TITLE 4

OFFENSES

CHAPTER.

1. ADVERTISING.
2. LOITERING.
3. ALCOHOL AND TOBACCO.
4. LITTERING.
5. NOISE.
6. PARKING.
7. PUBLIC PROPERTY, STREETS AND SIDEWALKS.
8. SEXUAL MATERIALS.
9. SOLICITATIONS
10. TRANSIENT MERCHANTS.
11. GENERAL OFFENSES.
12. COMMERCIAL DISPLAYS.

CHAPTER 1
ADVERTISING

4-1-1. Bill posting by certain type business; permit and bond required.

It shall be unlawful for any circus, carnival, amusement company or other persons to place advertising, posters, banners or other signs upon the buildings, fences, outhouses, walls or other structures in the city without first obtaining a permit from the city clerk/deputy city manager of the city.

The city clerk/deputy city manager of the city shall not issue any permit to any circus, carnival, amusement company or other persons until the circus, carnival, amusement company or other persons applying for a permit to post bills, as aforesaid, shall file with the city clerk a surety bond for the sum of one hundred dollars ($100.00) to guarantee the removal of the signs posted within five (5) days after the performance advertised in the posters, bills or signs permitted. (Ord. No. 903, § 1, 8-16-27)

The penalty for violation of this ordinance, shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors. (Ord. No. 4981, § 3, 6-4-01)

4-1-2. Handbills, etc., posted on telephone and light poles.

Posting of any bills, cards, notices, signs or advertisements of any kind whatever upon any telegraph, telephone or electric light pole or post within the corporate limits of the city is hereby prohibited. (Ord. No. 231, § 1, l2-1-09)

State law reference - Attaching signs to utility poles prohibited, A.C.A. § 5-67-103.

4-1-3. Placing advertising in or on parked automobiles, prohibited.

The placing of any handbill, advertisement, circular or paper, other than legally authorized traffic tickets, in or upon any automobile parked on the streets of the city, without the express previous consent of the owner of said automobile, is hereby prohibited, and the penalty for violation of this ordinance, shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors. (Ord. No. 2631, § 1, 12-21-59; Ord. No. 4981, § 2, 6-4-01)

Cross references-Advertising and promotion commission, § 5-2-1 et seq.; obstructing public right-of-way, § 4-7-4; historic district, § 16-7-11; seasonal parking lot signs, § 16-2-64; CBID, § 4-7-5; political signs, § 16-6-1; signs, § 16-5-1 et seq.

State law reference-Advertising on property without owner's written permission, penalty for violation, A.C.A. §§ 5-39-213.

CHAPTER 2
LOITERING

4-2-1. Loitering.

4-2-1.1. Drive-in restaurant.

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. (Ord. No. 2884, § 1, 11-26-66)

4-2-1.2. Racing motors of motor vehicles, blowing horns, creating nuisance on or adjacent to drive-in restaurant, prohibited.

No person on or adjacent to the premises of a drive-in restaurant shall race the motor of any motor vehicle, shall needlessly bring any motor vehicle to a sudden start or stop, shall blow any horn of any motor vehicle or cause to be made any other loud or unseemly noise, nuisance or disturbance whereby the quiet and good order of the premises or neighborhood is disturbed. (Ord. No. 2884, § 2, 11-26-66)

4-2-1.3. Alcoholic beverages purchased off premises; bringing on or consumption on premises, prohibited.

No person shall bring on the premises of any drive-in restaurant any alcoholic beverage or attempt to consume or consume any alcoholic beverage unless said beverage was purchased on the premises of said drive-in restaurant. (Ord. No. 2884, § 3, 11-26-66)

4-2-1.4. Loitering or lingering, prohibited.

No person shall loiter or linger at any location on the premises of any drive-in restaurant or in a parked motor vehicle on said premises. (Ord. No. 2884, § 4, 11-26-66)

4-2-1.5. Motor vehicles, parking and leaving on premises, without consent, prohibited.

No person shall park a motor vehicle on the premises of a drive-in restaurant and leave the said premises without obtaining the consent of the owner or operator of said restaurant to leave said vehicle parked upon said premises. (Ord. No. 2884, § 5, 11-26-66)

4-2-1.6. Use of premises for cruising, racing, short-cut, et cetera, prohibited.

No person shall enter upon said premises of a drive-in restaurant for the purpose of cruising, racing or as a short-cut to another street, or to annoy or endanger any person or persons or other vehicles lawfully upon said premises. (Ord. No. 2884, § 6, 11-26-66)

4-2-1.7. Use of abusive, et cetera, language, prohibited.

No person, while on the premises of any drive-in restaurant shall use any abusive language under any circumstances which may reasonably be calculated to provoke a breach of the peace; nor shall any person, while on the premises of said drive-in restaurant use any loud, vociferous or obscene, vulgar or indecent language, or yell or shriek so as to disturb other persons at such place. (Ord. No. 2884, § 7, 11-26-66)

4-2-1.8. Operator required to post notice.

It shall be the duty of the restaurant operator to post on the premises in a conspicuous location one or more signs bearing the following legend:

"Cruising in or loitering outside of a motor vehicle is unlawful. No unoccupied vehicle may be left on the restaurant premises without the consent of the restaurant operator." (Ord. No. 2884, § 8, 11-26-66)

4-2-1.9. Penalty for violation of chapter.

The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors. (Ord. No. 4932, § 2, 12-18-00)

4-2-2. Loitering in or about private parking lots.

4-2-2.1. Applicability.

The provisions of this section shall apply to any privately owned parking area, open for public use for parking motor vehicles, owned by or belonging to a particular person or group, for use by the public. (Ord. No. 3714, § 1, 9-19-83)

4-2-2.2. Disturbing the quiet and good order of the premises.

No person on privately owned parking lots for public use shall race the motor of any motor vehicle, shall needlessly bring any motor vehicle to a sudden start or stop, shall blow any horn of any motor vehicle unnecessarily, or cause to be made any other loud or unseemly noise, nuisance or disturbance whereby the quiet and good order of the premises or neighborhood is disturbed. (Ord. No. 3714, § 2, 9-19-83)

4-2-2.3. Consumption of alcoholic beverages.

No person shall consume any alcoholic beverage on the premises of any privately owned parking lot for public use. (Ord. No. 3714, § 3, 9-19-83)

Cross reference-Closing hours for establishments licensed for on premises consumption, § 4-3-6.

4-2-2.4. Loitering.

No person shall loiter or linger in or about a motor vehicle parked on any privately owned parking lot without the intention of immediately patronizing a commercial establishment served by said parking area. (Ord. No. 3714, § 4, 9-19-83)

4-2-2.5. Consent of owner or operator.

No person shall park a motor vehicle on the premises of a privately owned parking lot for public use and leave said vehicle on said premises without obtaining the consent of the owner or operator of said parking lot to leave said vehicle parked upon said premises. (Ord. No. 3714, § 5, 9-19-83)

4-2-2.6. Cruising, racing, etc.

No person shall enter upon said premises of a privately owned parking lot for public use for the purpose of cruising, racing or as a short-cut to another street, or to annoy or endanger any person or persons or other vehicles lawfully upon said premises. (Ord. No. 3714, § 6, 9-19-83)

4-2-2.7. Signs required.

It shall be the duty of the privately owned parking lot for public use operator to post on the premises in a conspicuous location one or more signs bearing the following legend:

> "Cruising in or loitering in or about a motor vehicle on these premises is unlawful." (Ord. No. 3714, § 7, 9-19-83)

4-2-2.8. Penalty.

The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors. (Ord. No. 4944, § 1, 1-22-01)

4-2-3. City-owned parking facilities - Conduct of persons.

(a) The provisions of this ordinance shall apply to any parking lot, parking deck or parking facility owned and operated by the City of Hot Springs and designated for use by the general public.

(b) No person shall consume any alcoholic beverage on the premises of any city-owned parking lot, parking deck or parking facility except as may be authorized pursuant to a special event permit.

(c) No person shall loiter or linger in or about a motor vehicle parked on any city-owned parking lot, parking deck or parking facility without the intention of immediately patronizing establishments served by said parking area.

(d) No person shall park a motor vehicle on the premises of any city-owned parking lot, parking deck or parking facility and leave said vehicle on said premises overnight or for an extended time except as may be authorized pursuant to a special event permit.

(e) No person shall enter upon the premises of any city-owned parking lot, parking deck or parking facility for the purpose of cruising, racing, as a short-cut to another street, to annoy or endanger any person or persons or other vehicles lawfully upon said premises, or to otherwise create a nuisance or disturbance where the quiet and good order of the premises or neighborhood is disrupted.

(f) Each city-owned parking lot, parking deck or parking facility or group of such facilities shall have posted on the premises in a conspicuous location one or more signs bearing a legend in substantially the following form: "Cruising in or loitering in or about these premises is unlawful."

(g) The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors.

(Ord. No. 5145, §§1-7, 1-6-03)

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CHAPTER 3
ALCOHOL AND TOBACCO

4-3-1. Consumption of alcoholic beverages - Prohibited during certain hours.

(a) That consumption of alcoholic beverages by any person or persons between the hours of 2 a.m. and 6 a.m. within or upon non-residential premises within the corporate limits of Hot Springs is hereby prohibited unless otherwise permitted pursuant to the rules and regulations of the Arkansas Alcoholic Beverage Control Board.

(b) The penalty for violation of this ordinance shall, upon conviction in the Hot Springs District Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors.

(Ord. No. 5680, §§1,2, 9-16-08)

4-3-2--4-3-5. Reserved.

4-3-6. Closing hours for establishments licensed for on premises consumption.

(a) All establishments licensed by the State of Arkansas for the sale of beer and wine for on-premises consumption may admit patrons and sell such liquors from Monday through Friday only between the hours of 7:00 a.m. to 1:00 a.m. the following day, and on Saturdays only between the hours of 7:00 a.m. to 12:00 midnight.

(b) Hotels and restaurants licensed for sale of alcoholic beverage pursuant to Act 132 of 1969 may admit patrons and sell such beverages from Monday through Friday only between the hours of 7:00 a.m. to 3:00 a.m. the following day and on Saturday only between the hours of 7:00 a.m. to 2:00 a.m. the following day.

