

## **TITLE 7**

### **PUBLIC PEACE, SAFETY AND MORALS**

#### Chapter

- 7.04 State Criminal Statutes and Penalties
- 7.08 Curfew
- 7.12 [Reserved]
- 7.16 Prohibited Weapons
- 7.24 Storage and Handling of Volatile Combustibles
- 7.32 Signs
- 7.36 Parades
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- 7.48 Noise
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- 7.56 Sexually Explicit Materials
- 7.60 Fair Housing Ordinance
- 7.64 Unauthorized Collection Activities
- 7.68 Alarm System Regulations

#### **CHAPTER 7.04**

#### **STATE CRIMINAL STATUTES AND PENALTIES**

##### Sections:

- 7.04.01 State criminal statutes adopted
- 7.04.02 State penalties adopted

7.04.01 State criminal statutes adopted. (1) Each and every act, matter or thing which the laws of the State of Arkansas make misdemeanors or violations is hereby prohibited within the corporate limits of the city and made unlawful under this ordinance.

(2) The criminal laws of the State of Arkansas, as now existing and as hereafter may be provided, insofar as same may make any act, matter or thing a misdemeanor or violation, are hereby adopted and incorporated into the Criminal Code of the ordinances of the city.

STATE LAW REFERENCE-Ark. Stats. 19-2410; Hdbk. 5-2.10

7.04.02 State penalties adopted. Each and every person who shall, within the corporate limits of the City, violate any of the provisions of the laws into this ordinance incorporated and

adopted shall on conviction thereof be punished by fine or imprisonment, or both, as the case may be, together with the costs of the proceeding of not less than the minimum nor more than the maximum penalty as prescribed by the corresponding State Law in such cases make and provide; which penalty shall be enforced in the manner now prescribed by the law for the enforcement and collection of fines, forfeitures and penalties.

STATE LAW REFERENCE-Ark. Stats. 19-2411; Hdbk. 5-2.11

## **CHAPTER 7.08**

### **CURFEW**

#### Sections:

- 7.08.01 Civil emergencies
- 7.08.02 Congregating during state of emergency
- 7.08.03 Penalty

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

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

7.08.03 Penalty. Any person violating any of the provisions of this chapter shall, upon conviction, be deemed guilty of a misdemeanor and may be punished by a fine not to exceed Five Hundred (\$500.00) Dollars or confinement in jail for not more than one (1) year, or both.

## **CHAPTER 7.16**

### **FIREARMS**

#### Sections:

- 7.16.01 Discharge of firearms

7.16.01 Discharge of firearms.

- A. Any person who shall willfully and intentionally discharge any cannon, gun, pistol or other firearm within the corporate limits of the City of Blytheville, shall upon conviction thereof, be fined in a sum no less than five hundred dollars, (\$500.00) and not exceeding one thousand dollars (\$1000.00) for each such offense. (Ord. No. 1622, Sec. 1.)
- B. This shall not apply to a firing range operated by a recognized gun club or law enforcement agency, which is substantially built and or designed in accordance with the recommendations of the National Rifle Association, or an equivalent nationally recognized Law Enforcement or firearms safety authority, for the firing of a firearm of the type and caliber being fired. (Ord. No. 1622, Sec. 2.)
- C. Applications to operate a firing range must be filed with and approved by the office of the Chief of Police. Approved firing ranges will be required to maintain appropriate liability insurance. The discharging of firearms/range operations will be restricted to between the hours of 8:00 a.m. and 9:00 p.m. The Chief of Police or his designee shall have the right to enter the premises of such firing range at any time and without notice as to ensure a dangerous or nuisance condition does not exist. The Chief of Police shall have the discretion to close the facility until the operation of the premises is safe. (Ord. No. 1622, Sec. 3.)

## **CHAPTER 7.17**

### **FIREWORKS**

#### Sections:

7.17.01      Sell or discharge, prohibited

#### 7.17.01 Sell or discharge, prohibited

- A. It shall be unlawful for any person to keep for sale or offer for sale, or to sell, shoot, fire or explode any firecrackers, roman candles, skyrockets, toy pistols, torpedo or fireworks of any description within the city limits of Blytheville, Arkansas. (Ord. No. 1749, Sec. 1.)
- B. It shall be unlawful for any person to construct a retail display offering for sale explosives, explosive materials, or fireworks upon highways, sidewalks and any other public property within the city limits of Blytheville, Arkansas. (Ord. No. 1749, Sec. 2.)
- C. Any person found guilty of violating this Ordinance shall be guilty of a misdemeanor and shall be fined an amount not to exceed \$500.00. (Ord. No. 1749, Sec. 3.)

## **CHAPTER 7.24**

### **STORAGE AND HANDLING OF VOLATILE COMBUSTIBLES**

#### Sections:

- 7.24.01      Restriction on keeping
- 7.24.02      Volatiles never to be allowed to pass into drainage system
- 7.24.03      Penalty

7.24.01 Restriction on keeping. Gasoline, naphtha, benzine, and other like volatile combustible or their compounds in excess of a total of five (5) gallons, exclusive of that in tanks of automobiles, in combustion engines, or in approved portable wheeled tanks in public garages each not exceeding sixty (60) gallons capacity, shall not be kept within any building. Such total of five (5) gallons or less shall be kept only in cans approved by the chief of the Fire Department. Any quantity in excess of five (5) gallons shall be kept only in a tank or tanks placed not less than two (2) feet beneath the surface of the ground or in an outside tank or tanks above ground and approved by the chief of the Fire Department located not less than fifty (50) feet from the line of any adjoining property which may be built upon. The tank or tanks shall be adequately and properly diked with a dike having capacity not less than equal in volume to that of the tank or tanks surrounded. No underground tanks shall be placed, constructed or maintained under a street, public sidewalk or in a sidewalk area.

7.24.02 Volatiles never to be allowed to pass into drainage system. In no instance shall gasoline, naphtha, benzine and other like volatile combustibles or their compounds be allowed to run upon the floor or fall or pass into the drainage system of the premises. Self-closing metal cans shall be used for all oily waste or waste oils.

7.24.03 Penalty. Any person who shall violate or fail to comply with any provision of this chapter, or who shall violate or fail to comply with any order or regulation, shall upon conviction, be punished by a fine not exceeding One Hundred (\$100.00) Dollars. The imposition of one (1) penalty for violation of this chapter shall not excuse the violator or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and each day that any prohibited condition is maintained shall constitute a separate offense. The application of said penalty shall not be held to prevent the enforced removal of any prohibited condition as provided by this chapter.

