

**TITLE 7****PUBLIC PEACE, SAFETY AND MORALS****Chapters:**

- 7.04 State Criminal Statutes and Penalties
- 7.08 Curfew
- 7.12 Loitering
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- 7.60 Advertising and Promotion Commission
- 7.64 Signs
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- 7.72 Sexually Oriented Businesses
- 7.76 Prohibited Substances

**CHAPTER 7.04****STATE CRIMINAL STATUTES AND PENALTIES****Sections:**

- 7.04.01 State criminal statutes adopted
- 7.04.02 State penalties adopted

7.04.01 State criminal statutes adopted Each and every act, matter or thing which the laws of the state of Arkansas make misdemeanors or violations is hereby prohibited within the corporate limits of the city and made unlawful under this ordinance. The criminal laws of the state of Arkansas, as now existing and as hereafter may be provided, insofar as same may make any act, matter or thing a misdemeanor or violation, are hereby adopted and incorporated into the Criminal Code of the ordinances of the city.

STATE LAW REFERENCE - See A.C.A. 14-55-501

7.04.02 State penalties adopted. Each and every person who shall, within the corporate limits of the city, violate any of the provisions of the laws into this ordinance incorporated and adopted shall on conviction thereof be punished by fine or imprisonment or both, as the case may be, together with the costs of the proceeding of not less than the minimum nor more than the maximum penalty as prescribed by the corresponding State Law in such cases make and provide; which penalty shall be enforced in the manner now prescribed by the law for the enforcement and collection of fines, forfeitures and penalties.

## CHAPTER 7.08

### CURFEW

#### Sections:

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

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

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

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

## CHAPTER 7.12

### LOITERING

#### Sections:

- |         |             |
|---------|-------------|
| 7.12.01 | Illegal     |
| 7.12.02 | Definitions |
| 7.12.03 | Penalty     |

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

#### 7.12.02 Definitions

- A. A person commits the offense of loitering if he:
1. lingers, remains or prowls in a public place or on the premises of another without apparent reason and under circumstances that warrant alarm or

concern for the safety of persons or property in the vicinity; and upon inquiry by a law enforcement officer, refuses to identify himself and give a reasonably credible account of his presence and purpose; or

2. lingers, remains, or prowls in or near a school building, not having any reason or relationship involving custody of or responsibility for a student, and not having written permission from anyone authorized to grant the same; or
3. lingers or remains in a public place or on the premises of another for the purpose of begging; or
4. lingers or remains in a public place for the purpose of unlawfully gambling; or
5. lingers or remains in a public place for the purpose of engaging or soliciting another person to engage in prostitution or deviate sexual activity; or
6. lingers or remains in a public place for the purpose of unlawfully buying, distributing, or using a controlled substance; or
7. lingers or remains on or about the premises of another for the purpose of spying upon or invading the privacy of another.

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

1. takes flight upon the appearance of a law enforcement officer; or
2. refuses to identify himself; or
3. manifestly endeavors to conceal himself or any object.

C. Unless flight by the actor or other circumstances make it impracticable, a law enforcement officer shall, prior to an arrest for an offense under subsection A (1) of this section, afford the actor an opportunity to dispel any alarm that would otherwise be warranted by requesting him to identify himself and explain his presence and conduct.

D. It shall be a defense to a prosecution under subsection 1(a) that the law enforcement officer did not afford the defendant an opportunity to identify himself and explain his presence and conduct, or if

it appears at trial that an explanation given by the defendant to the officer was true, and if believed by the officer at that time, would have dispelled the alarm.

STATE LAW REFERENCE-see A.C.A. 5-71-213

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

**CHAPTER 7.16**

**PROHIBITED WEAPONS**

Sections:

- 7.16.01 Unlawful to carry, exchange
- 7.16.02 Unlawful activities
- 7.16.03 Penalty
- 7.16.04 Rights of defense
- 7.16.05 Unlawful possession
- 7.16.06 Definition
- 7.16.07 Penalty
- 7.16.08 Bows, crossbows and archery devises

7.16.01 Unlawful to carry, exchange. It shall be unlawful for any person to carry any knife, the blade of which is over three inches in length, or to carry any instrument commonly called a crabapple switch, dirk, dagger, pick or any other dangerous or deadly weapon within the city, and it shall further be unlawful for any firm or corporation to sell, barter, exchange or otherwise dispose of such knives, crabapple switches, dirks, daggers or picks, or instruments to be used for a weapon within the corporate limits of the city.