(Ord. No. 3835, §§ 1, 2, 12-16-85)

Cross reference-Tax and license requirement for establishments selling alcoholic beverages, § 5-1-1.

Editor's note-Ord. No. 3835 governs closing hours for Monday through Saturday. Sunday sales and hours are governed by county ordinance O-88-14 adopted September 12, 1988, by the Garland County Quorum Court and ratified by popular vote at a referendum election on November 8, 1988, and by Act 192 of 1995 (A.C.A. § 3-9-215(b)).

State law reference-A.C.A. § 3-9-201 et seq.

4-3-7. Alcoholic beverages purchased or obtained by minors - Prohibited.

(a) *Unlawful to purchase.* It shall be unlawful for any person under the age of twenty-one (21) years, except those persons acting at the direction and under the supervision of a law enforcement agency, to attempt to purchase or otherwise obtain any alcoholic beverage from a retail dealer, a public tavern, restaurant, private club, or other establishment that sells such beverages for on- or off-premises consumption.

(b) *Penalty.* The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors. (Ord. No. 4932, § 8, 12-18-00)

(c) *Arrest by citation.* A law enforcement officer as defined under Arkansas law may issue a citation instead of physical arrest upon probable cause for believing the suspect has committed the offense of attempting to purchase or otherwise obtain an alcoholic beverage. For purposes of this ordinance, probable cause may be established by the written affidavit of the owner, operator, or an employee of a public establishment or private club where alcoholic beverages are sold or dispensed for off-premises or on-premises consumption, to the law enforcement officer that the affiant has observed the person accused of committing the offense of attempting to purchase or otherwise obtain an alcoholic beverage.

(d) *Merchant notice required.* No person shall be convicted of violating this ordinance unless the owner or the manager of any public establishment which sells alcoholic beverages for on-premises or off-premises consumption, or the owner or the manager of any private club which serves alcoholic beverages for on- or off-premises consumption shall have previously posted in a conspicuous place a notice stating:

> "NOTICE TO PERSONS UNDER TWENTY-ONE (21) YEARS OF AGE: PROHIBITIONS. It shall be unlawful for any person to attempt to purchase or otherwise obtain any alcoholic beverage from a retail dealer, a public tavern, restaurant, or other establishment which sells such beverages for on- or off-premises consumption."

Any such owner or manager who shall fail or refuse to post such notice shall be in violation of this ordinance. (Ord. No. 4653, §§ 1-4, 8-18-97)

4-3-8. Tobacco products purchased or obtained by minors - Prohibited.

(a) *Unlawful to purchase.* It shall be unlawful for any person under the age of eighteen (18) years, except those persons acting at the direction and under the supervision of a law enforcement agency, to attempt to purchase or otherwise obtain any tobacco product from a retail dealer, a public tavern, restaurant, private club, or other establishment that sells such tobacco products.

(b) *Penalty*. The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors. (Ord. No. 4932, § 7, 12-18-00)

(c) *Arrest by citation.* A law enforcement officer as defined under Arkansas law may issue a citation instead of physical arrest upon probable cause for believing the suspect has committed the offense of attempting to purchase or otherwise obtain a tobacco product. For purposes of this ordinance, probable cause may be established by the written affidavit of the owner, operator, or an employee of a public establishment or private club where tobacco products are sold or dispensed, to the law enforcement officer that the affiant has observed the person accused of committing the offense of attempting to purchase or otherwise obtain a tobacco product.

(d) *Merchant notice required.* No person shall be convicted of violating this ordinance unless the owner or the manager of any public establishment or private club which sells tobacco products shall have previously posted in a conspicuous place a notice stating:

> "NOTICE TO PERSONS UNDER EIGHTEEN (18) YEARS OF AGE: PROHIBITIONS. It shall be unlawful for any person to attempt to purchase or otherwise obtain any tobacco product from a retail dealer, a public tavern, restaurant, or other establishment which sells such products."

Any such owner or manager who shall fail or refuse to post such notice shall be in violation of this ordinance. (Ord. No. 4652, §§ 1-4, 8-18-97)

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CHAPTER 4
LITTERING

4-4-1. Littering.

(a) Arkansas Code of 1987 Annotated sections 8-6-401 through 8-6-417, the same being relevant portions of the Litter Control Act, are hereby incorporated by reference into this Code.

(b) The city manager is hereby authorized and empowered to cause appropriate signage to be placed along public highways and other public places where persons are likely to be informed of the existence and content of the litter control act and the penalties for violating its provisions. (Ord. No. 3933, §§ 1, 2, 11-2-87)

Cross references-Hot Springs-Garland County Beautification Commission, § 2-8-2 et seq.; unsightly property, § 17-2-1 et seq, depositing trash in fountains, § 4-7-1, depositing trash and rubbish in city streets, § 4-7-3.

CHAPTER 5
NOISE

4-5-1. Hot Springs Noise Control Ordinance - Declarations.

It is found and declared that no person shall make or cause to be made any loud and raucous noise in the city which is offensive to the ordinary sensibilities of the inhabitants of the city, which noise renders the enjoyment of life or property uncomfortable, or interferes with public peace and comfort. The provisions and the prohibitions contained in this ordinance are declared a public interest necessity and are a matter of legislative determination and public policy; and it is further declared that the prohibitions contained herein and enacted are hereby declared a sound nuisance and said prohibitions are for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity, and the peace, quiet, and repose of the City of Hot Springs, Arkansas, and its inhabitants.

4-5-2. Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

City means the city of Hot Springs, Arkansas, and the words "the city" or "this city" shall be construed as if the word "of Hot Springs" followed it and shall extend to and include its several officers, agents and employees.

Daytime hours shall mean the hours between 7:00 a.m. on one day and 10:00 p.m. the same day.

Emergency shall mean any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss which demands immediate action.

Emergency work shall mean any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency, or which is otherwise necessary to restore property to a safe condition following a fire, accident or natural disaster, or which is required to protect persons or property from exposure to danger, or which is required to restore public utilities.

Enforcement officer means any certified sworn officer of the Hot Springs Police Department, the Garland County Sheriff's Office, or the Arkansas State Police and the Code Compliance Officers of the Hot Springs Planning and Development Department.

Exterior noise means sounds which originate from any source that is not within a building or structure.

Interior noise means any sound that originates from inside any building or structure.

Nighttime hours shall mean the hours between 10:00 p.m. on one day and 7:00 a.m. the following day.

Nonresidential property shall mean any real property within the corporate limits of the city which is not included in the definition of residential property as defined in this section.

Person shall mean any individual, association, partnership or corporation.

Plainly audible means any sound which clearly can be heard, by unimpaired auditory senses, on a receiving property or at a location of such distance from the sound source as specified in this ordinance; however, words or phrases need not be discernible and said sound shall include bass reverberation when applicable.

Plainly audible and disruptive means that in addition to being plainly audible, the sound is of sufficient volume to disrupt the conduct of normal activities of persons located on receiving property as observed by an enforcement officer.

Property line shall mean the line along the ground surface, and its vertical extension, which separates the real property owned, leased or occupied by one person from that owned, leased or occupied by another person and the imaginary line which represents the legal limits of property of any person who owns, leases or otherwise occupies an apartment, condominium, hotel or motel room, office, suite, store, or any other type of occupancy.

Public right-of-way shall mean any street, avenue, boulevard, highway, road, thoroughfare, sidewalk, alley or any other property which is owned or controlled by a governmental entity.

Residential property shall mean any real property developed and used for human habitation and which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, unless such premises are actually occupied and used primarily for purposes other than human habitation. This definition is intended to include residential dwellings regardless of the zoning district in which such dwelling may exist.

Receiving property shall mean any location beyond the property lines of the property from which any sound nuisance may emit including adjacent or adjoining property and property in the vicinity thereof.

Sound nuisance shall mean any sound which either exceeds the maximum permitted sound levels as specified in this ordinance or which otherwise unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city.

4-5-3. Determination of sound nuisance.

In determining if a sound or activity is a sound nuisance and, therefore, unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of others or is otherwise in violation of this ordinance, such sound or activity must be plainly audible and disruptive to an enforcement officer as heard from a receiving property. Such determination shall be prima facie evidence of violation of this ordinance, unless such sound or activity is specifically permitted, allowed or excepted elsewhere in this ordinance.

4-5-4. Prohibited sounds.

Except as may be specifically permitted, allowed or excepted in the exceptions section of this ordinance, the acts enumerated hereinafter, among others, are, upon determination by an enforcement officer, hereby declared to be a sound nuisance in violation of this ordinance; provided however, that such enumeration shall not be deemed to be exclusive.

4-5-4.1 General prohibition.

No person may make, assist in making, permit, continue**,** cause to be made or continued, or permit the continuance of any sound which unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city.

4-5-4.2 Sound from commercial locations.

The playing or rendition of music of any kind, singing, loud talking, amplification of sound, or other noises on or about the premises of a restaurant, tavern, bar, nightclub, hotel, motel, outdoor dining area, or other place of refreshment or entertainment whether indoors or outdoors, in such a manner as to be plainly audible and disruptive on the receiving property or within buildings located on the receiving property is hereby prohibited.

4-5-4.3. Noisy vehicles generally.

The use of any automobile, motorcycle, or other vehicle so out of repair, so loaded, or in such a manner so as to create loud and unreasonable grating, grinding, rattling or any other loud and unreasonable sound is hereby prohibited.

4-5-4.4. Amplified sound from a motor vehicle.

The production or reproduction of sound from amplification equipment contained in or mounted on a motor vehicle that produces sound that is plainly audible at a distance of twenty-five (25) feet or more from the nearest external point on the vehicle, or in the case of a motor vehicle on private property, beyond the property line is hereby prohibited.

4-5-4.5. Noisy animals and birds.

The keeping of any animal or bird which causes or makes frequent or long and continued loud sound, including but not limited to barking, whining, howling, yelping, meowing, or squawking, plainly audible and disruptive to persons who reside in the vicinity thereof is hereby prohibited. For the purpose of this subsection, the prohibited noise shall include noise made continuously for a period of fifteen (15) minutes or more at any time of day or night with few, if any, brief breaks or periods of silence.