## **CHAPTER 7.32**

### **SIGNS**

#### **Sections:**

- 7.32.01 Attachment of signs
- 7.32.02 Penalty

7.32.01 Attachment of signs. It shall be unlawful for any person, firm, corporation, or association to nail, staple, or otherwise attach or cause to be nailed, stapled, or otherwise attached to any sign, poster, or billboard to any public utility pole or to any living tree, shrub, or other plant located upon the right of way of any public road, highway, or street in the city; provided, however, that the above prohibition shall not apply to warning, safety or identification signs attached to public utility poles by utility companies or cooperatives. (Ord. No. 866 and 867)

7.32.02 Penalty. Any person, firm, or corporation or association violating Section 7.32.08 shall upon conviction be fined not more than Twenty-Five (\$25.00) Dollars, and each day that any such violation shall continue constitutes a separate offense. (Ord. No. 866 and 867)

## **CHAPTER 7.36**

### **PARADES**

#### **Sections:**

- 7.36.01 Definitions
- 7.36.02 Permit required
- 7.36.03 Application
- 7.36.04 Standards for issuance
- 7.36.05 Notice of rejection
- 7.36.06 Appeal procedure
- 7.36.07 Alternative permit
- 7.36.08 Notice
- 7.36.09 Contents of permit
- 7.36.10 Duties of permittee
- 7.36.11 Public conduct during parades
- 7.36.12 Revocation of permit
- 7.36.13 Penalties

7.36.01 Definitions.

- A. "Parade" is any parade, march, ceremony, show, exhibition, pageant, or procession of any kind, or any similar display in or upon any street, park or other public place in the city.
- B. "Parade Permit" is a permit as required by this chapter.

7.36.02 Permit required. No person shall engage in, participate in, aid, form or start any parade, unless a parade permit shall have been obtained from the chief of police. This chapter shall not apply to:

- A. funeral processions;
- B. Students going to and from school classes or participating in educational activities, providing such conduct is under the immediate direction and supervision of the proper school authorities;
- C. a governmental agency acting within the scope of its functions.

7.36.03 Application. A person seeking issuance of a parade permit shall file an application with the chief of police on forms provided by such officer.

- A. Filing period: An application for a parade permit shall be filed with the chief of police not less than five (5) days nor more than thirty (30) days before the date on which it is proposed to conduct the parade.
- B. Contents: The application for a parade permit shall set forth the following information:
  1. The name, address and telephone number of the person seeking to conduct such parade;
  2. If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization;
  3. The name, address and telephone number of the person who will be the parade chairman and who will be responsible for its conduct;

4. The date when the parade is to be conducted;
5. The route to be traveled, the starting point and the termination point;
6. The approximate number of persons who, and animals and vehicles which, will constitute such parade; the type of animals, and description of the vehicles;
7. The hours when such parade will start and terminate;
8. A statement as to whether the parade will occupy the entire or only a portion of the width of the streets proposed to be traversed;
9. The location by streets of any assembly areas for such parade;
10. The time at which units of the parade will begin to assemble at any such assembly area or areas;
11. The interval of space to be maintained between units of such parade;
12. If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for such permit shall file with the chief of police a communication in writing from the person proposing to hold the parade, authorizing the applicant to apply for the permit on his behalf.
13. Any additional information which the chief of police shall find reasonably necessary to a fair determination as to whether a permit should issue.

C. Fee: There shall be paid at the time of filing the application for a parade permit a fee of Fifty (\$50.00) Dollars.

7.36.04 Standards for issuance. The chief of police shall issue a permit as provided for hereunder when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that:

- A. The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route;
- B. The conduct of the parade will not require the diversion of so great a number of police officers of the city to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the city;

- C. The conduct of such parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than that to be occupied by the proposed line of march and areas contiguous thereto;
- D. The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas;
- E. The conduct of such parade will not interfere with the movement of fire-fighting equipment en route to a fire;
- F. The conduct of the parade is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance;
- G. The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays enroute;
- H. The parade is not to be held for the sole purpose of advertising any product, goods or event, and is not designed to be held purely for private profit.

7.36.05 Notice of rejection. The chief of police shall act upon application for a parade permit within two (2) days after the filing thereof. If the chief of police disapproved the application, he shall mail to the applicant within two (2) days after the date upon which the application was filed, a notice of his action, stating the reasons for his denial of the permit.

7.36.06 Appeal procedure. Any person aggrieved shall have the right to appeal the denial of a parade permit to the city council. The appeal shall be taken within ten (10) days after notice. The city council shall act upon the appeal within ten (10) days after its receipt.

7.36.07 Alternative permit. The chief of police, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time, or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within five (5) days after notice of the action of the chief of police, file a written notice of acceptance with the chief of police. An alternate parade permit shall conform to the requirements of and shall have the effect of a parade permit under, this chapter.

7.36.08 Notice. Immediately upon the issuance of a parade permit, the chief of police shall send a copy thereof to the following:

- A. The mayor (city manager, or other head);
- B. The city attorney;

- C. The fire chief;
- D. The director of the department of public works;
- E. The postmaster;
- F. The general manager or responsible head of such public transportation utility, the regular routes of whose vehicles will be affected by the route of the proposed parade.

7.36.09 Contents of permit. Each parade permit shall state the following information:

- A. Starting time;
- B. Minimum speed;
- C. Maximum speed;
- D. Maximum interval of space to be maintained between the units of the parade;
- E. The portions of the streets to be traversed that may be occupied by the parade;
- F. The maximum length of the parade in miles or fractions thereof;
- G. Such other information as the chief of police shall find necessary to the enforcement of this chapter.

7.36.10 Duties of permittee. A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances.

Possession of permit: The parade chairman or other person heading or leading such activity shall carry the parade permit upon his person during the conduct of the parade.

7.36.11 Public conduct during parades.

- A. Interference: No person shall unreasonably hamper, obstruct or impede, or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.
- B. Driving through parades: No driver of a vehicle, street car or trackless trolley shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.
- C. Parking on parade route: The chief of police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of a parade. The chief of police shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street unposted in violation of this chapter.

7.36.12 Revocation of permit. The chief of police shall have the authority to revoke a parade permit issued hereunder upon application of the standards for issuance as herein set forth.

7.36.13 Penalties. Any person, firm, corporation, association or organization violating any of the provisions of this chapter, upon conviction shall be fined in an amount not less than Ten Dollars (\$10.00), nor more than Twenty-Five Dollars (\$25.00) (Ord. No. 767)

## **CHAPTER 7.40** **DRIVE-IN RESTAURANT**

### Sections:

- 7.40.01      Definition
- 7.40.02      Unlawful act
- 7.40.03      Duty to post
- 7.40.04      Penalties

7.40.01 Definition. A drive-in restaurant, within the meaning of this chapter, shall be deemed to be any restaurant where meals, sandwiches, ice cream, or other food is served directly to or is permitted to be consumed by patrons in automobiles, motorcycles or other vehicles parked on the premises.

