed in a fence or building no closer than one hundred (100) feet from the nearest

residential structure, unless the keeping of livestock on said premises pre-dated the adjoining residential use.

- 14.6 Keeping of small livestock and poultry.** The keeping of small livestock and poultry such as rabbits, chickens, guineas and turkeys is permitted within the corporate limits of the City, subject to provisions of this Section.
- 14.7** Small livestock and poultry shall be confined within an area containing adequate shelter and enclosure meeting the following minimum floor space requirements:
- 14.7.1 Rabbits.** Six (6) square feet per animal over four (4) months of age;
- 14.7.2 Turkeys.** Eight (8) square feet per bird over four (4) months of age;
- 14.7.3 Chickens and similar fowl.** Four (4) square feet per bird over four (4) months of age with a maximum number of chickens per residence to be six (6) chickens. No roosters shall be allowed in the City of Russellville. Owner of chickens to provide the Animal Control Department personnel with proof of vaccination of chickens.
- 14.8** All pens, houses and enclosures where small livestock or poultry are kept shall be not less than three hundred (300) feet from any residence or business establishment;
- 14.8.1** Provided, however, that this restriction shall not apply to a residence or business establishment of the livestock's or animals' owner; and,
- 14.8.2** It is specifically intended as an exception to Subsection 14.8 that all pens, house and enclosures where chickens and similar fowl are kept shall be not less than seventy-five (75) feet from adjacent property lines.
- 14.9** No more than ten (10) animals or fowl of the small livestock and poultry type may be kept inside the City. This limitation does not apply to animals kept on property located in an A-1 (agricultural zone.) The permit requirement found in Subsection 14.4 shall also apply to small livestock and poultry.
- 14.10 Condition of pens and enclosures.** All livestock or poultry pens and enclosures shall be maintained and kept in such condition as not to become unsanitary, offensive or disagreeable to persons residing in the vicinity thereof, nor shall they be so maintained or kept to permit the breeding of flies or in any manner cause injury to the health or comfort of the public or any person working or residing in the vicinity of said pen or enclosure. Manure or refuse shall be promptly removed and disposed of after each cleaning in accordance with all applicable rules, regulations and laws. All large animals and premises shall be treated to prevent flies, horseflies, ticks, lice, etc.
- 14.11 Other provisions.** Any kennel or boarding facilities keeping livestock shall, in addition to the requirements of this Section, comply with all regulations relative to "Animal Establishments" maintained by the Animal Control Department.
- 14.12** Livestock and poultry shall be subject to other applicable provisions of this Chapter and Animal Control Code (e.g., running at large, cruelty, nuisance, impoundment, etc.)

- 14.13** Commercial livestock establishments, including but not limited to, dairy farms, poultry farms, training farms, livestock boarding establishments, livestock display and sale facilities and feed lots, shall in addition to the requirements of this Section, be subject to the applicable provisions of the City of Russellville Zoning Code as may now or hereinafter be adopted or amended.
- 14.14 Annual permit.** The owner of any hooped livestock shall obtain a permit for a keeping of said livestock from the Animal Control Department. The purpose of said permit shall be to ensure compliance with this Section. Said permit shall be on a form prescribed by the Animal Control Department and shall be issued upon satisfactory demonstration of compliance with this Section. The fee for said permit shall be \$20.00, except no fee shall be charged for a permit for animals confined in an A-1 zone.
- 14.15 Exceptions.** The otherwise lawful keeping of any livestock within the City or enclosure for livestock at a veterinary clinic, existing on or before the effective date of this Chapter and Animal Control Code or existing on or before the effective date of any subsequent annexation, may continue; provided, however, that such keeping shall not be extended or enlarged, either upon the same or adjoining property nor shall any subsequent discontinuance of such keeping be restored except in compliance with this Section.
- 14.16 Arkansas Tech University and the Pope County Fairgrounds.** The provisions of this Code shall not apply to animals kept on land owned by Arkansas Tech University, or to animals kept on the Pope County Fairgrounds.
- 14.17 Slaughtering of Livestock.** The City Council hereby declares the slaughtering and dressing of rabbits, chickens, ducks, sheep, goats, hogs, cattle, except as set forth below, to be a public nuisance, and as such, is prohibited within the City of Russellville.
- 14.18** No person, firm, or other entity, shall slaughter or dress any rabbits, chickens, ducks, sheep, goats, hogs, cattle, or any combination of same, unless, such person, firm or other entity has first obtained a license or permit from the City of Russellville, or unless it is the holder of a license or permit from any State or Federal agency authorizing such keeping or slaughtering.
- 14.19** No person, firm, or entity shall dispose of animal remnants by placing them on any public property, structure, or building by discarding on any public or private drive, street, road, parks or park areas, walking paths, or public athletic fields located in the City of Russellville.

## **ARTICLE III – OFFENSES INVOLVING PUBLIC PEACE AND ORDER**

### **CHAPTER 1 – RESERVED**

### **CHAPTER 2 – CITY JUVENILE CURFEW CODE**

#### **SECTION 1 – TITLE**

- 1.1** This Chapter shall be titled, known as, referred to and cited as the “City of Russellville Juvenile Curfew Code (“Juvenile Curfew Code”).

#### **SECTION 2: FINDINGS, PURPOSE AND INTENT**

The City Council of the City of Russellville, Arkansas, finds that:

- 2.1** Special circumstances exist within the city that call for the special regulation of juveniles within the city in order to protect them from each other and from other persons on the street during the nocturnal hours, to aid in crime prevention, to promote parental supervision and authority over juveniles and to decrease nocturnal crime.
- 2.2** There has been a significant breakdown in the supervision normally provided by some parents and guidance for juveniles under 18 years of age, resulting in juveniles being involved in a wide range of unacceptable behavior including vandalism, noisy and unruly behavior, breaking and entering, public drinking and littering, harassment of residents, truancy or absenteeism from school and more serious violent crimes.
- 2.3** The offensive activities of juveniles are not easily controlled by existing laws and ordinances because the activities are concealed whenever police officers are present, and that the establishment of reasonable curfew regulations will enable the community to better control the free and unobstructed access to the streets and public places by the majority of residents and will enable the police to act reasonably and fairly to prevent the violation of laws and ordinances by juveniles.
- 2.4** Russellville is basically a family community. Parental responsibility for the whereabouts of children is the accepted norm by a substantial majority of the community. Legal sanctions to enforce such responsibility have had demonstrated effectiveness in many communities over the years. As parental control increases there is a likelihood that juvenile delinquency decreases and that there is a need for nocturnal curfew for juveniles in the city and that the establishment of a curfew applicable to juveniles will reinforce the primary authority and responsibility of parents and guardians over juveniles in their care and custody.
- 2.5** An emergency has been created by a substantial increase in the number and in the seriousness of crimes committed by minors against persons and property within the City, and this has created a menace to the preservation of public peace, safety, health, morals and welfare.
- 2.6** The increase in juvenile delinquency has been caused in part by the large number of minors who are permitted to remain in public places and in certain establishments during night hours without adult supervision.

- 2.7** The problem of juvenile delinquency can be reduced by regulating the hours during which minors may remain in public places and in certain establishments without adult supervision, and by imposing certain duties and responsibilities upon the parents or other adult persons who have care and custody of minors.

### **SECTION 3: AUTHORITY**

- 3.1** This Chapter and Juvenile Curfew Code is passed pursuant to the power granted to the City of Russellville by the State of Arkansas by A.C.A. §§14-43-602, 14-54-103, 14-54-1502, 14-55-101, and 14-55-102.

### **SECTION 4: DEFINITIONS**

For purposes of the Chapter and Juvenile Curfew Code, the following terms, phrases, words and their derivations shall have the meanings ascribed to them by this Section:

- 4.1** *“District Court”* means the District Court of Pope County, City of Russellville Criminal Division, which has jurisdiction only within the city limits of the City of Russellville. The term District Court shall mean Pope County Circuit Court, Criminal Division, only if a conviction by the District Court of Pope County, City of Russellville Criminal Division, has been rendered on a Defendant who subsequently has appealed his or her conviction to Pope County Circuit Court, Criminal Division
- 4.2** *“Emancipated Juvenile”* means a juvenile 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.
- 4.3** *“Legitimate parentally approved errand”* means a juvenile performing a necessary task at the direction of the juvenile'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.
- 4.4** *“Public place”* means a publicly or privately owned place to which the public or substantial numbers of people have access. A public place does not include the residence of a juvenile or, the residence of a juvenile's parent or a responsible adult.
- 4.5** *“Remain”* means to loiter, idle, wander, stroll or play in or upon.
- 4.6** *“Street”* means a way or place, of whatever nature, open to the use of the public as a matter of right for purposes of vehicular travel or in the case of a sidewalk thereof for pedestrian travel. The term "street" includes the legal right-of-way, including but not limited to traffic lanes, the curb, the sidewalks whether paved or unpaved, and any grass plots or other grounds found within the legal right-of-way of a street. The term "street" applies irrespective of what it is called or formerly named, whether alley, avenue, court, road, or otherwise. The term "street" shall also include shopping centers, parking lots, parks, playgrounds, public buildings, the common areas of public housing developments, and similar areas that are open to the use of the public.

- 4.7** “*Time of night*” is based upon the prevailing standard of time, whether Central Standard Time or Central Daylight Savings Time, generally observed at that hour by the public in the city, prima facie the time then observed in the City police station.
- 4.8** “*Years of age*” continues from one birthday, such as the 17th, to (but not including the day of) the next, such as the 18th birthday, making it clear that 17 or less years of age be treated as equivalent to the phrase "under 18 years of age."

**SECTION 5: HOURS WHEN JUVENILES ARE PROHIBITED FROM BEING IN THE PUBLIC**

- 5.1** It shall be unlawful for any juvenile to loiter, ramble, play upon, frequent or to be upon the streets, highways, alleys, 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 in the City between the hours of 11:00 p.m. and 6:00 a.m., Sunday through Thursday, or 12:00 a.m., midnight, and 6:00 a.m., Friday and Saturday. If a police officer reasonably believes that a juvenile is on the streets in violation of this Subsection, the officer shall notify the juvenile that they are in violation of this Chapter and Juvenile Curfew Code and shall require the juvenile to provide their name, address and telephone number and how to contact their parent or guardian. In determining the age of the juvenile believed to be in violation of this Chapter and Juvenile Curfew Code, and in the absence of convincing evidence, a police officer shall use his best judgment in determining age.
- 5.2** It shall be unlawful for any parent to knowingly permit a juvenile to loiter, ramble, play upon, frequent or 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 in the City between the hours of 11:00 p.m. and 6:00 a.m., Sunday through Thursday, or 12:00 a.m., midnight, and 6:00 a.m., Friday and Saturday. The fact that a juvenile is in violation of the provisions of Subsection 5.1 hereinabove, without a defense as set forth in Section 6, shall create a rebuttable presumption that a parent is in violation of this Subsection.
- 5.3** It shall be unlawful for any operator of an establishment or their agents or employees to knowingly permit any juvenile to remain upon the premises of said establishment in the City between the hours of 11:00 p.m. and 6:00 a.m., Sunday through Thursday, or 12:00 a.m., midnight, and 6:00 a.m., Friday and Saturday. The fact that a juvenile is in violation of the provisions of Subsection 5.1 hereinabove, without a defense as set forth in Section 6, shall create a rebuttable presumption that an operator of an establishment or their agents or employees is in violation of this Subsection.

**SECTION 6: EXEMPTIONS**

- 6.1** Notwithstanding the provisions of Section 5, the Juvenile Curfew Ordinance does not apply:

- 6.1.1** At any time a juvenile that is accompanied by a parent, or by a responsible adult authorized by a parent to take the parent's place to accompany the juvenile for a designated period of time and purpose within a specified area.
  - 6.1.2** If the juvenile is employed, for a period of time forty-five (45) minutes after work, provided that circumstances suggest the juvenile is returning from work to a place of residence.
  - 6.1.3** When a juvenile is returning home from an activity that is supervised by adults and sponsored by the city, a civic organization, a public or private school, religious organization, other recreational activity sponsored by adults or any entity that takes responsibility for the juvenile, provided that the activity has not concluded for more than forty-five (45) minutes.
  - 6.1.4** At any time the juvenile is on a trip in interstate commerce.
  - 6.1.5** At any time the juvenile is required to leave a residence because of an emergency.
  - 6.1.6** At any time the juvenile is engaged in an activity that is protected by the First Amendment to the United States Constitution, or the freedom of speech, religion or expression provisions in Article II of the Arkansas Constitution.
- 6.2** If a juvenile being questioned about the possible violation of the Juvenile Curfew Ordinance provides a law enforcement officer with sufficient reason to believe that the juvenile is entitled to an exemption under Subsection 6.1 above, the law enforcement officer shall take no more enforcement actions under this Chapter and Juvenile Curfew Code, provided the officer may make a report of the juvenile's identity, the exemption claimed, and other necessary information to note the possible violation of this Chapter and Juvenile Curfew Code.

**SECTION 7:**

- 7.1** A juvenile found to be in violation of this Chapter and Juvenile Curfew Code shall be subject to penalties provided in the Title and Code, or to such other disposition including suspension, probation, or conditions for suspension for probation, as determined by the judge of the District Court in accordance with Arkansas law.
- 7.2** A parent of a juvenile charged with violation of this Chapter and Juvenile Curfew Code may be notified of such violation and required to appear before the District Court for any hearing which involves the juvenile.
- 7.3** At the discretion of the law enforcement officer, any juvenile arrested or cited for violation of this Chapter and Juvenile Curfew Code may be released to immediately return home or to school, may be escorted to their home or school, or may be taken into custody and delivered to an appropriate location, or juvenile authority, to be held until a parent can be located to take custody of the juvenile.

- 7.4** Nothing in this Section shall preclude a law enforcement officer from taking any or all appropriate actions for a juvenile's violation of any other local or state law.
- 7.5** Any parent, guardian or other person having legal care or custody of any person under the age of eighteen (18) years; any juvenile person under the age of eighteen (18) years; or any operator of an establishment or his agents or employees violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in accordance with the provisions of this Title and Code. The District Court may substitute community service in lieu of the fines but not in lieu of the court costs.

**SECTION 8: NOTICE**

- 8.1** Notice is presumed to be received by a parent if deposited in a depository for mailing United States Mail, properly addressed and with first-class postage paid. The mailing may be shown by records of the sending agency made in the regular course of its business.

**CHAPTER 3 – CITY LOUD NOISES CODE**

**SECTION 1: TITLE**

- 1.1 This Chapter shall be titled, known as, referred to and cited as “The City of Russellville Loud Noises Code (“Loud Noises Code”).”

**SECTION 2: FINDINGS, PURPOSE AND INTENT**

It is hereby found and declared as follows:

- 2.1 That the making, creation, or maintenance of loud, unnecessary, unnatural, or unusual noises which are prolonged, unusual, and unnatural in their time, place, and use affect and are a detriment to the public health, comfort, convenience, safety, welfare, and prosperity of the residents of the City; and,
- 2.2 That the necessity in the public interest for the provisions and prohibitions set forth in this Chapter and Loud Noises Code is declared as a matter of legislative determination and public policy, and it is further declared that the provisions of this Chapter and Loud Noises Code are in pursuance of, and for the purpose of, securing and promoting the public health, comfort, convenience, safety, welfare, and prosperity and the peace and quiet of the City and its citizens, residences and inhabitants.

**SECTION 3: AUTHORITY**

- 3.1 This Chapter and Loud Noises Code is passed pursuant to the power granted to the City of Russellville by the State of Arkansas by A.C.A. §§14-43-602, 14-54-103, 14-54-1502, 14-55-101, and 14-55-102.

**SECTION 4: DEFINITIONS**

For purposes of the Chapter and Loud Noises Code, the following terms, phrases, words and their derivations shall have the meanings ascribed to them by this Section:

- 4.1 “Plainly audible” 1) means clearly capable of being heard by a person of normal sensibilities using unaided auditory senses, at a volume level above that of a normal conversation. Plainly audible shall not include sounds which are just barely audible, but shall include without limitation or exclusion, with regard to music, detection of a rhythmic bass reverberating-type sound, beat or cadence; or  
 2) Shall mean sound limits at or within ten (10) decibels of the limits identified on Table 1 below. Any noise in excess of the Table 1 by more than ten (10) decibels shall be subject to enforcement which is not exempted by Section 7.

**Table 1**

Receiving Land Use Category	Time	Sound Level Limit
RE, R1, R2, R2S, R3, R4, C1, C4, CHZ, DCZ, PCZ, WN, and MU1	<u>Sunday through Thursday</u>	65dB 55dB
	7:00 a.m. to 10:00 p.m.	
	10:00 p.m. to 7:00 a.m.	
	<u>Friday through Saturday</u>	

	7:00 a.m. to 11:00 p.m. 11:00 p.m. to 7:00 a.m.	65dB 55dB
C1B, C2, C3, and C5	<u>Everyday</u> 7:00 a.m. to 11:00 p.m. 11:00 p.m. to 7:00 a.m.	70dB 65dB
M1 and M2	<u>Everyday</u> 7:00 a.m. to 11:00 p.m. 11:00 p.m. to 7:00 a.m.	80dB 80dB

(Amended by Ordinance No. 2495)

**SECTION 5: PROHIBITION**

- 5.1 The creating of any unreasonably loud, disturbing, and unnecessary noise of such character, intensity, or duration as to be detrimental to the life, health, safety, welfare, comfort or convenience of any individual, or in disturbance of the public peace, health, safety and welfare is prohibited
- 5.2 It shall be unlawful for any person to make or continue, or cause to be made or continued, any loud, disturbing, unnecessary, or unusual noise or any noise which annoys, disturbs, injures, or endangers the comfort, health, repose, peace, or safety of other persons within the City.
- 5.3 It shall be unlawful for any person to make or continue, or cause to be made or continued, any noise from any property in the city limits of the City in excess of the sound level limits categorized by time the noised is created and the type of zoned property the noise is emanating from as set by Table 1.
  - 5.3.1 *Noise measurement.* Measurement of noise pursuant to this Chapter shall be in accordance with this Subsection.
    - 5.3.1.1 *Method of measurement.* Noise shall be measured with a sound level meter meeting the standards prescribed by the American Standards Association. The measuring instruments shall be maintained in calibration and good working order. Prior to taking a measurement of the noise in question, the environment shall be observed to determine whether background noise is so close to the level of the sound being measured rendering a proper measurement impossible. Measurements recorded shall be taken so as to provide a proper representation of the noise being measured. The microphone shall be screened from wind and water and otherwise used in accordance with the manufacturer’s specifications.
    - 5.3.1.2 *Location of measurement.* Measurement of noise shall be taken along the real property line of the property where the noise is being produced at the location that is both closest to the location of the complainant’s property and the origin of the noise, and if protected by sound mitigating devices, such as a wall or landscaping, also from the location closest to the origin of the noise that is not

protected by sound mitigating devices, with the determinative measurement being the greater of the two.

*(Amended by Ordinance No. 2495)*

## **SECTION 6: SPECIFIC ENUMERATED ACTS**

- 6.1** The sounding of any horn or signal device on any automobile, motorcycle, motor scooter, moped, bus, truck or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device is for an unnecessary and unreasonable period of time.
- 6.2** The playing of any radio, stereo, TV, CD player, cassette player, DVD, VCR, phonograph, musical instrument, jukebox, amplification device, loudspeakers or other similar devices in such a manner or with such volume particularly during the hours between 10:00 p.m. and 7:00 a.m. as to annoy or disturb the quietness, comfort or peace of any persons in or around any office, hospital or in any dwelling, hotel or other type of residence.
- 6.3** Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort or repose of any person in any hospital, dwelling, hotel or any other type of residence, or of any person in the vicinity.
- 6.4** The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or in such manner as to cause loud and unnecessary grating, grinding, rattling or other noise.
- 6.5** To discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motor boat engine except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- 6.6** The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same is in session, or adjacent to any hospital which unreasonably interferes with the workings or sessions thereof; provided, however, that in case of emergencies when the public health, safety or general welfare is in danger, necessary work may be done. Where underground repair or construction work is necessary adjacent to or in the vicinity of a school, an institution of learning, a church, a court or a hospital, the work to be done at reasonable hours to be designated by the Director of Public Works.
- 6.7** The creation of loud and excessive noise in connection with unloading or loading any vehicle or the opening and destruction of bales, boxes, crates and containers.
- 6.8** The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale or display of merchandise.
- 6.9** The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes.

- 6.10** At any hour of the day or night, the use, operation, or playing of any radio, stereo system, compact disc player, cassette tape player, or any other device capable of sound amplification on:
- 6.10.1** Any motor vehicle located in any public right-of-way, public street or public property, at such a volume as to be plainly audible from a distance of thirty (30) feet or more from said motor vehicle; or,
  - 6.10.2** Any private property, at such a volume as to be plainly audible from a distance of thirty (30) feet or more from said property's boundary line.
- 6.11** The production of sound from the erection, excavation, construction, demolition, alteration or repair work, or the permitting or causing thereof, of any building or other structure, or the operation or the permitting or causing the operation of any tool or equipment used in any such activity conducted during the hours between 8:00 p.m. and 7:00 a.m. such that the sound therefrom creates a noise disturbance that is plainly audible and disruptive across a residential or commercial property line is hereby prohibited. Nothing in the Subsection shall, however, be interpreted to prohibit such construction activities at any time, day or night, when such activities do not create a noise disturbance as described in this Subsection.

## **SECTION 7: EXEMPTIONS**

This Chapter and Loud Noises Code does not apply to:

- 7.1** Any vehicle of the city, county, state, or federal government while engaged upon necessary, emergency or hazardous public business.
- 7.2** Excavations or repairs of bridges, streets or highways by or on behalf of the city, county, or state, when the public welfare and convenience renders it impossible to perform such work during the day.
- 7.3** The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character.
- 7.4** Necessary warning signals given by an ambulance operator, paramedic, emergency medical technician or licensed physician while answering an emergency call for medical assistance.
- 7.5** Construction work between the hours of 6:00 a.m. and 8:00 p.m. on weekdays and Saturdays in areas declared by resolution by the City Council to be disaster areas. For purposes of this Subsection, construction work means the erection, including excavation, demolition, alteration or repair of any building in a residential district. Any resolution to declare an area a disaster area shall include a map of the area and a time period during which such designation shall be effective.
- 7.6** Cries for emergency assistance and warning calls.
- 7.7** Activities on or in municipal and school athletic facilities and on or in publicly owned property and facilities, provided that such activities have been authorized by the owner of such property or facilities or its agent.
- 7.8** The emission of any sound for the purpose of alerting persons to the existence of an emergency, danger or attempted crime, including but not limited to premise

and automobile security alarms and emergency warning systems provided such alarms and systems are maintained in proper working order and are reset within fifteen (15) minutes of activation. This exception shall also apply to the routine testing and activation of such alarms or emergency warning systems, provided such testing uses only the minimum cycle test time.

- 7.9** Religious worship activities conducted in a permanent structure, including but not limited to bells and organs.
- 7.10** Locomotives and other railroad equipment, and aircraft.
- 7.11** Fireworks displays within such hours and conditions as may be imposed by the issuance of the permit or discharging of fireworks as allowed by ordinances or codes of the City.
- 7.12** The emission of sound for the purpose of alerting persons to the existence of an emergency.
- 7.13** Sound produced by the erection, excavation, construction, demolition, alteration, or repair work, or the permitting or causing thereof, of any building or other structure, or the operations or the permitting or causing the operation of any tools or equipment used in any such activity conducted between the hours of 7:00 a.m. and 8:00 p.m..
- 7.14** Any lawful activity which constitutes protected expression pursuant to the First Amendment of the United States Constitution.
- 7.15** Any sound generated from any public event which is sponsored, co-sponsored, permitted or otherwise approved by the City, including but not limited to parades, sporting events, activities of an accredited public or private pre-school, school, college, or university; community celebrations; community fireworks displays; or any similar outdoor events, festivals or concerts and any activity held at the Pope County Fairgrounds.
- 7.16** Any car or vehicle exhibition or competition being held by a commercial business associated with car or vehicle car audio sales provided that prior to the exhibition or competition the promoters of the exhibition or competition have secured a special events permit through the Department of Public Works. Such exhibition or competition shall only be held between the times of 9:00 A.M. and 5:00 P.M. on Monday through Saturday and between the times of 1:00 P.M. and 5:00 P.M. on Sunday.