4-5-4.6. Outdoor sound amplification equipment -- Private property.

No person shall use or cause to be used any loudspeaker, loudspeaker system, sound amplifier or any other machine or device which produces, reproduces, or amplifies sound outside of buildings or other enclosed structures in a manner which is plainly audible and disruptive to persons occupying the receiving properties. Provided, however, that the use of any such loudspeaker, loudspeaker system, sound amplifier or any other similar machine or device may be utilized for special events, grand openings, sales promotions or similar activities at commercial establishments subject to the following:

(a) The only sound permitted shall be either music or human speech or both;

(b) The volume of the sound amplified pursuant to this section shall not be unreasonably loud so as to disturb the normal activities of any person located on a receiving property;

(c) No equipment allowed pursuant to this section shall be operated during nighttime hours; and

(d) The use of said equipment pursuant to this subsection shall be valid only during daytime hours for one (1) calendar day and shall not be permitted for the same location more than once during any ninety-day(90) period.

4-5-4.7. Outdoor sound amplification equipment -- Public property.

No person shall use or cause to be used any loudspeaker, loudspeaker system, sound amplifier or any other machine or device which produces, reproduces, or amplifies sound outside of buildings or other enclosed structures such that the sound generated by such devices can be heard on a receiving property, public right-of-way or public sidewalk.

4-5-4.8. Construction activities.

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 operation or the permitting or causing the operation of any tools or equipment used in any such activity conducted during nighttime hours 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 this 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.

4-5-4.9. Domestic power tools and equipment.

Sound produced by the outdoor operation of any power tool or equipment or lawn and garden equipment, including but not limited to power saws, sanders, grinders, drills, air hammers, generators, power-driven garden tools and equipment, lawn mowers, lawn tractors, hedge trimmers and similar devices and equipment during nighttime hours such that the sound therefrom creates a noise disturbance that is plainly audible and disruptive to receiving properties is hereby prohibited.

4-5-5. Exceptions.

This ordinance shall not apply to the following:

4-5-5.1. Aircraft and trains.

Sound produced by aircraft in flight or in operation at an airport, or railroad equipment in operation on railroad rights-of-way.

4-5-5.2. Alarms.

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.

4-5-5.3. Church bells.

Sound produced by church bells or church chimes when used as part of a religious observance or service or as a community clock during daytime hours and which do not exceed five (5) continuous minutes in duration in any one-hour period.

4-5-5.4. Construction.

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 operation or the permitting or causing the operation of any tools or equipment used in any such activity conducted during daylight hours.

4-5-5.5. Domestic equipment.

Sound produced by operating or permitting the operation of any mechanically powered saw, drill, sander, router, grinder, lawn or garden tool, lawnmower, leaf blower, or any other similar device or equipment used during daytime hours and used for the maintenance or upkeep of the property on which it is used.

4-5-5.6. Emergency vehicles.

Properly authorized emergency vehicles while in the performance of official duties.

4-5-5.7. Emergency work.

Sound produced by emergency work necessary to restore public utilities, or to restore property to a safe condition, or to protect persons or property from imminent danger, following a fire, accident or natural disaster.

4-5-5.8. Free speech.

Any lawful activity which constitutes protected expression pursuant to the First Amendment of the United States Constitution.

4-5-5.9. HVAC equipment.

Sound produced by the operation of any heating, venting or air conditioning (HVAC) or similar mechanical unit provided such equipment is operating in accordance with the manufacturer's standards.

4-5-5.10. Public events.

Sound generated from any public event which is sponsored, cosponsored, 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, races, festivals, fiestas, or concerts.

4-5-5.11. Public arenas.

Sound generated as a result of otherwise lawful activities at the following establishments: Hot Springs Civic and Convention Center; Transportation Depot and Plaza; all public parks and playgrounds; all accredited public or private pre-schools, schools, colleges or universities; all properly zoned and permitted public or private sporting event arenas and amusement parks, and the Garland County fairgrounds.

4-5-6. - 4-5-7. Reserved.

4-5-8. Remedy.

Persons found to be in violation of this ordinance by observance of an enforcement officer may be verbally warned by said officer of such violation and shall upon receipt of such warning immediately cause the offensive noise to cease or otherwise come into compliance with this ordinance. Failure to undertake such remedy may result in the issuance of a citation in accordance with the rules and regulations governing the issuance of citations for adjudication in the court of proper jurisdiction. Nothing in this subsection shall, however, prevent the issuance of a citation without a verbal warning.

4-5-9. Penalty.

The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors.

4-5-10. Severability.

Should any part of these regulations be adjudged invalid by a court of law having jurisdiction, all other parts shall remain in full force and effect.

(Ord. No. 5003, § 1, 9-4-01)

CHAPTER 6
PARKING

4-6-1. Parking violations - General.

(a) No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places within the City of Hot Springs, Arkansas:

(1) On a sidewalk or pedestrian way;

(2) In front of a public or private driveway;

(3) Within an intersection;

(4) Within fifteen feet (15') of a fire hydrant;

(5) On a crosswalk;

(6) Within twenty feet (20') of a crosswalk at an intersection;

(7) Within thirty feet (30') upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of a roadway;

(8) Between a safety zone and the adjacent curb or within thirty feet (30') of points on the curb immediately opposite the ends of a safety zone, unless the local traffic authority indicates a different length by signs or markings;

(9) Within fifty feet (50') of the nearest rail of a railroad crossing;

(10) Within twenty feet (20') of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet (75') of the entrance when properly signposted;

(11) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

(12) On a roadway side of any vehicle stopped or parked at the edge of a curb or street;

(13) Upon any bridge or other elevated structure upon a street or highway or within a street or highway tunnel; or

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Cross reference-Oaklawn seasonal parking lots, § 16-2-64; parking meters, § 10-7-1 et seq.; Exchange Street Parking Plaza, §10-7-12.

(14) At any place where official signs prohibit stopping.

(15) Along any roadway such that any part of the vehicle is parked in front of a curb that is marked with red or yellow pain, with the exception of emergency vehicles and/or fire fighting apparatus.

(b) The penalty for violation of this ordinance shall, upon conviction in the Hot Springs District Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors.

(Ord. No. 5084, §1, 2, 4-1-02; Ord. No. 5833 § 1, 9-6-2011)

4-6-2. Overlength trucks prohibited from parking at certain time.

(a) It shall be unlawful for any person to park overlength trucks on any of the streets of the city, on nights and Sundays.

(b) The purpose of this ordinance is to correct an evil resulting from over-length trucks which have monopolized the parking spaces available to standard sized vehicles and the police department is hereby authorized to use discretion in the enforcement of this ordinance.

(c) Any person, firm or corporation violating the terms of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than five dollars ($5.00) nor more than twenty-five dollars ($25.00). (Ord. No. 2358, §§ 1--3, 6-4-51)

4-6-3. Trailers detached from cabs; parking restrictions.

(a) Hereafter, it shall be unlawful for any person, firm, or corporation to park any detached trailer on the streets of the City of Hot Springs, Arkansas. For purposes of this ordinance, the term "trailer" shall include horse trailer, utility trailer, camper trailer, boat trailer, cargo trailer, or any other platform on an axle designed to be towed behind a vehicle of any sort.

(b) Any person, firm, or corporation violating the terms of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00), and each day said offense is committed shall constitute a separate offense to be fined at the rate of Fifty Dollars ($50.00) per day for each separate offense.

(c) In the event that any such trailer is not lawfully licensed such that the ownership thereof cannot readily be ascertained by law enforcement officers, the citation for the violation of this ordinance shall be conspicuously affixed to the trailer. Thereafter, should such trailer not be removed from the city streets within twenty-four (24) hours, same shall be towed at the owners expense. (Ord. No. 5022, §§ 1-3, 5-20-2014)

State law reference-A.C.A. § 27-50-1201

4-6-4. Parking restrictions for abandoned, unused or inoperable vehicles.

4-6-4.1. Purpose.

The purpose of this ordinance is to prevent the use of public parking space and sidewalk on city streets from being improperly used for storing of abandoned, unused or inoperable vehicles.

4-6-4.2. Prohibitions.

No person, firm or corporation may cause a vehicle to occupy public parking space of a city street for a period of time which constitutes a violation of this and/or other applicable prohibitions.

4-6-4.3. Definitions.

For purposes of this Ordinance, "vehicle" means all wheeled vehicles including but not limited to automobiles, trucks, vans, busses, motorcycles, scooters, bicycles, wagons, recreational vehicles, campers, trailers.

4-6-4.4. Provisions.

(a) No person, firm or corporation may cause a motor vehicle to be parked on any street (other than for emergency reasons) which is not operable as demonstrated to a law enforcement officer, or which is not licensed and registered, or which fails to pass a safety inspection, or which is not properly insured.

(b) No person, firm or corporation may cause a motor vehicle to be parked on any street for the purpose of displaying such vehicle for sale or for the purpose of storing such motor vehicle for other than short periods of time between normal usage of the vehicle for personal or business transportation.

(c) No person, firm or corporation may cause a motor vehicle to be moved from a marked position on any street for the purpose of evading the provisions of this section.

(d) No person, firm or corporation may alter or remove the police department's tire marks from vehicles parked on any streets, or in any way hinder the investigation of vehicles which do not conform to the requirements of this ordinance.

4-6-4.5. Procedures.

(a) When a vehicle is reported or suspected of being in violation of this ordinance, the Hot Springs Police Department will assign an officer (normally, the officer assigned to patrol that area) to investigate and determine factual information concerning:

(1) Ownership of vehicle;

(2) Length of time vehicle, device or other item has been unmoved;

(3) If vehicle meets the requirements of this ordinance; and

(4) If vehicle, device or item constitutes a hazardous situation.

(b) Once the owner or other responsible party is contacted, an explanation shall be provided regarding the provisions of this ordinance.

(1) The owner or other responsible party shall be given the opportunity for voluntary compliance with this ordinance within a reasonable length of time agreed upon by said owner/party and the investigating officer.