#### 7.40.02 Unlawful acts.

- A. It shall be unlawful for any person while on or adjacent to the premises of a drive-in restaurant to race the motor of any vehicle, to suddenly start or stop any vehicle or to make or cause to be made, any other loud or unseemly noise. It shall also be unlawful for any other person parked on the premises of such restaurant, to blow or cause to be blown any automobile horn or motorcycle horn at any time while so parked.
- B. It shall be unlawful for any patron or other person on the premises of a drive-in restaurant, whether in or out of an automobile, to drink any beer unless purchased on the premises. It shall be unlawful for any patron or person on the premises of a drive-in restaurant, whether in or out of an automobile to loiter or to create a disturbance or a breach of the peace in any way whatsoever, including but not limited to loud and offensive talk, the making of threats or attempting to intimidate, or in any other conduct which causes a disturbance or a breach of the peace or threatened breach of peace. No person shall drive a motor vehicle onto the premises of a drive-in restaurant and then from said premises without parking such motor vehicle, unless there is no unoccupied space available on said premises.

C. It shall also be unlawful for any person to leave any unoccupied motor vehicle on any drive-in restaurant parking lot and to leave the premises thereof except with the knowledge and consent of the operator of the restaurant.

7.40.03 Duty to post. It shall be the duty of the drive-in restaurant operator to post on the premises, in a conspicuous location, one or more signs bearing the following legend: "Cruising in a motor vehicle is unlawful. Loud and offensive talk and other disturbance or breach of peace is prohibited. No loitering. No unoccupied vehicle may be left on these premises without the consent of the restaurant operator."

7.40.04 Penalties. Any person found guilty of violating any of the provisions of this chapter shall be fined not more than One Hundred Dollars (\$100.00) or imprisoned for not more than thirty (30) days or be given both such fine and imprisonment at the discretion of the court.

## **CHAPTER 7.44**

### **ALCOHOLIC BEVERAGES**

#### Sections:

- 7.44.01 Adoption of state law and regulations
- 7.44.02 Register of convicted drunkenness
- 7.44.03 Record of persons convicted of non-support of family
- 7.44.04 Licenses, application
- 7.44.05 Refusal
- 7.44.06 Revocation
- 7.44.07 Wholesale dealers
- 7.44.08 Retail dealers
- 7.44.09 Payment
- 7.44.10 Adjoining liquor establishments
- 7.44.11 Unlawful
- 7.44.12 Public view
- 7.44.13 Hours of sale; penalty
- 7.44.14 Containers; size
- 7.44.15 Open containers prohibited
- 7.44.16 Sale in original containers
- 7.44.17 Sales prohibited
- 7.44.18 Private clubs; fee; tax
- 7.44.19 Penalty

7.44.01 Adoption of state law and regulations. If any person shall, within the corporate limits of the city, sell, dispense, consume, possess, or dispose of any spirituous, vinous, or malt liquors or beverages, including, but not limited to, beer or ale, in such a manner or under such circumstances or to such persons that the laws of this state, which now are hereafter be in force, including all valid rules and regulations of the Arkansas State Revenue Commissioner, are violated by such sale, dispensing, consumption, possession, or dispensation of such spirituous, vinous, or malt liquors or beverages, such person shall upon conviction be subject to the penalty prescribed in section 1.32. In addition, the license of such violator to do business in the city shall be revoked. And to the extent necessary to render this provision effective, all relevant state statutes and all valid rules and regulations of the Arkansas State Revenue Commissioner which now are or may hereafter be in force are hereby adopted.

7.44.02 Register of convicted drunkenness.

- A. It shall be the duty of the chief of police to keep a separate register (which shall be at all reasonable hours subject to public inspection), of every person convicted of drunkenness in the city (both in the municipal court and the circuit court). Such register shall show the number of times any person has been convicted.
- B. A bulletin containing the names of each and every person convicted, three (3) times within a year, of drunkenness shall be mailed once each month by the chief of police to each liquor dealer licensed by the city.

7.44.03 Record of persons convicted of non-support of family.

- A. It shall be the duty of the chief of police to receive from the proper county official a list of any and all persons adjudged by proper procedure in the county courts to be guilty of failing and refusing to properly support their families, and such list as furnished shall be included by the chief of police in the monthly report provided for in section 7.148.02.
- B. Any person selling, offering for sale or giving away liquor to any person referred to in section 7.44.02 shall be in violation of this Code of Ordinances.

7.44.04 Licenses, application.

- A. Before any person shall engage in the wholesale or retail liquor business in the city an application shall be made to the City Clerk for the granting of a permit.
- B. The application shall contain a sworn statement of the name of the business sought to be licensed, the names and addresses of all of the persons owning or holding any interest in said business, and the proposed location of said business, and the owner of the building or premises in which said store is to be located.

- C. The applicant's state license shall accompany his application.
- D. The city clerk shall then issue the license after approval by the city council, or a committee selected by it, and upon the payment of the fees herein provided. He shall then notify the chief of police of the issuance of same. (Ord. No. 397 as amended by Ord. No. 409)

7.44.05 Refusal. The city council shall have the right to refuse to grant a permit to any person who has been convicted of a violation of liquor and/or prohibition laws, and/or for crimes involving moral turpitude.

7.44.06 Revocation. Except as may be prohibited by the "Arkansas Alcoholic Control Act" the city council is hereby given the discretion of revoking the license of any person convicted under any provision of this chapter.

7.44.07 Wholesale dealers.

- A. The business of storing, transporting and/or selling of spirituous, or vinous liquors at wholesale within the city, is hereby declared to be a privilege; and for the exercise of such privilege there is hereby levied an annual tax in the sum of Three Hundred Fifty (\$350.00) Dollars, for each and every such business conducted.
- B. The business of storing, transporting and/or selling of malt liquors at wholesale within the city, is hereby declared to be a privilege; and for the exercise of such privilege there is hereby levied an annual tax in the sum of One Hundred Dollars (\$100.00) for each and every such business conducted.

7.44.08 Retail dealers.

- A. The business of storing, transporting, selling and/or dispensing at retail of any and all vinous or spirituous liquors within the city is hereby declared to be a privilege, and for the exercise of such privilege there is hereby levied an annual privilege tax in the sum of Two Hundred (\$200.00) Dollars, for each such retail store operated within the city.
- B. The business of storing, transporting, selling and/or dispensing at retail any light wines or beer within the city is hereby declared a privilege; and for the exercise of such privilege there is hereby levied an annual privilege tax in the sum of Fifteen (\$15.00) Dollars, for each such retail store operated within the city.

7.44.09 Payment. Such licenses as are herein provided for shall be issued in such a manner that they will run for such a length of time as will be concurrent with the licenses issued

by the state government. The City Clerk shall have the right to accept installment payments of the license fees due the city for such periods of time as the state commissioner of revenues grants for the payment of state license fees.

7.44.10 Adjoining liquor establishments. No person shall be granted any permit for the sale within the city either at wholesale or retail of any liquor where such person has any interest of any kind in a business or club operating in adjoining premises where liquor is kept or permitted to be kept and/or consumed.