## **SECTION 8: NUISANCE DECLARED**

- 8.1** The production of unreasonably loud noises as described in Sections 6 and 7 and in excess of the limits as defined in Table 1 in Section 4 are hereby declared to be public nuisances and the City shall take whatever steps are allowed by state law, civil and criminal, to abate such nuisances.

*(Amended by Ordinance No. 2495)*

## **SECTION 9: ABATEMENT RESPONSIBILITY**

- 9.1** It is unlawful for any property owner or tenant, or person with control, occupancy or possession of residential property, to allow or permit to allow a person or group of persons to create a noise disturbance as defined in Sections 6 and 7.
- 9.2** The property owner, tenant or other such person with control, occupancy or possession of property, shall be responsible for abatement of noise disturbances occurring on that property and failure to do so shall be a violation of this Chapter and Loud Noises Code.

## **SECTION 10: ENFORCEMENT**

- 10.1** The Russellville Police Department and the Code Enforcement Officer shall have the power to enforce this Chapter and Loud Noises Code by issuing citations or applying for an arrest warrant with the City Attorney for a violation of this Chapter and Loud Noises Code.
- 10.2** The City Attorney may also file an information to enforce the provisions of this Chapter and Loud Noises Code.
- 10.3** Nothing in this Chapter and Loud Noises Code prohibits the City from pursuing any civil remedy to abate loud noises public nuisances occurring within the City's territorial jurisdiction prescribed by state law.

## **SECTION 11: PENALTY**

- 11.1** Any person violating any provision of this Chapter and Loud Noises Code shall be deemed guilty of a misdemeanor and punished according to the provisions of this Title and Code.

## **CHAPTER 4 – CITY POLICE AND FIRE FALSE ALARMS CODE**

### **SECTION 1: TITLE**

- 1.1** This Chapter shall be titled, known as, referred to and cited as the “Russellville Police and Fire Departments False Alarm Code (“False Alarm Code”).”

### **SECTION 2: FINDINGS, PURPOSE AND INTENT**

The City Council of the City of Russellville, Arkansas, finds that:

- 2.1** The City is enacting this Chapter and False Alarm Code to encourage security alarm users; to ensure proper use of security alarm systems in order to reduce unnecessary police and fire responses to false alarms; to protect all citizens of Russellville from the dangers of emergency personnel and equipment being inappropriately utilized because of answers to unwarranted alarms; and, further, the council finds that false alarms are not only a public nuisance but also a threat to public safety by diverting limited police and fire resources from legitimate requests for assistance and other law enforcement matters.
- 2.2** The City intends this Chapter and False Alarm Code to provide for the health, safety, and welfare of the general public and not to protect particular individuals or to otherwise designate a particular group of persons who should be especially affected by the terms of the Chapter and False Alarm Code. The Chapter and False Alarm Code imposes or creates no duties on the part of the City or its Departments and employees, and the obligations of complying with the requirements of the Chapter and False Alarm Code, and any liability for failure to do so is placed upon the parties responsible for owning, operating, monitoring or maintaining security alarm systems.
- 2.3** The City does not intend this Ordinance to conflict with any State laws that may govern the licensing of alarm system monitoring companies and false alarms.

### **SECTION 3: AUTHORITY**

- 3.1** This Chapter is passed pursuant to the power granted to the City of Russellville by the State of Arkansas by A.C.A. §§14-43-602, 14-54-103, 14-54-1502, 14-55-101, 14-55-102 and 17-40-106(c).

### **SECTION 4: DEFINITIONS**

For the purpose of this Chapter and False Alarm Code, certain words and phrases shall be construed as set forth in this section, unless it is apparent in the context that a different meaning is intended.

- 4.1** “*Act of God*” or “*Act of nature*” means an act occasioned exclusively by violence of nature without the interference of any human agency (examples: lightning, thunder, tornadoes, or violent winds).
- 4.2** “*Alarm Agent*” means any person who is employed by an alarm business, either directly or indirectly, whose duties include any of the following: selling, maintaining, leasing, servicing, repairing, monitoring, altering, replacing, moving or installing on or in any building, structure or facility, any alarm system. The definition of Alarm Agent does not include a person who engages in the

manufacture or sale of an alarm system from a fixed location and who neither visits the location where the alarm system is to be installed, nor designs the scheme for physical location and installation of the alarm system in a specific location.

- 4.3** “*Alarm Business*” means the business by any individual, a partnership, corporation or other form of association that engages in the business of: selling, leasing, maintaining, monitoring, servicing, repairing, altering, replacing, moving or installing any alarm system or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed any alarm system in or on any building, structure or facility.
- 4.4** “*Alarm System*” means any mechanical, electrical or electronic device which is designed or used for the detection of an unauthorized entry into a building, structure or facility or for altering others of the commission of an unlawful act within a building, structure or facility, or both and which emits a sound or transmits a signal or message when actuated is intended to summon a police response. Alarm systems include, but are not limited to, direct dial telephone devices, audible alarms and proprietor alarms. Devices which are not designed or used to register alarms that are audible, visible or perceptible outside of the protected building, structure or facility are not included within this definition. Alarm systems do not include those affixed to automobiles or auxiliary devices installed by telephone companies to protect telephone equipment or systems which might be damaged or disrupted by the use of an alarm system. Alarms in separate structures or locations are to be counted as separate systems even though owned, leased, contracted for or controlled by the same person or entity.
- 4.5** “*Alarm System Monitoring Company*” means any individual, partnership, corporation or other form of association that engages in the business of monitoring security alarm systems and reporting any activation of such alarm systems to the police or fire.
- 4.6** “*Alarm User*” means any individual, partnership, corporation or other form of association that owns or leases a security alarm system or on whose premises a security alarm system is maintained for the protection of the premises.
- 4.7** “*Automatic Dialing Telephone Alarm*” means a security alarm system with a device that automatically dials the Police or Fire Department emergency assistance telephone lines without human activation of the device by the alarm user.
- 4.8** “*False Alarm*” means an alarm signal eliciting notification to and a response by the police or fire when there is no evidence of a crime, fire, emergency medical services or other activity that warrants a call for immediate police or fire assistance and no person who was on or near the property or has viewed a video communication from the property called for the police or fire dispatch or confirmed the need for police or fire assistance.
- 4.8.1** “*False alarm*” does include 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 any signal or call of any type that is properly activated to summon a law enforcement agency or the fire department in a non-emergency situation. Alarms resulting from the following conditions are not considered false alarms:

**4.8.1.1** Criminal activity or unauthorized entry;

**4.8.1.2** Fire;

**4.8.1.3** Telephone or cable line cut or malfunction;

**4.8.1.4** Electrical service interruption;

**4.8.1.5** Communication to the police department or fire department before a unit arrives to investigate clearly indicating that the alarm resulted from authorized entry, authorized system test or other noncriminal cause;

**4.8.1.6** An alarm caused on the reasonable but mistaken belief that a burglary, robbery or other criminal offense is in progress.

**4.8.1.7** Alarm signal caused by violent conditions of nature or other extraordinary circumstances beyond the control of the alarm user.

**4.8.1.8** Emergency medical services.

- 4.9** “*Fire Chief*” means the Fire Chief of the Russellville Fire Department, Russellville, Arkansas, or their representative or designee.
- 4.10** “*Hold-up Alarm*” means any alarm system designed to be actuated by a criminal act or other emergency at a specific location or by a victim of a hold-up, robbery or other emergency or criminal act at a specific location.
- 4.11** “*Intrusion*” means any entry into any area or building equipped with one or more alarm systems by any person or object whose entry actuates an alarm system.
- 4.12** “*Malfunction*” means that the alarm system, which activated, was not due to a fault or negligence on the part of the owner of the alarm system or systems.
- 4.13** “*Warning*” means there shall be three (3) warning per calendar prior to any assessment or levy of a penalty applied under this Chapter and False Alarm Code.

## **SECTION 5: AUDIBLE ALARM STANDARDS**

An alarm system that emits an audible signal that may be heard outside of the protected premises shall conform to the following requirements:

- 5.1** Audible alarms shall automatically discontinue emitting the audible sound within fifteen (15) minutes after activation of the alarm; and
- 5.2** With respect to security alarm systems in existence prior to the enactment of this Ordinance that do not comply with Subsection 5.1 above, the alarm user shall have sixty (60) days from the enactment of the Chapter and False Alarm Code in which to make the necessary modifications to the alarm system in order to comply with the requirement; and

- 5.3** Every person maintaining an audible alarm shall furnish to the Fire Chief or Police Chief, depending on whether it is a fire or police false alarm, the name and telephone number of the primary person responsible for the alarm system and an alternate name and telephone number of a person who can activate the alarm system or systems. The lessee or owner of any audible alarm system will be responsible for deactivating the alarm system within the time frame stated in Subsection 5.1 following notification by the Police Department; and
- 5.4** It is a defense to a violation of this Section that the continuous sounding of the alarm:
  - 5.4.1** Assisted in saving a life or avoiding injury; or
  - 5.4.2** Was activated by an unauthorized entry or criminal activity.
  - 5.4.3** Summoned emergency personnel to a fire.

**SECTION 6: AUTOMATIC DIALING TELEPHONE SYSTEMS PROHIBITED**

- 6.1** Beginning thirty (30) days after the effective date of this Chapter and False Alarm Code, it shall be unlawful for any individual, partnership, corporation or other form of association to sell, offer for sale, install, maintain, operate or assist in the operation of any alarm system with an automatic dialing or digital alarm communicator feature that automatically calls the police in the event of an alarm.

**SECTION 7: ALARM USERS**

- 7.1** An alarm user shall:
  - 7.1.1** Maintain the premises and security alarm system in a manner that will minimize or eliminate false alarms;
  - 7.1.2** Review all alarm system operating instructions, including those for verification of an alarm;
  - 7.1.3** Notify the alarm system monitoring company of a false alarm activation as soon as the user is aware of the false alarm;
  - 7.1.4** Not manually activate an alarm except when needing an immediate police response to an emergency;
  - 7.1.5** Respond to the scene of an activated alarm within one-half hour after the alarm was first activated if the alarm user has not contracted with an alarm agent unless good cause is shown; and
  - 7.1.6** In addition to other relevant information, provide Pope County 911 with the following if an alarm user requests an emergency response to an alarm activation: the identity of the caller, the name of the system owner, and the address of the system owner.
- 7.2** The information required in this section is not a prerequisite for 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.

- 7.3** The failure of alarm user, or his agent, to respond to the scene of an alarm activation after request to do so, or failure to respond within the time required by this Chapter and False Alarm Code, shall be a violation of this ordinance and shall be subject to the penalties set forth in this Title and Code.

**SECTION 8: UNLAWFUL ACTIVATION OR REPORT OF ALARM**

- 8.1** No person shall knowingly or intentionally activate a security alarm system for the purpose of summoning the police when no emergency exists except in the event of an unauthorized entry, robbery, burglary, hold-up, or other crime being committed or attempted on the premises, or if the person needs immediate assistance in order to avoid injury or serious bodily harm.
- 8.2** Any person who shall notify the police of an activated alarm and have knowledge that such activation was apparently caused by an electrical or other malfunction shall at the same time notify the police of the apparent malfunction.
- 8.3** Any person who violates this Section shall be subject to the penalties as provided in Title and Code, and they shall be subject to prosecution under the state criminal law for falsely reporting an incident. (A.C.A. §5-71-210 - Communicating a False Alarm.)

**SECTION 9: PENALTY**

- 9.1** After the third (3<sup>rd</sup>) activation of a police or fire alarm system deemed to be a false alarm, the person responsible for the alarm system shall be served with a letter for excessive false fire or police alarms attached with a fire or police alarm activation report by the appropriate Department, indicating that it has responded to the location three (3) times in one (1) calendar year period of time; all three (3) previous alarms deemed to be a false call, and if it responds to a deemed false alarm for a fourth (4<sup>th</sup>) time within one (1) calendar year, the appropriate Department shall direct that the alarm user submit a report of service/repair within fifteen (15) calendar days of receiving the letter, and provide a completed certificate of inspection of testing and maintenance. A fine for the fourth (4<sup>th</sup>) false alarm shall be assessed, charged and be paid by the person responsible for the alarm system at the premises within fifteen (15) days of the posted date served when billed from the appropriate Department for the fourth (4<sup>th</sup>) alarm determined to be false.
- 9.2** Schedule of penalties. The fine schedule to be assessed and levied as follows:
- 9.2.1** Fourth false alarm within one (1) calendar year: \$50;
- 9.2.2** Fifth false alarm within one (1) calendar year: \$100;
- 9.2.3** Sixth (6<sup>th</sup>) or subsequent false alarm within one (1) calendar year: \$200;
- 9.2.4** Refusal or failure of any person assessed and charged to pay any fine assessment as provided for herein after thirty (30) days from receipt of the original fine assessment shall be fined an additional \$250.00 fine assessment penalty.

- 9.2.5** Failure to pay any false alarm fine assessment or additional assessment penalty after sixty (60) days of receipt of the original assessment levied on the person violating this Chapter and False Alarm Code shall result in further legal action, including but not exclusive to the following, the City filing for civil remedy for recovery of fines.
- 9.2.6** In the event the person is a firm, corporation, partnership or other entity, the principal or employee directly responsible for the operation of the business or enterprise at the location or premise from which the false alarm was initiated shall be responsible for the payment of any fine assessments levied in accordance with this Chapter and False Alarm Code.
- 9.3** The penalties as set out in this Section are exclusive to this Chapter and False Alarm Code and the penalties as set out in the Article I in the Title and Code shall not have any application in the assessment of fines in this Chapter and False Alarm Code.

#### **SECTION 10: DEFECTIVE SYSTEMS NOTICES**

- 10.1** No person shall permit a defective alarm system to be in operation on property that they own or control.
- 10.2** An alarm system is presumed to be defective if more than three (3) false alarms occur within a calendar year.
- 10.3** 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.
- 10.4** Any person convicted of violating the provisions of this section shall be subject to punishment in accordance with this Title and Code.
- 10.5** 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 or other agency failed or refused to promptly make such maintenance, repair, modification, or replacement, resulting in the false alarm.

#### **SECTION 11: DETERMINATION OF FALSE ALARM; REBUTTABLE PRESUMPTION**

- 11.1** For the purposes of this Chapter and False Alarm Code, there is a rebuttable presumption that the following determinations made by the Chief of Police or by a police officer dispatched to the premises reporting an alarm signal are correct:
  - 11.1.1** There is no evidence of a crime or other activity that would warrant a call for immediate police assistance at the premises;
  - 11.1.2** No individual who was on or near the premises or who has viewed a video communication from the premises called for a police dispatch or verified a need for an immediate police response; and

**11.1.3** There is no evidence that violent conditions of nature or other extraordinary circumstances beyond the control of the alarm user caused the activation of the alarm.

## **SECTION 12: INSPECTION OF ALARM DEVICES**

- 12.1** The Fire or Police Chief or their designees shall have the right to inspect any alarm system on the premises to which a response has been made, and he may cause an inspection of such system to be made at any reasonable time thereafter.
- 12.2** If any inspection reveals any problems with an alarm system, the owner or lessee shall have a period of thirty (30) days after receiving written notice to make required corrections or repairs. If the correction or repairs are not made in the specified amount of time, the owner or lessee shall be subject to the fines as set forth in the Chapter and False Alarm Code. There will be no testing or demonstrating of a direct alarm system without first obtaining permission from the Police or Fire Department depending on the nature of the alarm.

## **SECTION 13: POLITICAL SUBDIVISIONS EXEMPT**

- 13.1** The provisions of this Chapter and False Alarm Code does not apply to any political subdivision of the State located in the City for any police alarm system that a political subdivision may own located inside the city limits of the City of Russellville. For the purposes of this Chapter and False Alarm Code, political subdivision is defined as meaning a county, municipality, and any other unit of local government, including a school district and an improvement district authorized by law to perform governmental functions. This exemption does not apply to false alarms generated by fire alarm systems.

## **CHAPTER 5 – CITY NO TOBACCO PRODUCTS USE CODE**

### **SECTION 1: TITLE**

- 1.1** This Chapter shall be titled, known as, referred to and cited as the “City of Russellville No Smoking or Tobacco Products Use Code (“No Smoking Code”).”

### **SECTION 2: FINDINGS, PURPOSE AND INTENT**

The City Council of the City of Russellville hereby finds and declares that:

- 2.1** Smoking and use of tobacco products are hazardous to health.
- 2.2** Numerous studies have shown that second-hand smoke is a significant public health hazard.
- 2.3** The U.S. Environmental Protection Agency has classified second-hand smoke as a *Group A carcinogen*, the most dangerous class of carcinogen.
- 2.4** The U.S. Centers For Disease Control and Prevention (CDC) estimates that second hand smoke causes 3,000 lung cancer deaths per year among adult non-smokers in the U.S.
- 2.5** Second-hand smoke is especially hazardous to particular groups, including those with chronic health problems, the elderly and children.
- 2.6** The CDC has found that second-hand smoke causes children to suffer from lower respiratory tract illness, such as bronchitis and pneumonia, exacerbates childhood asthma, and increases the risk of acute chronic middle ear infection in children.
- 2.7** The City of Russellville is committed to keeping its City owned, leased or operated buildings, offices, parks, recreational facilities, and vehicles safe, healthy and pleasant for everyone.
- 2.8** Smoking endangers children and others in city owned, leased or operated buildings, offices, parks, recreational facilities, and vehicles by exposing them to second-hand smoke.
- 2.9** Additionally, discarding cigarettes and cigar butts and tobacco products onto the ground in and around City owned, leased or operated buildings, offices, parks, recreational facilities, and vehicles is unsightly, unclean and particularly hazardous to small children who handle and sometimes ingest them.
- 2.10** Moreover, children and youth who observe smoking and tobacco use in City owned, leased or operated buildings, offices, parks, recreational facilities, and vehicles may model the behavior.
- 2.11** Numerous studies have determined that environmental tobacco smoke (ETS) is a significant source of exposure to toxic air indoor contaminants, causally associated with respiratory illnesses, including lung cancer, asthma and emphysema.
- 2.12** There is scientific research linking ETS with heart disease, responsible for an estimated 35,000 coronary heart disease deaths annually among adult nonsmokers in the United States as a result of ETS exposure.

- 2.13** ETS carcinogens and poisons pose special risk to children, the elderly, food service employees, and individuals with cardiovascular disease and/or impaired respiratory function, including asthmatics and those with obstructive airway disease.
- 2.14** ETS exposure has been causally associated with developmental, respiratory, carcinogenic and cardiovascular effects, including fatal outcomes such as sudden infant death syndrome.
- 2.15** The separation of smokers from nonsmokers within the same airspace does not eliminate the exposure of nonsmokers to ETS, given that no safe level of exposure to ETS has been found.
- 2.16** Accordingly, the City Council of the City of Russellville recognizes that ETS poses a serious public health hazard, that nonsmokers need protection from ETS exposure and that, therefore, prohibition by the City Council of smoking, the use of tobacco products and the improper disposal of tobacco products in city owned, leased or operated buildings, offices, parks, recreational facilities, and vehicles is imperative in order to protect the public health, safety and welfare of the citizens of the City of Russellville.

### **SECTION 3: AUTHORITY**

- 3.1** This Chapter and No Smoking Code is passed pursuant to the authority granted to the City of Russellville by the State of Arkansas under Ark. Code Ann. §§14-43-601, 14-43-602, 14-54-103, 14-55-1502, 14-55-101, and 14-55-102

### **SECTION 4: DEFINITIONS**

For the purpose of this Chapter and No Smoking Code, certain words and phrases shall be construed as set forth in this section, unless it is apparent in the context that a different meaning is intended.

- 4.1** “*City park*” means any real property owned, leased or operated by the City of Russellville, which by reason of location, natural features, scenic beauty, or historical interest possesses distinctive physical, aesthetic, intellectual, creative, or social values and are used for athletics, recreation, relaxation, entertainment, cultural development, and other recreational activities.
- 4.2** “*Electronic Smoking Device*” means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to inhale or simulate smoking through the inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor, and any aerosol, liquid, or vapor used in such a device.
- 4.3** “*Recreational facility*” means a building, office or structure, enclosed or open, which is accessible by the public; owned, leased or operated by the City of Russellville; and are used for athletics, recreation, relaxation, entertainment, cultural development, and other recreational activities, including, without limitation, park pavilions, amphitheaters, covered stage areas, camping centers,

tennis courts, golf course shelters, athletic fields, baseball fields and dugouts, and various other similar park and recreational facilities.

- 4.4 “*Smoking*” means inhaling, exhaling, burning or carrying any lighted cigarette, cigar, pipe, weed, plant, or other combustible substance in any manner or in any form.
- 4.5 “*Tobacco product*” means a cigarette; cheroot; stogie; cigar; electronic smoking device; snuff, chew, dip or other preparations of pulverized tobacco; smoking tobacco, including granulated, pug-cut, crimp-cut, ready-rubbed, and any form of tobacco suitable for smoking in a pipe or as a cigarette; chewing tobacco, including Cavendish, Twist, plug, scrap, and any kind of tobacco suitable for chewing; and any article or product made of tobacco or a tobacco substitute.

**SECTION 5: PROHIBITION OF SMOKING OR USE OF TOBACCO PRODUCTS IN CITY PARKS, RECREATIONAL FACILITIES, CITY VEHICLES, AND WITHIN FIFTY FEET (50’) OF CITY PARKS AND RECREATIONAL FACILITIES**

- 5.1 Smoking and use of tobacco products shall be prohibited in any and all present and future buildings and offices owned, operated or leased by the City of Russellville, including but not limited to, elevators, stairways, hallways, restrooms, breakrooms, concessions, courtrooms and other support facilities.
- 5.2 Smoking and use of tobacco products shall be prohibited at all times in the following City of Russellville parks and facilities: the Art Center, Circle Drive Park, City Park, Confederate Mother Memorial Park, Harmon Park, James School Park, Russellville Soccer Complex, Maintenance Shop, M.J. Hickey Park and Swimming Pool, Old Post Soccer Fields, Sequoyah Park, Shiloh Park, Pleasant View Park, Veterans Park, Vick Field, Washburn Park, Water Tower Property, and any future outdoor city parks or recreational facilities.
- 5.3 Smoking and use of tobacco products shall be prohibited at all times in any vehicle owned by the City of Russellville.
- 5.4 Smoking and use of tobacco products shall be prohibited at all times within fifty (50) feet of any City of Russellville owned, leased or operated buildings, offices, parks, or recreational facilities.
- 5.5 Disposal shall be prohibited at all times of any cigarette, cigar or tobacco product, or any part of a cigarette, cigar, or tobacco product in any of the City of Russellville owned, leased or operated buildings, offices, parks, or recreational facilities, or within fifty (50) feet of the boundaries of City owned, operated, or leased buildings, offices, parks, or recreational facilities except in a designated waste disposal container.

**SECTION 6: ORDINANCE NOT TO EXCUSE NONCOMPLIANCE WITH OTHER LAWS AND REGULATIONS; AUTHORITY FOR MORE RESTRICTIVE REQUIREMENTS**

- 6.1 Nothing in this Chapter and No Smoking Code excuses noncompliance with any state or federal law, any other applicable ordinance or code of the City, or any

rule or regulation adopted pursuant thereto which prohibits smoking or use of tobacco products.

- 6.2** Nothing in this Chapter and No Smoking Code shall prohibit the owner, lessee, manager, operator or other person in charge of a place open to the public from adopting nonsmoking or no tobacco products use requirements that are more restrictive than those set forth in this Chapter and No Smoking Code.
- 6.3** This Chapter and No Smoking Code shall not be interpreted or construed to permit smoking where it is otherwise restricted by any other applicable law or regulation.
- 6.4** Punishment under this Chapter and No Smoking Code shall not preclude any other law proscribing the act of littering. Nothing in this Chapter and No Smoking Code shall preclude the City of Russellville from seeking any other remedies, penalties or procedures provided by law.

#### **SECTION 7: VIOLATIONS; PENALTIES.**

- 7.1** Any person who violates any provision of this Chapter and No Smoking Code shall be deemed guilty of a misdemeanor and subject to the penalties in this Title and Code
- 7.2** Persons who smoke in an area where smoking or use of tobacco products is prohibited and who refuse to extinguish their smoking material when asked, may be required to leave the premises, and shall be subject to prosecution for criminal trespass if they do not leave when asked.
- 7.3** Each calendar day during which the violation occurs shall constitute a separate and distinct offense.

#### **SECTION 8: AFFIRMATIVE DEFENSE**

- 8.1** It shall be an affirmative defense to the prosecution under Ordinance Subsection 5.4 if the person smoking or using tobacco products within fifty (50) feet of a City owned, operated or leased building, office, park, or recreational facility was doing so on a designated parking lot of the City owned, operated or leased building, office, park, or recreational facility.