(2) If voluntary compliance is not achieved within the agreed upon time period, the investigating officer shall take the following steps:

a. Mark the tires of vehicle for verification of non-movement (if not a vehicle, use other reasonable means of determining non-movement).

b. Check the vehicle, device or item after 24 hours. If not moved, a citation for violation of this ordinance shall be attached and a tow initiated.

(c) If vehicle presents a hazardous situation, the investigating officer should attempt to have the owner or other responsible party immediately correct the situation. If this cannot be accomplished, a citation for violation of this ordinance shall be attached and a tow initiated.

(d) All towing charges incurred as a result of enforcing this ordinance shall be the responsibility of the owner of towed vehicle, device or item.

4-6-4.6. Penalties.

Any person, firm or corporation which violates any provision of this section shall be guilty of a misdemeanor and shall be fined in a sum not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00), and each separate incident and each day such offense continues shall be deemed a separate offense. (Ord. No. 4608, §§ 1--6, 3-17-97)

State law reference-A.C.A. § 27-50-1201

4-6-5. Parking - Right side of street - Exception.

(a) With the exception of those conditions regulated by paragraph (b) hereof, all vehicles within the corporate limits of the City of Hot Springs, Arkansas, shall be parked to the driver's right-hand side of the street.

(b) On streets that are restricted to one-way traffic only, vehicles may be parked on either side of the street, unless otherwise restricted and appropriately marked with signs.

(c) Any person who shall violate any provision of this section shall be guilty of a misdemeanor and upon conviction be fined in a sum of not less than five dollars ($5.00) nor more than twenty-five dollars ($25.00). (Ord. No. 3131, §§ 1--3, 2-22-72)

4-6-6--4-6-14. Reserved.

4-6-15. Double parking restrictions.

The Hot Springs Police Department is hereby directed to strictly enforce the laws prohibiting double parking for the purpose of deliveries in commercial and business districts between the hours of 7:00 a.m. and 9:00 a.m.; 11:00 a.m. and 1:00 p.m.; and 4:00 p.m. and 5:30 p.m. (Res. No. 3461, 7-15-96)

***Editor's note** - §4-6-15 was adopted by Resolution but included in the Code of Ordinances due to its permanent nature.*

4-6-16. Penalty and procedure for violation of overtime parking.

The penalty for violation of overtime parking in all unmetered restricted and metered parking spaces shall be ten dollars ($10.00). A citation may be issued for each separate time period violation for which a vehicle remains in an unmetered restricted or metered parking space. All such citations shall be issued and processed in accordance with the "Arkansas District Court Accounting Law" (A.C.A. § 16-10-201 et. seq). (Ord. No. 5284, § 1, 8-2-04)

Editor's note-Other parking violation forfeitures are set by order of the district judge and are on file with the district court.

4-6-17--4-6-19. Reserved.

4-6-20. Fire lane parking.

4-6-20.1. Fire lane parking prohibited.

It shall be unlawful for any person to stop, stand, or otherwise park any motor vehicle along, aside, or adjacent to any curb or other such area clearly designated as a "Fire Lane." A parking citation shall be issued and affixed to any such vehicle as prescribed by the ordinances of the city of Hot Springs, Arkansas, and the laws of the State of Arkansas. Officers of the Hot Springs police department are hereby authorized to impound vehicles in accordance with the ordinances of the city of Hot Springs, Arkansas, and the laws of the State of Arkansas governing the impoundment of vehicles when necessary to preserve the public welfare and safety. (Ord. No. 4376, § 1, 2-28-94)

4-6-20.2. Fire lane designation.

"Fire Lanes" shall be designated by painting the curb area red in color with the notation "No Parking - Fire Lane." The notation shall be accomplished by either curb lettering or standard signs affixed to posts. Upright signs affixed to posts shall be used to designate fire lanes in areas with no curbing. When curb lettering is used, the words "No Parking - Fire Lane," white in color, shall be stenciled on the curb within the red curb area. When erected, signs shall be rectangle in shape with reflective red lettering applied to a reflective white background lettered, constructed and installed in accordance with the Manual on Uniform Traffic Control Devices. Such signs shall state "No Parking - Fire Lane." Once designated, fire lane markings shall be maintained by the property owner or agent thereof. (Ord. No. 4376, § 2, 2-28-94)

4-6-20.3. Fire lane establishment.

Buildings or commercial developments constructed hereafter shall establish fire lanes in accordance with the standards and guidelines for access to buildings by fire apparatus as prescribed in the Standard Fire Prevention Code as adopted by the city of Hot Springs. The fire official is hereby granted authority to require existing businesses, commercial or industrial establishments, not in compliance with the fire apparatus accessibility standards of the Standard Fire Prevention Code, to designate "Fire Lanes" or take such other measures as necessary to provide access for fire apparatus. (Ord. No. 4376, § 3, 2-28-94)

4-6-20.4. Enforcement.

Enforcement of this ordinance shall be the responsibility of any sworn officer of the Hot Springs police department and the fire chief, the fire marshall and/or such other fire official(s) as designated with such enforcement responsibility by the fire chief. (Ord. No. 4376, § 4, 2-28-94)

4-6-20.5. Penalty.

Any person, firm, corporation or agent who shall violate a provision of this ordinance, or fail to comply herewith, or with any of the requirements hereof, shall be guilty of a misdemeanor and upon conviction of any such violation shall be fined in an amount of fifty dollars ($50.00). (Ord. No. 4558, § 1, 8-5-96)

CHAPTER 7
PUBLIC PROPERTY, STREETS AND SIDEWALKS

4-7-1. Depositing foreign material in public fountains prohibited; penalty for violation.

(a) From and after the date of the passage of this ordinance (June 19, 1972) any person who shall intentionally throw or otherwise deposit any type of soap, detergent or any other type foreign material or matter into any fountain situated upon public property within the corporate limits of this city shall be guilty of a misdemeanor. (Ord. No. 3145, § 1, 6-19-72)

(b) The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors. (Ord. No. 4944, § 2, 1-22-01)

4-7-2. Reserved.

4-7-3. Depositing trash and rubbish in all city streets prohibited; penalty for section violation.

(a) *Prohibition.* From and after the date of the passage and approval of this section (Oct. 16, 1967), no person, firm or corporation shall rake, sweep or otherwise deposit any type of trash or debris in the city streets of the city. (Ord. No. 2930, § 1, 10-16-67)

(b) *Penalty.* The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors. (Ord. No. 4944, § 3, 1-22-01)

4-7-4. Obstructions upon sidewalks, alleys, streets or other dedicated public rights- of-way.

(a) Except as otherwise provided herein, no person, firm, or corporation may cause to be placed upon any sidewalk, alley, street, or other dedicated and accepted public right-of-way anything which obstructs the full and free use thereof by the public. Provided, however, portable signs meeting the following criteria are hereby permitted upon the public sidewalks within commercial areas zoned C-1 Central Business District and C-2 General Business District only:

(1) Signs shall not exceed 30" wide by 48" tall in overall dimensions;

(2) Signs must be placed not less than 2½ feet nor more than 5 feet from the curb line as measured from the street side edge of the sidewalk to the building side edge of the sign;

(3) Signs shall be placed at the beginning/end of and perpendicular to parking stalls, if any;

(4) Only one sign shall be permitted per business address;

(5) Signs must be removed at the close of business each day; and

(6) Business address must be located in a building situated within five (5) feet of the public right-of-way and property line (zero set-back buildings only).

Provided, however, that such signs within the Central Business District No.3 and the Downtown Business District[1] shall be governed by Ordinance No. 5492 and any amendments thereto. (Ord. No. 3906, §1, 16-15-1987, Ord. No. 5876, §1, 5-15-2012, Ord. No. 5877, §1, 05-15-2012 and Ord. No. 5922, §1, 2-5-2013)

[1]**Editor's note:** The C.B.I.D. No. 2 was formed pursuant to Ordinance No. 3906, Dissolved by Ordinance No. 5876, Regulations maintained by Ordinance No.5877, and area renamed as the Downtown Business District by Ordinance No. 5922.

(b) Notwithstanding any provision herein to the contrary, the board of directors may approve the following, upon such conditions as it may determine, and after application and finding that such is in the public interest and will not unduly restrict the full and free use of any sidewalk, alley, street, or other dedicated public right-of-way:

(1) Trash receptacles
(2) Public utility fixtures
(3) Public telephone booths
(4) Benches or seats for public use
(5) Shrubs, flowers or other plants
(6) Directory signs
(7) United States and State of Arkansas flags
(8) Tables, racks and other devices used for the temporary display of merchandise for sale for specific sales events not to exceed seven (7) consecutive days and not more than twelve (12) times in any given calendar year
(9) Any other obstruction found to be in the public interest and which will not unduly restrict the full and free use of any sidewalk, alley, street or other dedicated public right-of-way
(10) Tables and chairs in front of any restaurant or entertainment facility for the use of the patrons thereof

(c) Newspaper racks for newspapers of general circulation within Garland County may be placed upon any sidewalk or sidewalk area within any public right-of-way without obtaining approval, provided such racks are placed in a manner compliant with paragraph (d) hereof.

(d) Under no circumstances may the unobstructed contiguous width of any sidewalk be reduced to less than five (5) feet or less than one-half the total width of the sidewalk, whichever is greater.

(e) Any person, firm, or corporation granted permission to place any obstruction in a dedicated public right-of-way as provided herein shall be liable for the maintenance of such obstruction.

(f) The board of directors may revoke permission previously granted to any person, firm, or corporation for the placement of an obstruction in a dedicated public right-of-way as provided herein, at any time and without prior notice, provided that such revocation shall not bar the affected person, firm, or corporation from applying for the renewal of such permission.

(g) Nothing herein shall affect the applicability of other ordinances regulating the use or obstruction of sidewalks, alleys, streets, or other dedicated public rights-of-way including but not limited to applicable provisions of the Zoning Code.