7.44.11 Unlawful.

- A. It shall be unlawful for any wholesaler of any spirituous, vinous or malt liquors to sell or offer for sale any spirituous, vinous, or malt liquors to any retailers of such liquors in the city, unless such retailer has a valid and current privilege license permit issued by the City Clerk.
- B. It shall be the duty of any wholesaler of spirituous, vinous or male liquors to ascertain whether or not the retailer to whom he sells such liquors has a valid and current privilege license permit issued by the City Clerk, and the number thereof shall be written on the invoice made to the retailer and a copy of which shall be subject to inspection by the city at any time.

7.44.12 Public view. No person shall be granted a permit to sell liquor either at wholesale or retail within the city upon or in premises or in connection with any premises wherein there are located screened partitions, doors, or windows hindering or obstructing the view of the interior, private alcoves, blind or curtained booths, lockers, or where any other means or method is used designed or adapted to induce or invite persons to open and consume liquors upon said premises. If after a license has been granted the licensee then changes or allows the premises to be changed, to violate this section, the City Council shall order such license revoked, if after a five (5) day notice such licensee fails and refuses to conform to the provisions of this section.

7.44.13 Hours of sale; penalty.

- A. It shall be unlawful for any person to sell, offer for sale or give away, at wholesale any spirituous, vinous and/or malt liquors before the hours of 8 a.m. and after the hour of 6 p.m.
- B. It shall be unlawful for any person to sell, offer for sale, or give away, at retail any spirituous, vinous and/or malt liquor before the hour of 7 a.m. and after the hour of 12 o'clock midnight.
- C. It shall also be unlawful for any person to sell, offer for sale or give away any such liquors on Sunday or on any state, county, municipal and/or district primary or general election day.

D. For the third offense against any of the provisions of this section the City Council shall have the right to order the permit of such a person revoked and canceled.

7.44.14 Containers; size. It shall be unlawful for any person, to sell liquor in containers of less than one-half (1-2) pint or more than one (1) gallon.

7.44.15 Open containers prohibited.

- A. It shall be unlawful for any person to have in his possession or control on the premises where liquor is allowed to be sold, any bottle or container containing liquor which has been opened.
- B. Adjoining premises shall be deemed to come within the prohibition of this section when any person has any interest therein and in addition has any interest in the regularly licensed retail or wholesale liquor store.
- C. Any person operating a regularly licensed liquor store, having any interest in any establishment operating in adjoining premises where persons are found to be or permitted to drink liquor shall be subject to having his license revoked by the City Council.

7.44.16 Sale in original containers. It shall be unlawful to sell or offer for sale at retail any beer except in the original container. (Ord. No. 397 as amended by Ord. No. 409)

7.44.17 Sales prohibited.

- A. Intoxicated persons. It shall be unlawful for any person to sell or give away any liquor to any person when such person is in an intoxicated condition.
- B. Habitual drunkards. It shall be unlawful for any person to sell liquor to persons known to be habitual drunkards, and to this end a habitual drunkard within the meaning of this section shall be "any person who has been convicted of drunkenness three (3) times in any twelve (12) month period."
- C. Minors. It shall be unlawful for any person to sell, offer for sale or give away under any conditions any liquor to any person under the age of twenty-one (21) years. The burden of determining the age of any person shall be upon the seller.

7.44.18 Private clubs; fee; tax. Any private club in the city which applies for and received a permit from the Alcoholic Beverage Control Board in accordance with Section 10 of Act 132 of 1969 shall pay to the city an annual permit fee of Two Hundred Fifty (\$250.00) Dollars on a calendar year basis. An annual renewal fee in the same amount shall be paid to the City Collector on or before January 1 of each year.

The fee for permits applied for and received after January 1 of any year shall be prorated on a monthly basis for that particular year.

In addition, there is hereby levied a supplemental tax of five per cent (5%) upon the gross proceeds or gross receipts derived by such private club from the charges to members for the serving of mixed drinks or for the cooling and serving of beer and wine for consumption only on the premises where served. Said supplemental tax shall be reported and paid to the City Collector in the same manner and at the same time as reported and paid to the Commissioner of Revenues, State of Arkansas.

7.44.19 Penalty. If any permittee shall fail to remit the supplemental tax on gross receipts within the time provided by said Act 132 a penalty of twenty-five per cent (25%) thereof shall be due and payable.

## **CHAPTER 7.48**

### **NOISE**

#### Sections:

- 7.48.01      The Following Definitions Shall Apply
- 7.48.02      Designation Of Noise Sensitive Zones And Activities
- 7.48.03      Prohibited Acts
- 7.48.04      Motor Vehicle Maximum Sound Levels
- 7.48.05      Enforcement
- 7.48.06      Exclusions

**7.48.01 The Following Definitions Shall Apply**

- 1.1 Noise. Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.
- 1.2 Noise Disturbance. Any sound which (a) endangers or injures the safety or health of humans or animals, or (b) annoys or disturbs a reasonable person of normal sensitivities, or (c) endangers or injures personal or real property.
- 1.3 Vibration. An oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity, or acceleration with respect to a given reference point.
- 1.4 Emergency. Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.
- 1.5 Noise Sensitive Zone. Any area designated pursuant to 7.48.02 of this Ordinance for the purpose of ensuring exceptional quiet.
- 1.6 Person. Any individual, association, partnership, or corporation, and includes any officer, employee, department, agency or instrumentality of a State or any political subdivision of a State.
- 1.7 Public Right-Of-Way. Any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.
- 1.8 Public Space. Any real property, public parks, public parking lots, or structures thereon which are owned or controlled by a governmental entity.
- 1.9 Real Property Boundary. An imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property buildings.
- 1.10 Residential, Commercial or Industrial Area. Areas as defined in the comprehensive Blytheville zoning ordinance.
- 1.11 Noise Control Officer, (NCO). The municipal agency or department having lead responsibility for this Ordinance shall be the Chief of Police of the Blytheville Police Department. (Ord. No. 1260, Sec. 1.)

**7.48.02 Designation Of Noise Sensitive Zones And Activities**

- 2.1 The following zones shall be considered noise sensitive zones and noise sensitive activities until otherwise designated:

- (a) Noise sensitive zones include all residential areas as designated by the Blytheville zoning ordinance.
- (b) Noise sensitive activities including, but not limited to, operations of schools, libraries open to the public, churches, hospitals, and nursing homes. (Ord. No. 1260, Sec. 2.)