## **CHAPTER 6 – CITY DESIGNATED ENTERTAINMENT DISTRICT CODE**

### **SECTION 1: TITLE**

- 1.1** This Chapter shall be titled, known as, referred to and cited as the “City of Russellville Downtown Designated Entertainment District Code (“Entertainment District Code”).”

### **SECTION 2: FINDINGS, PURPOSE AND INTENT**

The City Council of the City of Russellville hereby finds and declares that:

- 2.1** The State of Arkansas passed into law Act 812 of 2019, hereinafter referred to as "Act 812," to promote hospitality and tourism; to establish areas of a city or town that highlight restaurant, entertainment, and hospitality options; to establish temporary or permanent designated entertainment districts; and for other purposes.
- 2.2** the State of Arkansas passed into law Act 874 of 2021, hereinafter referred to as "Act 874," which amended the definition concerning the creation of a designated entertainment district to read "contains any number and any combination of restaurants, taprooms, taverns, entertainment establishments, hospitality establishments, music venues, theaters, bars, private clubs, art galleries, art studios, tourist destinations, distilleries, dance clubs, cinemas, or concert halls.
- 2.3** "Act 874" also amended the definition concerning the creation of a designated entertainment district by a city, municipality, or incorporated town to read "A city, a municipality, or an incorporated town collecting a gross receipts tax on prepared food or hotel and motel accommodations under A.C.A. §§ 26-75-602 to 26-75-613 and located in a county with established entities authorized by the Alcoholic Beverage Control Division to sell alcoholic beverages.”
- 2.4** The City of Russellville has previously established the Russellville Advertising & Promotion Commission and currently collects a gross receipts tax on hotel and motel accommodations.
- 2.5** There currently exists within the proposed entertainment district the Fat Daddy’s Bar-B-Que Restaurant at 104 North Denver Avenue, Russellville, Arkansas, which holds an active on premise alcoholic consumption permit to sell alcoholic beverages; The Old Bank Restaurant at 218 West Main Street, Russellville, Arkansas, which holds an active on premise alcoholic consumption permit to sell alcoholic beverages; B Street Bakery and Deli at 311 West B Street, Russellville, Arkansas, which holds an active on premise alcoholic consumption permit to sell alcoholic beverages; and Pasta Grill Restaurant at 319 West Main Street which holds an active on premise alcoholic consumption permit to sell alcoholic beverages.
- 2.6** "Act 812" together with "Act 874" allows the Council to establish an entertainment district within the corporate limits of the City of Russellville, Arkansas.

- 2.7** The City Council has considered the merits of establishing such a district and believes that it will benefit the downtown area.
- 2.8** The City Council believes that the creation of an entertainment district will help promote an atmosphere aimed at facilitating business and promoting tourism.
- 2.9** The City Council finds that other cities, have had success with such districts, and believes that it is in the best interest of the City of Russellville, Arkansas, to provide for the creation of such a district as provided in this Chapter and Entertainment District Code.
- 2.10** Nothing herein is intended to confer any rights or entitlement. Selling alcohol within an area designated as an entertainment district is a privilege, not a right, and is subject at all times to reasonable regulation by local, state, and federal authorities; and,
- 2.11** Subject to the terms and limitations of state laws and this Chapter and Entertainment District Code, the City of Russellville, Arkansas, wishes to establish an entertainment district in the downtown area.

### **SECTION 3: AUTHORITY**

- 3.1** This Chapter and Entertainment District Code is enacted pursuant to the authority granted to the City by the State of Arkansas by way of Act 812 of 2019, Act 874 of 2021, A.C.A §§3-2-206(f), 5-71-212(e) and 14-54-1412.

### **SECTION 4: DEFINITIONS**

For the purpose of interpreting this Chapter and Entertainment District Code, certain words or terms are herein defined. Except as defined herein, all other words used in this Chapter and Entertainment District Code shall have their customary dictionary definition.

- 4.1** “*Alcoholic beverages*” means beer, controlled beverages, hard cider, wine, light wine, malt liquor, native beverage or spirituous or vinous beverages as defined by the Alcoholic Beverage Control Division Rules.
- 4.2** “*Alcoholic Beverage Control Division*” means a government section within the Arkansas Department of Finance and Administration with the powers and duties of regulation, supervision and control of the manufacture, distribution and sale of all alcoholic beverages and the issuance of permits, and the regulation thereof, in pursuit of those duties and powers, within the State of Arkansas.
- 4.3** “*Customer*” means patron, guest or member of a permittee authorized by the Alcoholic Beverage Control Division by permit to serve for retail sale to the public alcoholic beverages for on premise consumption.
- 4.4** “*Entertainment district*” means a physical area within the City of Russellville, Arkansas, designated by ordinance to allow for the consumption of alcoholic beverages within the designated district parameters subject to City regulations as allowed by Act 812 of 2019, Act 874 of 2021, A.C.A §§3-2-206(f), 5-71-212(e) and 14-54-1412.

- 4.5** “Permittee” or “permitted premises” means a business establishment which holds or has been issued a permit from the Alcoholic Beverage Control Division that allows the establishment to sell alcoholic beverages to the public.

**SECTION 5: CREATION AND ESTABLISHMENT OF AN ENTERTAINMENT DISTRICT.**

- 5.1** The City Council does hereby create and establish a permanent entertainment district in downtown City of Russellville, Arkansas, with the area within the described exterior boundaries as set forth as follows:

“Starting at the intersection of North El Paso Avenue and West Parkway Drive; thence south on North El Paso Avenue to the intersection of North El Paso and West “B” Street; thence west along West “B” Street to the intersection of West “B” Street and North Fargo; thence south to the intersection of Fargo Avenue and West Main Street; thence east on West Main Street to the intersection of West Main Street and Denver Avenue; thence south on South Denver Avenue to the intersection of South Denver Avenue and West 2nd Street; thence east on West 2nd Street to the intersection of South Commerce Avenue and West 2nd Street; thence south along South Commerce Avenue to the intersection of South Commerce Avenue and West 3rd Street; thence east along West 3rd Street to the intersection of West 3rd Street and State Highway 7; thence north on State Highway 7 to the intersection of State Highway 7 and Parkway Drive; thence west on West Parkway Drive to the intersection of West Parkway Drive and North El Paso Avenue; to the point of beginning. All avenues, streets and highways mentioned in the preceding sentence as the exterior boundaries of the designated entertainment district shall not be considered as part of the designated entertainment district.

LESS AND EXCEPT the Pope County Courthouse and its parking lot immediately north of and adjacent with the Pope County Courthouse

As illustrated and designated on the map labeled Exhibit A, with the boundaries marked in white and the enclosed area within the white boundaries as the designated entertainment district; also illustrated and designated on the map labeled Exhibit B, with the boundaries marked in red and the enclosed area in red within the red boundaries as the designated entertainment district; and lastly illustrated and designated on the map labeled Exhibit C, with the boundaries marked in red and the enclosed area within the red boundaries as the designated entertainment district; all

of Exhibits A, B and C are incorporated herein by reference.” [Amended by Ordinance No. 2490]

- 5.2** The physical boundaries of the permanent entertainment district shall be clearly marked with pavement markings or signage, or both.
- 5.3** Trash and recycling receptacles shall be placed at the boundaries of the entertainment district as needed.

## **SECTION 6: CONSTRUCTION OF CHAPTER AND ENTERTAINMENT DISTRICT CODE**

The described boundaries in Section 5, Exhibits A, B and C and the rest of this Chapter and Entertainment District Code shall be liberally construed and applied:

- 6.1** To establish a defined uniform designated entertainment district pursuant to A.C.A. §14-54-1412 and its underlying purposes and policy,
- 6.2** To fulfill the true intent and meaning of this Chapter and Entertainment District Code in establishing a designated entertainment district so that the Chapter and Entertainment District Code may be fully carried out; and
- 6.3** In a cumulative and harmonious way when interpreting and identifying the designated entertainment district in described in Section 5 and Exhibits A, B and C of this Chapter and Entertainment District Code.

## **SECTION 7: OUTSIDE CONSUMPTION OF ALCOHOLIC BEVERAGES PERMITTED; CONDITIONS**

- 7.1** All permittees shall comply with all laws, rules, and regulations which govern its permit type, except that a customer of that permittee may exit the permitted premises into the entertainment district with one (1) alcoholic beverage in their possession between the hours of 10:00 a.m. and 12:00 midnight on Sundays through Saturdays, subject to the regulations contained in Subsection 4.2.
- 7.2** All establishments within the entertainment district, all on premise retail alcohol beverage permittees and all patrons, guests or members of that permittee being subject to the following regulations:
  - 7.2.1** A person may enter a premise with an open container of alcoholic beverages acquired elsewhere only if allowed by that premises.
  - 7.2.2** A permittee shall allow alcoholic beverages to be removed from the permitted premises only in a paper, styrofoam or plastic cup imprinted with the entertainment district logo, no less than 2.0" wide by 1.5" tall in size, as designated by the City, (logo attached hereto and incorporated herein as "Exhibit D") and no such alcoholic beverage shall be removed from the permitted premises in a can, bottle, or glass container. Cups may or may not contain lids and straws and may contain other promotional information.
  - 7.2.3** No permittee shall allow a patron, guest or member to exit its permitted premises with more than two (2) open containers of alcoholic beverages,

and it shall be unlawful for any person to exit such permitted premises with more than two (2) such open containers.

- 7.2.4** It shall be unlawful for any person to drink or attempt to drink any alcoholic beverage from a can, bottle, or glass container, or to possess any open can, bottle, or glass container of alcoholic beverages on the streets, sidewalks, rights-of-way, and parking lots located within the entertainment district.
- 7.2.5** No container in which an alcoholic beverage is dispensed and removed from the permitted premises shall exceed sixteen (16) fluid ounces in size.
- 7.2.6** No person shall possess on the streets, sidewalks, rights-of-way, parking lots, or outdoor public areas located within the entertainment district any open alcoholic beverage container which exceeds sixteen (16) fluid ounces in size.
- 7.2.7** All permittees within the entertainment district shall display at all public exits the rules of the entertainment district and a map of the entertainment district boundaries.
- 7.2.8** Permittees and organizations with special events within the designated entertainment district may apply in writing to the Mayor's office to temporarily extend the entertainment district hours of operation for special events from midnight to up to 2:00 a.m. The Mayor shall respond promptly in writing on whether such a time extension request was approved or denied.
- 7.2.9** No person shall remove any alcoholic beverage or any entertainment district logo designed containers outside of the designated entertainment district.
- 7.2.10** Any person with an unfinished quantity of alcoholic beverage or an entertainment district logo designed container must properly dispose of them prior to leaving the entertainment district.
- 7.2.11** Drinking in the public streets and roads is prohibited.
- 7.2.12** No person shall transfer any alcoholic beverage or any entertainment district logo designed containers to another person.
- 7.2.13** Establishments within the boundaries of the entertainment district, including those that do not serve alcoholic beverages, shall clearly indicate the participation in the entertainment district with prominently displayed window signage. No person in possession an alcoholic beverage shall enter an establishment that does not indicate its participation in the entertainment district. By failing to display window signage indicating participation, a business within the boundaries of the entertainment district is acknowledging to all persons within the entertainment district that it does not allow entertainment district beverages within its premises.

**7.2.14** No person shall be in possession of more than two (2) alcoholic beverage at any time while inside in the entertainment district.

**SECTION 8: CONSUMPTION OR POSSESSION OF ALCOHOLIC BEVERAGES IN A MOTOR VEHICLE PROHIBITED.**

**8.1** It shall be unlawful for any person to consume alcoholic beverages or possess an open container of any alcoholic beverages while in the confines of a motor vehicle while the motor vehicle is located upon any public street, parking lot or other place to which the public has or is permitted to have access within an entertainment district.

**SECTION 9: ALCOHOLIC BEVERAGES PURCHASED OUTSIDE THE ENTERTAINMENT DISTRICT NOT ALLOWED IN OPEN CONTAINERS IN DISTRICT.**

**9.1** No alcoholic beverages purchased outside of the entertainment district shall be allowed in any open containers in the entertainment district.

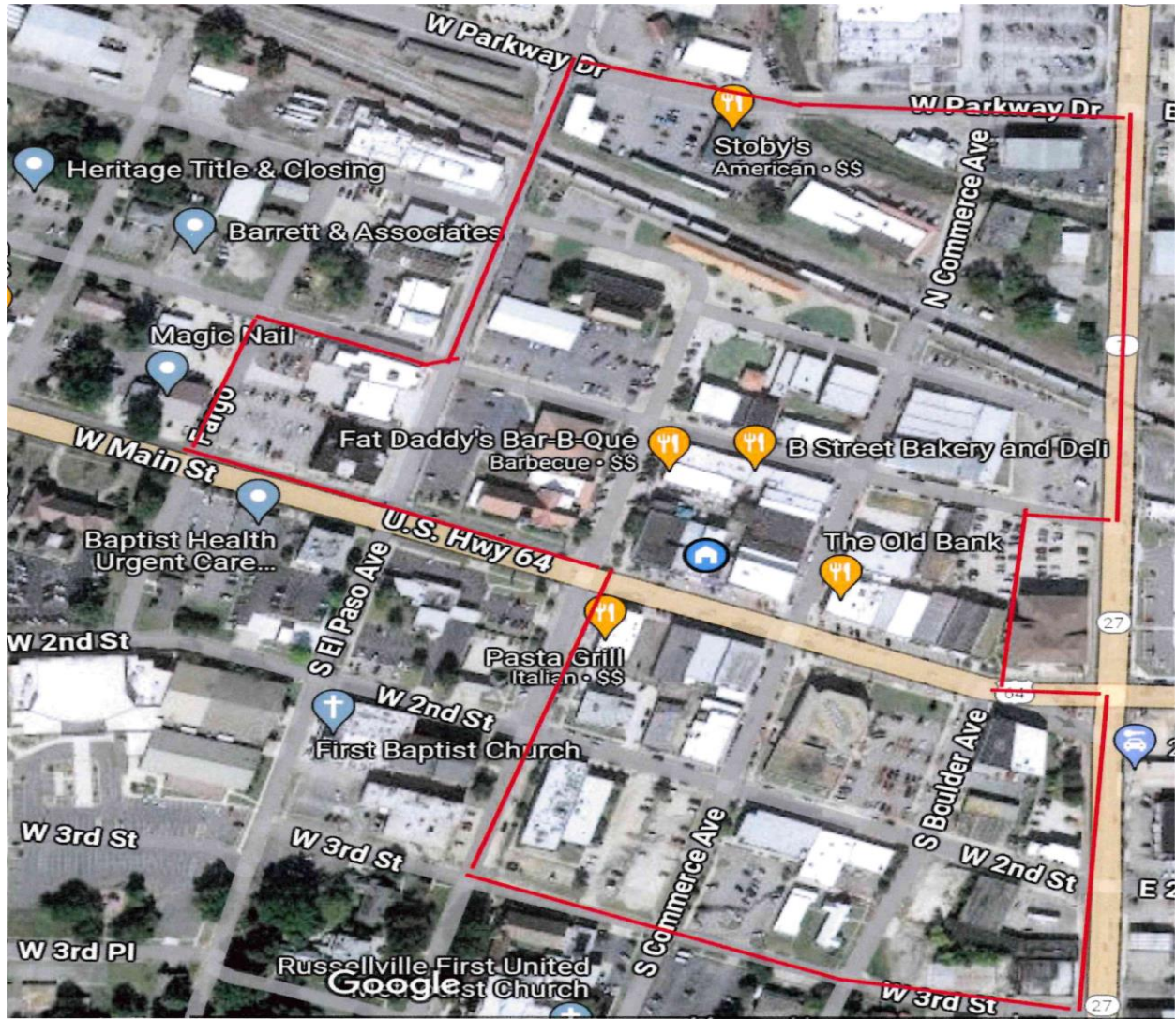
**SECTION 10: NO CONFLICT WITH STATE REGULATIONS.**

**10.1** Nothing contained in this Chapter and Entertainment District Code shall diminish the requirements of the Alcohol Beverage Control Division concerning permits issued within the designated entertainment district.

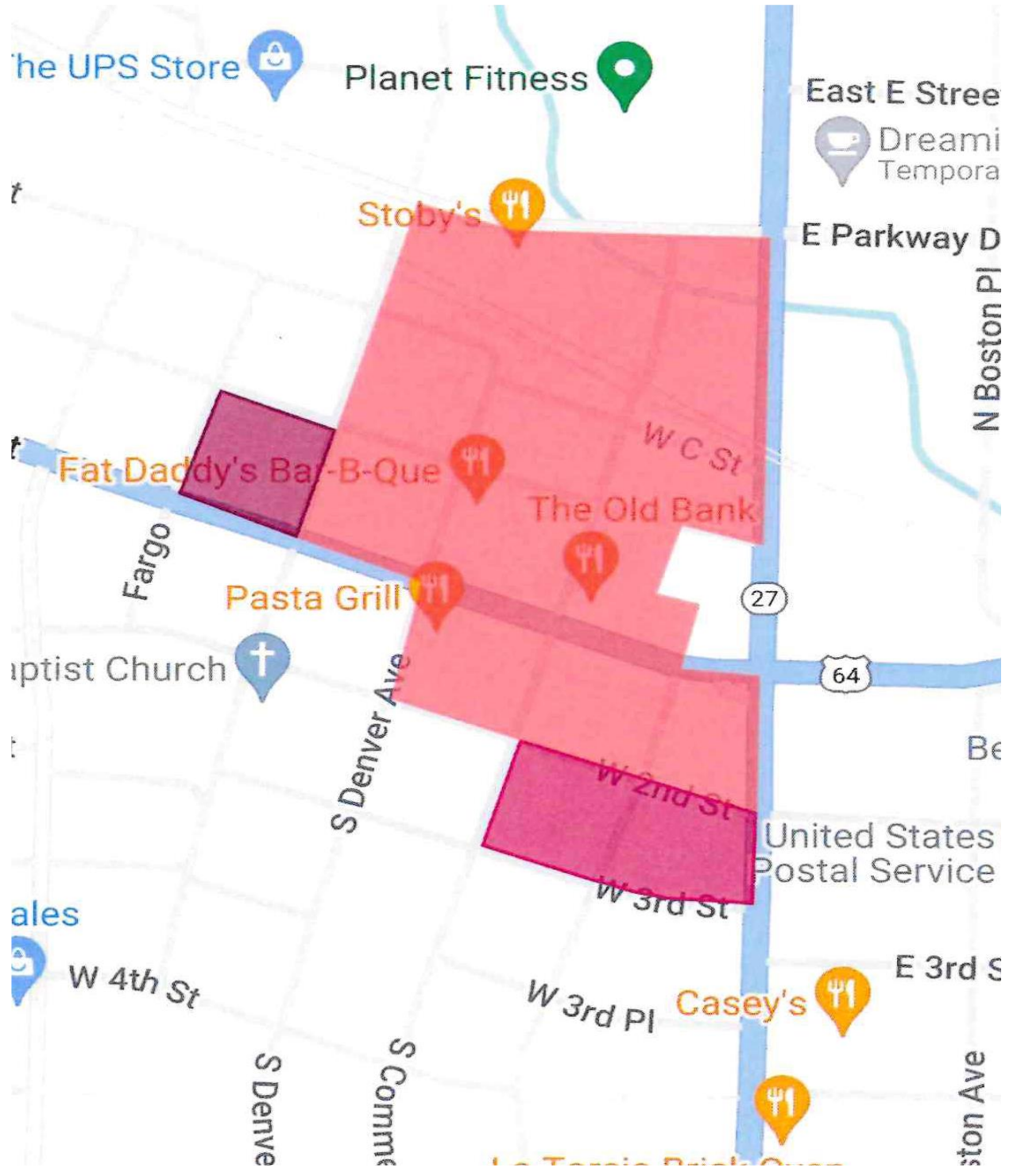
**SECTION 11: PENALTIES**

**11.1** It shall be unlawful to violate any provision contained in Sections 7, 8 and 9 of this Chapter and Entertainment District Code. Any person or entity violating Sections 7, 8 or 9 of this Chapter and Entertainment District Code is guilty of a misdemeanor, and upon conviction therefor, shall be subject to a fine or penalty of as set out in this Title and Code.

**EXHIBIT A**  
[Amended by Ordinance No. 2490]



**EXHIBIT B**  
[Amended by Ordinance No. 2490]



**EXHIBIT C**  
**[Amended by Ordinance No. 2490]**



**EXHIBIT D**  
[Amended by Ordinance No. 2490]



## **CHAPTER 7 – CITY SPECIAL EVENTS CODE**

### **SECTION 1: TITLE**

- 1.1** This Chapter shall be titled, known as, referred to and cited as "The City of Russellville Special Events Code ("Special Events Code").

### **SECTION 2: FINDINGS, PURPOSE AND INTENT**

- 2.1** The City Council finds that some special events, gatherings and organized activities, due to their size and special requirements, may place unique demands on public resources or pose a danger to public health, safety and welfare. The City Council also finds this Chapter and Special Events Code necessary to ensure that such events are conducted with sufficient consideration given to public safety issues including, among other things, the impact of these events on parking, vehicular and pedestrian traffic.
- 2.2** The City of Russellville, Arkansas ("City"), recognizes that this Chapter and Special Events Code is needed to protect the health, safety and welfare of the citizens, inhabitants, residences and visitors of this City by regulating the time, place and manner of Special Events as defined herein, and by establishing permit requirements and other regulations for conducting special events.
- 2.3** The City is always mindful of rights of citizens to assemble and participate in free speech, and intends to ensure that any regulation or the use of public property is narrowly tailored to serve a legitimate public interest to balance the same with the peace, tranquility, health, safety, and welfare of its citizens, and the conservation of City resources.
- 2.4** The City believes in conservation of City resources both manpower and facility use-wise.
- 2.5** It is anticipated that some special events may grow, or diminish, in number of attendees from year to year and may need to be located at various venues to accommodate the special event while also protecting the peace, tranquility, health, safety and welfare of citizens and code-compliant businesses, and conservation of City resources.
- 2.6** The City Council grants authority to the Mayor and the Special Events Planning Committee to develop rules to regulate the process, procedures, and coordination of special events within the City of Russellville.

### **SECTION 3: AUTHORITY**

- 3.1** This Chapter and Special Events Code is passed by the City pursuant to the authority granted to it by the State of Arkansas under A.C.A. §§14-43-602, 14-54-103(8), 14-54-104(1) and (4), 14-54-1502, 14-55-101, 14-55-102 and 27-49-106(b)(3).

### **SECTION 4: DEFINITIONS**

For the purposes of this Chapter and Special Events Code the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- 4.1** “*Applicant*” means a person acting as a responsible party to the City in terms of authority to sponsor or organize a Special Event and sign all necessary Special Event Permit application documents and who has filed a written application for a Special Event Permit.
- 4.2** “*Athletic Competition*” means an event involving sports, games or exercises which is reasonably anticipated to obstruct the normal flow of traffic on a street or on public property or otherwise limit public access to public property.
- 4.3** “*Block party*” means a one (1) day outdoor public event held upon a city right-of-way for social and entertainment purposes.
- 4.4** “*Certificate of Insurance*” means a document issued by a liability insurance carrier certifying that an insurance policy has been purchased showing an abstract of the provisions of the insurance contract.
- 4.5** “*City Events Coordinator*” means the person appointed by the Special Events Planning Committee to handle the administrative duties required by the Special Event permitting process and to coordinate with the Department Heads of the Departments of the City affected by Special Event application and permit as well as with the Special Event Planning Committee.
- 4.6** “*City Park*” means any real property owned, leased, or operated by the City of Russellville, which by reason of location, natural features, scenic beauty, or historical interest possesses distinctive physical, aesthetic, intellectual, creative, or social values, and are used for athletics, recreation, relaxation, entertainment, cultural development, and other recreational activities.
- 4.7** “*City-Promoted Event*” means a sanctioned event financially supported and promoted by a city department or departments. Any persons contracted for general services with the City who hold a Special Event, such Special Event shall not be considered a City-Promoted Event unless sanctioned by the Special Event Planning Committee. When Persons are contracted with the City for specific services for Special Events, those Special Events shall be considered to be a City-Promoted Event.
- 4.8** “*Community Event*” means an annual one (1) day community or neighborhood event organized for the purpose of celebrating community arts, recreation or culture to commemorate a holiday, seasonal or special day to the community.
- 4.9** “*Cost Recovery*” means the administrative and departmental costs charged by the City to an Applicant/Event Producer in conjunction with a Special Event permitted under this Chapter and Special Events Code.
- 4.10** “*Days*” means business days (Monday through Friday) excluding Saturday and Sunday and legally recognized holidays.
- 4.11** “*Event Producer*” means the individual, organization, corporation, neighborhood group, etc. that is producing the Special Event. If the individual, organization, corporation, or group contracts with a firm or agency to produce the event, the event producer is the firm or agency contracted. The Event Producer shall be a

responsible party to the City in terms of authority to sponsor or organize a Special Event and sign all necessary Special Event Permit application documents.