(h) The Central Business Improvement District Number 2[1] Board of Commissioners is hereby empowered with the authority to approve or revoke any items governed by this ordinance that are to be placed upon any sidewalk or other dedicated public right-of-way within the boundaries of the Downtown Business District[1], as created by Ordinance No. 3906 of 1987. (Ord. No. 3906, §1, 16-15-1987, Ord. No. 5876, §1, 5-15-2012, Ord. No. 5877, §1, 05-15-2012 and Ord. No. 5922, §1, 2-5-2013)

[1]**Editor's note:** The C.B.I.D. No. 2 was formed pursuant to Ordinance No. 3906, Dissolved by Ordinance No. 5876, Regulations maintained by Ordinance No.5877, and area renamed as the Downtown Business District by Ordinance No. 5922.

(i) The Central Business Improvement District Number 3 Board of Commissioners is hereby empowered with the authority to approve or revoke any items governed by this ordinance that are to be placed upon any sidewalk or other dedicated public right-of-way within the boundaries of the Central Business Improvement District No. 3, as created by Ordinance No. 5133 of 2002.

(j) The penalty for violation of this ordinance shall, upon conviction in the Hot Springs District Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may nor or hereafter be enacted by the Hot Springs Board of Directors.

(Ord. 5792, §§1,2, 10-5-10)

Cross references-Signs, § 16-5-1 et seq.; portable signs in public right-of-way, § 16-2-65; portable signs on sidewalks in CBID, § 4-7-5; solicitation on sidewalks, § 4-9-2; policy on use of streets, § 10-8-5; transient merchants, § 4-10-1; maintenance of sidewalk, § 15-12-1; traffic, Title 10, Chapter 8.

4-7-5. Temporary and portable signs, placement restricted in certain districts.

(a) No person, firm or corporation may place upon any sidewalk or other dedicated public right-of-way any temporary or portable sign within the boundaries of the Downtown Business District[1]; Central Business Improvement District No. 3, as created by Ordinance No. 5133 of 2002; nor the boundaries of the Central Avenue Historic District, as created by Ordinance No. 3944 of 1988, except for legitimate governmental purposes or as permitted by Sections (b) and (c) hereof. (Ord. No. 3906, §1, 16-15-1987, Ord. No. 5876, §1, 5-15-2012, Ord. No. 5877, §1, 05-15-2012 and Ord. No. 5922, §1, 2-5-2013)

(b) Portable signs bearing the exact copy and of the same dimensions as illustrated by Attachment "A" hereto are hereby permitted upon the sidewalks within Central Business Improvement District No.3, the Central Avenue Historic District and the Downtown Business District subject to the following conditions:

(1) Signs must be produced by and purchased through the Hot Springs Advertising and Promotion Commission;

(2) Signs must be placed not less than 2½ feet nor more than 5 feet from the curb line as measured from the street side edge of the sidewalk to the building side edge of the sign;

(3) Signs shall be placed at the beginning/end of and perpendicular to parking stalls;

(4) Only one sign shall be permitted per business address; and

(5) Signs must be removed at the close of business each day.

*Attachment A

(c) In lieu of the portable signs permitted in Section Two hereof, portable signs meeting the following criteria are hereby permitted upon the sidewalks within Central Business Improvement District No. 3, the Central Avenue Historic District and the Downtown Business District[1]:

(1) Signs must be placed not less than 2½ feet nor more than 5 feet from the curb line as measured from the street side edge of the sidewalk to the building side edge of the sign;

(2) Signs shall be placed at the beginning/end of and perpendicular to parking stalls;

[1]**Editor's note:** The C.B.I.D. No. 2 was formed pursuant to Ordinance No. 3906, Dissolved by Ordinance No. 5876, Regulations maintained by Ordinance No.5877, and area renamed as the Downtown Business District by Ordinance No. 5922.

(3) Only one sign shall be permitted per business address;

(4) Signs must be removed at the close of business each day;

(5) Signs shall not exceed 30" wide by 48" tall in overall dimensions; and

(6) All such signs shall be reviewed and approved by the applicable Central Business Improvement District Board of Commissioners for historical material and design compatibility with the overall ambience of the respective district. (Ord. No. 5578, §1, 6-18-07)

(d) The penalty for violation of this ordinance shall, upon conviction in the Hot Springs District Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors.

(Ord. No. 5492, §§1-4, 10-2-06)

4-7-6. Bicycles, skateboards and similar devices prohibited within defined areas of the city.

(a) *Use restricted.* The use or riding of any bicycle, skateboard, roller skates, roller blades, or similar apparatus, designed primarily for recreational purposes, is hereby prohibited upon the sidewalks, parks, plazas, or other pedestrian ways (including the public areas known as Hill Wheatley Plaza and Adair Park), which adjoin and are adjacent to the following street segments:

(1) Central Avenue from its intersection with Park and Whittington Avenues south to its intersection with Grand Avenue;

(2) Park Avenue from its intersection with Central and Whittington Avenues northeast to its intersection with Crest Street;

(3) Fountain Street from its intersection with Central Avenue northeast to its intersection with Mountain Drive;

(4) Spring Street from its intersection with Central Avenue east to its intersection with Malvern Avenue;

(5) Malvern Avenue from its intersection with Spring Street southeast to its intersection with Grand Avenue;

(6) Convention Boulevard from its intersection with Malvern Avenue east to its intersection with Grand Avenue; and

(7) Ouachita Avenue from its intersection with Central Avenue southwest to its intersection with Grand Avenue.

(8) All streets adjacent to the Hot Springs Civic and Convention Center property and its associated parking lots and all sidewalks, plazas, parking lots and other pedestrian ways on said Center property and associated parking lots. (Ord. No. 4858, 3-6-00)

(9) Exchange and Mountain Streets, including the premises of the Downtown Public Parking Deck (128 Exchange Street) and adjacent publicly-owned property including the Bath Street pedestrian mall. Provided, however, that bicycles shall be permitted within the Parking Deck when utilized for personal transportation purposes.

(10) Broadway and Broadway Terrace, including the premises of the Transportation Plaza and Depot. Provided, however, that bicycles shall be permitted within the Plaza area when utilized for personal transportation purposes and provided, further, that this prohibition shall not apply to the Transportation Plaza Trail portion of the Hot Springs Greenway located within the Transportation Plaza. (Ord. No. 5146, §1, 1-6-03)

(b) *Exceptions*. This ordinance shall not apply to any device necessary for the personal mobility of any individual (e.g., wheelchairs or other such aids for the disabled) or required for law enforcement purposes. Provided further, that the city manager may, from time to time, allow the use of apparatus prohibited in (a) hereof for special events, festivals, exhibitions or similar activities for a defined and limited time. (Ord. No. 4546, §§ 1,2, 5-20-96)

(c) *Penalty*. The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors. (Ord. No. 4944, § 5, 1-22-01)

4-7-7--4-7-9. Reserved.

4-7-10. Smoking and use of tobacco products in municipal buildings and facilities.

4-7-10.1. Tobacco product use prohibited.

In addition to the provisions of the Arkansas Clean Indoor Act of 2006 (A.C.A. §20-27-1801 et seq.), smoking and/or the use of tobacco products in any manner is hereby strictly prohibited in all municipal buildings, facilities or enclosed areas, including vehicles or enclosed machinery owned or leased by the City of Hot Springs. The City Manager or his agents or such other persons having authority with respect to a particular municipal building or facility shall post or have posted "No Smoking or Tobacco Use" signs in conspicuous locations throughout such buildings or facilities. Such signs shall include the phrase "No Smoking or Tobacco Use" and the international no smoking symbol.

4-7-10.2. Definitions.

For purposes of this ordinance, the following words and terms shall have the following meanings:

Municipal buildings, facilities, enclosed areas, vehicles or enclosed machinery shall mean all buildings, facilities or enclosed areas including vehicles or enclosed machinery owned or leased by the City of Hot Springs whether or not such buildings, facilities, enclosed areas, vehicles or machinery are open to or used by the general public.

Smoking and/or use of tobacco products shall mean the inhaling, exhaling, burning, or carrying of any lighted tobacco product, including cigarettes, cigars, pipe tobacco, or any other lighted combustible plant material, as well as the chewing, spitting or any other use of tobacco products in any manner whatsoever.

4-7-10.3. Penalty.

The penalty for violation of this ordinance shall, upon conviction in the Hot Springs District Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors.

(Ord. No. 5469, §§1-4, 8-7-06)

Cross reference-§13-1-43, smoking prohibited in taxicabs.

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CHAPTER 8
SEXUAL MATERIALS

4-8-1. Display of sexual materials to minors.

(a) *Definitions*. The following terms as used in this section shall have the following meanings:

(1) *Minor* means any person under the age of seventeen (17) years.

(2) *Nudity* means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering or the showing of the female breasts with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

(3) *Sexual conduct* means acts of masturbation, homosexuality, sexual intercourse or physical contact of a person clothed or unclothed genitals, pubic area, buttocks, or, if such person be a female, breasts.

(4) *Sexual excitement* means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(5) *Sadomasochistic abuse* means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

(6) *Harmful to minors* means the quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse when it:

a. Predominantly appeals to the prurient, shameful or morbid interest of minors; and

b. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

c. Is utterly without redeeming social importance for minors.

(7) *Knowingly* means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:

a. The character and content of any material described herein which is reasonably suspectible of examination by the defendant; and

b. The age of the minor; provided however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.

(b) *Display to minors*. It shall be unlawful for any person knowingly to display in public view at newsstands or any other business establishment frequented by minors or where said minors are or may be invited as a part of the general public, any picture, photograph, drawing, sculpture, visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors; or any book, pamphlet, magazine or printed matter however reproduced; or sound recording which contains any matter numerated herein; or explicit or detailed verbal descriptions or narrative of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to minors. It shall also be unlawful for any person to fail to take prompt action to remove from public view any of such material after receiving notice of the existence of this type of material in his possession.

(c) *Defense.* It shall be an affirmative defense to prosecution under this section for the defendant to show that a violation of this section was made with the consent of a parent or guardian or that the minor involved was married.

(d) *Exceptions.* This section shall not be applicable to works of art or matters of anthropological significance, cultural programs or presentations sponsored by a government agency or civic group, or material presented in a program of education in a church, school or college. (Ord. No. 3442, § 1-4, 2-6-78)

(e) *Penalties for violation.* The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors. (Ord. No. 4944, § 7, 1-22-01)

State law reference-Similar provisions, A.C.A., § 5-68-501.