7.16.02 Unlawful activities. It shall be unlawful for any person, adult or minor to shoot, discharge or permit the shooting of any shotgun, rifle, pistol or firearm firing a powder charge from percussion cap or rim fire, using a loaded shell in any part of the city of Clarksville. (Ord. No-. 447, Sec. 1)

7.16.03 Penalty. Any person found guilty of violating any of the provisions of Section 7.16.01 or 7.16.02 hereof, shall upon conviction be subject to a fine of One Hundred Dollars (\$100.00) for the first offense, Two Hundred Dollars (\$200.00) for the second offense, and Four Hundred Dollars (\$400.00) for each offense thereafter. (Ord. No. 06-533, Sec.12)

7.16.04 Right of defense Nothing in this ordinance shall be construed to prohibit any right of defense of person or property as defined in Article 2, paragraph 5 of the Constitution of the state of Arkansas of 1874. (Ord. No. 447, Sec. 3.)

7.16.05 Unlawful possession It shall be unlawful for any person to possess a firearm while upon the Nature Trail located along the eastern and western banks of Spadra Creek within the city limits of Clarksville, Arkansas. (Ord. No. 140, Sec. 1.)

7.16.06 Definition The term "firearm" as used herein means an instrument used for the propulsion of shot, shell or bullets or any other projectile by the action of gun powder exploded within it. (Ord. No. 140, Sec. 2.)

7.16.07 Penalty Any person violating this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall pay a fine of not less than Twenty-Five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) for each offense. (Ord. No. 140, Sec. 3.)

7.16.08 Bows, crossbows and archery devices

- A. From and after the passage of this ordinance it shall be unlawful for any person to hunt with a bow, crossbow, or other similar device within three hundred feet of the Clarksville Nature Trail or any recreational area within the city of Clarksville.
- B. Any person convicted of violating this ordinance shall be subject to a fine of One Hundred Dollars (\$100.00) for the first offense, Two Hundred Dollars (\$200.00) for the second offense, and Four Hundred Dollars (\$400.00) for each offense thereafter. (Ord. No. 2006-530, Secs. 1-2.)

**CHAPTER 7.20**

**FIREWORKS**

Sections:

- 7.20.01 Sale of fireworks
- 7.20.02 Use of explosion of fireworks
- 7.20.03 Permitted use
- 7.20.04 Penalty

7.20.01 Sale of fireworks It shall be permissible for any person to store, offer for sale, expose for sale, or sell any fireworks, no matter by what name known, within the corporate limits of the city of Clarksville provided that they do so in compliance with all state and federal legislation, regulations, statutes, and codes. (Ord. No. 2009-598, Sec. 1.)

7.20.02 Use or explosion of fireworks It shall be unlawful for any person to use or explode any fireworks, no matter by what name known, within the corporate limits of the city of Clarksville, except for a public display conducted by parties approved by the Clarksville City Council at times and dates approved by the Clarksville City Council. (Ord. No. 2009-598, Sec. 2.)

7.20.03 Permitted use Notwithstanding the provisions of 7.20.02, it shall be lawful for any person to use or explode any fireworks, no matter by what name known, within the corporate limits of the city of Clarksville on the following dated during specified hours:

- A. July 4 from 10:00 a.m. to 11:00 p.m.
- B. December 31 from 10:00 p.m. to January 1 at 1:00 a.m.  
(Ord. No. 2009-598, Sec. 3.)

7.20.04 Penalty Any person found guilty of violating the provisions of the ordinance shall upon conviction be fined in a sum not less than Five Dollars (\$5.00) nor more than One Hundred Dollars (\$100.00). (Ord. No. 2009-598, Sec. 4.)