#### 7.48.03 Prohibited Acts

- 3.1 Noise Disturbances Prohibited. No person shall unreasonably make, continue, or cause to be made or continued, any noise disturbance. Non-commercial public speaking and public assembly activities conducted on any public space or public right-of-way shall be exempt from the operation of this Section.
- 3.2 Specific Prohibitions. The following acts, and the causing thereof, are declared to be in violation of this Ordinance:
  - (a) Radios, Television Sets, Musical Instruments and Similar Devices. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces or amplifies sound:
    - (i) in such a manner or with such volume, as to create a noise disturbance or vibration across a real property boundary or within a residential area or a noise sensitive zone, [except for activities open to the public and for which a permit has been issued by (appropriate authority)].
    - (ii) in such a manner or with such volume, as to create a noise disturbance or vibration at 50 feet (15 meters) from such device, when operated in or on a motor vehicle on a public street, right-of-way, public space, public parks, or public or private parking lots;
  - (b) Loudspeakers/Public Address Systems.
    - (i) Using or operating for any noncommercial purpose any loudspeaker, public address system, or similar device between the hours of 7:00 p.m. and 8:00 a.m. the following day, such that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive zone.
    - (ii) Using or operating for any commercial purpose any loudspeaker, public address system, or similar device (1) such that the sound therefrom creates a noise disturbance across a real property boundary or within a noise sensitive zone; or (2) between the hours of 7:00 P.M. and 8:00 A.M. the following day on a public right-of-way or public space.

(c) Noise Sensitive Zones.

- (1) Creating or causing the creation of any sound within any noise sensitive zone designated pursuant to 7.48.02, so as to disrupt the activities normally conducted within the zone, or
- (2) Creating or causing the creation of any sound within any noise sensitive zone, designated pursuant to 7.48.02, containing a hospital, nursing home, or similar activity, so as to interfere with the functions of such activity or disturb or annoy the patients in the activity. (Ord. No. 1260, Sec. 3.)

7.48.04 Motor Vehicle Maximum Sound Levels

- 4.1 Motor Vehicles and Motorcycles on Public Rights-Of-Way, Public Parks and Public or Private Parking Lots. No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right-of-way, public park, or public or private parking lot, at any time, in such a manner that the sound level emitted by the motor vehicle or motorcycle creates a noise disturbance.
- 4.2 Radios and Amplifying Equipment. Playing or permitting the operation or playing of any radio, musical instrument, sound amplifier, or similar device, in or on a motor vehicle, on a public street, public right-of-way, public space, or public or private parking lot, in such a manner or with such volume, as to create a noise disturbance or vibration at 50 feet (15 meters), from such motor vehicle or device shall constitute a violation of this Ordinance. (Ord. No. 1260, Sec. 4.)

7.48.05 Enforcement

- 5.1 Penalties. Any person who violates any provision of this Ordinance shall be fined for first offense not more than Fifty Dollars (\$50.00), and/or ten (10) days' community service; second offense within one year shall be fined not more than One-Hundred Dollars (\$100.00) and/or twenty (20) days' community service; and for third offense within one year shall be fined not more than Five-Hundred Dollars (\$500.00) and/or thirty (30) days' community service.
- 5.2 Other Remedies. No provision of this Ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this Ordinance or from other law.
- 5.3 Severability. If any provision of this Ordinance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the Ordinance shall not be invalidated. (Ord. No. 1260, Sec. 5.)

7.48.06 Exclusions No provision of this Ordinance shall be construed to affect or regulate in any way the operation of any broadcast station licensed by the Federal Communications Commission or any cable television company franchised by the City of Blytheville. (Ord. No. 1260, Sec. 6.)

## **CHAPTER 7.56**

### **SEXUAL MATERIALS**

#### Sections:

- 7.56.01 Unlawful to disseminate to young
- 7.56.02 Violation
- 7.56.03 Definitions
- 7.56.04 Defense
- 7.56.05 Penalty

7.56.01 Unlawful to disseminate to young. From and after the passage of this ordinance, it shall be unlawful and a misdemeanor for any person, firm, partnership or corporation to distribute, display, sell or disseminate certain sexual material to young persons as defined in this ordinance. (Ord. No. 979, Sec. 1)

7.56.02 Violation. A person is guilty of a misdemeanor if he or she (a) knowingly disseminates explicit sexual material as hereinafter defined to young persons or he knowingly places explicit sexual material upon public display or in an area where young persons have access or if he knowingly fails to take prompt action to remove such a display from property in his possession after learning of its existence. (Ord. No. 979, Sec. 2)

7.56.03 Definitions. For the purpose of this section:

- A. "Young person" means any person less than seventeen (17) years of age.
- B. "Explicit sexual material" means any pictorial or three dimensional material depicting human sexual intercourse, masturbation, sodomy (i.e. bestiality or oral or anal intercourse) direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship or emphasizing the depiction of adult human genitals or female breasts; provided however, that works of art or anthropological significance, or materials presented in a program of education in a church, school or college shall not be deemed to be within the foregoing definitions.
- C. "Disseminate" means to sell, lease or exhibit commercially and, in the case of an exhibition, to sell an admission ticket or pass or to admit persons who have bought such a ticket or pass to the premises whereon an exhibition is presented.

- D. "Display for sale" in an area to which young persons have access, means display of material for sale so that young persons may see portions of the material constituting explicit sexual material.
- E. "Material is placed upon public display" if it is placed on or in a billboard, viewing screen, viewing theater marquee, newsstand, display rack, windows, show case, display case or similar place so that matter bringing it within the definition of "explicit sexual material" is easily visible from a public thoroughfare or from the property of others,
- F. "Knowingly" means having general knowledge of or reason to have a belief or ground for belief, which warrants further inspection or inquiry of both of the following:
  - 1. The character or content of any material described herein which is reasonably susceptible of examination, and
  - 2. The age of the person; provided, however, that an honest mistake shall constitute an excuse from liability hereunder, if a reasonable bona fide attempt is made to ascertain the true age of the person. (Ord. No. 979, Sec. 3)

7.56.04 Defense. It shall be an affirmative defense to prosecution under this section for the defendant to show that the dissemination was made with the consent of a parent or guardian of the recipient, or that the dissemination was made to the recipient by his teacher or clergyman in the discharge of official responsibilities or that the recipient was married. (Ord. No. 979, Sec. 4)

7.56.05 Penalty. Any person violating the provisions of this ordinance will be subject to a fine, not exceeding One Hundred Dollars (\$100.00), providing that each day of violation of this ordinance continues will be considered a separate offense. A second conviction of this ordinance, the defendant will be subject to a fine of Two Hundred Dollars (\$200.00) and/or thirty (30) days in jail; for a third conviction, the defendant will be subject to a fine of Five Hundred Dollars (\$500.00) and/or imprisonment in jail for a period of not more than six (6) months. (Ord. No. 979, Sec. 5)

## **CHAPTER 7.60**

### **FAIR HOUSING ORDINANCE**

#### Sections:

- 7.60.01 Policy
- 7.60.02 Definitions

7.60.03	Unlawful Practice
7.60.04	Discrimination In The Sale Or Rental Of Housing
7.60.05	Discrimination In The Financing Of Housing
7.60.06	Discrimination In The Provision Of Brokerage Services
7.60.07	Exemption
7.60.08	Administration
7.60.09	Education And Conciliation
7.60.10	Enforcement
7.60.11	Investigations; Subpoenas; Giving Of Evidence
7.60.12	Enforcement By Private Persons

7.60.01 Policy It is the policy of the City of Blytheville to provide, within constitutional limitations, for fair housing throughout its jurisdiction. (Ord. No. 1524, Sec. 1.)