4-8-2. Public indecency.

4-8-2.1. Public indecency - Defined.

(a) A person who knowingly or intentionally, in a public place;

(1) engages in sexual intercourse;

(2) engages in deviate sexual conduct;

(3) appears in a state of nudity; or

(4) fondles the genitals of himself or another person; commits public indecency, a Class A misdemeanor.

(b) *Nudity* means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state. (Ord. No. 4397, § 1, 6-6-94)

4-8-2.2. Public indecency - Penalty.

The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors. (Ord. No. 4944, § 8, 1-22-01)

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CHAPTER 9
SOLICITATIONS

4-9-1. Soliciting funds for religious or charitable purposes within city limits without notification to the city clerk.

(a) Any person representing a religious or charitable organization who desires to solicit funds from any person who is not a member of the solicitor's religious or charitable organization, or who desires to accept donations from such nonmembers which distributing literature or merchandise shall notify the Hot Springs city clerk prior to any solicitation. The person engaged in such activity shall, once each calendar year, list on a form provided by the Hot Springs city clerk, his or her name, permanent address, telephone number, name of the group represented, and the name and address of an officer or official within that group who can verify that the solicitor is, in fact, a representative of the group which he or she purports to represent.

(b) After fulfilling the notice requirements contained in (a) above, the person desiring to solicit and/or accept donations while distributing literature or merchandise shall be permitted to carry on such activities within the corporate limits of this city daily from 8:00 a.m. until 8:00 p.m. (Ord. No. 3514, §§ 1, 2, 7-2-79)

(c) The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors. (Ord. No. 4981, § 1, 6-4-01)

4-9-2. Outdoor solicitations regulations.

4-9-2.1. Solicitations - definitions.

Business shall mean any person, firm or corporation for which a business license has been issued pursuant to the applicable ordinances of the city of Hot Springs. Each business license issued by the city shall constitute a single-business location for the purposes of this ordinance even if the actual conduct of the single business requires multi-locations.

Business license shall mean any license, operating permit, franchise agreement or similar instrument issued by the city of Hot Springs pursuant to the ordinances of the city governing the particular business involved.

Cross reference-Transient merchants, § 4-10-1.

State law reference-A.C.A. 4-28-401 et seq, solicitation of contributions.

Public right-of-way means the streets and sidewalks within the city of Hot Springs designed for use by vehicular and pedestrian traffic including any unused portion of a dedicated street right-of-way.

Solicitation(s) is hereby defined to include any activity whereby an individual(s) appeals, entreats, implores or petitions on behalf of a person, firm or corporation in an effort to sell, bargain or otherwise convey goods or services.

Solicitor shall mean any person who conducts solicitations on behalf of a business as defined above.

4-9-2.2. Solicitation - regulation.

Outdoor solicitation of any pedestrian or motorist within the city of Hot Springs is hereby prohibited except as hereinafter provided. Outdoor solicitation of pedestrians may be conducted by one individual solicitor per business license. Such outdoor solicitation must be conducted directly in front of the business if located on street level or on the premises of the business. It is the intent of this ordinance that only one solicitor be permitted per location or address; hence, one solicitor must act on behalf of all businesses when multiple businesses are conducted from a single business address or location; and only one solicitor shall be permitted for any business which operates from multiple locations. Under no circumstance shall any business be permitted any combination which allows more than one solicitor to act on behalf of a particular business. Solicitors may solicit only at the address to which the business license is issued. All solicitations shall be done in a conversational tone from a fixed position in a manner which does not impede or otherwise disrupt pedestrian or vehicular traffic. The use by a solicitor of any ancillary items (e.g., stools, racks, chairs, display boards, etc.) is hereby prohibited within the public right-of-way. The solicitor shall wear or otherwise display identification which clearly identifies the business on whose behalf solicitations are made and the solicitor's name. In addition, the solicitor shall wear or otherwise prominently display an identification badge issued by the city of Hot Springs as required by section 4-9-2.3 hereof.

4-9-2.3. Solicitation - permit.

Each business desiring the use of an outdoor solicitor shall so indicate on their business license application and shall specify the address from which the solicitation will be conducted. The appropriate city official shall issue to any business, meeting the requirements of this ordinance, one solicitation identification badge per business license issued. Said badge shall be considered a permit to conduct solicitations in accordance with this ordinance. In this regard, for those businesses located within the Downtown Business District[1], the district commissioners may revoke said permit upon violation of any provision of this ordinance after hearing for that purpose. (Ord. No. 3906, §1, 16-15-1987, Ord. No. 5876, §1, 5-15-2012, Ord. No. 5877, §1, 05-15-2012 and Ord. No. 5922, §1, 2-5-2013)

Amendment note-The last sentence of § 4-9-2.3 has been effectively but not specifically superseded by Ord. No. 4352 (§ 4-9-3).

[1]**Editor's note:** The C.B.I.D. No. 2 was formed pursuant to Ordinance No. 3906, Dissolved by Ordinance No. 5876, Regulations maintained by Ordinance No.5877, and area renamed as the Downtown Business District by Ordinance No. 5922.

4-9-2.4. Solicitation activities not regulated.

It is the intention of this ordinance to regulate habitual solicitation of pedestrians and motorists within the city of Hot Springs. It is not the purpose of this ordinance to restrict activities otherwise permitted or regulated by the applicable governing authority. In this regard, the provisions of Ordinance No. 3833 (Seasonal Parking Lots), Ordinance No. 4052 (Solicitations in the Vicinity of Oaklawn Park), Ordinance No. 3514 (Soliciting Funds for Religious or Charitable Purposes), Ordinance No. 3386 (Solicitation of Funds upon Streets) and Ordinance No. 4352 (Solicitation within the C.B.I.D. No. 2)[1] shall supersede the requirements of this ordinance; and this ordinance shall not be applicable to any activity regulated by said ordinances, as such regulations may now or hereafter exist; provided further, that this ordinance shall not apply to special events, sales, shows, markets or similar activities approved by the applicable governing body. (Ord. No. 4246, §§ 1-4, 8-17-92)

Cross references-Downtown Business District, § 4-9-3; sidewalk sales, etc., § 4-7-4; Oaklawn Park, § 4-9-9; religious or charitable purposes, § 4-9-1; solicitations on streets, § 4-9-8.

4-9-2.5. Solicitation - penalty.

The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors. (Ord. No. 4944, § 9, 1-22-01)

4-9-2.6. Solicitation - severability.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance, which can be given effect without the invalid provision or application; and to this end, the provisions of this ordinance are declared to be severable. (Ord. No. 4246, § 6, 8-17-92)

4-9-3. Solicitations within the Downtown Business District[1].

4-9-3.1. Definitions.

(a) *Solicitation* is hereby defined to include any activity whereby an individual appeals, entreats, implores, or petitions on behalf of a person, firm, or corporation, in an effort to sell, bargain or otherwise convey goods or services conducted outside the confines of a permanent structure.

(b) *District* is hereby defined as the Downtown Business District[1] to the city of Hot Springs, Arkansas, created by Ordinance No. 3906 of the city of Hot Springs, Arkansas. (Ord. No. 3906, §1, 16-15-1987, Ord. No. 4352, § 1, 11-22-1993, Ord. No. 5876, §1, 5-15-2012, Ord. No. 5877, §1, 05-15-2012 and Ord. No. 5922, §1, 2-5-2013

Cross reference-Transient merchants, § 4-10-1

[1]**Editor's note:** The C.B.I.D. No. 2 was formed pursuant to Ordinance No. 3906, Dissolved by Ordinance No. 5876, Regulations maintained by Ordinance No.5877, and area renamed as the Downtown Business District by Ordinance No. 5922.

4-9-3.2. Solicitation prohibition.

Solicitation of any pedestrian or motorist within the geographical boundaries of the Downtown Business District[1] to the city of Hot Springs is hereby expressly prohibited. (Ord. No. 3906, §1, 16-15-1987, Ord. No. 4352, § 2, 11-22-93, Ord. No. 5876, §1, 5-15-2012, Ord. No. 5877, §1, 05-15-2012 and Ord. No. 5922, §1, 2-5-2013)

4-9-3.3. Activities not regulated.

It is the intention of this ordinance to regulate habitual solicitation of pedestrians and motorists within the Downtown Business District[1]to the city of Hot Springs. This ordinance shall not apply to special events, sales, shows, markets or similar activities approved by the applicable governing body. (Ord. No. 3906, §1, 16-15-1987, Ord. No. 4352, § 2, 11-22-93, Ord. No. 5876, §1, 5-15-2012, Ord. No. 5877, §1, 05-15-2012 and Ord. No. 5922, §1, 2-5-2013)

4-9-3.4. Penalty.

The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors. (Ord. No. 4944, § 10, 1-22-01)

4-9-3.5. Severability.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance, which can be given effect without the invalid provision or application; and to this end, the provisions of this ordinance are declared to be severable. (Ord. No. 4352, § 5, 11-22-93)

4-9-3.6. Amendment.

The provisions of Ordinance No. 4246, adopted August 17, 1992, shall not be applicable to the Central Business Improvement District No. 2[1]. Section 4 (section 4-9-2.4) of Ordinance No. 4246 is hereby amended to include reference to this ordinance as superseding the requirements of Ordinance No. 4246. (Ord. No. 4352, § 6, 11-22-93)

4-9-4--4-9-7. Reserved.

4-9-8. Soliciting funds from occupants of vehicles.

(a) No person, firm, corporation or other organization shall undertake to solicit funds from the occupants of automobiles or other motor vehicles which are moving or parked on any publicly owned street within the corporate limits of this city.

Cross reference-Transient merchants, § 4-10-1.

[1]**Editor's note:** The C.B.I.D. No. 2 was formed pursuant to Ordinance No. 3906, Dissolved by Ordinance No. 5876, Regulations maintained by Ordinance No.5877, and area renamed as the Downtown Business District by Ordinance No. 5922.