7.20.03 Novelty lighters

- A. Prohibitions; inapplicability The retail sale, offer of retail sale, gift of or distribution of any novelty lighter within the territorial jurisdiction of the city of Clarksville is prohibited. The prohibition is inapplicable to:
  - 1. Novelty lighters which are only being actively transported through the city;
  - 2. Novelty lighters located in a warehouse closed to the public for purposes of retail sales.
- B. Definition Novelty lighter means a lighter that has entertaining audio or visual effects, or that depicts through the use of logos, decals, art work, or other means, or resembles in physical form or function articles commonly recognized as appealing to or intended for use by children ten years of age or younger. This includes, but not limited to, lighters that depict or resemble cartoon characters, toys, guns, watches, musical instruments, vehicles, toy animals, food or beverages, or that play musical notes or have flashing lights or other entertaining features. A novelty lighter may operate on any fuel, including butane or liquid fuel.
- C. Exceptions The term “novelty lighter” excludes

1. Any lighter manufactured prior to 1980, and
  2. Any lighter which lacks, fuel; or
  3. Any lighter which lacks a device necessary to produce combustion or a flame.
- D. Enforcement The provisions of this section shall be enforced by any police officer, any Code Enforcement Officer, and any other city official authorized to enforce any of the provisions of the Clarksville Municipal Code.
- E. Penalties Any person or entity violating any of the provisions of this ordinance is guilty of an infraction, and upon conviction therefore, shall be subject to a fine or penalty of not less than Twenty-Five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00). (Ord. No. 2007-554, Sec. 1.)

## CHAPTER 7.24

### CLAIMS AGAINST CITY

Sections:

- |         |                      |
|---------|----------------------|
| 7.24.01 | Liability coverage   |
| 7.24.02 | Settlement of claims |

7.24.01 Liability coverage The city shall carry liability coverage on all its motor vehicles in the minimum amounts prescribed in the Motor Vehicle Safety Responsibility Act. (A.C.A. 27-19-203, Et seq.)

STATE LAW REFERENCE A.C.A. 21-9-303; HDBK. 8-5-3

7.24.02 Settlement of claims all persons having claims against the city may file them with the Clerk/Treasurer. The Clerk/Treasurer shall present them to the Council. The Council may grant a hearing for the claimant and may authorize a settlement.

STATE LAW REFERENCE A.C.A. 21-9-302

## **CHAPTER 7.28**

### **STORAGE AND HANDLING**

### **OF VOLATILE COMBUSTIBLES**

Sections:

- 7.28.01          Restriction on keeping
- 7.28.02          Volatiles never to be allowed to pass into drainage system
- 7.28.03          Penalty

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

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

7.28.03 Penalty Any person who shall violate or fail to comply with any of the provisions of this chapter, or who shall violate or fail to comply with any order or regulation, shall upon conviction, be punished by a fine not exceeding One Hundred Dollars (\$100.00). The imposition of one (1) penalty for violation of this chapter shall not excuse the violation or permit it to continue; and all

such persons shall be required to correct or remedy such violations or defects within a reasonable time; and each day that any prohibited condition is maintained shall constitute a separate offense. The application of said penalty shall not be held to prevent the enforced removal of any prohibited condition as provided by this chapter.

## CHAPTER 7.32

### OUTSIDE FIRE SERVICE

#### Sections:

7.32.01	Authority to dispatch
7.32.02	Restrictions
7.32.03	Cost of air without mutual aid agreement
7.32.04	Mutual aid agreement
7.32.05	Payment of money collected

7.32.01 Authority to dispatch No Fire Department apparatus shall be taken beyond the corporate limits of the city to assist at any fire or for any other purpose, except by order of the Mayor or Fire Chief or such other person as they may designate, and subject to the restrictions and conditions hereinafter set forth. (Ord. No. 398, Sec. 1.)

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

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

of the Fire Department of the city for any injuries suffered or incurred by them while responding to such calls and while working at such fire, unless otherwise covered by insurance.