7.60.02 Definitions

(a) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(b) "Family" includes a single individual.

(c) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

(d) "To rent" includes to lease, to sublease, and to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant.

(e) "Discriminatory housing practice" means an act that is unlawful under Sections 4, 5, or 6. (Ord. No. 1524, Sec. 2.)

7.60.03 Unlawful Practice Subject to the provisions of Sub-section (b) and 7.60.07, the prohibitions against discrimination in the sale or rental of housing set forth in 7.60.04 shall apply

(a) All dwellings except as exempted by Sub-section (b)

(b) Nothing in 7.60.04 shall apply to

- (1) Any single-family house sold or rented by an owner: Provided, that such private individual owner does not own more than three such single-family houses at any one time: Provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this sub-section shall apply only with respect to one such sale within any twenty-four month period: Provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: Provided further, that the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented (A) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and (B) without the publication, posting or mailing, after notice of any advertisement or written notice in violation of 7.60.04 (c) of this ordinance, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or
- (2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(c) For the purpose of Sub-section (b), a person shall be deemed to be in the business of selling or renting dwellings if

- (1) He has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or
- (2) He has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or
- (3) He is the owner of any dwelling designed or intended for occupancy by, or occupied by, or occupied by, five or more families. (Ord. No. 1524, Sec. 3.)

7.60.04. Discrimination In The Sale Or Rental Of Housing As made applicable by 7.60.03 and except as exempted by Sections 3 (b) and 7, it is unlawful

(a) To refuse to sell or rent after making of a bona fide offer, or to refuse to negotiate for the sale or rent of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, or national origin.

(b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, or national origin. To make, print or publish, or cause to be made, printed or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination.

(c) To represent to any person because of race, color, religion, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(d) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, or national origin. (Ord. No. 1524, Sec. 4.)

7.60.05 Discrimination In The Financing Of Housing It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance because of the race, color, religion, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance or of the present or prospective owners, lessees tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given: Provided that nothing contained in this section shall impair the scope or effectiveness of the exception contained in 7.60.03(b). (Ord. No. 1524, Sec. 5.)

7.60.06 Discrimination In The Provision Of Brokerage Services It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers organizations or other service, organization, or facility relating to the business or selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, or national origin. (Ord. No. 1524, Sec. 6.)

7.60.07 Exemption Nothing in this ordinance shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by, or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operated for other than a commercial purpose of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this ordinance prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. (Ord. No. 1524, Sec. 7.)

7.60.08 Administration

(a) The authority and responsibility for administering this Act shall be the Chief Executive Officer of the City of Blytheville, Arkansas.

(b) The Chief Executive Officer may delegate any of these functions, duties, and powers to employees of the City or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter under this ordinance. The Chief Executive Officer shall by rule prescribe such rights of appeal from the decisions of his hearing examiners to other officers in the City, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(c) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this ordinance and shall cooperate with the Chief Executive Officer to further such purposes. (Ord. No. 1524, Sec. 8.)

7.60.09 Education And Conciliation Immediately after the enactment of this ordinance, the Chief Executive Officer shall commence such educational and conciliatory activities as will further the purposes of this ordinance. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this ordinance and his suggested means of implementing it and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. (Ord. No. 1524, Sec. 9.)

7.60.10 Enforcement

(a) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the Chief Executive Officer. Complaints shall be in writing and shall contain such information and be in such form, as the Chief Executive Officer requires.

Upon receipt of such a complaint, the Chief Executive Officer shall furnish a copy of the same to the person or persons who allegedly committed or is/was about to commit the alleged discriminatory housing practice. Within thirty days after receiving a complaint, or within thirty days after the expiration of any period of reference under subsection (c), the Chief Executive Officer shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the Chief Executive Officer decides to resolve the complaints, he shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion.

Nothing said or done in the course of such informal endeavors may be made public or used as evidence in subsequent proceeding under this ordinance without the written consent of the persons concerned. Any employee of the Chief Executive Officer who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned not more than one year.

- (b) A complaint under Sub-section (a) shall be filed within one hundred and eighty days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the Chief Executive Officer, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be verified.
- (c) If within thirty days after a complaint is filed with the Chief Executive Officer, he/she has been unable to obtain voluntary compliance with this ordinance, the person aggrieved may, within thirty days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The Chief Executive Officer will assist in filing.
- (d) If the Chief Executive Officer has been unable to obtain voluntary compliance within thirty days of the complaint, the person aggrieved may, within thirty days hereafter commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this ordinance, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.
- (e) In proceedings brought pursuant to this section, the burden of proof shall be on the complainant.

(f) Whenever an action filed by an individual shall come to trial, the Chief Executive Officer shall immediately terminate all efforts to obtain voluntary compliance. (Ord. No. 1524, Sec. 10.)

7.60.11 Investigations; Subpoenas; Giving Of Evidence

(a) In conducting an investigation, the Chief Executive Officer shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation: Provided, however, that the Chief Executive Officer first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The Chief Executive Officer may issue subpoenas to compel his access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States district court for the district in which the investigation is taking place. The Chief Executive Officer may administer oaths.

(b) Upon written application the Chief Executive Officer, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the Chief Executive Officer to the same extent and subject to the same limitations as subpoenas issued by the Chief Executive Officer himself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

(c) Witnesses summoned by subpoena of the Chief Executive Officer shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by him.

(d) Within five days after service of a subpoena upon any person, such person may petition the Chief Executive Officer to revoke or modify the subpoena. The Chief Executive Officer shall grant the petition if he finds that the subpoena requires appearance or attendance at the unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for the good reason.

(e) In case of contumacy or refusal to obey a subpoena, the Chief Executive Officer or person at whose request it was issued may petition for enforcement in the Municipal or State court for the district in which the person to whom the subpoena was addressed resides, was served, etc.

- (f) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his power to do so, in obedience to the subpoena or lawful order of the Chief Executive Officer shall be fined not more than \$1,000 or imprisoned not more than one year, or both. Any person who, with intent thereby to mislead the Chief Executive Officer, shall make or cause to be made by false entry or statement of fact in any report, account, record, or other document submitted to the Chief Executive Officer pursuant to his subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.
- (g) The Grantee's Attorney shall conduct all litigation in which the Chief Executive Officer participated as a party or as amicus pursuant to this ordinance. (Ord. No. 1524, Sec. 11.)