(b) It is not the intent of the city council by this section to restrict lawful solicitations of funds from pedestrians upon the sidewalks of this city. (Ord. No. 3386, §§ 1, 2, 12-20-76)

(c) The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors. (Ord. No. 4958, § 1, 2-20-01)

4-9-9. Sale, soliciting or distribution of materials prohibited on certain streets and sidewalks at certain times.

(a) *Definition.* For the purposes of this section, the *racing season* is defined as the period of time in which thoroughbred racing is allowed at Oaklawn Jockey Club. It does not include the period when simulcast racing only is featured at Oaklawn Park.

(b) *Restriction*. During racing season, individuals are prohibited from selling, soliciting and/or distributing any materials between the hours of 10:30 a.m. and 7:00 p.m. on Central Avenue and adjoining sidewalks from East Jerome Street to Trivista Street; on Higdon Ferry Road and adjoining sidewalks form Central Avenue to Woodlawn; and on the first one hundred (100) feet of all streets and sidewalks intersecting Central Avenue between Trivista and East Jerome and intersecting Higdon Ferry Road between Central Avenue and Woodlawn as depicted in the attached map. Said one hundred (100) feet to be measured along any intersecting street from the back of the Central or Higdon Ferry Road curbline. (Ord. No. 4052, §§ 1, 2, 2-20-90)

(c) *Penalty*. The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors. (Ord. No. 4958**,** § 2, 2-20-01)

Cross reference-Transient merchants, § 4-10-1

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CHAPTER 10
TRANSIENT MERCHANTS

4-10-1. Definitions.

The following words and phrases shall have the following meaning for purposes of this ordinance:

(a) *Day* means a 24-hour period beginning at 12:01 a.m. and ending at 11:59 p.m. on the same date.

(b) *Mobile retail food establishment* means a vehicle mounted food service establishment designed to be readily movable and approved by law to travel highways, roadways, and/or waterways in the state of Arkansas that is a self contained retail food establishment equipped with permanently mounted fresh water holding tanks and waste holding tanks.

(c) *Non-profit or community organization* means any organization recognized and designated as a not-for-profit organization under the applicable federal and state income tax rules and regulations.

(d) *Peddler* means any person, firm, corporation, partnership, or other entity who operates as a transient merchant and shall be considered synonymous with transient merchant.

(e) *Permanent business* means any business, trade, profession, vocation, or occupation located within or conducting business within the city operating on a continuing basis, from a fixed local business address, paying the appropriate occupation tax or business license fee and not otherwise temporary, transient, or portable in nature as defined in this ordinance.

(f) *Seasonal food operation* means an establishment operating on a seasonal basis not to exceed 150 day period of time per calendar year, limited to the serving of dispensed drinks, coffee, snow cones, shaved ice, and other similar ice based products and licensed as a "seasonal operation" by the Arkansas State Board of Health.

(g) *Temporary, transient or portable business* means any business, trade, profession, vocation, or occupation conducted either in one (1) location or in traveling from place to place within the corporate limits of the city, from a motor vehicle, tent, open-air stand, area or table, trailer, concession, or other

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State law reference-Privilege tax mercantile business six months or less, A.C.A. § 26-77-201.
Cross reference - Permit prohibited if indebted to city, §4-11-2.

transient or portable structure, vehicle, or device and offering for sale or selling goods, wares, merchandise, services, entertainment, food or beverages, or any other thing or item of value for fees or remuneration, regardless of duration, and not otherwise established and classified as a permanent business.

(h) *Transient merchant* means any person, firm, corporation, partnership, or other entity which engages in, does, or transacts any temporary or transient business, trade, profession, vocation, or occupation within the corporate limits of the city, either in one (1) location or in traveling from place to place, from a motor vehicle, tent, open-air stand, area or table, trailer, concession, mobile retail food establishment, or other transient or portable structure, vehicle or device.

4-10-2. **Prohibited and permitted transient merchants.**

Except as permitted hereinafter, the conduct of any temporary or transient businesses within the corporate limits of the city is hereby prohibited. Provided, however, that the following activities are permitted subject to the provisions of this ordinance.

(a) *Salespersons.* Sales at wholesale to retail merchants by commercial travelers or selling agents in the usual course of business;

(b) *Trade shows.* Transient merchants registered with and part of a trade show or convention and conducted within the confines of the trade show or convention area;

(c) *Catalogue sales.* Sales of goods, wares, or merchandise by sample catalogue or brochure for future delivery;

(d) *Fairs, amusement parks, sporting events or special events.* Activities conducted primarily for or in support of amusement or entertainment activities or events and located within confines of the county fairgrounds, the convention center complex, city-owned parks or plazas, or any established amusement park or sporting complex;

(e) *Non-profit events and concessions.* Any general sale, trade show, fair, auction, concession stand, fund raiser or bazaar sponsored and operated solely by any school, church, religious or other local non profit or governmental organization. Provided, however, that any such activity conducted from other than the confines of the sponsoring organization's permanent location shall be strictly by donation only and signs to that effect shall be posted at the site. In this regard, no sale of merchandise or services shall be permitted from other than the organization's permanent location;

(f) *Garage sales*. Garage sales held on the premises devoted to residential use;

(g) *Seasonal food operation.* Any establishment operating on a seasonal basis not to exceed a 150-day period of time per calendar year, limited to the serving of dispensed drinks, coffee, snow cones, shaved ice, and other similar ice based products and licensed as a "seasonal operation" by the Arkansas State Board of Health;

(h) *Mobile retail food establishment.* Any mobile retail food service establishment duly licensed and operated in accordance with the rules and regulations of the Arkansas State Board of Health;

(i) *Other mobile food services.* Establishments engaged in selling meals, snacks or confections for immediate consumption from motorized vehicles directly to the consumer. Such establishments must be either mobile in nature traveling throughout the city such as neighborhood ice cream trucks or located on the premises of a specific client such as a commercial or industrial institution. Mobile food services may not otherwise stage or sell from a fixed location to the general public;

(j) *Mobile food delivery.* Establishments engaged in the sale and delivery of packaged foods directly to the consumer at the consumer's establishment or residence;

(k) *Public marketplaces.* Permanent and transient merchants registered with and participating in an approved public marketplace;

(l) *Agricultural products.* Sales of vegetables, grain, fruit, or other farm products or livestock of any description (A.C.A. §26-77-201(c));

(m) *Home sales.* Sales made by a seller at residential premises pursuant to an invitation issued by the owner or legal occupant of the premises or to "home solicitation sales" (A.C.A. §4-89-102); and

(n) *Services and professions.* Any otherwise permanent service or profession which is performed by invitation of a customer at the customer's place of residence, business or work.

4-10-3. Regulations.

Transient merchants permitted by this ordinance shall comply with the following additional regulations:

(a) *Zoning and building code compliance.* Any temporary or transient business must comply with applicable portions of the zoning code including but not limited to building setback requirements and zoning district classifications. Any such business connected in any way to utilities shall comply with all

applicable building and technical codes (plumbing, electrical, etc.). For purposes of zoning building setback requirements, any motor vehicle, tent, open-air stand, area or table, trailer, concession, or other transient or portable structure, vehicle, or including associated outdoor seating areas shall be considered a building.

(b) *Business license.* All permitted transient merchants shall apply for a business license and pay the appropriate occupation tax. Such merchants shall submit with their business license application proof of Arkansas sales tax permit, as otherwise required by law; State Health Department certifications, as appropriate; and written permission from the property owner on whose property the temporary or transient business will be located. It shall be the responsibility of the transient merchant to keep such information on file with the city current. The transient merchant shall display in a easily visible location such annual permit as may be prescribed by the appropriate city official.

(c) *Association.* A transient merchant not otherwise permitted by this ordinance shall not be relieved or exempted from the provisions of this ordinance by reason of associating himself temporarily with any local dealer, auctioneer, trader, contractor, non-profit organization, or merchant or by conducting such temporary or transient business in connection with or in the name of any local dealer, auctioneer, trader contractor, non-profit organization, or merchant.

4-10-4. Other ordinances.

It is the intention of this ordinance to regulate temporary and transient business within the city of Hot Springs. It is not the purpose of this ordinance to restrict activities otherwise permitted or regulated by the applicable governing authority. In this regard, the provisions of Ordinance No. 5158 (Zoning Code – Seasonal Parking Lots), Ordinance No. 4052 (Solicitations in the Vicinity of Oaklawn Park), Ordinance No. 3514 (Soliciting Funds for Religious or Charitable Purposes), Ordinance No. 3386 (Solicitation of Funds upon Streets), Ordinance No. 4691 (Fireworks Stands), Ordinance No. 4246 (Outdoor Solicitations) and Ordinance No. 4352 (Solicitation within the C.B.I.D. No. 2) shall supersede the requirements of this ordinance; and this ordinance shall not be applicable to any activity regulated by said ordinances, as such regulations may now or hereafter exist.

4-10-5. Activities of a temporary nature.

Any otherwise permanent business which engages or attempts to engage in activities that are temporary, transient, or portable in nature (e.g., roadside stands), regardless of the intended duration, shall comply with the requirements of this ordinance for that portion of business that is temporary, transient, or portable in nature. Any business which attempts to operate as a permanent business from a temporary or portable structure shall be considered a transient merchant and subject to the provisions of this ordinance.

4-10-6. Permit revocation.

Any business license issued to a transit merchant may be revoked for any of the following reasons:

(a) Violation of the condition and regulations under which the license was granted;

(b) Failure to give full, complete and accurate information on the license application; and

(c) Violation of any city ordinance or state law including, but not limited to, any provision of this ordinance.

The full amount of the license fee shall be forfeited and no part thereof shall be refunded for any license revoked.

4-10-7. Penalty.

The penalty for violation of this ordinance shall, upon conviction in the Hot Springs District Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors.

(Ord. No. 5568, §§1-7, 5-21-07)

CHAPTER 11
GENERAL OFFENSES

4-11-1. Curfew for minors.