STATE LAW REFERENCE A.C.A.14-53-102

7.32.03 Cost of aid without mutual aid agreement Unless there exists a mutual aid agreement, every municipality, institution, corporation or individual requesting and receiving such services of the Clarksville Fire Department, beyond the corporate limits, shall pay for such services and the use of the fire fighting apparatus in the total sum of Fifty Dollars (\$50.00). This charge shall be appointed as follows: Twenty Dollars (\$20.00) to the city of Clarksville, Arkansas, and the remaining Thirty Dollars (\$30.00) to be divided equally among the firemen who provide such services. (Ord. No. 82, Sec. 1.)

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

- A. That the parties with whom such mutual aid agreements are entered into shall agree to indemnify the city against any or all loss, cost and damage which it may suffer or sustain by reason of damage to any apparatus arising from any cause whatsoever while such apparatus is going to or from the scene of the fire or while at the scene of the fire. The duty to indemnify shall be performed within fifteen (15) days after demand.
- B. As to each fire driver injured while driving to or from the fire, or while at the scene of the fire, and as to each fireman helping at the fire, injured between the time he reports to the foreman of this company and the time his service ends, the person entering into such mutual aid agreements shall pay within fifteen (15) days after demand to the city a sum sufficient to cover the medical and hospital expenses by such injured driver or fireman. (Ord. No. 398, Sec. 5.)

7.32.05 Payment of money collected Money collected under the terms of 7.32.03 of this chapter shall be paid to the respective fire drivers and firemen as to whom such collections were made, and in proportion to the amount of time applicable to them respectively.

## CHAPTER 7.36

### FIRE EQUIPMENT OPERATION

Sections:

- 7.36.01 Yield to fire vehicles
- 7.36.02 Restrictions around fire equipment
- 7.36.03 Penalty

7.36.01 Yield to fire vehicles All operators of motor vehicles within the city are required to exercise caution upon sounding of the Clarksville siren fire alarm or fire truck siren or siren of any member of the city Volunteer Fire Department and to move said vehicle out of the traffic line so as to permit the unobstructed passage of all fire fighting trucks and equipment and vehicles in the use by members of the Fire Department. Said operators shall cause their vehicles to remain still until all fire equipment and personnel shall have passed through the street or streets being used. (Ord. No. 369, Sec. 1.)

7.36.02 Restrictions around fire equipment It shall be unlawful for any operator of a motor vehicle to park or leave the same within two (2) blocks of any fire truck or fire fighting equipment or personnel while on duty at any fire. Or to park a vehicle within one (1) block of any fire hydrant which is in use for fire. No driver of any vehicle other than one on official business shall follow any fire trucks or firemen's car traveling in response to an alarm closer than five hundred (500) feet. No operator of any vehicle shall drive over or upon any fire hose when laid down upon any street driveway or any place when being used for fire use without the consent of fire officials. (Ord. No. 369, Sec. 2.)

7.36.03 Penalty Any person found guilty of violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00) for each offense. (Ord. No. 369, Sec. 3.)

## CHAPTER 7.40

### SOLICITING ON STREETS

Sections:

- 7.40.01 Permit required
- 7.40.02 Information required
- 7.40.03 Permit issued by Mayor
- 7.40.04 Penalty

7.40.01 Permit required No person, organization, firm or other party shall solicit donations on the streets of Clarksville, Arkansas, for any public charity or religious purpose whatsoever without having first secured a permit from the Mayor before doing any such soliciting. (Ord. No. 113, Sec. 1.)

7.40.02 Information required Before any person, organization, firm or group of persons shall be permitted to solicit as provided in the preceding section, they shall submit in writing to the Mayor an application stating the name and headquarters address of the group or organization they represent and solicit for and the names and addresses of any and all solicitors so engaged or to become engaged in soliciting in and upon the streets of the city of Clarksville, Arkansas. (Ord. No. 113, Sec. 2.)