- 4.12** “*First Amendment Activity*” means all expressive and associative activity that is protected by the United States and Arkansas Constitutions, including speech, press, assembly, petition or religion. For the purpose of this Chapter and Special Events Code, commercial advertising that is regulated by the Zoning Code or other City ordinances is excluded from this definition.
- 4.13** “*Liability Insurance*” means insurance covering the insured against loss arising from injury or damage to another person or property.
- 4.14** “*Parade*” means any march, demonstration, assembly, ceremony, show, review, exhibition, pageant, motorcade or procession on the public streets or other public ways or property owned or under the control of the City that requires or necessitates special traffic control, a road closing or crowd control measures.
- 4.15** “*Participant*” means individuals who take part in the activities of the Special Event.
- 4.16** “*Sidewalk*” means a public owned paved area or way set aside or open to the general public for the purpose of pedestrian traffic.
- 4.17** “*Special Event*” means a temporary event, gathering or organized activity, including but not limited to, bicycle events, marathons, walk-a-thons, fireworks displays, concerts, carnivals, other types of races, celebrations and festivals, which involves, but is not limited to, one or more of the following:
- 4.17.1** Interferes with the normal flow of vehicular or pedestrian traffic;
  - 4.17.2** Blocks or restricts normal use of City-owned property;
  - 4.17.3** Blocks or restricts access to or use of City Parks unless otherwise authorized by the City Recreation and Parks Department;
  - 4.17.4** Any activity on public property that involves the placement of temporary structures (e.g. stages, bleachers, tents, etc.), if that placement requires additional permitting from other applicable city departments.
  - 4.17.5** Sale of merchandise, food or beverages on City-owned property;
- 4.18** “*Special Event Permit*” means written authorization from the Special Event Planning Committee to hold a Special Event on a City street or City property.
- 4.19** “*Special Event Planning Committee*” means a committee comprised of City staff that represents the heads of various departments or their designee that may provide a service during a special event who is responsible for development of guidelines, rules, regulations, and procedures pertaining to special events.
- 4.20** “*Special Event Rules and Regulations*” means the guidelines, rules, regulations, policies and procedures developed and adopted administratively by the Mayor and Special Event Planning Committee for the health, safety and welfare of citizens, and Special Event participants. Special Event Rules and Regulations may include, but are not limited to the following: processes; procedures; cost recovery for public safety, sanitation and transportation personnel; safety regulations; resource

requirements; and surety and insurance requirements. Once the initial Special Event Rules and Regulations receive final approval by the City Council, the Mayor and Special Events Planning Committee may administratively adopt by majority vote, any amendments to the Special Events Rules and Regulations without approval by the City Council.

- 4.21** “*Street*” means any paved or unpaved road, thoroughfare, avenue, boulevard, parkway, drive, alley, easement, right-of-way or other public way set aside or open for purposes of vehicular traffic, including any berm, shoulder or median strip thereof within the corporate city limits of the City that is owned, leased, held by the City by easement, licensed to the City, granted possession or otherwise possessed by the City.

#### **SECTION 5: SPECIAL EVENTS PERMIT RULES AND REGULATIONS.**

- 5.1** The City Council hereby grants the authority to the Special Events Planning Committee to promulgate the City’s Special Event Rules and Regulations. Upon completion of the Special Event Rules and Regulations, the Special Events Rules and Regulations shall be presented to the City Council for final approval. Upon final approval, all persons or entities desiring to hold events which meet the definition of Special Events as defined in this Chapter and Special Events Code, shall comply with the Special Events Rules and Regulations in order to be eligible to be issued a Special Events Permit. Once the Special Events Rules and Regulations are approved by the City Council, any amendments to the Special Events Rules and Regulations shall be made by the Special Events Planning Committee; shall be effective upon adoption by the Special Events Planning Committee and shall not need approval by the City Council.

#### **SECTION 6: UNLAWFUL ACTIVITIES DECLARED**

- 6.1** It shall be unlawful for an Applicant/Event Producer or any person to hold a Special Event, sponsor a Special Event or cause a Special Event to be held without first having obtained a Special Event Permit from the City.
- 6.2** It shall be unlawful for an Applicant/Event Producer or any person to violate the terms and conditions of the Special Event Permit.
- 6.3** It is a violation for any person to commit the acts in either Subsection 6.1 or 6.2. An Applicant/Event Producer or any person found to be in violation of Subsection 6.1 or 6.2 shall be subject to punishment as defined in the Penalties and Enforcement Section of this Chapter and Special Events Code.

#### **SECTION 7: EXCEPTIONS**

This Chapter and Special Events Code shall not apply to:

- 7.1** A City-Promoted Event as defined by this Chapter and Special Events Code.
- 7.2** Any event held entirely within a city park or recreation field, and where all necessary facilities use permits and approvals have been requested and approved by the Recreation and Parks Department.

- 7.3** An event conducted entirely on the property of a religious institution, educational institution, college, or university campus.
- 7.4** Processions of vehicles operated in compliance with ordinary traffic laws or a procession of pedestrians along or upon public sidewalks, public parks, or private property.
- 7.5** Events conducted under the supervision of or with the permission of a governmental entity on property owned, leased, or operated by a governmental entity other than the City, and if the event does not require the closing or rerouting of a public street.
- 7.6** Funeral processions supervised by a licensed mortuary.
- 7.7** First Amendment Activity on City streets or sidewalks (including those in parks) that will not likely result in the obstruction of City streets or sidewalks nor compromise the ability of the City to respond to a public safety emergency such as demonstrations conducted for the purpose of indicating approval or disapproval of governmental policies or practices, expressing a view on public issues, or bringing into public notice any issue or other matter; or spontaneous events which are occasioned by news or affairs coming into public knowledge.
- 7.8** Temporary closing of streets by a department of the City for activities related to maintenance, repair, construction, alteration or other official duties of such department.
- 7.9** This Chapter and Special Events Code does not apply to temporary activities occurring on property appropriately zoned to permit the activity. In the event that provisions contained in this Chapter and Special Events Code conflict with other provisions regulating temporary activities, the provisions contained in this Chapter and Special Events Code shall govern.

**SECTION 8: REQUIREMENT TO ACQUIRE SPECIAL EVENTS PERMIT**

- 8.1** An Applicant/Event Producer must file the Special Event Permit Application with the City as determined by the Special Event Rules and Regulations. A Special Event Permit shall not be issued until a completed Special Event Permit Application, together with any additional information requested, and payments of all applicable fees are received by the City. The Special Event Permit Application must comply with this Chapter and Special Events Code, the Special Event Rules and Regulations, and other applicable law.

**SECTION 9: RESPONSIBILITY OF PARTICIPANTS AND PERSON IN CHARGE**

- 9.1** Participants in a Special Event are required to abide by this Chapter and Special Events Code, the Special Event Rules and Regulations and the terms of the Special Event Permit issued pursuant to this Chapter and Special Events Code by the Special Event Planning Committee. Willful violation thereof shall constitute a violation of this Chapter and Special Events Code and is punishable as provided by this Chapter and Special Events Code.

- 9.2** The Applicant or Event Promoter designated in the Special Event application as responsible for the physical conduct of the participants of the Special Event shall be responsible for monitoring the conduct of the participants in the Special Event. Failure to monitor the physical conduct of the participants of the Special Event by the Applicant or Event Promoter shall constitute a violation of the Chapter and Special Events Code and is punishable as provided by this Chapter and Special Events Code.

## **SECTION 10: FEES AND COSTS**

- 10.1** The City Council authorizes the Mayor and Special Events Planning Committee to establish Special Event Permit Fees, cost recovery fees, and any other applicable fees resulting from the Special Event based on the time length, location and size of the Special Event.
- 10.2** Applicant/Event Producer shall pay all required fees with the Special Event Permit Application. Applicant/Event Producer shall also be required to pay all fees and costs required by other City ordinances to conduct specific activities in conjunction with or as part of a Special Event.
- 10.3** All special event costs including, but not limited to, costs for cleanup, repair, fire, police or other City services, shall be the responsibility of the Applicant/Event Producer.

## **SECTION 11: TIMEFRAMES AND DEADLINES**

- 11.1** A Special Event Permit Application shall be filed **no less than 45 days, nor more than 365 days**, before the commencement of the proposed Special Event. The Special Events Planning Committee may consider a Special Event Application that is filed less than 45 days before the commencement of the proposed Special Event where good and compelling cause is shown and applicable late fees are paid with the application.

## **SECTION 12: APPLICATION PROCESS AND REVIEW**

- 12.1** The Special Event Permit Application will be processed and reviewed pursuant to the Special Events Rules and Regulations. The Special Events Planning Committee shall appoint an individual designated as the City Event Coordinator, responsible for the processing of the application, approval, coordination, or denial of the Special Event Permit.

## **SECTION 13: STANDARDS FOR ISSUANCE OF SPECIAL EVENT PERMIT**

A Special Event Permit will be issued only if the Special Events Planning Committee finds that the following standards for issuance of Special Event Permit are met:

- 13.1** The conduct of the special event will not substantially interrupt the safe and Orderly movement of other traffic contiguous to its route.
- 13.2** The conduct of the event will not require the diversion of so great a number of other City employees, such as Police, Fire, Recreation and Parks, and Public Works staff, so that adequate staff is not available to complete City assignments.

- 13.3** The concentration of persons, equipment, vehicles, or animals at the event or assembly sites will not substantially interfere with adequate police and fire protection of, or emergency medical services to, areas near such sites.
- 13.4** A parade is scheduled to move from its point of origin to its point of termination without unreasonable delays in route.
- 13.5** Other licenses and permits, restrictions, regulations, fees for the City services, safeguards or other conditions deemed necessary by individual City departments for the safe and orderly conduct of a Special Event are requested, submitted, and approved (i.e. health permit applications, agreement with police department for police coverage, agreement with public works department regarding cost associated with street closure, etc.).

#### **SECTION 14: DENIAL OF A PERMIT**

- 14.1** If the Special Events Planning Committee denies the issuance of a Special Event Permit, the Applicant/Event Producer shall promptly be notified in writing, including electronic transmission of notice. Such written notice shall include the reasons for the decision to deny the Special Event Permit.
- 14.2** If the Special Events Planning Committee determines that the Special Event Permit shall be denied, the Special Events Planning Committee shall consider alternatives to the time, place or manner of the Special Event that would allow the Special Event to occur. An Applicant/Event Producer desiring to accept an alternate permit shall, within five (5) days after notice of the alternatives by the City Events Coordinator, submit a written notice of acceptance, including electronic transmission of notice, with the Special Events Planning Committee.
- 14.3** Any denial of a Special Events Permit may be appealed pursuant to the section covering appeals in this Chapter and Special Events Code.

#### **SECTION 15: REVOCATION OF A PERMIT**

- 15.1** If the City revokes an issued Special Event Permit, the Applicant/Event Producer shall promptly be notified in writing. Such written notice shall include the reasons for the decision to revoke the Special Event Permit. A Special Event Permit shall be revoked upon the following conditions:
  - 15.1.1** If any member of the Special Events Planning Committee, or their designated representatives, find that any of the provisions of this Ordinance, another City ordinance, Special Event Rule or Regulation, or other applicable law is being violated, they shall immediately notify the City Events Coordinator, and based on that information, the Special Events Planning Committee, or their designee, shall determine whether the Special Event Permit shall be revoked.
  - 15.1.2** When, in the judgment of any member of the Special Events Planning Committee, a violation exists which creates a substantial risk to the safety and health of the public, requiring immediate abatement, the member of the Special Events Planning Committee shall have authority to revoke a Special Event Permit.

**15.1.3** The Applicant/Event Producer made or allowed to be made a false or misleading statement or omission of material fact on a Special Event Application that was not discovered until after the Special Event Permit was issued.

**15.2** Any revocation of a Special Events Permit may be appealed pursuant to the section covering appeals in this Chapter and Special Events Code.

## **SECTION 16: APPEAL**

**16.1** If the Special Events Planning Committee denies the issuance of a Special Event Permit, or if the City revokes an issued Special Event Permit, the Applicant/Event Producer may appeal the denial or revocation to the Mayor who shall promptly make a ruling on the appeal. Appeals from a denial or revocation of a Special Event Permit must be submitted to the Mayor within five (5) days from date of the written notice of the denial or revocation. All appeals shall be submitted in writing, including electronic transmission.

## **SECTION 17: INDEMNIFICATION AGREEMENT**

**17.1** Prior to the issuance of a Special Event Permit, the Applicant/Event Producer, must sign an Agreement to reimburse the City for any costs incurred in repairing damage to City property proximately caused by the actions of the Applicant/Event Producer, its officers, employees, or agents, or any person who was part of the Special Event.

**17.2** The Agreement shall also provide that the Applicant/Event Producer shall hold harmless, indemnify and defend the City, its officials, agents and employees against any claims, costs, damages, demands, liability and notices, or any of these, arising or resulting from any damage or injury proximately caused by actions of the Applicant/Event Producer, its officers, employees, or agents, or any person in connection with the permitted Special Event, regardless of whether the City is actively negligent or passively negligent.

**17.3** The indemnification agreement is to be used only to defray any costs associated with liability and is not intended nor will it be used by the City in any way to profit from the Applicant/Event Producer.

## **SECTION 18: INSURANCE**

**18.1** The Applicant/Event Producer of a Special Event must possess or obtain public liability insurance to protect against loss from liability for damages on account of bodily injury and property damage arising from the event. Such insurance shall name on the policy or by endorsement as additional insured the City. Insurance coverage must be maintained for the duration of the event. The amount of said insurance shall be set by the Special Events Planning Commission in the Special Events Rules and Regulations. The required coverage shall be tiered by the Special Events Planning Commission based on the one of the three categories the type of Special Event falls under: Parade, Athletic Competition or Block Party. A copy of the Certificate of Insurance shall be provided to the City Event Coordinator or the Special Event Planning Committee.

- 18.2** The insurance requirements of subsection (a) above shall be waived by the City Event Coordinator for Parades if the following condition is satisfied. The Applicant/Event Producer of the sponsoring organization signs a verified statement that the event's purpose is First Amendment activity, and that he has determined that the cost of obtaining insurance is so expensive that it would constitute an unreasonable burden on the right of First Amendment activity, or that it is impossible to obtain insurance coverage. The statement shall include the name and address of at least one (1) insurance agent or other source of insurance coverage contacted to determine insurance premium rates for insurance coverage.
- 18.3** The requirement of insurance is to be used only to defray any costs associated with liability and is not intended or will be used by the City in any way to profit from the Applicant/Event Producer.

### **SECTION 19: PENALTIES AND ENFORCEMENT**

- 19.1** The City shall have the authority to administer and enforce provisions of this Chapter and Special Events Code as may be required by governing law. An Applicant/Event Producer or any person violating any provision of this Chapter and Special Events Code is subject to suit for injunctive relief as well as prosecution for a violation of this Chapter and Special Events Code in accordance with this Title and Code.
- 19.2** Nothing in this Chapter and Special Events Code shall be construed as a waiver of the City's right to file a civil action to enforce the provisions of this Chapter and Special Events Code and to seek remedies as allowed by law, including but not limited to the following:
- 19.2.1** Injunctive relief to prevent specific conduct that violates the Chapter and Special Events Code or to require specific conduct that is necessary for compliance with this Chapter and Special Events Code;
- 19.2.2** Other available relief.
- 19.3** The institution of any fine or penalty shall not relieve any applicant of the obligation to pay any municipal costs related to the Special Event Permit.
- 19.4** All law enforcement officers, code enforcement officers and fire marshals of the City of Russellville are hereby granted the authority to enforce this Chapter and Special Events Code by issuing a citation to the Applicant/Event Producer or any person who violates the provisions of this Chapter and Special Events Code.
- 19.5** Citations issued by law enforcement officers, code enforcement officers or fire marshals shall be filed with and heard in Pope County District Court, City of Russellville Criminal Division.

### **SECTION 20: NON-TRANSFERABILITY**

- 20.1** A Special Events Permit is not transferable. A Special Event Permit is required for each and every separate special event. A permit issued for one event may not be used for a different, separate event. A Special Events Permit is temporary in

nature and is valid only for the times stated on the permit. A Special Events Permit shall expire upon the expiration of the stated times on the permit.

## **CHAPTER 8 – CITY LOITERING AND TRESPASSING CODE**

### **SECTION 1: Title.**

- 1.1** This Chapter shall be titled, known as, referred to and cited as the “City of Russellville Loitering and Trespassing Code (“Loitering and Trespassing Code”)”.

### **SECTION 2: FINDINGS, PURPOSE AND INTENT**

- 2.1** The purpose of this Chapter and Loitering and Trespassing Code is to prohibit loitering and the nuisances that often materialize from the activity which detrimentally affect the public at large as well as business and private property owners alike. It is the intent of the City that the activities defined as loitering be prohibited within the City to protect the citizens, residents, inhabitants, individuals and visitors of the City and City business and property owners while recognizing that there are constitutionally protected activities of free expression within the traditional public and limited public forums that all U.S. citizens have a right to lawfully exercise within those areas. To that end, this Chapter and Loitering and Trespassing Code seeks to balance those two interests into a law which aids police in reducing crime and protect City citizens, residents, inhabitants, individuals and visitors from crimes while safeguarding the personal liberties of individuals’ free expression of constitutionally protected rights.

### **SECTION 3: AUTHORITY**

- 3.1** This Chapter and Loitering and Trespassing Code is passed pursuant to the power granted to the City of Russellville by the State of Arkansas by A.C.A. §§14-43-602, 14-54-103, 14-54-1502, 14-55-101 and 14-55-102.

### **SECTION 4: DEFINITIONS**

As used in this Chapter and Loitering and Trespassing Code, the following terms mean:

- 4.1** “*Business premises*” means any commercial enterprise which is privately owned, but which is maintained for the convenience of the public.
- 4.2** “*Loiter*” means:
  - 4.2.1** Entering or remaining on any business premises or other premises specified by this Chapter under such circumstances that a reasonable person would conclude that the person who enters and remains on such premises:
    - 4.2.1.1** Does not have a purpose legitimately connected with the business or activity of the legal occupant of the premises, or his or her agent; and,
    - 4.2.1.2** Is causing public inconvenience; and,
    - 4.2.1.3** Refuses to comply with the lawful order of the owner, occupant or agent thereof, or the police to leave the premises or, after

complying with such lawful order, such person returns within forty-eight (48) hours and resumes loitering as herein defined; or,

**4.2.2** To stand around or remain, or to park or remain parked in a motor vehicle at a public place or place open to the public and:

**4.2.2.1** Engage in any conduct prohibited under this law; or,

**4.2.2.2** Under circumstances that warrant alarm for the safety of persons or property in the vicinity; or,

**4.2.3** To collect, gather, congregate or be a member of a group or a crowd of people, who are gathered together in any public place or place open to the public and to engage in any conduct prohibited under this law.

**4.3** “*Public place*” means any public street, road, or highway, alley, lane, sidewalk, crosswalk, or other public way, or any public resort, place of amusement, park, playground, public building or grounds appurtenant thereto, school building or school grounds, public parking lot, or any vacant lot.

**4.4** “*Place open to the public*” means any place open to the public or any place to which the public is invited, and in, on, or around any privately owned place of business, private parking lot, or private institution, including places of worship, cemetery, or any place of amusement and entertainment whether or not a charge of admission or entry thereto is made. It includes the elevator, lobby, halls, corridors and areas open to the public of any store, office or apartment building.

## **SECTION 5: PROHIBITED CONDUCT**

**5.1** It shall be unlawful for any person to loiter at, on or in a public place open to the public in such manner:

**5.1.1** *Obstruction of Traffic by Loitering.* To interfere, impede or hinder the free passage of pedestrian or vehicular traffic; or

**5.1.2** *Loitering by Alarm to Persons.* To interfere with, obstruct, harass, curse, or threaten or do physical harm to another member or members of the public; or

**5.1.3** *Loitering by Breach of the Peace.* That by words, act or other conduct it is clear that there is a reasonable likelihood to result in disorderly conduct or a breach of the peace.

**5.2** *Loitering After Being Requested to Move.* It shall be unlawful for any person to loiter, as defined in Section 4, at a public place or place open to the public and to fail to obey the direction of a uniformed police officer or the direction of a properly identified police officer not in uniform to move on, when not to obey such direction shall endanger the public peace.

**5.3** *Trespass by Refusal to Leave.* No person shall remain on any private property or business premises, after being notified by the owner or lessee or other person in charge thereof to remove therefrom. A sign displaying the hours of public access or use of private property or business premises shall be deemed as notice complying with the notice requirement in the preceding sentence.

- 5.4** *Trespass by Prohibited Entry.* No person, without permission, express or implied, of the owner or lessee or other person in charge of private property or business premises, shall enter upon such private property or business premises after having been notified by the owner or lessee or other person in charge thereof to keep off or keep away therefrom or if such property has a sign that prohibits the public from being on the private property or business premises during certain times during the day.
- 5.5** *Identification.* It shall be unlawful for any person at a public place or place open to the public to refuse to identify himself by name and address at the request of a uniformed officer or of a properly identified police officer not in uniform, if the surrounding circumstances are such as to indicate to a reasonable man that the public safety requires such identification.

## **SECTION 6: EXEMPTIONS**

- 6.1** This Chapter shall not apply in any of the following instances:
- 6.1.1** Where its application would result in an interference with or inhibition of peaceful labor picketing, other lawful labor activities or other lawful assembly.
- 6.1.2** Where its application would result in an interference with or inhibition of any other exercise of a constitutionally protected right of freedom of speech such as, but not limited to, peaceful expressions of political or religious opinions, not involving conduct otherwise punishable criminally.
- 6.1.3** Where its application results in or is coupled with an act prohibited by any other provision of law relating to unlawful discrimination against any person on account of color, race, religion, creed, ancestry or national origin.
- 6.1.4** Where the person who is upon another's private property or business premises is there under claim or color of legal right. This exception is applicable, but not limited to, the following types of situations involving disputes wherein the participants generally have civil remedies readily available to them: marital and post-marital disputes; child custody or visitation disputes; disputes regarding title or rights in real property; landlord-tenant disputes; disputes between members of the same family or between persons residing upon the property concerned up until the time of the dispute; employer-employee disputes; business-type disputes such as those between partners; debtor-creditor disputes; and instances wherein the person claims rights to be present pursuant to order, decree or process of a court.

## **SECTION 7: PENALTY**

- 7.1** Any person or entity found to be in violation of this Chapter and Loitering and Trespassing Code shall be deemed to be guilty of a misdemeanor and shall be fined in accordance with the provisions of this Title and Code.

## **CHAPTER 9 – CITY SKATEBOARD CODE**

### **SECTION 1: TITLE**

- 1.1 This Chapter shall be titled, known as, referred to and cited as the “City of Russellville Skateboarding Code (“Skateboard Code”).”

### **SECTION 2: FINDINGS, PURPOSE AND INTENT**

- 2.1 It is the finding of the City Council that the use of skateboards and other similar devices on public property in the City has often become a nuisance and a safety hazard for pedestrians who use sidewalks in the City.
- 2.2 The City has a lawful duty and obligation to keep streets and sidewalks free from obstructions and safe for pedestrians.
- 2.3 The City is concerned about liability by allowing such vehicles to skate on streets, sidewalks, and at other public places.
- 2.4 Further, it is the finding of the City that skateboarding on property can cause damage to that property.
- 2.5 It is the purpose and intent of this Chapter and Skateboard Code to limits the areas of skateboarding of certain public and private property while allowing the use of skateboarding in other locations within the City.

### **SECTION 3: AUTHORITY**

- 3.1 This Chapter and Skateboard Code is passed pursuant to the power granted to the City of Russellville by the State of Arkansas by A.C.A. §§14-43-602, 14-54-103, 14-54-1502, 14-55-101 and 14-55-102.