(a) It is hereby made unlawful for any person under the age of eighteen (18) years to be or remain in or upon any of the streets, alleys or public places in the city at night after the hour of 11:30 p.m. until the hour of 5:00 a.m., unless such person is accompanied by a parent or guardian or other person having the legal custody of such minor person, or is in the performance of an errand or duty directed by such persons, guardian or other person having the care or custody of such minor person, or whose employment makes it necessary to be upon the alleys or other public places during the nighttime after the specified hours; provided, this exception shall not apply when a person under such age shall be playing or unnecessarily loitering in or upon such streets, alleys or public places, whether alone or accompanied by a parent, guardian or any person whomsoever.

(b) It is unlawful for any parent, guardian or other person having the legal care and custody of any person under eighteen (18) years of age to allow or permit any such child, ward or other person under such age, while in such legal custody, to go or be in or upon any of the streets, alleys or public places in the city within the time prohibited in (a) hereof, unless there exists a reasonable necessity therefor.

(c) The penalty for violation of this ordinance shall, upon conviction in the Hot Springs District Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors. (Ord. No. 5336, §§1-3, 3-21-05)

4-11-2. Permits, licenses - Prohibited if indebted to city.

(a) No person, firm or corporation, who is in anyway indebted to the city of Hot Springs or any of its political subdivisions, shall be issued any permit or license by any agency, department or division of the city, nor shall such person, firm or corporation be allowed to establish a new or to reconnect a discontinued municipal utility service. For purposes of this ordinance, “indebted” shall mean any remuneration lawfully due to the city or any of its political subdivisions which is over 90 days in arrears.

(b) Any person, firm or corporation affected by this ordinance may file a notice of appeal of any such a denial of a permit, license or municipal utility service with the city clerk, to be considered by the Hot Springs Board of Directors, which may, at its discretion, elect to hear such an appeal as part of its agenda at any duly called meeting of the board**.** (Ord. No. 5493, §§1,2, 10-2-06)

4-11-3--4-11-7. Reserved.

4-11-8. Railroad trestle - Unlawful entry (trespass) prohibited.

(a) It is unlawful for any person, firm or corporation to walk, climb or otherwise enter upon any railroad trestle or trestle support structure located within the corporate limits of Hot Springs, Arkansas, without the express or implied permission and invitation of the owner thereof or for legitimate governmental purposes.

(b) The city manager shall, upon written request by the owner thereof, cause to be placed on any railroad trestle a notice in substantially the following form:

"NO TRESPASSING -- UNLAWFUL TO ENTER ONTO TRESTLE
VIOLATORS MAY BE PROSECUTED (Ord. No. 4644)"

(c) The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors. (Ord. No. 4644, §§ 1,2, 7-7-97; Ord. No. 4958, § 4, 2-20-01)

4-11-9. Railroad switching engines.

4-11-9.1. Railroad switching engines-Hours prohibited.

The switching of engines within the limits of the city during the early morning hours is hereby prohibited from twelve o'clock midnight to seven o'clock a.m. during each day. (Ord. No. 2608, § 1, 2-16-59)

4-11-9.2. Railroad switching engines-Penalty for violation.

The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors. (Ord. No. 4958, § 5, 2-20-01)

4-11-9.3. Railroad switching engines-Application.

Sections 4-11-9.1 and 4-11-9.2 shall not apply to the operation of trains, either passenger or freight, on regular or on special runs, but is solely designed to prohibit the switching of engines as provided in section 4-11-9. (Ord. No. 2411, § 3, 6-2-52)

4-11-10. Citizens ban radio equipment - Violation.

(a) Except as provided for in (b) hereof, violation of the following regulations of the Federal Communications Commission (FCC) are hereby prohibited within the city of Hot Springs, Arkansas:

(1) A regulation that prohibits a use of citizens band radio equipment not authorized by the FCC; and

(2) A regulation that prohibits the unauthorized operation of citizens band radio equipment on a frequency between 24 MHz and 35 MHz.

(b) This ordinance shall not apply to a station that is licensed by the FCC pursuant to Section 301 of the Communications Act of 1934 (47 U.S.C. 301).

(c) The enforcement of this ordinance with regard to citizens band radio equipment on board a "commercial motor vehicle," as defined in Section 31101 of Title 49, United States Code, shall require probable cause to find that the commercial motor vehicle or the individual operating the vehicle is in violation of the regulations described in (a) hereof.

(d) The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors. (Ord. No. 4954, §§ 1-4, 2-20-01)

4-11-11--4-11-14. Reserved.

4-11-15. Firearms - Discharging within city limits.

(a) It shall be unlawful within the city of Hot Springs, Arkansas, for any person to discharge any firearm. For purposes of this ordinance, "firearm" means any device designed, made, or adapted to expel a projectile by the action of an explosive or any device readily convertible to that use, including such a device that is not loaded or lacks a clip or other component to render it immediately operable, and components that can readily be assembled into such a device.

(b) Exceptions to this ordinance include the following:

(1) Any certified law enforcement officer while in the performance of his/her duties;

(2) Citizens while in the lawful protection of themselves or another as provided in the statutes of the State of Arkansas;

(3) Animal control officers of the city while in the performance of their duties;

(4) Duly formed and organized gun or rifle clubs while at a designated firing range provided the construction of the range facility has been approved by the city as meeting current safety standards applicable to such facilities and all applicable zoning and building regulations have been met for the facilities' construction;

(5) Devices designed and used for the construction trades such as nail-set devices, provided such construction devices are used exclusively for their intended purpose;

(6) Air guns or B-B guns, when used under the supervision of an adult and on private property.

(c) The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction , be such fines and penalties as established by the general penalty clause for the Hot Springs code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors, (Ord. No. 4967,§§ 1-3, 5-7-01)

CHAPTER 12
COMMERCIAL DISPLAYS

4-12-1. Definitions

For purposes of this ordinance, the following words and terms shall have the following meanings:

(a) *Open Merchandise Display* shall mean the display of merchandise or associated display items by a Merchant on the interior or exterior of any structure at the Merchant's place of business in such a manner as to be directly visible, or visible through the windows of the structure, by persons within the interior of the premises, or on the exterior of the structure

(b) *Merchant* shall mean any commercial or retail establishment, or licensee as defined in HSC 5-3-1 *et seq*.

(c) *Prohibited Merchandise Display* shall mean any Open Merchandise Display containing vulgar, indecent, lewd, otherwise plainly offensive items, or items reasonably understood as supporting or encouraging the use of drugs or other illegal behavior; provided, however, that Prohibited Merchandise Display shall not include an Open Merchandise Display in a Restricted Access Merchandise Display Area that is not visible outside the enclosure of such Restricted Access Merchandise Display Area.

(d) *Restricted Access Merchandise Display* Area shall mean an area in the interior of a structure not visible from the exterior of the structure where entry by persons under the age of 18 years is strictly prohibited and which is designated by appropriate, plainly visible signage that indicates that entry into such area by persons under the age of 18 years is strictly prohibited.

4-12-2. Merchants Not To Allow Prohibited Merchandise Display; Merchants Not To Allow Entry Of Persons Under 18 Into Restricted Access Merchandise Display Area.

(a) It shall be an offense against the City and grounds for revocation of a Merchant's occupation license for a Merchant to install or allow a Prohibited Merchandise Display at the Merchant's place of business.

(b) It shall be an offense against the City and grounds for revocation of a Merchant's occupation license for a Merchant to allow any person under the age of 18 years to enter a designated Restricted Access Merchandise Display Area at any time.

4-12-3. **Enforcement Procedures**

(a) Violation of Section 2(a).

(1) Any law enforcement official or code enforcement officer of the City observing a Prohibited Merchandise Display shall give the Merchant installing or allowing the display written notice to immediately remove the Prohibited Merchandise Display by leaving such notice at the Merchant's place of business with a notation as to the date and time of such notice. The display shall be removed within twenty-four (24) hours of the notice unless, within such time period, the Merchant files with the City Clerk a written notice contesting the determination that the display is a Prohibited Merchandise Display.

(2) If a contest notice is filed, a hearing for determination of the contest and consideration of revocation of the Merchant's business license for the alleged violation shall be set before the Board of Directors, or its designee, after notice thereof. If the contest is determined adversely to the Merchant, prosecution of the Merchant for commission of the offense of violation of this Ordinance shall proceed by citation or arrest, and each day or portion of a day the Prohibited Merchandise Display remains displayed after expiration of the 24 hour notice period shall constitute and be punishable as a separate offense by a fine of not less than $1.00 and not more than $500.00, imprisonment for a period not exceeding six (6) months, or both. If the contest is determined favorably to the Merchant, no further action with respect to the Merchandise Display at issue will be taken.

(3) If no notice of contest is timely filed and the display is not timely removed, prosecution of the Merchant for commission of the offense of violation of this Ordinance shall proceed by citation or arrest, and each day or portion of a day the Prohibited Merchandise Display remains displayed after expiration of the 24 hour notice period shall constitute and be punishable as a separate offense by a fine of not less than $1.00 and not more than $500.00, imprisonment for a period not exceeding six(6) months, or both.

(b) Violation of Section 2(b).

(1) Prosecution of the Merchant for commission of the offense of violation of Section 2(b) shall proceed by citation or arrest, and each entry into a Restricted Access Merchandise Display Area by each person under the age of 18 years shall constitute and be punishable as a separate offense by a fine of not less than $1.00 and not more than $500.00, imprisonment for a period not exceeding six (6) months, or both.

(2) In the event a citation, arrest, or citizen complaint for or alleging violation of Section 2(b) occurs, separate proceedings for consideration of revocation of the Merchant's business license for violation of this Ordinance shall be set before the Board of Directors, or its designee, after notice thereof.

4-12-4. No Repeal or Implied Repeal of Other Laws Defining Offenses Against Health And Morals.

Nothing contained in this Ordinance shall be construed to expressly or impliedly repeal or limit the operation of any other present or future statute or ordinance of the State of Arkansas or the City of Hot Springs. Creation by a Merchant of a Restricted Access Merchandise Display Area shall not constitute a defense to offenses otherwise defined by such other statutes or ordinances.

4-12-5 Relationship to Other Ordinances

Where this Ordinance and any other conflict or overlap; whichever poses the greater restriction shall prevail.

4-12-6 Severability

If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

(Ord. No. 5967, §1-6, 9-17-2013)