7.40.03 Permit issued by Mayor The Mayor is hereby empowered to permit any such organization, firm or other group or party to solicit religious or charitable contributions upon the streets. Such permit so to do shall be issued in writing by the Mayor, shall be attested by the City Clerk and shall bear and show an impression of the city seal in addition to the signatures of the city Mayor and City Clerk. No charge or fee shall be made for any such permit. (Ord. No. 113, Sec. 3.)

7.40.04 Penalty any person, organization, firm, group or party failing to comply with this ordinance shall be guilty of a misdemeanor and upon conviction shall be fined not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00), together with the costs of the proceeding. (Ord. No. 113, Sec. 4.)

## **CHAPTER 7.44**

### **SOLICITING ON PRIVATE PROPERTY**

Sections:

- 7.44.01 Nuisance
- 7.44.02 Penalty
- 7.44.03 Exceptions

7.44.01 Nuisance The practice of going in and upon private residences in the city of Clarksville, Arkansas, by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise not having been requested or invited to do so by the owner or owners, occupant or occupants of said private residences for the purpose of soliciting orders for the sale of goods, wares and merchandise and/or disposing of and/or peddling or hawking the same is declared to be a nuisance and punishable as such nuisance as a misdemeanor.

7.44.02 Penalty Any person convicted of perpetrating a nuisance as described and prohibited in the first section of this ordinance, shall be fined in a sum of not less than Ten Dollars (\$10.00), nor more than Twenty-Five Dollars (\$25.00) together with the costs of the proceeding.

7.44.03 Exceptions That the provisions of this ordinance shall not apply to the sale, or soliciting of order for the sale of, fruits, vegetables or other products of the farm, including meat from domestic animals or livestock, so far as the sale of the commodities named herein is now authorized by law.

## CHAPTER 7.48

### HAWKERS, PEDDLERS AND SOLICITORS

Sections:

- |         |  |
|---------|--|
| 7.48.01 | License required                       |
| 7.48.02 | Application for license; fees; posting |
| 7.48.03 | Exceptions                             |

7.48.01 License required It shall be unlawful for any person, not having an established business in the city to haul or bring into the city either directly or indirectly, any goods, wares, merchandise, provisions, fruits or other food products with the intention of selling or disposing of same from any truck or vehicle, railroad car, rooms, store, warehouse, building, lot or in any other manner, whatsoever, either at wholesale or retail; by soliciting order therefore from house to house, or from store to store, or taking orders for the future delivery thereof, or selling directly or otherwise, at wholesale or retail, without a bona fide intention of selling or disposing of such goods, ware, merchandise, fish, meats, provisions, fruit, food products, or other such property through a regularly established place of business within the city, without first obtaining a license for such purpose, as is herein provided.

It shall also be unlawful for any person not having an established business in the city to solicit orders for sale of any service to be performed, subscriptions of any publication, insurance, or securities, or an other type of service or offering, whether performed or sold immediately or at some future date, without first obtaining a license for such purpose, as is herein provided.

7.48.02 Application for license; fees, posting Any person who does or attempts to do any of the acts specified in 7.48.01 shall first make application in writing to the City Clerk for a license as herein provided, in which application he shall state his age, place of residence, business, and any other information requested by the City Clerk, to show his good faith, and that his business is lawful and legitimate, which application shall be subscribed and sworn to by the applicant and filed in the office of the City Clerk. Upon the filing of such application, and payment of the fees as herein provided, the City Clerk shall thereupon issue a license to the applicant permitting him to engage in such business as is covered by the application, in accordance with the provisions of 7.48.01 for which the following fees shall be charged:

For each day, or part of a day, less than one (1) week, the sum of	\$ 50.00
For each week, under one (1) month, the sum of	\$100.00
For each month, less than one (1) year, the sum of	\$150.00
For one (1) year, the sum of	\$200.00

Each license shall indicate on its face the date of expiration of the same, and shall be placed in a conspicuous place on the truck, vehicle or premises, covering the place of business of the license. Each truck, vehicle, room or structure or building shall be a separate unit, treated and licensed as such under the terms of this section.