### **SECTION 4: DEFINITIONS:**

As used in this Chapter and Skateboarding Code, the following terms mean:

- 4.1 “*Business District*” means that area of the City within a five (5) block radius from the location of City Hall [203 South Commerce Avenue, Russellville, Arkansas].
- 4.2 “*Coaster*” means a board mounted upon two or more wheels and steered by means of an upright handle, designed to be ridden by a person.
- 4.3 “*Device*” means a coaster, rollerblades, skates, skateboard or tricycle.
- 4.4 “*Go-cart*” means a small, open, motorized vehicle, not required to be licensed under State law and usually operated for recreational purposes.
- 4.5 “*Moped*” means a motorized bicycle, or moped, must have human powered pedals, an automatic transmission, a motor less than fifty (50) cubic centimeters that does not propel the bike faster than thirty (30) mph [miles per hour].
- 4.6 “*Motorcycle*” means every motor vehicle, other than a tractor, having a seat or saddle for the use of the operator and designed to travel on not more than three wheels in contact with the ground, including but not limited to, motor vehicles known as "motor-driven cycle," "motor scooter," "autocycle," "cab-enclosed motorcycle" or "motorcycle" without regard to weight or brake horsepower.

- 4.7 “*Motor vehicle*” means a vehicle that is self-propelled or that is propelled by electric power obtained from overhead trolley wires but not operated upon stationary rails or tracks
- 4.8 “*Rollerblades*” also known as In-Line Skates, a shoe with wheels set in a straight line on the bottom that is used for skating.
- 4.9 “*Sidewalk*” means that area adjacent to a roadway or highway commonly used by pedestrians whether composed of concrete, asphalt, or other covering substance.
- 4.10 “*Skate*” means a shoe or boot with wheels fixed to its sole, enabling the wearer to glide over hard surfaces.
- 4.11 “*Skateboard*” means a short, narrow board having roller-skate wheels mounted under it.
- 4.12 “*Street*” means any paved or unpaved road, thoroughfare, avenue, boulevard, parkway, drive, alley, easement, right-of-way or other public way set aside or open for purposes of vehicular traffic, including any berm, shoulder or median strip thereof within the corporate city limits of the City that is owned, leased, held by the City by easement, licensed to the City, granted possession or otherwise possessed by the City.
- 4.13 “*To operate*” means to ride, drive, or otherwise use one (1) of the devices described within these definitions as a means of transport.
- 4.14 “*Tricycle*” means a three-wheeled adult vehicle propelled by human power having a single front wheel and two parallel rear wheels.

## **SECTION 5: PROHIBITED ACTS**

- 5.1 It shall be unlawful for any person to operate or ride a skateboard, tricycle, skates, rollerblades, coaster, or any other similar device in any of the following places:
  - 5.1.1 On any sidewalk or street in the Business District or in any mall located in the City.
  - 5.1.2 On any public property where signs are posted prohibiting such use, such as parking lots.
  - 5.1.3 On private property where a sign prohibiting such items has been posted by the owner, lessee, or person in charge of said property.
  - 5.1.4 While holding on to a moving motor vehicle, motorcycle, go-kart or moped.

## **SECTION 6: OBEDIENCE TO TRAFFIC CONTROL DEVICES AND TRAFFIC LAWS**

- 6.1 Operators of skateboards, roller skates, roller blades, or other similar devices shall yield the right-of-way to other pedestrians using public sidewalks, and shall not otherwise endanger or interfere with pedestrian traffic on those sidewalks. They shall also obey all traffic laws when traveling on city streets, unless directed otherwise by a police officer.

## **SECTION 7: WARNING**

- 7.1** For a first offense, at the discretion of the investigating officer, a written warning may be issued to the offender, and no fine shall be imposed. If the offender is under the age of eighteen (18) years, a parent or guardian of the offender shall be notified, and shall be handed or mailed a copy of the written warning by the Police Department.

## **SECTION 8: PENALTY**

- 8.1** It shall be unlawful for any person or entity for any person or entity to violate any provision of this Chapter and Skateboard Code. Any person or entity found to be in violation of any provision of this Chapter and Skateboard Code shall be deemed to be guilty of a misdemeanor and shall be fined in accordance with the provisions of this Title and Code.

## **SECTION 9: SEIZURE OF DEVICE**

- 9.1** Every City police officer is authorized by this Chapter and Skateboard Code to impound any skateboard or other similar device as evidence when used by a person to violate the provisions of this Chapter and Skateboard Code. Impounded devices shall be removed and stored in accordance with law. The skateboard or other similar device operated by the person in violation of this Chapter and Skateboard Code shall, upon conviction of the person of this Chapter and Skateboard Code, may be forfeited to the City of Russellville.

## **SECTION 10: RESPONSIBILITY OF PARENT OR GUARDIAN**

- 10.1** Where a person under the age of eighteen (18) years, a minor, is cited in violation of this Chapter and Skateboard Code, full responsibility for noncompliance with this Chapter and Skateboard Code shall devolve upon the parent or guardian.

## **SECTION 11: RAMPS PROHIBITED**

- 11.1** It shall be unlawful for any person to use, construct or place upon any public property a ramp, jump, platform or similar device intended for use by a person upon a skateboard or other similar devices.
- 11.2** The costs incurred by the City in removing a device placed contrary to Subsection 11.1 shall be a charge imposed upon and payable by the individual violating this Section. If the individual violating this Section is a minor, then the charge shall be imposed against the individual's custodial parent, parents or guardians.

## **CHAPTER 10 – CITY BICYCLE CODE**

### **SECTION 1: TITLE**

- 1.1** This Chapter shall be titled, known as, referred to and cited as the “City of Russellville Bicycle Code (“Bicycle Code”).”

### **SECTION 2: FINDINGS, PURPOSE AND INTENT**

- 2.1** The purpose of this Chapter and Bicycle Code is to set forth regulations for operating bicycles and similar devices on the city’s streets and sidewalks.
- 2.2** The City has a lawful duty and obligation to keep streets and sidewalks free from obstructions and safe for pedestrians.
- 2.3** The City is concerned about liability by allowing bicycles and other similar devices to operate on streets, sidewalks, and at other public places without regulations in place in ensure safety for cyclists, pedestrians and motor vehicle operators.
- 2.4** It is the purpose and intent of this Chapter and Bicycle Code to provide adequate safeguards to ensure cyclists, pedestrians and motor vehicle operators can all use the various public right-of-ways safely.

### **SECTION 3: AUTHORITY**

- 3.1** This Chapter and Bicycle Code is passed pursuant to the power granted to the City of Russellville by the State of Arkansas by A.C.A. §§14-43-602, 14-54-103, 14-54-1502, 14-55-101 and 14-55-102.

### **SECTION 4: DEFINITIONS:**

As used in this Chapter and Bicycle Code, the following terms mean:

- 4.1** “*Bicycle*” means:
  - 4.1.1** a device having up to four (4) wheels and having at least one (1) saddle or seat for the use of a rider which is propelled by human power through a belt, chain or gears; or,
  - 4.1.2** a device having up to four (4) wheels with fully operable pedals and an electric motor of one (1) horsepower or less.
- 4.2** “*Coaster*” means a board mounted upon two or more wheels and steered by means of an upright handle, designed to be ridden by a person.
- 4.3** “*Emergency vehicles*” means the same as are defined in A.C.A. §27-49-219(d) as including: fire department vehicles, police vehicles, vehicles owned and used by volunteer fire fighters while engaged in official duties, and ambulances and other emergency medical vehicles meeting statutory requirements.
- 4.4** “*Street*” means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

- 4.5** “*To operate*” means to ride, drive, or otherwise use one (1) of the devices described within these definitions as a means of transport.

#### **SECTION 5: PROHIBITED ACTS**

- 5.1** That it shall be unlawful for any person to operate or ride a bicycle, toy wagon or coaster upon the sidewalks within the city limits of the city of Russellville, Arkansas, except for the purpose of crossing the same at intersections or on public or private alleys or driveways.

#### **SECTION 6: LIGHTS REQUIRED**

- 6.1** No bicycle shall be used within the City limits of said City, from one-half (½) hour after sunset to one-half (½) hour before sunrise, without displaying a white light on and attached to the front of said bicycle, visible from the front for a distance of at least 300 feet, and unless a red light or red reflector is attached to the rear of said bicycle, visible from the rear for a distance of at least 300 feet.

#### **SECTION 7: HOOKING ON OR TOWING**

- 7.1** No person riding a bicycle shall hook on to any other vehicle or tow another bicycle or permit his bicycle to be towed.

#### **SECTION 8: DOUBLE RIDING RESTRICTED**

- 8.1** A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto. No bicycle shall be used to carry more persons at one (1) time than the number for which it is designed and equipped.

#### **SECTION 9: RIDING ABREAST**

- 9.1** It shall be unlawful for more than two (2) persons to ride bicycles abreast of each other on any street or alley.

#### **SECTION 10: MANNER OF RIDING**

- 10.1** It shall be unlawful for any person to do any trick riding on a bicycle or to ride without at least one hand on the handle bar or bars at any time upon any streets or alley.

#### **SECTION 11: BRAKES**

- 11.1** It shall be unlawful for any person to ride or operate a bicycle within the city limits of the City, without having the same properly equipped with workable and safe brake or brakes.

#### **SECTION 12: OBSERVING TRAFFIC LAWS**

- 12.1** Every person riding a bicycle upon any street or alley within said City shall observe and obey the traffic laws and traffic signals of said City and of the State of Arkansas, so far as the same apply to the riding of bicycles and specifically, and without limitation, shall include traffic rules relating to traffic lights and highway stop signs, and must signal any change of direction of the course of travel and must travel on the right hand side of the center of the street, and shall

not turn to the right or left in traffic, except as the regular street intersections, and shall not weave in and out of the line of traffic.

- 12.2** Any person using and operating a bicycle in this City shall obey any direction or traffic-related order issued by a police officer.
- 12.3** Every person riding a bicycle upon a street shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of the State declaring rules of the road applicable to vehicles or by the traffic code of the City applicable to the driver of a vehicle, except as to those provisions which by their nature can have no application. Whenever such person dismounts from a bicycle, the person shall be subject to all regulations applicable to pedestrians.

### **SECTION 13: PARKING ON STREET RIGHTS-OF-WAY**

- 13.1** No person shall lay a bicycle down on any street, alley or park a bicycle upon any public street, alley or sidewalk in this City in such a position as to interfere with the safety or movement of traffic, including vehicles and pedestrians, or to interfere with the use of the public rights-of-way by vehicles or pedestrians.

### **SECTION 14: IMPOUNDING OF MINOR'S BICYCLE**

- 14.1** The Police Department shall have authority, in the event that any juvenile or person under the age of eighteen (18) years is found violating any provision of this Chapter and Bicycle Code, to take and impound the bicycle of such juvenile or minor so found violating this Chapter and Bicycle Code, and to hold the same for a period not to exceed thirty (30) days, during which time the Police Department shall notify the parents or guardian or other person having the custody and control of the juvenile or minor of such offense, and secure, if possible, the cooperation and assistance of such parent or guardian or other person having the custody and control of the juvenile or minor, in preventing the recurrence of such offense by such juvenile or minor.

### **SECTION 15: BICYCLE PATHS**

- 15.1** Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

### **SECTION 16: CARRYING ARTICLES**

- 16.1** No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one (1) hand upon the handle bars.

### **SECTION 17: SPEED**

- 17.1** No person shall operate a bicycle, skateboard or in-line skates at a speed greater than is reasonable and prudent under the conditions then existing.

### **SECTION 18: IMPROPER RIDING**

- 18.1** No person shall ride a bicycle, skateboard or in-line skates in an irregular or reckless manner such as zigzagging, stunting, speeding or otherwise so as to disregard the safety of persons or property.

- 18.2** No person riding upon any bicycle on a street, sidewalk, highway, park road or multi-use trail shall attach the bicycle or himself or herself to any moving vehicle by tow rope, hand grip or otherwise.
- 18.3** No person riding a bicycle shall follow closer than 500 feet of an emergency vehicle which has emergency lights and/or siren activated, and shall not stop, park, or leave a bicycle within 500 feet of an emergency vehicle stopped in response to an emergency.

**SECTION 19: PENALTY**

- 19.1** It shall be unlawful for any person or entity for any person to violate any provision of this Chapter and Bicycle Code. Any person or entity found to be in violation of any provision of this Chapter and Bicycle Code shall be deemed to be guilty of a civil violation and shall be fined in accordance with the provisions of this Title and Code.

## **ARTICLE IV – OFFENSES INVOLVING PROPERTY**

### **CHAPTER 1 – RESERVED**

### **CHAPTER 2 – CITY PAWNBROKERS CODE**

#### **SECTION 1: TITLE**

- 1.1 This Chapter shall be titled, known as, referred as and cited as "The City of Russellville Pawnshops Bookkeeping Code ("Pawnbrokers Code").

#### **SECTION 2: FINDINGS, PURPOSE AND INTENT**

- 2.1 A.C.A. §12-12-103 requires each and every pawnshop and pawnbroker doing business in the State of Arkansas to keep a record showing in detail all property pawned with them.
- 2.2 Pursuant to A.C.A. §12-12-103, such records are required to be made available to police agencies of the municipality in which the pawnshop or pawnbroker is located at any and all reasonable times.
- 2.3 Pursuant to A.C.A. §14-54-103(10), the City of Russellville, Arkansas ("City"), through Ordinance No. 628 has required every pawnbroker or dealer in secondhand goods to maintain and provide certain information to the Russellville Police Department.
- 2.4 In order to maintain an accurate and efficient system for inputting such records and information for law enforcement purposes, there is a substantial need for local law enforcement officers to access such records electronically.

#### **SECTION 3: AUTHORITY**

- 3.1 This Chapter and Pawnbrokers Code is passed pursuant to the power granted to the City of Russellville by the State of Arkansas by A.C.A. §§14-43-602, 14-54-103, 14-55-101, 14-55-102 and 12-12-103.

#### **SECTION 4: DEFINITIONS**

The following definitions shall apply to only this Chapter and Pawnbrokers Code:

- 4.1 "*Pawnbroker*" means any person, junk dealer or dealer in second hard articles, doing business in the City who loans money on deposit, or pledge of personal property, or other valuable things, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price.
- 4.2 "*Pawnshop*" mean any location where a pawnbroker conducts business.

#### **SECTION 5: RECORDS REQUIREMENT**

- 5.1 All pawnbrokers are hereby required to furnish the Russellville Police Department daily reports with the following data: name, age, sex, race, residence, driver's license number and general description of each person who shall have pawned, pledged or sold any article during the preceding day, together with a full description of the article pawned, pledged or sold, including the number, and in case of watches, both the number on the case and the number in the works.

- 5.2** All pawnbrokers are to keep duplicates of the reports required to be kept in Subsection 5.1 which shall be subject to inspection by the Russellville Police Department.
- 5.3** Each and every pawnbroker or person employed or associated with a pawnshop doing business in the City of Russellville, Arkansas, shall maintain an electronic inventory-tracking system which is capable of delivery and transmission of all statutorily-required information including the requirements in Subsection 5.1 via computer to the entity designated by the Russellville Police Department. Maintaining an electronic inventory-tracking system shall fulfill the requirements in Subsection 5.2.

**SECTION 6: TRANSACTION WITH MINORS PROHIBITED**

- 6.1** It shall be unlawful for any pawnbroker, or their agent or employee, to accept any pawn, pledge or buy from any minor, or to knowingly advance any minor, or other thing of value, upon the property of a minor, except with the written consent of the parent or legal guardian of said minor.

**SECTION 7: VIOLATION AND PENALTY**

- 7.1** The failure on the part of any pawnbroker or person employed or associated with a pawnshop to comply with the provisions of this Chapter and Pawnbrokers Code shall be deemed a misdemeanor and upon conviction, the offender shall be punished in accordance to the provisions of this Title and Code.
- 7.2** Each day of noncompliance with this Chapter and Pawnbrokers Code shall be deemed a separate offense.

## **CHAPTER 3 – PROPERTY MAINTENANCE CODE**

### **SUBCHAPTER 1: GENERAL PROVISIONS, DEFINITIONS AND APPLICABILITY**

#### **SECTION 101: GENERAL**

- 101.1** The title of this Chapter shall be known as, referred to and cited as, “The City of Russellville, Arkansas, Property Maintenance Code (“Property Maintenance Code”).”
- 101.2** This Chapter and Property Maintenance Code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein. Repairs, alterations, additions to and change of occupancy in existing buildings shall comply with the Arkansas Fire Prevention Code, Volumes I, II and III.
- 101.3** This Chapter and Property Maintenance Code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein. Repairs, alterations, additions to and change of occupancy in existing buildings shall comply with the Arkansas Fire Prevention Code, Volumes I, II and III.
- 101.4** This Chapter and Property Maintenance Code is passed pursuant to the power granted to the City of Russellville by the State of Arkansas by A.C.A. §§14-43-602, 14-54-103, 14-54-1502, 14-55-101, 14-55-102, and 14-54-901 *et seq.*
- 101.5** Unless otherwise expressly stated, the following terms shall terms shall, for the purposes of this Chapter and Property Maintenance Code, have the meanings shown in this Section.
- 101.5.1.1** “*Abandoned*” means property to which no person claims or exercises the rights of ownership.
- 101.5.1.2** “*Anchored*” means secured in a manner that provides positive connection.
- 101.5.1.3** “*Appliances*” means, but is not limited to, refrigerators, deep freezers, stoves, ovens, air conditioners, washers, dryers, trash compactors, dishwashers, televisions, radios, hot water heaters and plumbing fixtures.
- 101.5.1.4** “*Approved*” means approved by the code official.
- 101.5.1.5** “*Basement*” means that portion of a building which is partly or completely below grade.
- 101.5.1.6** “*Bathroom*” means a room containing plumbing fixtures including a bathtub or shower.

- 101.5.1.7** “*Bedroom*” means any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.
- 101.5.1.8** “*Building Material*” means, but is not limited to, items such as boards, bricks, cement, nails, pipe, sheet metal, siding, tar paper, shingles, and windows which have never been incorporated into a structure or which have been removed from a structure and may be readily incorporated into another structure. This Chapter and Property Maintenance Code applies only to building material which lies in public view and with respect to which its owner has no definite immediate plans for its use.
- 101.5.1.9** “*Building Rubbish*” means any post-construction solid waste which, because of its quantity, quality or condition, cannot be readily and immediately put to a beneficial use.
- 101.5.1.10** “*Code Official*” means the official who are charged with the administration and enforcement of this Chapter and Property Maintenance Code, or any duly authorized representative.
- 101.5.1.11** “*Condemn*” means to adjudge unfit for occupancy.
- 101.5.1.12** “*Canopy*” means more or less continuous cover of branches and foliage formed collectively by adjacent tree crowns.
- 101.5.1.13** “*Crown*” means the upper part of a tree including the branches and foliage from the lowest branch on the trunk to the top of tree.
- 101.5.1.14** “*Costs*” means the actual cost the city incurs in abating or causing to be abated a nuisance, including without limitation, the cost of mowing, weeding, removing objectionable rubbish, junk, unsightly, or unsanitary matter, etc.
- 101.5.1.15** “*Developed*” means any man made change to undeveloped real property including but not limited to the construction, reconstruction, renovation, repair, expansion, or alternation of buildings or other structures; the placement of manufactured homes; mining; dredging; drilling operations; storage of equipment or materials; the subdivision of land; or improvements. Grass and weeds on developed property shall be mowed.
- 101.5.1.16** “*Detached*” means when a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.
- 101.5.1.17** “*Deterioration*” means to weaken, disintegrate, corrode, rust or decay and lose effectiveness.
- 101.5.1.18** “*Dwelling Unit*” means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- 101.5.1.19** “*Easement*” means that portion of land or property reserved for present or future use by a person or agency other than the legal fee

owner(s) of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

- 101.5.1.20** *“Equipment Support”* means those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.
- 101.5.1.21** *“Exterior Property”* means the open space on the premises and on adjoining property under the control of owners or operators of such premises.
- 101.5.1.22** *“Forest”* means a biological community dominated by trees and other woody plants covering a land area of 10,000 square feet (0.23 acres) or greater. This definition includes: (1) Areas that have at least 100 live trees per acre with at least 50 percent of those trees having a 2 inch or greater diameter at 4.5 feet above the ground and larger; and (2) Areas that have been cut but not cleared. Forest does not include orchards.
- 101.5.1.23** *“Garbage”* means all decayable waste, including, but not limited to, all solid or semisolid kitchen refuse subject to decay or putrefaction, tin, cans, bottles, paper and cardboard boxes, and all market waste of animal or vegetable matter which was intended to be used as food.
- 101.5.1.24** *“Graffiti”* or *“Vandalism”* means any inscription, word, figure, or design that is marked, etched, scratched, drawn, painted, written upon, carved upon, defaced, mutilated, destroyed, or otherwise injured any property, pasted or otherwise affixed to or on any structural component of any building, structure, or other permanent facility regardless of the nature of the material of that structural component, or the nature of the inscription, to the extent that the same was not authorized in advance by the owner, or, is otherwise deemed to be a public nuisance.
- 101.5.1.25** *“Grass”* means any type of grass or weed, but not including ornamental, landscaping, agriculture, or crop vegetation. Vegetation for hay is also excluded as a weed when grown on property zoned agricultural or on property zoned residential that is fifteen (15) acres or larger.
- 101.5.1.26** *“Guard”* means a building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.
- 101.5.1.27** *“Habitable Space”* means space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.
- 101.5.1.28** *“Housekeeping Unit”* means a room or group of rooms forming a single habitable space equipped and intended to be used for living,

sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

**101.5.1.29** “*Imminent Danger*” means a condition which could cause serious or life-threatening injury or death at any time.

**101.5.1.30** “*Improvements*” means physical additions, installations and changes required to render land suitable for the use intended, including: grading, paving, curbing, filling, excavation, street lights and signs, fire hydrants, water mains, electric service, gas service, sanitary sewers, storm drains, sidewalks, crosswalks, driveways, culverts, and other public utilities.

**101.5.1.31** “*Infestation*” means the presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

**101.5.1.32** “*Inoperable Motor Vehicle*” means a vehicle which, by mechanical or physical defect, can no longer be used for its intended purpose and which is not serving a functional purpose. Inoperative, which applied to motor vehicles, refers to any motor vehicle which is inoperable, dismantled, damaged or is unable to start or move under its own power. A vehicle shall be presumed to be inoperative when any one (1) of the following conditions are present:

**101.5.1.32.1** It has not been moved for more than three days.

**101.5.1.32.2** One or more tires are flat.

**101.5.1.32.3** One or more wheels are missing.

**101.5.1.32.4** The hood or trunk is raised or missing and has appeared to remain so for more than three days.

**101.5.1.32.5** Weeds or grass have grown up around the vehicle.

**101.5.1.32.6** The engine is missing.

**101.5.1.32.7** The vehicle has no current vehicle tags or registration.

**101.5.1.32.8** The door or doors, fender or fenders are removed or missing.

**101.5.1.32.9** The front or rear windshield is broken, removed or missing, or the side windows are broken or removed or missing.

**101.5.1.33** “*Junk*” means all worn out, useless, worthless, discarded, or scrap material, including, but not limited to, odds and ends, old metal, scrap lumber, building debris or old building materials, used tires, vehicle parts, and other items no longer used in the manner in which they were intended, including, but not limited to, upholstered furniture, working and non-working appliances, and machinery and parts thereof.

**101.5.1.34** “*Labeled*” means equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a

nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

- 101.5.1.35** *“Let For Occupancy”* or *“Let”* means to permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.
- 101.5.1.36** *“Motor Vehicle”* means every device capable of being moved upon a public highway and in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.
- 101.5.1.37** *“Nature Area”* means an area of property designated by the owner and approved by the City, state or federal government as an area to be generally left in its natural state for the purposes of providing a natural scenic area or for the harboring of birds or local wildlife. Such an area must have clearly delineated perimeter boundaries with a buffered mowing area of twenty-five (25) feet adjacent to the nature area and such mowed buffer must be maintained with the height of grass or weeds not to exceed ten (10) inches.
- 101.5.1.38** *“Neglect”* means the lack of proper maintenance for a building or structure.
- 101.5.1.39** *“Nuisance”* means garbage, rubbish, trash, litter, grass and weeds above the height regulated by this Ordinance or anything which is injurious to the health or morals, or indecent or offensive to the senses, or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property.
- 101.5.1.40** *“Occupancy”* means the purpose for which a building or portion thereof is utilized or occupied.
- 101.5.1.41** *“Occupant”* means any individual living or sleeping in a building, or having possession of a space within a building.
- 101.5.1.42** *“Open Space”* means a parcel of land in a predominantly open and undeveloped condition that is suitable for any of the following: 1) Nature areas; 2) Wildlife and native plant habitat; 3) Important wetlands or watershed lands; 4) Stream corridors; 5) Passive, low-impact activities; 6) Little or no land disturbance; and/or 7) Trails for non-motorized activities.