#### 7.60.12 Enforcement By Private Persons

- (a) The rights granted by Sections 3,4,5, and 6 may be enforced by civil actions in State or local courts of general jurisdiction. A civil action shall be commenced within one hundred and eighty days after the alleged discriminatory housing case within practice occurred Provided, however, that the court shall continue such civil case brought pursuant to this Section or Section 10(d) from time to time before bringing it to trial or renting dwellings; or
- (b) Any person because he is or has been, or in order to intimidate such person or any other person or any class of person from:
  - (1) Participating, without discrimination on account of race, color, religion or national origin, in any of the activities, service, organizations or facilities described in Sub-section 15(a); or
  - (2) Affording another person or class of persons opportunity or protection to participate; or
  - (3) Any citizens because he is/has been, or in order to discourage such or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination in account of race, color, religion, or national origin, in any of the activities, services, organizations or facilities described in Sub-section 15(a), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate

shall be fined not more than \$1000 or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than \$10,000, or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life. (Ord. No. 1524, Sec. 12.)

## **CHAPTER 7.64**

### **UNAUTHORIZED COLLECTION ACTIVITIES**

#### Sections:

7.64.01	Prohibition
7.64.02	Penalty

#### 7.64.01 Prohibition

- (a) No person shall direct, cause or participate in any activity or gathering or collection of artifacts or other items of personality from any designated archeological or historical site located on the former Eaker Air Force Base in the City of Blytheville, without first obtaining a permit therefor.
- (b) The permit required by subsection (a) above, may be obtained through the following application and issuance procedure. Application shall (1) be in writing, (2) be directed to the Mayor, or his designated agent, (3) shall specify the location for which permission is sought, (4) shall specify the duration of the period of time for which permission is sought, (5) shall identify the archeological experience of the person requesting permission, (6) shall contain a written agreement of the person requesting permission that the permittee will deposit with the public institution identified in the application all artifacts and other items of personality recovered from any collection activities undertaken pursuant to the permit, and (7) shall specify a work plan which has been approved by the Arkansas Historic Preservation Officer. Any permit issued pursuant to such permitting procedures shall be in writing and bear the signature of the Mayor or his designated agent.
- (b) In reviewing and making determinations regarding the issuance of such permits, the Mayor, or his designated agent may give consideration to the archeological experience of the potential permittee. Any person who has been certified as an archeologist by the Society of Professional Archaeologists shall be prima facie assumed to have requisite archeological experience, unless the Mayor or his designated agent issues in writing all basis for non-issuance of the permit as it relates to archeological experience. Any public institution identified in such a permit application which is shown to meet the curation standards as issued in

“The State Plan for the Conservation of Archeological Resources in Arkansas” shall be prima facie assumed to be a proper institution to meet the requirements of the permitting procedure set forth in (b) above. However, the Mayor, and his designated agent, are not limited to such institutions in approving an appropriate public institution listed in an application nor are the Mayor, or his agent, compelled to approve any such institution provided that, in either instance, the Mayor or his designated agent place in writing their reasons for approval of a public institution not so listed or their reasons for disapproval of a public institution so listed. (Ord. No. 1417, Sec. 1.)

7.64.02 Penalty It is declared to be unlawful for any person to direct, cause, or participate in an unauthorized gathering or collection activity as described in Section 1 above, and it is further determined to be unlawful for any person to damage, destroy or otherwise vandalize any designated archeological or historical site, or items or personality located therein, located on any property of the City of Blytheville and it is further determined to be unlawful for any person holding a permit issued pursuant to Section 1 of this Ordinance to fail to abide by the agreement contained in the application for such permit in which the permittee agreed to deposit recovered artifacts or other items of personality in a designated public institution. Any person determined to be guilty of a violation of one or more of the provisions of the first sentence of this section shall be deemed guilty of a violation and shall be subject to a fine of \$500.00 for the first offence and \$1,000.00 for each violation thereafter. (Ord. No. 1417, Sec. 2.)

## **CHAPTER 7.68**

### **ALARM SYSTEM REGULATIONS**

#### Sections:

- 7.68.01 Purpose
- 7.68.02 Definitions
- 7.68.03 Duties of the Alarm User
- 7.68.04. Duties of the Alarm Company
- 7.68.05 Assessments
- 7.68.06 Suspension of Alarm Response
- 7.68.07 Response to Alarms
- 7.68.08 Violations and Penalties
- 7.68.09 Government Immunity

#### 7.68.01 Purpose

- (A) The purpose of this ordinance is to encourage Alarm Users and Alarm Companies to properly use and maintain the operational effectiveness and proper utilization of Alarm Systems and to reduce or eliminate False Alarms, which may unduly

divert law enforcement and fire personnel from responding to criminal or fire, related activity.

(B) This ordinance governs systems intended to summon law enforcement and fire department response and provides for penalties for violations and establishes a system of administration. (Ord. No. 1574, Sec. 1.)

7.68.02 Definitions In this ordinance:

(A) **Alarm Company** means the business, by an individual, partnership, corporation or other entity of selling, leasing, maintaining, servicing repairing, altering, replacing, moving, installing or Monitoring an Alarm System in an Alarm Site.

(B) **Alarm Dispatch Request** means a notification to a law enforcement agency or fire department that an alarm, either manual or automatic has been activated at a particular Alarm Site.

(C) **Alarm Site** means a single fixed premises or location served by an Alarm System or systems. Each tenancy if served by an Alarm System in a multi-tenant building or complex shall be considered a separate Alarm Site.

(D) **Alarm System** means a device or series of devices, including, but not limited to, systems interconnected with a radio frequency method such as cellular or private radio signals, which emit or transmit a remote or local audible, visual or electronic signal indicating an alarm condition and intended to summon the service of the police department or fire department, including Local Alarm System. Alarm System does not include an alarm installed on a vehicle or Person unless the vehicle or Personal alarm is permanently located at a site.

(E) **Alarm User** means any Person, firm, partnership, corporation or other entity who (which) uses or is in control of any Alarm System at its Alarm Site.

(F) **Automatic Voice Dialer** means any electrical, electronic, mechanical or other device capable of being programmed to send a prerecorded voice message, when activated, over a telephone line, radio or other communication system, to a law enforcement agency or fire department.

(G) **Cancellation** or **Responding Agency Alarm Dispatch Cancellation** is the process by which an Alarm Company providing Monitoring verifies with the Alarm User or responsible party that a false dispatch has occurred and that there is not an existing situation at the Alarm Site requiring the police or fire departments to respond.

(H) **Duress Alarm** means a silent Alarm System signal generated by the manual activation of a device intended to signal a life-threatening situation or a crime in progress requiring law enforcement or fire department response.