7.48.03 Exceptions. The provisions of Sections 7.48.01 and 7.48.02 shall not apply to any person having a regularly established place of business within the city and whose stock of goods, wares or merchandise has been assessed for taxation and the tax shall have been paid thereon during the current year; nor to any person selling wood, fuel or farm products produced by the person offering the same for sale, either on his own premises or on the premises of another, providing, however, such producer must have in his possession his grower's permit; nor to any person engaged in interstate commerce.

## CHAPTER 7.52

### FALSE FIRE AND BURGLAR ALARMS

Sections:

7.52.01	Fire alarms
7.52.02	Burglar alarms

7.52.01 Fire alarms. Any entity, whether an individual or business, which has a fire alarm system shall be allowed to report three (3) false alarms per year without incurring any penalty. For every false alarm over three (3) per year permitted, said entity shall be fined Four Hundred Dollars (\$400.00), said sum being calculated to cover the cost incurred by the city in responding to said alarm. (Ord. No. 248, Sec. 1)

7.52.02 Burglar alarms. Each entity, whether an individual or a business, which has a burglar alarm system shall be allowed to report two (2) false burglar alarms per month without incurring any penalty. For every false burglar alarm reported over the two (2) per month permitted, said entity shall be fined the sum of Fifty Dollars (\$50.00). (Ord. No. 248, Sec. 2 as amended by Ord. No. 99-398, Sec. 1.)

**CHAPTER 7.56****SALES TAX ON HOTELS AND MOTELS****Sections:**

- 7.56.01 Tax is levied  
 7.56.02 Collected by Commission

**7.56.01 Tax is levied**

- A. A tax of one percent (1%) is hereby levied on the portion of the gross receipts or gross proceeds received from the renting, leasing or otherwise furnishing of hotel, motel or short term condominium rental accommodations for sleeping, meeting or party room facilities for profit in the city of Clarksville, Arkansas, but such accommodations shall not include the rental or lease of such accommodations for periods of thirty (30) days or more; and
- B. A tax of one percent (1%) is hereby levied on the portion of the gross receipts or gross proceeds received by restaurants, cafes, cafeterias, delis, drive-in restaurants, carryout restaurants, concession stands, convenience stores, grocery store delis, and similar businesses from the sale of prepared food and beverages for on or off-premises consumption, except that such tax shall not apply to such gross receipts or gross proceeds of fraternal organizations qualified under Section 501 c(3) Internal Revenue Code. [A.C.A. 16-75-602 (a) (1) (A) (d) (1) (B)]. (Ord. No. 364, Sec. 1.)

**7.56.02 Collected by Commission**

- A. The one percent (1%) tax described in this ordinance hereof shall be paid by the persons, firms and corporations liable therefor and shall be collected by the Advertising and Promotion Commission of the city (hereinafter the "Commission"), or by a designated agent of the Commission, in the same manner and at the same time as the tax levied by the Arkansas Gross Receipts Act, A.C.A. 26-52-101, et. seq. [A.C.A. 26-75603 (a) (1)].
- B. The person paying the tax shall report and remit said tax on forms provided by the Commission and as directed by the Commission. The rules, regulations, forms of notice, assessment procedures, and the enforcement and collection of the tax under the Arkansas Gross Receipts Act shall, so far as is practicable, be applicable with respect to the enforcement and all actions shall be by, and through the proper Commission officials or agents. [A.C.A. 26-75-603 (b)]

- C. The tax levied by this article shall be collected from the purchaser or user of the food or accommodation by the person selling such food or furnishing such accommodation. Such person shall pay to the city by the twentieth (20th) day of each month all collections of the tax for the preceding month, accompanied by reports on forms to be prescribed the Commission. (Ord. No. 364, Sec. 2.)