- 101.5.1.43** “*Openable Area*” means that part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.
- 101.5.1.44** “*Operator*” means any person who has charge, care or control of a structure or premises which is let or offered for occupancy.
- 101.5.1.45** “*Owner*” means any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.
- 101.5.1.46** “*Perimeter*” means every outer edge of property. The width of the perimeter to be maintained shall be twenty-five (25) feet unless blocked by a natural or man-made obstruction to which the maintenance of the property shall be to the obstruction.
- 101.5.1.47** “*Pest Elimination*” means the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other approved pest elimination methods.
- 101.5.1.48** “*Premises*” means a lot, plot or parcel of land, easement or public way, including any structures thereon.
- 101.5.1.49** “*Property*” means any lot, tract, parcel of land or portion thereof, within the corporate limits of the City of Russellville, Arkansas.
- 101.5.1.50** “*Public Way*” means any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.
- 101.5.1.51** “*Rooming House*” means a building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.
- 101.5.1.52** “*Rooming Unit*” means any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.
- 101.5.1.53** “*Rubbish*” means all animal and inorganic matter subject to discard that is generated from within a household, residence, or business, such as, but not limited to, coffee grounds, tin cans, paper bags, boxes, glass, food articles, stoves, refrigerators, iceboxes, pieces of metal scrap, feathers, furniture, dead animals, rocks, shingles, building materials, yard cleaning materials, junk, trash, refuse, and other worn-out, wrecked or dismantled machinery, tractors, automobiles, motor vehicles and other similar wastes, combustible and noncombustible

waste materials, the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, metals, mineral matter, glass, crockery and dust and other similar materials.

- 101.5.1.54** “*Shrub*” means a perennial, multi-stemmed woody plant that is usually less than 13-15 feet in height. They may be single stemmed and taller than 15 feet under certain environmental conditions.
- 101.5.1.55** “*Sleeping Unit*” means a room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.
- 101.5.1.56** “*Strict Liability Offense*” means an offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.
- 101.5.1.57** “*Structure*” means that which is built or constructed or a portion thereof.
- 101.5.1.58** “*Tenant*” means a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.
- 101.5.1.59** “*Tree*” means a perennial, woody plant with a single stem (trunk), normally greater than 15 feet in height; however, under certain environmental conditions, some tree species may develop multi-stemmed or short growth form.
- 101.5.1.60** “*Toilet Room*” means a room containing a water closet or urinal but not a bathtub or shower.
- 101.5.1.61** “*Ultimate Deformation*” means the deformation at which failure occurs and which shall be deemed to occur if the sustainable load reduces to eighty percent (80%) or less of the maximum strength.
- 101.5.1.62** “*Underbrush*” means brush under a stand of timber.
- 101.5.1.63** “*Understory*” means either foliage layer or shrubs beneath the forest canopy; or young trees that are growing beneath the tall mature trees in a timber stand.
- 101.5.1.64** “*Undeveloped*” means any lot, tract or parcel of land that has not been graded or in any other manner prepared for the construction of a building, improvement or otherwise developed. Grass and weeds on undeveloped shall either be mowed or bushhogged.
- 101.5.1.65** “*Unsightly And Unsanitary Articles*” means any matter, condition, or object which is or should be objectionable, unsightly, or unsanitary to

a person of ordinary sensitivities and shall be considered both rubbish and junk and both terms' definitions shall also apply.

**101.5.1.66** "*Ventilation*" means the natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

**101.5.1.67** "*Weeds*" Vegetation that because of its height is objectionable, unsightly or unsanitary, but excluding ornamental, landscaping, agricultural, or crop vegetation. Vegetation for hay is also excluded as a weed when grown on property zoned agricultural or on property zoned residential that is fifteen (15) acres or larger.

**101.5.1.68** "*Wetlands*" mean areas that are inundated or saturated by surface or ground water (hydrology) at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation (hydrophytes) typically adapted for life in saturated soil conditions (hydric soils). Wetlands generally include swamps, marshes, bogs, and similar areas.

**101.5.1.69** "*Workmanlike*" means executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

**101.5.1.70** "*Yard*" means an open space on the same lot with a structure.

**101.5.1.71** "*Yard Waste*" means any refuse other than garbage or putrescible matter. It shall include discarded flower decorations, cuttings of grass and weeds, fallen leaves, fallen branches, fallen trees, cut vines, shrubbery, grass clippings, brush, leaves, tree trimmings,

**101.5.1.72** "*Zoned*" means property in the City that has been assigned a zoning designation by the City under the current City Zoning Code.

**101.5.2** *Interchangeability.* Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neutral; the singular number includes the plural and the plural, the singular.

**101.5.3** *Terms defined in other codes.* Where terms are not defined in this code and are defined in the Arkansas Fire Prevention Code—Volumes I, II, and III, Russellville Zoning Code, Arkansas Plumbing Code, Arkansas Mechanical Code and the National Electrical Code, such terms shall have the meanings ascribed to them as in those codes.

**101.5.4** *Terms not defined.* Where terms are not defined through the methods authorized by this Section, such terms shall have ordinarily accepted meanings such as the context implies.

**101.5.5** *Parts.* Whenever the words "dwelling unit," "dwelling," "premises," "building," "rooming house," "rooming unit," "housekeeping unit" or "story" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof."

## **SECTION 102: APPLICABILITY**

- 102.1** *General.* The provisions of this Chapter and Property Maintenance Code shall apply to all matters affecting or relating to structures and premises, as set forth in Sections 2 and 3. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between the provisions of this Chapter and Property Maintenance Code and the referenced standards, the provisions of this Chapter and Property Maintenance Code shall apply. Where, in a specific case, different sections of this Chapter and Property Maintenance Code specify different requirements, the most restrictive shall govern.
- 102.2** *Maintenance.* Equipment, systems, devices and safeguards required by this Chapter and Property Maintenance Code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this section to be removed from or shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this Chapter and Property Maintenance Code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner, occupant, or the owner's designated agent shall be responsible for the maintenance of buildings, structures and premises.
- 102.3** *Application of other codes.* Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the current Arkansas Fire Prevention Codes - Volumes I, II and III. Nothing in this Chapter and Property Maintenance Code shall be construed to cancel, modify or set aside any provisions of the current Russellville Zoning Code.
- 102.4** *Existing remedies.* The provisions in this Chapter and Property Maintenance Code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and unsanitary.
- 102.5** *Workmanship.* Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this Chapter and Property Maintenance Code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.
- 102.6** *Historic buildings.* The provisions of this Chapter and Property Maintenance Code shall not be mandatory for existing buildings or structures designated as historic buildings when such buildings or structures are judged by the code official to be safe and in the public interest of health, safety and welfare.
- 102.7** *Referenced codes and standards.* The codes and standards referenced in this Chapter and Property Maintenance Code shall be those that are listed in Subchapter 8 and considered part of the requirements of this Chapter and Property

Maintenance Code to the prescribed extent of each such reference. Where differences occur between provisions of this Chapter and Property Maintenance Code and the referenced standards, the provisions of this Chapter and Property Maintenance Code shall apply. **Exception:** Where enforcement of a Chapter and Property Maintenance Code provision would violate the conditions of the listing of the equipment or appliance, the condition of the listing shall apply.

- 102.8** *Conflicts.* Where conflicts occur between provisions of this Chapter and Property Maintenance Code and the referenced standards, the provisions of this Chapter and Property Maintenance Code shall apply.
- 102.9** *Provisions in referenced codes and standards.* Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this Chapter and Property Maintenance Code, the provisions of this Chapter and Property Maintenance Code, as applicable, shall take precedence over the provisions in the referenced code or standard.
- 102.10** *Requirements not covered by Chapter and Property Maintenance.* Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this Chapter and Property Maintenance Code, shall be determined by the code official.
- 102.11** *Application of References.* References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this Chapter and Property Maintenance Code.
- 102.12** *Other laws.* The provisions of this Chapter and Property Maintenance Code shall not be deemed to nullify any provisions of local, state or federal law

## **SUBCHAPTER 2: ADMINISTRATION AND ENFORCEMENT**

### **SECTION 103: DIVISION OF PROPERTY MAINTENANCE**

- 103.1** *General.* The Division of Code Enforcement is hereby created and placed within the Planning and Development Department of the City. The official in charge thereof shall be known as the code official.
- 103.2** *Appointment.* The code official shall be appointed by the Department Head of the Planning and Development Department of the City.
- 103.3** *Deputies.* In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the code official shall have the authority to appoint one or more deputies, as budgeted by the governing body of the City. Such employee or employees shall have powers as delegated by the code official.
- 103.4** *Liability.* The code official, officer or employee charged with the enforcement of this Chapter and Property Maintenance Code, while acting for the jurisdiction, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an

act required or permitted in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this Chapter and Property Maintenance Code shall be defended by the legal representation of the jurisdiction until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this Chapter and Property Maintenance Code; and any officer of the department of property maintenance inspection, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith. The government immunity from liability and suit for the City and its employees as determined by Arkansas law is not waived in any way by the adoption of this Chapter and Property Maintenance Code and shall be applicable to all activities of the city and its employees pursuant to this Chapter and Property Maintenance Code.

#### **SECTION 104: DUTIES AND POWERS OF THE CODE OFFICIAL**

**104.1** *General.* The code official is hereby authorized and directed to enforce the provisions of this Chapter and Property Maintenance Code. The code official shall have the authority to render interpretations of this Chapter and Property Maintenance Code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this Chapter and Property Maintenance Code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this Chapter and Property Maintenance Code.

An interpretation of any term or provision of this Chapter and Property Maintenance Code made by the code official may be appealed to the City Board of Adjustment. Such appeal must be made within ten (10) days of having received notice of violation of this Chapter and Property Maintenance Code. All procedures for appeal shall use the procedures in the City's current Zoning Code for appealing an administrative decision from the zoning administrator.

**104.2** *Other authorized enforcement officials.* The Russellville Police Department Officers, Fire Marshal or their designee, or Building Official or their designee, are also authorized to enforce the provisions of this Chapter and Property Maintenance Code.

**104.3** *Inspections.* The code official shall make all the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

- 104.4** *Right of entry.* Where it is necessary to make an inspection to enforce the provisions of this Chapter and Property Maintenance Code, or whenever the code official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this Chapter and Property Maintenance Code, the code official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed on by this Chapter and Property Maintenance Code, provided that if such structure or premise is occupied the code official shall present credentials to the occupant and request entry. If the structure or premise is unoccupied, the code official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the code official shall have recourse to the remedies provided by law to secure entry. The code official right of entry shall be subject to constitutional restrictions on unreasonable searches and seizures.
- 104.5** *Identification.* The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this Chapter and Property Maintenance Code.
- 104.6** *Notices and orders.* The code official shall issue all necessary notices or orders to ensure compliance with this Chapter and Property Maintenance Code.
- 104.7** *Division records.* The code official shall keep official records of all business and activities of the division specified in the provisions of this Chapter and Property Maintenance Code. Such records shall be retained in the official records as long as the building or structure to which such records relate remains in existence unless otherwise provided for by other regulations.

## **SECTION 105: APPROVAL**

- 105.1** *Modifications.* Whenever there are practical difficulties involved in carrying out the provisions of this Chapter and Property Maintenance Code, the code official shall have the authority to grant modifications for individual cases, provided the code official shall first find that special individual reason makes the strict letter of this Chapter and Property Maintenance Code impractical and the modification is in compliance with the intent and purpose of this Chapter and Property Maintenance Code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the division files.
- 105.2** *Alternative materials, methods and equipment.* The provisions of this Chapter and Property Maintenance Code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this Chapter and Property Maintenance Code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the code official finds that the proposed design is satisfactory and compliance with the intent of the provisions of this Chapter and Property Maintenance Code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this Chapter and

Property Maintenance Code in quality strength, effectiveness, fire resistance, durability and safety.

- 105.3** *Required testing.* Whenever there is insufficient evidence of compliance with the provisions of this Chapter and Property Maintenance Code or evidence that a material or method does not conform to the requirements of this Chapter and Property Maintenance Code, or in order to substantiate claims for alternative materials or methods, the code official shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.
- 105.4** *Test methods.* Test methods shall be as specified in this Chapter and Property Maintenance Code or by other recognized test standards. In the absence of recognized and accepted test methods, the code official shall be permitted to approve appropriate testing procedures performed by an approved agency.
- 105.5** *Test reports.* Reports of tests shall be retained by the code official for the period required for retention of public records.
- 105.6** *Used material and equipment.* The use of used materials which meet the requirements of this Chapter and Property Maintenance Code for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved by the code official.
- 105.7** *Approved material and equipment.* Materials, equipment and devices approved by the code official shall be constructed and installed in accordance with such approval.
- 105.8** *Research reports.* Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this Chapter and Property Maintenance Code, shall consist of valid research reports from approved sources.

## **SECTION 106: VIOLATIONS**

- 106.1** *Unlawful acts.* It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this Chapter and Property Maintenance Code.
- 106.2** *Notice of violation.* The code official shall serve a notice of violation or order in accordance with Section 107.
- 106.3** *Prosecution of violation.* Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a misdemeanor, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this Chapter and Property Maintenance Code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged

against the real estate upon which the structure is located and shall be a lien upon such real estate pursuant to Arkansas law.

**106.3.1** *Charging Instrument.* Violation of the provisions of this Chapter and Property Maintenance Code may be prosecuted by the issuance of a criminal information, affidavit of arrest warrant or by the issuance of a citation by a Code Enforcement Officer, Law Enforcement Officer, the Fire Marshal or their designee or the Building Official or their designee.

**106.3.2** *Liens.* The lien may be enforced and collected in either of the following manners:

**106.3.2.1** *Filing Action in Circuit Court.* Within eighteen (18) months after work has been done, by an action in the circuit court; or,

**106.3.2.2** *Administratively.* The amount of the lien may be determined at a hearing before the City Council held after thirty (30) days' written notice by certified mail to the owner or owners of the property, if the name and whereabouts of the owner or owners is known. If the name of the owner or owners cannot be determined, then the hearing before the City Council may be held after publication of notice of such hearing in a newspaper having a bona fide circulation in the county, for one (1) insertion per week for four (4) consecutive weeks. The amounts due the city as determined at the hearing, including all costs incurred by the City relevant to the nuisance, plus ten (10) percent penalty for collection, shall be that certified by the City Council to the county tax collector, and by him or her, placed on the tax books as a penalty to be collected in the manner and with the priority of delinquent taxes, and the amount, less three percent (3%) thereof, when so collected, shall be paid to the City.

**106.3.3** *Unknown or Non-resident Owner of Real Property.* If the owner of any lot or other real property is unknown or such owner's whereabouts is not known or such owner is a nonresident of this state, then a copy of the written notice referred to in Section 107 of this Chapter and Property Maintenance Code shall be posted upon the premises, and before any action to enforce the lien shall be had, the City Clerk-Treasurer shall make an affidavit setting out the facts as to unknown address or whereabouts of nonresidents. Thereupon, service of the publication, as provided for by law against nonresident defendants, may be had, and an attorney ad litem shall be appointed to notify the defendant by registered letter addressed to his last known place of residence if it can be found.

**106.4** *Violation penalties.* Any person who shall violate a provision of this Chapter and Property Maintenance Code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or

local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense. Any person violates any Section of this Chapter and Property Maintenance Code shall be guilty of a misdemeanor and shall be liable to a fine according to the provisions of this Title and Code.

**106.5** *Abatement of violation.* The imposition of the penalties herein prescribed shall not preclude the City Attorney from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premise.

**106.5.1** *Authorization for City to Abate the Condition/Violation.* If the owner or responsible person of any real property within the City shall neglect or refuse to remove, abate or eliminate any condition as may be provided for under Sections 302 or 308 of this Chapter and Property Maintenance Code, after having been given seven (7) days' notice in writing to do so by the appropriate city official, the City with approval of the Mayor, is hereby authorized to do whatever is necessary to correct the condition, including but not limited to entering upon the property and having such weeds, rank grass or other vegetation cut and removed, or eliminating any unsanitary and unsightly condition, and charging the cost thereof to the owner of such premises, which shall constitute a lien thereon. The abovementioned seven (7) days' notice shall be calculated by counting the first day of the seven day period as the day after written notice is given to the owner, by counting every calendar day, including weekends and holidays, and by establishing the deadline to take the above required actions as 11:59 p.m. on the seventh (7th) day.

**106.5.2** *Procedure for Abandoned/Inoperative Vehicles.* Before any abandoned or inoperative motor vehicle is taken into custody and possession from private property, the City shall give the private property owner or occupant and the owner of the motor vehicle, if ascertainable, thirty (30) days notice by registered or certified mail that such action will be taken unless the motor vehicle is restored to a functional use, disposed of in a manner not prohibited by A.C.A. §8-6-401 et seq., or placed in an enclosed building. The thirty (30) day notice may be waived by the owner or occupants of the property jointly or severally.

## **SECTION 107: NOTICES AND ORDERS**

**107.1** *Notice to person responsible.* Whenever the code official determine that there has been a violation of this Chapter and Property Maintenance Code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 107.2 and 107.3 to the person responsible for the violation as specified in this Chapter and Property Maintenance Code. Notices for condemnation procedures shall also comply with Section 108.3.

**107.2** *Form.* Such notice prescribed in Section 107.1 shall be in accordance with all the following:

- 107.2.1** Be in writing.
  - 107.2.2** Include a description of the real estate sufficient for identification.
  - 107.2.3** Include a statement of the violation or violations and why the notice is being issued.
  - 107.2.4** Include a correction order allowing seven days to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code.
  - 107.2.5** Include a statement of the right to file a lien in accordance with Subsection 106.3.2.
- 107.3** *Method of service.* Such notice shall be deemed to be properly served if a copy thereof is:
- 107.3.1** Delivered personally;
  - 107.3.2** Sent by certified or first-class mail addressed to the last known address; or
  - 107.3.3** If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.
- 107.4** *Unauthorized tampering.* Signs, tags or seals posted or affixed by the code official shall not be mutilated, destroyed or tampered with, or removed without authorization from the code official.
- 107.5** *Penalties.* Penalties for noncompliance with orders and notices shall be as set forth in this Title and Code.
- 107.6** *Transfer of ownership.* It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

## **SECTION 108: UNSAFE STRUCTURES AND EQUIPMENT**

- 108.1** *General.* When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this Chapter and Property Maintenance Code.

- 108.1.1** *Unsafe structures.* An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.
- 108.1.2** *Unsafe equipment.* Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.
- 108.1.3** *Structure unfit for human occupancy.* A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.
- 108.1.4** *Unlawful structure.* An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary by law.
- 108.1.5** *Dangerous structure or premises.* For the purpose of this code, any structure or premises that has any or all of the conditions or defects described below shall be considered dangerous:
- 108.1.5.1** Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings.
- 108.1.5.2** The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
- 108.1.5.3** Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.
- 108.1.5.4** Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened

in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.

**108.1.5.5** The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.

**108.1.5.6** The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.

**108.1.5.7** The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.

**108.1.5.8** Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.

**108.1.5.9** A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

**108.1.5.10** Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health.

**108.1.5.11** Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

**108.2** *Closing of vacant structures.* If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code

official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

**108.2.1** *Authority to disconnect service utilities.* The code official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Subsection 102.7 in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without approval. The code official shall notify the serving utility and, whenever possible, the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the owner or occupant of the building structure or service system shall be notified in writing as soon as practical thereafter.

**108.3** *Notice.* Whenever the code official has condemned a structure or equipment under the provisions of this Section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with Subsection 107.3. If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in Subsection 107.2.

**108.4** *Placarding.* Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

**108.4.1** *Placard removal.* The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this Chapter and Property Maintenance Code.

**108.5** *Prohibited occupancy.* Any occupied structure condemned and placarded by the code official shall be vacated as ordered by the code official. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this Chapter and Property Maintenance Code.

**108.6** *Abatement methods.* The owner, operator or occupant of a building, premises or equipment deemed unsafe by the code official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action.

**108.7** *Record.* The code official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

## **SECTION 109: EMERGENCY MEASURES**

**109.1** *Imminent danger.* When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure is Unsafe and its Occupancy has been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

**109.1.1** *Abatement.* Whenever a real and imminent health or safety hazard stemming from a condition or thing described in Sections 302 and 308 exist such that the notice provisions provided for in Sections 10 and 11 cannot be complied with without jeopardizing the health and safety of the community, the City shall give notice as is practical under the circumstances, to the affected property owner. If the property owner or occupant does not act immediately to correct the condition or thing complained of, the City shall, pursuant to A.C.A. §14-54-103, do whatever is necessary to abate the hazard stemming from the condition or thing.

**109.1.2** *Alternate procedure.* Upon the written application of two (2) or more of the individuals described in subsection 109.1.3, the City Attorney is authorized to immediately seek a temporary restraining order or preliminary injunction regarding the condition or thing complained of.

**109.1.3** *Determination.* The initial determination of what condition or thing constitutes a real and imminent health or safety hazard must be made by at least two (2) of the following individuals: the Mayor, the Fire Marshal or their designee, Chief of Police or their designee, the Building Official or their designee and the City Code Enforcement Officer. If three (3) of the above individuals agree that a real and imminent health or safety hazard does not exist, no action shall be taken under this section. If the named individuals are equally divided in their opinions, action may be

taken under this section. It is not necessary that all of the named individuals participate in the determination.

- 109.2** *Temporary safeguards.* Notwithstanding other provisions of this Chapter and Property Maintenance Code, whenever, in the opinion of the code official there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken and the code official deems necessary to meet such emergency.
- 109.3** *Closing streets.* When necessary for public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, street public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.
- 109.4** *Emergency repairs.* For the purposes of this Section, the code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.
- 109.5** *Costs of emergency repairs.* Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The City Attorney shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.
- 109.6** *Hearing.* Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the City Council, be afforded a hearing as described in this Chapter and Property Maintenance Code.

## **SECTION 110: DEMOLITION**

- 110.1** *General.* The code official shall order the owner of any premises upon which is located any structure, which in the code official judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the code official shall order the owner to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless approved by the building official.
- 110.2** *Notices and orders.* All notices and orders shall comply with Section 107.
- 110.3** *Failure to comply.* If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal

shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

- 110.4** *Salvage materials.* When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

## **SECTION 111: MEANS OF APPEAL**

- 111.1** *Administrative appeal.* Administrative determinations may be appealed to the City Board of Adjustment. The following actions are not subject to administrative appeal and shall be appealed in the manner provided by law for those particular actions:
- 111.1.1** Citations heard in Pope County District Court, City of Russellville, Criminal Division; and,
  - 111.1.2** Condemnations heard by the governing body or a court of law.
- 111.2** *Timely Submission of Appeal.* Unless otherwise provided in this Chapter and Property Maintenance Code, any person affected by a “Notice of Violation” or other administrative determination under this Chapter and Property Maintenance Code may appeal the determination by submitting a written application to the Planning and Development Department or the Code Enforcement Division within ten (10) days, excluding weekends and holidays, after the date the notice was personally served or posted, or from the date the notice was mailed. If no appeal is requested, it will be assumed that all elements of the notice are clearly understood and abatement action will proceed as directed.
- 111.3** *Contents of Appeal.* A request for an administrative appeal must be made upon forms approved by the Planning and Zoning Department, Code Enforcement Division or in any written form that contains the following information:
- 111.3.1** The date the appeal is submitted;
  - 111.3.2** The name and address of the appellant;
  - 111.3.3** The address of affected property;
  - 111.3.4** A description of the administrative decision being appealed; and
  - 111.3.5** The desire that the administrative decision be overturned or reviewed.
- 111.4** *Notice of Hearing.* The Board of Adjustment shall consider the appeal at the next available date. The appellant shall be provided notice, by the City, of the hearing by first class mail sent to the address shown on the request for administrative appeal no less than seven (7) days prior to the hearing.