(I) **False Alarm** means an alarm signal eliciting a response by the police or fire department when a situation requiring a response by the police or fire department does not in fact exist. False alarm does not include an alarm signal caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the Alarm Company or Alarm User. Alarms resulting from the following conditions are not considered false alarms:

- (1) Criminal activity or unauthorized entry;
- (2) Telephone line malfunction verified in writing to the City by the telephone company;
- (3) Electrical service interruption verified in writing to the city by the local power company;
- (4) Communication to the police or fire department before a unit is dispatched to investigate clearly indication that the alarm is resulting from authorized entry, authorized system test, or other non-criminal cause;
- (5) An alarm caused on the reasonable but mistaken belief that a burglary, robbery or other criminal offense, fire emergency, or medical emergency is in progress.

(J) **Holdup Alarm** means a silent alarm signal generated by the Manual activation of a device intended to signal a robbery in progress.

(K) **Law Enforcement Authority** means the Chief of Police.

(L) **Local Alarm System** means any Alarm System that announces an alarm only by an internal or external audio device.

(M) **Monitoring** means the process by which an Alarm Company receives signals from an Alarm System and relays an Alarm Dispatch Request to the police or fire department for the purpose of summoning police or fire department response to the Alarm Site.

(N) **Panic** means an audible Alarm System signal generated by the manual activation of a device intended to signal a life threatening or emergency situation requiring police or fire department response.

- (O) **Person** means an individual, corporation, partnership, association, organization or similar entity.
- (P) **Verify** means an attempt, by the Alarm Company, or its representative, to contact the Alarm Site by telephonic or other electronic means, whether or not actual contact with a Person is made, before requesting police or fire department dispatch, in an attempt to avoid an unnecessary Alarm Dispatch Request. (Ord. No. 1574, Sec. 2.)

#### 7.68.03 Duties Of The Alarm User

- (A) An Alarm User shall:
  - 1. Maintain the premises and the Alarm System in a manner that will minimize or eliminate False Alarms, and
  - 2. Make every reasonable effort to respond or cause a representative to respond to the Alarm System's location within 20 minutes when notified by the police or fire department to deactivate a malfunctioning Alarm System, to provide access to the premises, or to provide alternative security for the premises, and
  - 3. Not manually activate an alarm for any reason other than an occurrence of an event that the Alarm System was intended to report.
- (B) An Alarm User shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal audible on the exterior of an Alarm Site will sound for no longer than ten (10) minutes after being activated or fifteen (15) minutes for systems operating under Underwriters Laboratories, Inc. standards 365 or 609).
- (C) An Alarm User shall have a properly Licensed Alarm Company inspect the Alarm System after three (3) false alarms in a one (1) month period.
- (D) An alarm User shall not use Automatic Voice Dialers.
- (E) An Alarm User shall maintain at each Alarm site, a set of written operating instructions for each Alarm System. (Ord. No. 1574, Sec. 3.)

#### 7.68.04 Duties Of Alarm Company An alarm Company performing Monitoring services shall:

- 1. Offer a training period in which no request for dispatch by the police or fire department will occur during the first seven (7) days after installation of an Alarm

System, but rather will use that week to train the Alarm User on proper use of the Alarm System unless circumstances necessitate immediate requests for response as determined by the City of Blytheville.

2. Attempt to verify every alarm signal, except Duress and Holdup Alarm activation before requesting a police or fire department response to Alarm System signal.
3. Communicate Alarm Dispatch Requests to the police or fire department in a manner and form determined by the City of Blytheville.
4. Communicate Cancellations to the police and fire departments in a manner and form determined by the City of Blytheville.
5. Ensure that all Alarm Users of Alarm Systems equipped with a Duress or Holdup Alarm are given adequate training as to proper use of the Duress or Holdup Alarm.
6. Communicate any available information (north, south, front, back, floor, etc.) about the location of the alarm.
7. Communicate type of alarm activation (silent or audible, interior or perimeter).
8. Endeavor to contact the Alarm User when an Alarm Dispatch Request is made; and
9. Upon enactment of this ordinance Alarm Companies that perform Monitoring services must maintain for a period of one (1) year, records relating to Alarm Dispatch Request. Records must include the name, address, and phone number of the Alarm User, the Alarm System Zone(s) activated, the time of Alarm Dispatch Request and evidence of an attempt to Verify. The City of Blytheville may request copies of such records for individually named Alarm Users. (Ord. No. 1574, Sec. 4.)

#### 7.68.05 Fines

(A) An alarm user shall be subject to assessments depending on the number of false alarms emitted from an alarm system during any calendar month by using the following schedule:

<u># of False Alarms</u>	<u>Assessment</u>
First Three (3)	0
Four (4)	\$25
Five (5)	\$50

Six (6)	\$75
More than (6)	\$100

Failure to pay any assessment within ninety (90) days from the date of any invoice from the City of Blytheville or the Blytheville Police Department shall constitute a violation as set forth hereinafter.

- (B) If Cancellation of the Alarm occurs prior to law enforcement arriving at the scene, this will not be deemed a False Alarm for the purpose of this section and no assessment will be made.
- (C) Alarm users who install a new system or who make substantial modifications to an existing system shall be given a grace period during which alarms generated by such system shall not be considered false alarms and no Assessment will be made. The grace period shall expire thirty (30) days following the installation or modification of the alarm system. (Ord. No. 1587.)

7.68.06 Suspension Of Response The Police or Fire Department may suspend alarm response if it is determined by the Police or Fire Shift Supervisor that:

- (1) The Alarm User has three (3) or more False Alarms in one (1) twelve-hour period or as instructed by the Chief of Police.
- (2) Due to non-payment of fines or fees assessed under the provisions of this ordinance. (Ord. No. 1574, Sec. 6.)

#### 7.68.07 Response To Alarms

- (A) Whenever an alarm is activated in the city thereby requiring an emergency response to the location by the police or fire department and the police or fire department does respond, and the personnel on the scene of the activated alarm shall determine whether the emergency response was in fact required as indicated by the alarm system or whether the alarm signal was a false alarm.
- (B) The police department or fire department personnel at the scene of the activated alarm system shall determine whether the alarm generated at that location was valid or a false alarm and cause a report to be made of their findings. Said report will be in a style and manner as determined by the Chief of Police. (Ord. No. 1574, Sec. 7.)

#### 7.68.08 Enforcement And Penalties

(A) Failure to comply with any provision of this Ordinance shall constitute a violation and shall result in a fine of not less than \$100.00 and not more than \$1,000.00.

(B) Enforcement of this Ordinance shall be the responsibility of the Chief of Police. (Ord. No. 1587.)

7.68.09 Government Immunity This ordinance is not designed to create a contract, duty or obligation, either expressed or implied, for response. Any and all liability and consequential damage resulting from the failure to respond to notification is hereby disclaimed. By registering an Alarm System, the Alarm User acknowledges that police or fire response may be based on factors such as: availability of police or fire units, priority of calls, weather conditions, traffic conditions, or other conditions. (Ord. No. 1574, Sec. 9.)