## **CHAPTER 7.60**

### **ADVERTISING AND PROMOTION COMMISSION**

#### **Sections:**

- 7.60.01 Commission created  
7.60.02 Use for local taxes

#### **7.60.01 Commission created**

- A. There is hereby created the city of Clarksville Advertising and Promotion Commission, which shall be composed of seven (7) members as follows:
1. four (4) members shall be hotel, motel, or restaurant owners or managers who shall be appointed by the City Council of the city for staggered terms of four (4) years; and
  2. two (2) members of the Commission shall be members of the City Council and selected by the City Council; and
  3. one (1) member shall be from the public at large and shall be nominated by the Mayor of the city and approved by the City Council of the city for a term of four (4) years. [A.C.A. 26-75-602 (f) (1) (2) (3) ].
- B. The four (4) hotel, motel, or restaurant members at the first meeting of the Commission, shall draw lots for terms so that:
1. one (1) member shall serve for a term of one (1) year;
  2. one (1) member shall serve for a term of two (2) years;
  3. one (1) member shall serve for a term of three (3) years; and
  4. one (1) member shall serve for a term of four (4) years.

All successors to these members shall be appointed for terms of four (4) years. [A.C.A. 26-75-605 (b) (1) (2) (3) (4)] (Ord. No. 364, Sec. 3.)

7.60.02 Use for local taxes All local taxes collected pursuant to this ordinance shall be used for the following purposes. The use or pledge of all, or any part of, the revenues derived from the tax for the purposes prescribed in this ordinance for the construction, reconstruction, repair maintenance, improvement, equipping, and operation of public recreation facilities. This revenue shall be used or pledged for the purposes authorized in this ordinance only upon the recommendation of the Commission and the approval of the Mayor and City Council. [A.C.A. 26-75-606 (a) (1) (2) (3) (b)] (Ord. No. 364, Sec. 4.)

## CHAPTER 7.64

### SIGNS

#### Sections:

- 7.64.01 Ordinance 01-425 repealed
- 7.64.02 Restrictions

7.64.01 Ordinance 01-425 repealed Ord. No. 01-425 which declared a temporary moratorium on the placement of signs exceeding ten (10) feet in height and on the placement of all billboards within the city limits of the city of Clarksville is hereby amended as follows:

- A. The provisions of Ord. No. 01-425 are hereby repealed with the exception that there shall be no commercial billboards in the city limits of the city of Clarksville, Arkansas, other than those to be located in the Interstate 40 corridor, controlled by the state of Arkansas. Commercial billboards shall be permitted in that corridor only.
- B. Definitions:

**Billboards:** Any outdoor device or apparatus which is for lease or rent and is to be used for displaying, painting, messaging, or placing of placards, posters, or any other thing, with the purpose of displaying, advertising, or informing the public of an establishment, contents of an establishment, its goods, or its services.  
(Ord. No. 01-433, Sec. 1.)

**7.64.02 Restrictions.** No sign shall be erected within the city limits of Clarksville which places a mobile home, shed, automobile, truck, vehicle of any kind, or any other like items on a pedestal pole of similar display that elevates the item more than three (3) feet above ground level. This ordinance is designed to control only the placement of the above listed and like items on poles, pedestals, etc., and is not designed to regulate actual signs, their size, lettering, coloring or other aspects of actual signage. (Ord. No. 325, Sec. 1)

## CHAPTER 7.68

### SALE OF ALCOHOLIC BEVERAGES

Sections:

- |         |       |
|---------|-------|
| 7.68.01 | Times |
| 7.68.02 | Fine  |

**7.68.01 Times** It shall be unlawful for any facility that serves alcoholic beverages to sell, offer for sale, or give away any alcoholic beverages, beer or wine before the hour of 10:00 a.m. and after the hour of 2:00 a.m. (Ord. No. 04-495, Sec. 1.)

**7.68.02 Fine** Any facility that violates this ordinance shall be deemed guilty of a misdemeanor and shall be fined not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00). (Ord. No. 04-495, Sec. 2.)