- 111.5** *Actions pending appeal.* No code enforcement officer may take action based upon an administrative decision while that decision is being appealed except for citations issued for non-administrative violations of the Chapter and Property Maintenance Code.
- 111.6** *Conduct of Hearing.* Hearings shall be conducted in an open forum according to such procedural rules adopted by the Board of Adjustment. No administrative decision of a code enforcement officer may be overturned unless a determination is made that:
- 111.6.1** The true intent of this Chapter and Property Maintenance Code or the rules legally adopted there under have been incorrectly interpreted;
- 111.6.2** The provisions of this Chapter and Property Maintenance Code do not fully apply; or,
- 111.6.3** The requirements of this Chapter and Property Maintenance Code are adequately satisfied by other means.
- 111.7** *Orders.* Upon the conclusion of an appeal, the Board of Adjustment shall issue a written decision. Such written decision shall include notification to the person involved. The findings of the Board of Adjustment will be final and conclusive and, if a violation is found to exist, it shall be ordered to be corrected within a time reasonable under the circumstances.

## **SECTION 112: STOP WORK ORDER**

- 112.1** *Authority.* Whenever the code official finds any work regulated by this Chapter and Property Maintenance Code being performed in a manner contrary to the provisions of this Chapter and Property Maintenance Code or in a dangerous or unsafe manner, the code official is authorized to issue a stop work order.
- 112.2** *Issuance.* A stop work order shall be in writing and shall be given to the owner of the property, to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.
- 112.3** *Emergencies.* Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work.
- 112.4** *Failure to comply.* Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine according to the provisions of this Title and Code.

## **SUBCHAPTER 2 - RESERVED**

## **SUBCHAPTER 3 - GENERAL REQUIREMENTS**

### **SECTION 301: GENERAL**

- 301.1** *Scope.* The provisions of this Chapter and Property Maintenance Code shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.
- 301.2** *Responsibility.*
- 301.2.1** The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this Chapter and Property Maintenance Code.
- 301.2.2** A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this Chapter and Property Maintenance Code. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control.
- 301.3** *Vacant structure and land.* All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

### **SECTION 302: EXTERIOR PROPERTY AREAS**

- 302.1** *Sanitation.* All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.
- 302.1.1** *Purpose.* The neglect of removing litter, rubbish, trash and garbage and cutting of grass, weeds and other unmaintained plants is unsightly and unsanitary and diminishes the property values of surroundings property owners; therefore, this Chapter and Property Maintenance Code is to supplement Chapter 4 and the Grass and Trash Code to provide a uniform standard to all outdoor yards and lots in the City to ensure the public health, safety and welfare of the inhabitants and visitors of the City.
- 302.1.2** *Authority.* A.C.A. §14-54-901 *et. seq.*, and A.C.A. §14-54-103(1) allows a city to regulate real property with respect to litter, rubbish and garbage and the cutting of grass, weeds and other unmaintained plants.
- 302.2** *Grading and drainage.* All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon. **Exception:** Approved retention areas and reservoirs.

- 302.3** *Sidewalks and driveways.* All private sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.
- 302.4** *Weeds.* Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided and as provided in the definitions in this Chapter and Property Maintenance Code; however, this term shall not include cultivated flowers and gardens.
- 302.4.1** *General.* The following subsections of this Subsection 302.4 shall regulate and control the maximum grass height on all yards, lots or real property in the City.
- 302.4.2** *Residential and Agriculture zoned real property-developed and undeveloped.* Grass or weeds on property located inside the City shall not exceed ten (10) inches in height on any tract of property zoned residential or agricultural which is developed or undeveloped.  
**Exception:** This restriction shall not apply to any property zoned residential or agricultural that is twenty (20) acres or larger that is developed or undeveloped; provided any residential or agriculture zoned property which is twenty (20) acres or larger that is developed or undeveloped the owner or responsible party shall maintain the grass and weeds in the perimeter of the residential or agricultural zoned property not to exceed ten (10) inches in height.
- 302.4.3** *Commercial and Industrial zoned real property-developed and undeveloped.* Grass or weeds on property located inside the City shall not exceed ten (10) inches in height on any tract of property zoned commercial or industrial which is developed. **Exception:** This restriction shall not apply to any property zoned commercial or industrial that is five (5) acres or larger which is undeveloped; provided, any commercial or industrial zoned property which is five (5) acres or larger that is undeveloped the owner or responsible party shall maintain the grass and weeds in the perimeter of the commercial or industrial zoned property not to exceed ten (10) inches in height.
- 302.4.4** *Exemption for Certain Designated Areas.* No grass or weed restrictions in this Chapter and Property Maintenance Code shall apply to any area inside the city limits of the City specifically designated or recognized by the City, the State of Arkansas or the United States as wetlands, open spaces, or natural areas.
- 302.4.5** *Exemption for Rough Terrain.* No grass or weed restriction in this Chapter and Property Maintenance Code shall apply to any area of real property that is covered by a forest, canopy, understory, underbrush and shrubs but this exclusion is only applicable to the actual area covered by the forest, canopy, understory, underbrush and shrubs on a property which makes maintenance of the grass or weeds impossible or extremely difficult to maintain with the use of motorized grass and weed cutting implements.

- 302.4.6** *Authority to Cut Weeds.* Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Subsection 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.
- 302.5** *Rodent harborage.* All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved process which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.
- 302.6** *Exhaust vents.* Pipes, duct, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particular wastes directly upon abutting or adjacent public or private property or that of another tenant.
- 302.7** *Accessory structures.* All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.
- 302.8** *Motor vehicles.* Except as provided for in other regulations, no inoperative motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth. **Exception:** A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.
- 302.9** *Intent of Defacement of Property.* It is the purpose and intent of the City Council, through the adoption of this Section, to provide additional enforcement tools to protect public and private property from acts of vandalism and defacement; especially, but not limited to, graffiti on privately and publicly owned walls, which is inimical and destructive to the rights of private property owners as well as the total community. It is further the intent of the City Council, through the adoption of this Section, to serve notice upon all of those who disregard the property rights of others, that the enforcement agencies of the City, both the Police Department and the Code Enforcement Division of the Planning and Zoning Department, will strictly enforce the law and pursue prosecution against those persons engaging in the defacement of public and private properties. This intent and purpose of this Section is to be cumulative and supplemental to Chapter 2 and the Graffiti Code. Should there be any conflict between this Section and Chapter 2 and the Graffiti Code, Chapter 2 and the Graffiti Code shall apply and be used.

**302.10** *Defacement of Property.* No person shall willfully or wantonly damage, mutilate, vandalize or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti (“defacement of property”) and such acts shall be unlawful for any person to commit on any public or privately owned structure located on public or privately owned real property within the City.

**302.11** *Defacement of Property Declared a Nuisance.* The existence of defacement of property within the city limits of the City of Russellville is hereby declared to be a public and private nuisance, and may be abated according to the provisions and procedures contained in this Section of this Code or according to the provisions on nuisance abatement under State law.

**302.11** *Right of City to require removal by property owner.* It shall be the responsibility of the property owner to restore said surface to an approved state of maintenance and repair. It shall be unlawful for any person who is the property owner, who has primary responsibility for control of the property or who has primary responsibility for the repair or maintenance of property ("responsible party") to permit the defacement of property to remain so defaced on the property for a period of ten (10) days after notice by the City that the property is defaced.

**302.11.1 Exception:**

**302.11.1.1** Said responsible party shall demonstrate by a preponderance of evidence that they do not have the financial or physical ability to remove the defacement; or,

**302.11.1.2** It can be shown that the "responsible party" has an active program for the removal of the defacement and has scheduled the removal of the defacement as a part of that program, provided, that in the event a removal program exists it shall be unlawful to permit such property defaced to remain so defaced for a period of thirty (30) days.

**302.12** *Right of city to use public funds to remove.* The City specifically reserves the right to do the following in order to remedy the effects of defacement of property.

**302.12.1** *Use of public funds.* Whenever defacement of property is located on public or privately owned property is viewable from a public place within the City, the Mayor, or his designee, may direct the use of public funds for the removal of same, or for the painting or repairing of same, provided that the Mayor shall not authorize or undertake to provide for the painting or repair of any more extensive area than that where the defacement of property is located. If the Mayor, or his designee, determines in writing that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community and the responsible party deposits monies to pay for the costs of repainting or repairing, a more extensive area may be repainted.

**302.12.2** *Right of entry on private property.* If after proper notice a responsible party fails to remove the defacement of property within the time specified in this Chapter and Property Maintenance Code, the City shall have the right to enter upon any property for the limited purpose of removing the defacement of property that is within the public view.

### **SECTION 303: SWIMMING POOLS, SPAS AND HOT TUBS**

**302.1** *Swimming pools.* Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

**302.2** *Enclosures.* Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier at least 48 inches (1,219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing, self-latching, or be locked. Where the self-latching device is less than 54 inches (1,372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of six inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier. **Exception:** Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this Section.

### **SECTION 304: EXTERIOR STRUCTURE**

**304.1** *General.* The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

**304.1.1** *Unsafe Conditions.* The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code or the International Existing Building Code as required for existing buildings:

**304.1.1.1** The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;

**304.1.1.2** The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;

**304.1.1.3** Structures or components thereof that have reached their limit state;

**304.1.1.4** Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight;

- 304.1.1.5** Structural members that have evidence of deterioration or that are not capable of safely supporting all nominal loads and load effects;
- 304.1.1.6** Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects;
- 304.1.1.7** Exterior walls that are not anchored to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects;
- 304.1.1.8** Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of deterioration, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects;
- 304.1.1.9** Flooring and flooring components with defects that affect serviceability or flooring components that show signs of deterioration or fatigue, are not properly anchored or are incapable of supporting all nominal loads and resisting all load effects;
- 304.1.1.10** Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
- 304.1.1.11** Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
- 304.1.1.12** Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including guards and handrails, are not structurally sound, not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects; or
- 304.1.1.13** Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly anchored, or that are anchored with connections

not capable of supporting all nominal loads and resisting all load effects.

- 304.2** *Protective treatment.* All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.
- 304.3** *Premises identification.* Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).
- 304.4** *Structural members.* All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.
- 304.5** *Foundation walls.* All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.
- 304.6** *Exterior walls.* All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.
- 304.7** *Roofs and drainage.* The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.
- 304.8** *Decorative features.* All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.
- 304.9** *Overhang extensions.* All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic

application of weather-coating materials, such as paint or similar surface treatment.

- 304.10** *Stairways, decks, porches and balconies.* Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.
- 304.11** *Chimneys and towers.* All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rut by periodic application of weather-coating materials, such as paint or similar surface treatment.
- 304.12** *Handrails and guards.* Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
- 304.13** *Window, skylight and door frames.* Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.
- 304.13.1** *Glazing.* All glazing materials shall be maintained free from cracks and holes.
- 304.13.2** *Openable windows.* Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.
- 304.14** *Insect screens.* During the period from March 1, to October 31, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 22 mm) and every swinging door shall have a self-closing device in good working condition. **Exception:** Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.
- 304.15** *Doors.* All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units, room units and guestrooms shall tightly secure the door. Locks on means of egress doors shall be in accordance with Subsection 702.3.
- 304.16** *Basement hatchways.* Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.
- 304.17** *Guards for basement windows.* Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

**304.18** *Building security.* Doors, windows or hatchways for dwelling units, room units or housekeeping units shall be provided with devices designed to provide security for the occupants and property within.

**304.18.1** *Doors.* Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this Subsection, a sliding bolt shall not be considered an acceptable deadbolt lock.

**304.18.2** *Windows.* Operable windows located in whole or in part within six feet (1,828 mm) above ground level or a walking surface below that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a window sash locking devices.

**304.18.3** *Basement Hatchways.* Basement hatchways that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

**304.19** *Gates.* All exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

## **SECTION 305: INTERIOR STRUCTURE**

**305.1** *General.* The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

**305.1.1** **Unsafe conditions.** The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code or the International Existing Building Code as required for existing buildings:

**305.1.1.1** The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;

**305.1.1.2** The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;

**305.1.1.3** Structures or components thereof that have reached their limit state;

**305.1.1.4** Structural members are incapable of supporting nominal loads and load effects;

**305.1.1.5** Stairs, landings, balconies and all similar walking surfaces, including guards and handrails, are not structurally sound, not properly anchored or are anchored with connections not capable of supporting all nominal loads and resisting all load effects;

**305.1.1.6** Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects.

**Exceptions:**

**305.1.1.6.1** When substantiated otherwise by an approved method.

**305.1.1.6.2** Demolition of unsafe conditions shall be permitted when approved by the code official.

**305.2** *Structural members.* All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

**305.3** *Interior surfaces.* All interior surfaces, including windows, doors, floors, walls and ceilings shall be maintained in good, clean and sanitary condition by the owner so as not to materially affect the health and safety of the occupants. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood or other defective surface conditions shall be corrected.

**305.4** *Stairs and walking surfaces.* Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

**305.5** *Handrails and guards.* Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

**305.6** *Interior doors.* Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

**SECTION 306: COMPONENT SERVICEABILITY**

**306.1** *General.* The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

**306.1.1** *Unsafe conditions.* Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to

comply with the International Building Code as required for existing buildings:

- 306.1.1.1** Soils that have been subjected to any of the following conditions:
  - 306.1.1.1.1** Collapse of footing or foundation system;
  - 306.1.1.1.2** Damage to footing, foundation, concrete or other structural element due to soil expansion;
  - 306.1.1.1.3** Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil;
  - 306.1.1.1.4** Inadequate soil as determined by a geotechnical investigation;
  - 306.1.1.1.5** Where the allowable bearing capacity of the soil is in doubt; or
  - 306.1.1.1.6** Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table
- 306.1.1.2** Concrete that has been subjected to any of the following conditions:
  - 306.1.1.2.1** Deterioration;
  - 306.1.1.2.2** Ultimate deformation;
  - 306.1.1.2.3** Fractures;
  - 306.1.1.2.4** Fissures;
  - 306.1.1.2.5** Spalling;
  - 306.1.1.2.6** Exposed reinforcement; or
  - 306.1.1.2.7** Detached, dislodged or failing connections.
- 306.1.1.3** Aluminum that has been subjected to any of the following conditions:
  - 306.1.1.3.1** Deterioration;
  - 306.1.1.3.2** Corrosion;
  - 306.1.1.3.3** Elastic deformation;
  - 306.1.1.3.4** Ultimate deformation;
  - 306.1.1.3.5** Stress or strain cracks;
  - 306.1.1.3.6** Joint fatigue; or
  - 306.1.1.3.7** Detached, dislodged or failing connections.
- 306.1.1.4** Masonry that has been subjected to any of the following conditions:

- 306.1.1.4.1** Deterioration;
- 306.1.1.4.2** Ultimate deformation;
- 306.1.1.4.3** Fractures in masonry or mortar joints;
- 306.1.1.4.4** Fissures in masonry or mortar joints;
- 306.1.1.4.5** Spalling;
- 306.1.1.4.6** Exposed reinforcement; or
- 306.1.1.4.7** Detached, dislodged or failing connections.

**306.1.1.5** Steel that has been subjected to any of the following conditions:

- 306.1.1.5.1** Deterioration;
- 306.1.1.5.2** Elastic deformation;
- 306.1.1.5.3** Ultimate deformation;
- 306.1.1.5.4** Metal fatigue; or
- 306.1.1.5.5** Detached, dislodged or failing connections.

**306.1.1.6** Wood that has been subjected to any of the following conditions:

- 306.1.1.6.1** Ultimate deformation;
- 306.1.1.6.2** Deterioration;
- 306.1.1.6.3** Damage from insects, rodents and other vermin;
- 306.1.1.6.4** Fire damage beyond charring;
- 306.1.1.6.5** Significant splits and checks;
- 306.1.1.6.6** Horizontal shear cracks;
- 306.1.1.6.7** Vertical shear cracks;
- 306.1.1.6.8** Inadequate support;
- 306.1.1.6.9** Detached, dislodged or failing connections; or
- 306.1.1.6.10** Excessive cutting and notching.

**Exceptions:**

- 306.1.1.6.10.1** When substantiated otherwise by an approved method.
- 306.1.1.6.10.2** Demolition of unsafe conditions shall be permitted when approved by the code official.

**SECTION 307: HANDRAILS AND GUARDRAILS**

- 307.1** *General.* Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair,

landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches (762 mm) above the floor or grade below shall have guards. Handrails shall not be less than 30 inches (762 mm) high or more than 42 inches (1067 mm) high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than 30 inches (762 mm) high above the floor of the landing, balcony, porch, deck, or ramp or other walking surface. **Exception:** Guards shall not be required where exempted by the adopted building code.

## **SECTION 308: RUBBISH AND GARBAGE**

- 308.1** *Accumulation of rubbish or garbage.* All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage. It shall be unlawful for the owner or occupant of real property to permit the accumulation or development of garbage, rubbish, or other unsightly things or conditions on real property within the City. A person must have a burn permit from the Russellville Fire Department prior to removing yard waste by burning.
- 308.2** *Disposal of rubbish.* Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers. All owners or occupants of real property within the City are hereby required to remove garbage, rubbish, litter, yard waste, inoperative motor vehicles and other unsightly and unsanitary articles and things from their property, and to eliminate, fill up, or remove stagnant pools of water or any other unsanitary thing, place or condition which might become a breeding place for mosquitoes, flies and germs harmful to the health of the community.
- 308.2.1** *Rubbish storage facilities.* The owner or occupant of every occupied premises shall supply approved covered containers for rubbish, and the owner or occupant of the premises shall be responsible for the removal of rubbish.
- 308.2.2.** *Refrigerators.* Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors.
- 308.3** *Disposal of garbage.* Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers and in conformance with the City's current Solid Waste Ordinance, as amended, and any future changes to said Ordinance.
- 308.3.1** *Garbage facilities.* The owner of every dwelling shall supply one of the following: an approved mechanical food waste grinder in each dwelling unit; an approved incinerator unit in the structure available to the occupants in each dwelling unit; or an approved leak proof, covered, outside garbage container.
- 308.3.2** *Containers.* The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leak proof

containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.

## **SECTION 309: PEST ELIMINATION**

- 309.1** *Infestation.* All structures shall be kept free from insect and rodent infestation. All structure in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.
- 309.2** *Owner.* The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.
- 309.3** *Single occupant.* The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for extermination on the premises.
- 309.4** *Multiple occupancy.* The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for extermination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant shall be responsible for extermination.
- 309.5** *Occupant.* The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure. **Exception:** Where the infestations are caused by defects in the structure, the owner shall be responsible for extermination.

## **SUBCHAPTER 4 - LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS**

### **SECTION 401: GENERAL**

- 401.1** *Scope.* The provisions of this Subchapter shall govern the minimum conditions and standards for light, ventilation and space for occupying a structure.
- 401.2** *Responsibility.* The owner of the structure shall provide and maintain light, ventilation and space conditions in compliance with these requirements. A person shall not occupy as owner-occupant, or permit another person to occupy, any premises that do not comply with the requirements of this Subchapter.
- 401.3** *Alternative devices.* In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the current Arkansas Fire Prevention Code – Volume II Building shall be permitted.

### **SECTION 402: LIGHT**

- 402.1** *Habitable spaces.* Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space shall be eight percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than three feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room. **Exception:** Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least eight percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m<sup>2</sup>). The exterior glazing area shall be based on the total floor area being served.
- 402.2** *Common halls and stairways.* Every common hall and stairway in residential occupancies, other than in one- and two-family dwellings, shall be lighted at all times with at least a 60-watt standard incandescent equivalent light bulb for each 200 square feet (19 m<sup>2</sup>) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9,144 mm). In other than residential occupancies, means of egress, including exterior means of egress stairway shall be illuminated at all times the building space served by the means of egress is occupied with a minimum of one foot-candle (11 lux) at floors, landings and treads.
- 402.3** *Other spaces.* All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures.

### **SECTION 403: VENTILATION**

- 403.1** *Habitable spaces.* Every habitable space shall have at least one openable window. The total openable area of the window in every room shall be equal to at least forty-five percent (45%) of the minimum glazed area required in Section 402.1. **Exception:** Where rooms and spaces without openings to the outdoors are

ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least eight percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m<sup>2</sup>). The ventilation openings to the outdoors shall be based on a total floor area being ventilated.

**403.2** *Bathrooms and toilet rooms.* Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by Subsection 403.1, except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be recirculated.

**403.3** *Cooking facilities.* Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in a rooming unit or dormitory unit.

**Exceptions:**

**403.3.1** Where specifically approved in writing by the code official.

**403.3.2** Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.

**403.4** *Process ventilation.* Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

**403.5** *Clothes dryer exhaust.* Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted in accordance with the manufacturer's instructions and the current Arkansas Mechanical Code. **Exception:** Listed and labeled condensing (ductless) clothes dryers.

**SECTION 404: OCCUPANCY LIMITATIONS**

**404.1** *Privacy.* Dwelling units, hotel units, housekeeping units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

**404.2** *Minimum room widths.* A habitable room, other than a kitchen, shall not be less than seven feet (2,134 mm) in any plan dimension. Kitchens shall have a clear passageway of not less than three feet (914 mm) between counterfronts and appliances or counterfronts and walls.

**404.3** *Minimum ceiling heights.* Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a clear ceiling height of not less than seven feet (2,134 mm).

**Exceptions:**

**404.3.1** In one- and two-family dwellings, beams or girders spaced not less than four feet (1,219 mm) on center and projecting not more than six inches (152 mm) below the required ceiling height.

- 404.3.2** Basement rooms in one- and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a ceiling height of not less than six feet eight inches (2,033 mm) with no less than six feet four inches (1,932 mm) of clear height under beams, girders, ducts and similar obstructions.
- 404.3.3** Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least seven feet (2,134 mm) over not less than one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of five feet (1,524 mm) or more shall be included.
- 404.4** *Bedroom requirements.* Every bedroom shall comply with the requirements of Sections 404-4.1 through 404-4.5.
- 404.4.1** *Room areas.* Every living room shall contain at least 120 square feet (11.2 m<sup>2</sup>) and every bedroom shall contain a minimum of 70 square feet (6.5 m<sup>2</sup>) and every bedroom occupied by more than one person shall contain a minimum of 50 square feet (4.6 m<sup>2</sup>) of floor area for each occupant thereof.
- 404.4.2** *Access from bedrooms.* Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces. **Exception:** Units that contain fewer than two bedrooms.
- 404.4.3** *Water closet accessibility.* Every bedroom shall have access to at least one water closet and one lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to at least one water closet and lavatory located in the same story as the bedroom or an adjacent story.
- 404.4.4** *Prohibited occupancy.* Kitchens and non-habitable spaces shall not be used for sleeping purposes.
- 404.4.5** *Other requirements.* Bedrooms shall comply with the applicable provisions of this Chapter and Property Maintenance Code including, but not limited to, the light, ventilation, room area, ceiling height and room width requirements of this Subchapter; the plumbing facilities and water-heating facilities requirements of Subchapter 5; the heating facilities and electrical receptacle requirements of Subchapter 6; and the smoke detector and emergency escape requirements of Subchapter 7.
- 404.5** *Overcrowding.* Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 404.5.

TABLE 404.5 MINIMUM AREA REQUIREMENTS

Space	Minimum Area in Square Feet		
	1—2 occupants	3—5 occupants	6 or more occupants
Living room <sup>a, b</sup> .	120	120	150
Dining room <sup>a, b</sup> .	No requirements	80	100
Bedrooms	Shall comply with Section 404.4.1		

For SI: 1 square foot = 0.0093 m<sup>2</sup>.

<sup>a</sup>. See Section 404.5.2 for combined living room/dining room spaces.

<sup>b</sup>. See Section 404-5.1 for limitations on determining the minimum occupancy area for sleeping purposes.

**404.5.1** *Sleeping area.* The minimum occupancy area required by Table 404-5 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. All sleeping areas shall comply with Subsection 404.4.

**404.5.2** *Combined spaces.* Combined living room and dining room spaces shall comply with the requirements of Table 404.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

**404.6** *Efficiency unit.* Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

**404.6.1** A unit occupied by not more than one occupant shall have a minimum clear floor area of 120 square feet (11.2 m<sup>2</sup>). A unit occupied by not more than two occupants shall have a clear floor area of not less than 220 square feet (20.4 m<sup>2</sup>). A unit occupied by three occupants shall have a clear floor area of not less than 320 square feet (29.7 m<sup>2</sup>). These required areas shall be exclusive of the areas required by subsections 404.6.2. and 404.6.3.

**404.6.2** The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches (762 mm) in front. Light and ventilation conforming to this code shall be provided.

**404.6.3** The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub and shower.

**404.6.4** The maximum number of occupants shall be three (3).

**404.7** *Food preparation.* All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

## **SUBCHAPTER 5 - PLUMBING FACILITIES AND FIXTURE REQUIREMENTS**

### **SECTION 501: GENERAL**

**501.1 Scope.** The provisions of this Subchapter shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

**501.2 Responsibility.** The owner of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any structure or premises which does not comply with the requirements of this Subchapter.

### **SECTION 502: REQUIRED FACILITIES**

**502.1 Dwelling units.** Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

**502.2 Rooming houses.** At least one (1) water closet, lavatory and bathtub or shower shall be supplied for each four (4) rooming units.

**502.3 Hotels.** Where private water closets, lavatories and baths are not provided, one (1) water closet, one (1) lavatory and one (1) bathtub or shower having access from a public hallway shall be provided for each ten (10) occupants.

**502.4 Employees' facilities.** A minimum of one (1) water closet, one lavatory and one drinking facility shall be available to employees.

**502.4.1 Drinking facilities.** Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in toilet rooms or bathrooms.

### **SECTION 503: TOILET ROOMS**

**503.1 Privacy.** Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared bathrooms and toilet rooms in a multiple dwelling.

**503.2 Location.** Toilet rooms and bathrooms serving hotel units, rooming units or dormitory units or housekeeping units, shall have access by traversing not more than one (1) flight of stairs and shall have access from a common hall or passageway.

**503.3 Location of employee toilet facilities.** Toilet facilities shall have access from within the employees' working area. The required toilet facilities shall be located not more than one (1) story above or below the employees' working area and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m). Employee facilities shall either be separate facilities or combined employee and

public facilities. **Exception:** Facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of 500 feet (152 m) from the employees' regular working area to the facilities.

- 503.4** *Floor surface.* In other than dwelling units, every toilet room floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

#### **SECTION 504: PLUMBING SYSTEMS AND FIXTURES**

- 504.1** *General.* All plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.
- 504.2** *Fixture clearances.* Plumbing fixtures shall have adequate clearances for usage and cleaning.
- 504.3** *Plumbing system hazards.* Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation, deterioration or damage or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

#### **SECTION 505: WATER SYSTEM**

- 505.1** *General.* Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the Arkansas Plumbing Code.
- 505.2** *Contamination.* The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.
- 505.3** *Supply.* The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.
- 505.4** *Water heating facilities.* Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 110°F (43°C). A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved

combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

#### **SECTION 506: SANITARY DRAINAGE SYSTEM**

- 506.1** *General.* All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.
- 506.2** *Maintenance.* Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.
- 506.3** *Grease interceptors.* Grease interceptors and automatic grease removal devices shall be maintained in accordance with this code and the manufacturer's installation instructions. Grease interceptors and automatic grease removal devices shall be regularly serviced and cleaned to prevent the discharge of oil, grease, and other substances harmful or hazardous to the building drainage system, the public sewer, the private sewage disposal system or the sewage treatment plant or processes. All records of maintenance, cleaning and repairs shall be available for inspection by the code official.

#### **SECTION 507: STORM DRAINAGE**

- 507.1** *General.* Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance.

## **SUBCHAPTER 6 - MECHANICAL AND ELECTRICAL REQUIREMENTS**

### **SECTION 601: GENERAL**

- 601.1** *Scope.* The provisions of this chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided.
- 601.2** *Responsibility.* The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises which does not comply with the requirements of this Chapter and Property Maintenance Code.

### **SECTION 602: HEATING FACILITIES**

- 602.1** *Facilities required.* Heating facilities shall be provided in structures as required by this Section.
- 602.2** *Residential occupancies.* Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality indicated in the Arkansas Plumbing Code. Cooking appliances shall not be used to provide space heating to meet the requirements of this Section.  
**Exception:** In areas where the average monthly temperature is above 30°F (-1°), a minimum temperature of 65°F (18°C) shall be maintained.
- 602.3** *Heat supply.* Every owner and operator of any building who rents, leases or lets one (1) or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from October 1 to April 30 to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms, and toilet rooms.

#### **Exceptions:**

- 602.3.1** When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in the Arkansas Plumbing Code.
- 602.3.2** In areas where the average monthly temperature is above 30°F (-1°C) a minimum temperature of 65°F (18°C) shall be maintained.
- 602.4** *Occupiable work spaces.* Indoor occupiable work spaces shall be supplied with heat during the period from October 1 to April 30 to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

#### **Exceptions:**

- 602.4.1** Processing, storage and operation areas that require cooling or special temperature conditions.

**602.4.2** Areas in which persons are primarily engaged in vigorous physical activities.

**602.5** *Room temperature measurement.* The required room temperatures shall be measured three (3) feet (914 mm) above the floor near the center of the room and two (2) feet (610 mm) inward from the center of each exterior wall.

### **SECTION 603: MECHANICAL EQUIPMENT**

**603.1** *Mechanical appliances.* All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

**603.2** *Removal of combustion products.* All fuel-burning equipment and appliances shall be connected to an approved chimney or vent. **Exception:** Fuel-burning equipment and appliances which are labeled for unvented operation.

**603.3** *Clearances.* All required clearances to combustible materials shall be maintained.

**603.4** *Safety controls.* All safety controls for fuel-burning equipment shall be maintained in effective operation.

**603.5** *Combustion air.* A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.

**603.6** *Energy conservation devices.* Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless labeled for such purpose and the installation is specifically approved.

### **SECTION 604: ELECTRICAL FACILITIES**

**604.1** *Facilities required.* Every occupied building shall be provided with an electrical system in compliance with the requirements of this Section and Section 605.

**604.2** *Service.* The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the National Electrical Code. Dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a rating of not less than 60 amperes.

**604.3** *Electrical system hazards.* Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

**604.3.1** *Electrical equipment.* Electrical distribution equipment, motor circuits, power equipment, transformers, wire, cable, flexible cords, wiring devices, ground fault circuit interrupters, surge protectors, molded case circuit breakers, low-voltage fuses, luminaires, ballasts, motors and electronic control, signaling and communication equipment that have been exposed

to water shall be replaced in accordance with the provisions of the Arkansas Fire Prevention Code – Volume II Building.

**Exception:** The following equipment shall be allowed to be repaired where an inspection report from the equipment manufacturer or approved manufacturer’s representative indicates that the equipment has not sustained damage that requires replacement:

- 604.3.1.1** Enclosed switches, rated a maximum of 600 volts or less;
- 604.3.1.2** Busway, rated a maximum of 600 volts;
- 604.3.1.3** Panelboards, rated a maximum of 600 volts;
- 604.3.1.4** Switchboards, rated a maximum of 600 volts;
- 604.3.1.5** Fire pump controllers, rated a maximum of 600 volts;
- 604.3.1.6** Manual and magnetic motor controllers;
- 604.3.1.7** Motor control centers;
- 604.3.1.8** Alternating current high-voltage circuit breakers;
- 604.3.1.9** Low-voltage power circuit breakers;
- 604.3.1.10** Protective relays, meters and current transformers;
- 604.3.1.11** Low- and medium-voltage switchgear;
- 604.3.1.12** Liquid-filled transformers;
- 604.3.1.13** Cast-resin transformers;
- 604.3.1.14** Wire or cable that is suitable for wet locations and whose ends have not been exposed to water;
- 604.3.1.15** Wire or cable, not containing fillers, that is suitable for wet locations and whose ends have not been exposed to water;
- 604.3.1.16** Luminaires that are listed as submersible;
- 604.3.1.17** Motors;
- 604.3.1.18** Electronic control, signaling and communication equipment.

## **SECTION 605: ELECTRICAL EQUIPMENT**

- 605.1** *Installation.* All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.
- 605.2** *Receptacles.* Every habitable space in a dwelling shall contain at least two (2) separate and remote receptacle outlets. Every laundry area shall contain at least one (1) grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one (1) receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location.

**605.3** *Luminaires.* Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain at least one (1) electric luminaire. Pool and spa luminaires over 15 V shall have ground fault circuit interrupter protection.

#### **SECTION 606: ELEVATORS, ESCALATORS AND DUMBWAITERS**

**606.1** *General.* Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A 17.1. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter, be available for public inspection in the office of the building operator or be posted in a publicly conspicuous location approved by the code official. The inspection and tests shall be performed at not less than the periodic intervals listed in ASME A 17.1, Appendix N, except where otherwise specified by the authority having jurisdiction.

**606.2** *Elevators.* In buildings equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the building is occupied.  
**Exception:** Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

#### **SECTION 607: DUCT SYSTEMS**

**607.1** *General.* Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

## **SUBCHAPTER 7 - FIRE SAFETY REQUIREMENTS**

### **SECTION 701: GENERAL**

- 701.1** *Scope.* The provisions of this Subchapter shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided.
- 701.2** *Responsibility.* The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that do not comply with the requirements of this Subchapter.

### **SECTION 702: MEANS OF EGRESS**

- 702.1** *General.* A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the Arkansas Fire Prevention Code—Volume I Fire.
- 702.2** *Aisles.* The required width of aisles in accordance with the Arkansas Fire Prevention Code—Volume I Fire shall be unobstructed.
- 702.3** *Locked doors.* All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the Arkansas Fire Prevention Code—Volume II Building.
- 702.4** *Emergency escape openings.* Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.

### **SECTION 703: FIRE-RESISTANCE RATINGS**

- 703.1** *Fire-resistance-rated assemblies.* The required fire-resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.
- 703.2** *Opening protectives.* Required opening protectives shall be maintained in an operative condition. All fire and smokestop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.

### **SECTION 704: FIRE PROTECTION SYSTEMS**

- 704.1** *General.* All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an

operable condition at all times in accordance with the Arkansas Fire Prevention Code—Volume I Fire.

**704.1.1** *Automatic sprinkler systems.* Inspection, testing and maintenance of automatic sprinkler systems shall be in accordance with NFPA 25.

**704.2** *Smoke alarms.* Single or multiple-station smoke alarms shall be installed and maintained in groups R-2, R-3, R-4 and in dwellings not regulated in group R occupancies, regardless of occupant load at all of the following locations:

**704.2.1** On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.

**704.2.2** In each room used for sleeping purposes.

**704.2.3** In each story within a dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

Single or multiple-station smoke alarms shall be installed in other groups in accordance with the Arkansas Fire Prevention Code—Volume I Fire.

**704.3** *Power source.* In group R occupancies and in dwellings not regulated as group R occupancies, single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

**Exception:** Smoke alarms are permitted to be solely battery operated in buildings where no construction is taking place, buildings that are not served from a commercial power source and in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for building wiring without the removal of interior finishes.

**704.4** *Interconnection.* Where more than one smoke alarm is required to be installed within an individual dwelling unit in group R-2, R-3, R-4 and in dwellings not regulated as group R occupancies, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

**Exceptions:**

**704.4.1** Interconnection is not required in buildings which are not undergoing alterations, repairs, or construction of any kind.

**704.4.2** Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.

## **SUBCHAPTER 8 - REFERENCED STANDARDS**

This Table lists the standards that are referenced in various sections of this Subchapter. The standards are listed hereby by title and the section or sections of this document that reference the standard. The application of the referenced standards shall be as specified in Section 102.7.

Title	Referenced in Code Section Number
National Electrical Code©	101.5.3; 604.2
International Building Code©	304.1.1; 305.1.1; 307.1.1
Arkansas Fire Prevention Code—Volume I, II and III	101.3; 102.3; 101.5.3; 401.3; 604.3.1; 702.1; 702.2; 704.1; 704.2
Arkansas Mechanical Code	101.5.3; 403.5
Arkansas Plumbing Code	101.5.3; 505.1; 602.2; 602.3.1 Exception 1.
Russellville Zoning Code	102.3; 101.5.3
International Existing Building Code NFPA	304.1.1; 305.1.1 704.1.1
ASME	606.1
ASTM	303.2 Exception

## **APPENDIX A: BOARDING STANDARDS**

The provisions contained in this Appendix are not mandatory unless specifically referenced in the adopting Chapter and Property Maintenance Code.

### **A101: GENERAL**

**A101.1** *General.* All windows and doors shall be boarded in an approved manner to prevent entry by unauthorized persons and shall be painted to correspond to the color of the existing structure.

### **A102: MATERIALS**

**A102.1** *Boarding sheet material.* Boarding sheet material shall be minimum ½-inch (12.7 mm) thick wood structural panels complying with the International Building Code.

**A102.2** *Boarding framing material.* Boarding framing material shall be minimum nominal 2-inch by 4-inch (51 mm by 102 mm) solid sawn lumber complying with the International Building Code.

**A102.3** *Boarding fasteners.* Boarding fasteners shall be minimum ¾-inch (9.5 mm) diameter carriage bolts of such a length as required to penetrate the assembly and as required to adequately attach the washers and nuts. Washers and nuts shall comply with the International Building Code.

### **A103: INSTALLATION**

**A103.1** *Boarding installation.* The boarding installation shall be in accordance with Figures A103.1(1) and A103.1(2) and Sections A103.2 through A103.5.

**A103.2** *Boarding sheet material.* The boarding sheet material shall be cut to fit the door or window opening neatly or shall be cut to provide an equal overlap at the perimeter of the door or window.

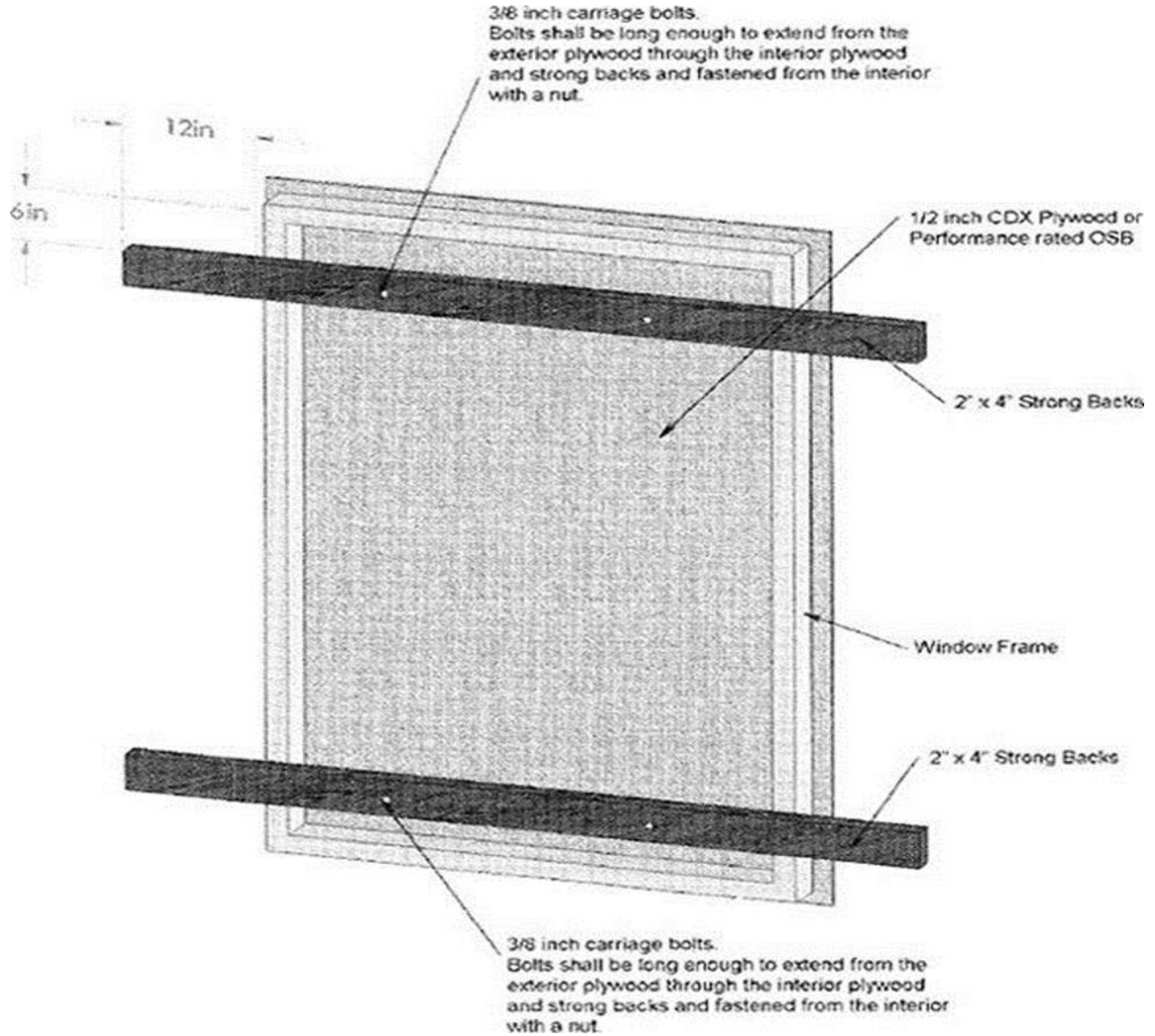
**A103.3** *Windows.* The window shall be opened to allow the carriage bolt to pass through or the window sash shall be removed and stored. The 2-inch by 4-inch (51 mm by 102 mm) strong back framing material shall be cut minimum 2 inches (51 mm) wider than the window opening and shall be placed on the inside of the window opening 6 inches minimum above the bottom and below the top of the window opening. The framing and boarding shall be predrilled. The assembly shall be aligned and the bolts, washers and nuts shall be installed and secured.

**A103.4** *Door walls.* The door opening shall be framed with minimum 2-inch by 4-inch (51 mm by 102 mm) framing material secured at the entire perimeter and vertical members at a maximum of 24 inches (610 mm) on center. Blocking shall also be secured at a maximum of 48 inches (1219 mm) on center vertically. Boarding sheet material shall be secured with screws and nails alternating every 6 inches (152 mm) on center.

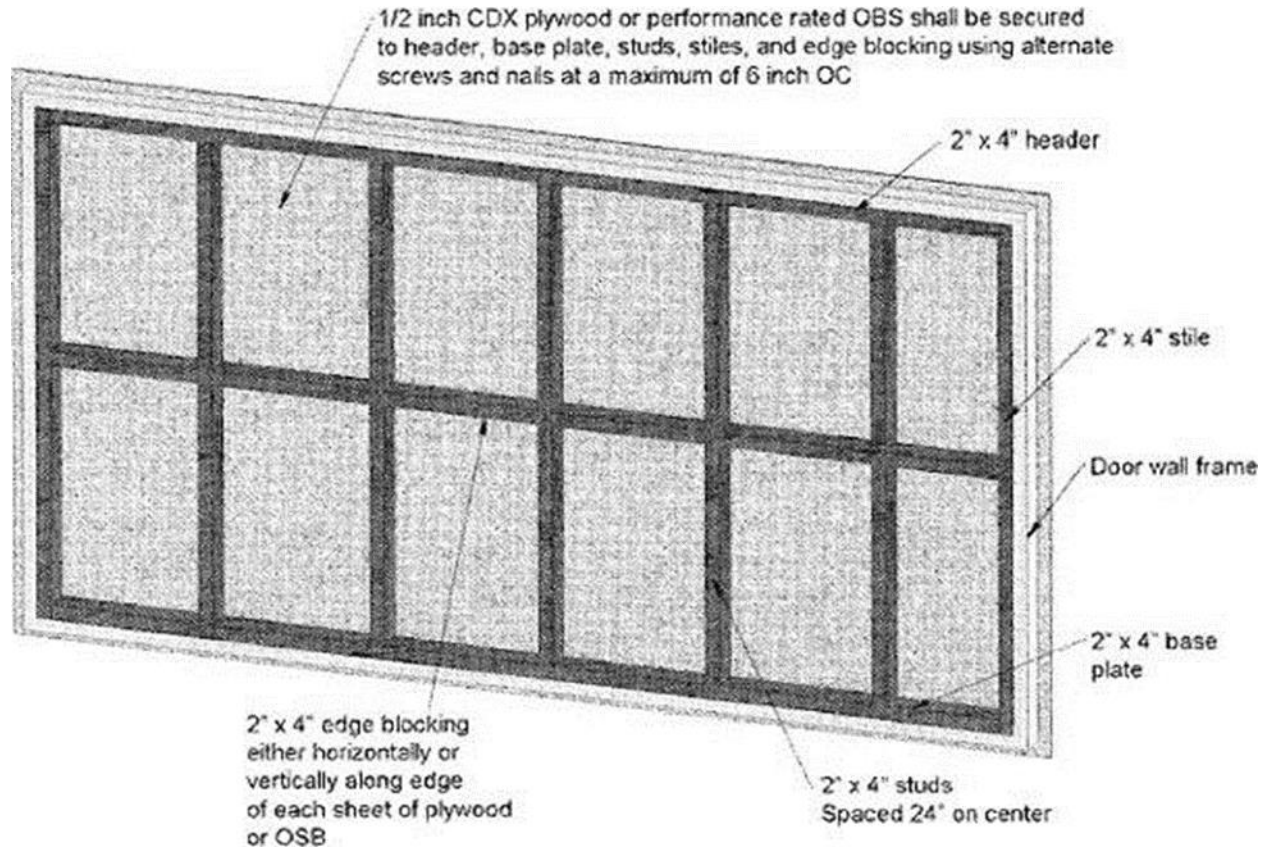
**A103.5** *Doors.* Doors shall be secured by the same method as for windows or door openings. One door to the structure shall be available for authorized entry and shall be secured and locked in an approved manner.

**A104: REFERENCED STANDARDS**

IBC—12	International Building Code	A102-1.; A102-2.; A102-3.
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**FIGURE A103.1(1)  
 BOARDING OF DOOR OR WINDOW**



**FIGURE A103.1(2)**  
**BOARDING OF DOOR WALL**

## **CHAPTER 4 – CITY CLAIMS CODE**

### **SECTION 1: TITLE**

- 1.1** This Chapter shall be known, referred to and cited as the “City of Russellville Claims Against the City Code (“Claims Code”).”

### **SECTION 2: FINDINGS, PURPOSE AND INTENT**

- 2.1** The City acknowledges that is it immune from claims for damages resulting from negligence under A.C.A. §21-9-301. It is the specific intent of the City Council that nothing in this Chapter and Claims Code should be construed as waiving or abrogating its tort immunity from any and all negligence claims against the City.
- 2.2** The City Councils finds that there are times in the interest of equity that a claim from an individual from the public based on allegations of accidental damage to their property from an act of a City employee, if substantiated as true and correct, may be considered for compensation for the alleged damages.
- 2.3** The purpose of this Chapter and Claims Code is to provide a procedure framework for the claimant to submit a claim against the City and for the City to handle such claims once they are received.

### **SECTION 3: AUTHORITY**

- 3.1** This Chapter and Claims Code is passed pursuant to the power granted to the City of Russellville by the State of Arkansas by A.C.A. §§14-43-602, 14-54-103, 14-55-101, 14-55-102 and 21-9-302.

### **SECTION 4: LIABILITY COVERAGE**

- 4.1** The City shall carry liability coverage on all its motor vehicles in the minimum amounts prescribed in the Motor Vehicle Safety Responsibility Act and as required by A.C.A. § 21-9-303.

### **SECTION 5: SETTLEMENT OF CLAIMS**

- 5.1** All persons requesting the City for reimbursement for property damage or personal injury must file a claim with the City in writing and verified by the claimant or by his or her guardian, conservator, executor or administrator. No claims may be filed on behalf of a class of persons unless verified by every member of that class as required by this Chapter. Claimants must fill out the City’s “Claim for Damages” form and shall file them with the Mayor’s Office.
- 5.2** Any claims for reimbursement, restitution or a refund resulting from any actions or omissions from the City shall be filed with the Mayor’s Office not later than one (1) year after the accrual of the cause of action of the underlying claim. Failure to file within the said one (1) year period shall result in the claim being rejected and shall not be considered by the City.
- 5.3** The Mayor shall present them to the Finance Committee to be heard and considered at and hearing at the first available regular Finance Committee meeting unless the Finance Committee considers it at a special Finance Committee meeting before the next regular Finance Committee meeting.

- 5.4** The Finance Committee shall have the options of requesting more information from the claimant, conduct additional investigation on the nature of the claim or consult with City employees and officials in reaching a decision on whether to recommend approval or denial of the claim to the City Council.
- 5.5** The City Council shall hear and consider the claim at the next available regular City Council meeting after the recommendation by the Finance Committee unless the City Council elects to hear the claim before the next available regular City Council meeting at a special City Council meeting.
- 5.6** The City Council may grant a hearing for the claimant, request more information from the claimant, conduct additional investigation on the nature of the claim or consult with City employees and officials in reaching a decision to either authorize a settlement, deny the claim or offer a different amount to settle the claim.
- 5.7** The City shall process and take action upon a claim submitted pursuant to this Chapter and Claims Code, within ninety (90) days of its filing with the Mayor's Office. If the City fails to do so, the demand or claim shall be deemed to have been rejected on the last day of the period within which the City was required to act.