## CHAPTER 7.72

### SEXUALLY ORIENTED BUSINESSES

Sections:

- |         |                        |
|---------|------------------------|
| 7.72.01 | Rationale and findings |
| 7.72.02 | Definitions            |
| 7.72.03 | Classifications        |
| 7.72.04 | License required       |
| 7.72.05 | Issuance of license    |
| 7.72.06 | Fees                   |
| 7.72.07 | Inspection             |

- 7.72.08 Expiration of license
- 7.72.09 Suspension
- 7.72.10 Revocation
- 7.72.11 Hearing; license denial, suspension, revocation; appeal
- 7.72.12 Transfer of license
- 7.72.13 Hours of operation
- 7.72.14 Regulations pertaining to exhibition of sexually explicit films on premises
- 7.72.15 Loitering and exterior lighting and monitoring requirements
- 7.72.16 Penalties and enforcement
- 7.72.17 Applicability of ordinance to existing businesses
- 7.72.18 Prohibited activities
- 7.72.19 Scienter required to prove violation or business licensee liability
- 7.72.20 Failure of city of Clarksville, Arkansas to meet time frame not to risk applicant/licensee rights
- 7.72.21 Location of sexually oriented businesses

#### 7.72.01 Rationale and findings

- A. Purpose It is the purpose of this section to regulate sexually oriented businesses in order to promote the health, safety, moral and general welfare of the citizens of the city of Clarksville, Arkansas, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the city of Clarksville, Arkansas. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.
- B. Findings and rationale Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Clarksville City Council, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.* 124 S.Ct. 2219 (June 7, 2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *Pap's A.M. v. City of Erie*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986) *Young v. American Mini Theatres*, 426 U.S. 50 (1976), *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); and *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F. 3d 1186 (9<sup>th</sup> Cir. 2004); *Ben's Bar, Inc. c. Village of Somerset*, 316 F. 3d 702 (7<sup>th</sup> Cir. 2003); *H and A Land Corp. v. City of Kennedale, TX*, 480 F.3d 336)5<sup>th</sup> Cir. 2000)

And based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to Austin, Texas – 1986; Indianapolis, Indiana – 1984; Garden Grove, California – 1991; Houston, Texas – 1983, 1997; Phoenix, Arizona – 1979, 1995-98; Chattanooga Tennessee – 1999-2003; Minneapolis, Minnesota – 1980; Los Angeles, California – 1997; Whittier, California – 1978; Spokane, Washington – 2001; St. Cloud, Minnesota – 1994; Littleton, Colorado 2004; Oklahoma City, Oklahoma – 1986; Dallas, Texas – 1997; Greensboro, North Carolina – 2003; Amarillo, Texas – 1997; New York New York Times Square – 1994; and Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses (June 6, 1989, state of Minnesota), the Association of Adult Businesses with Secondary Effects; Legal Doctrine, Social Theory and Empirical Evidence, (Alan C. Weinstein and Richard McCleary, 2011); Rural Hotspots – The case of Adult Businesses, (Richard McCleary, 2008); Do “Offsite” Adult Businesses Have Secondary Effect: Legal Doctrine, Social Theory and Empirical Evidence, (Richard McCleary and Alan C. Weinstein, 2009); Stigma management of male and female customers to a non-urban adult novelty store (Kristen Hefley 2006); Survey of Florida Appraisers, Effects of Land uses on market values Palm Beach County, Florida, (Duncan and Associates, 2008); Survey of Texas Appraisers, Secondary Effects of Sexually Oriented Businesses on market value, (Connie B. Coger FAICP and Eric Damian Kelly, Ph.D., FAICP, 2008); Survey of Appraisers, Fort Worth and Dallas – Effects of Land Uses on Surrounding Property Values, City of Fort Worth, Texas (Duncan and Associates, 2004). (Ord. No. 2013-694, Sec. 1.)

The Clarksville City Council finds:

- A. Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.
- B. Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented business, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.

- C. Each of the foregoing negative secondary effects constitutes a harm which the city of Clarksville, Arkansas, has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the city of Clarksville, Arkansas's rationale for this ordinance, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the city of Clarksville, Arkansas's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the city of Clarksville, Arkansas finds that the cases and documentation relied on in this ordinance are reasonably believed to be relevant to said secondary effects. (Ord. No. 2013-694, Sec. 1.)

7.72.02 Definitions For the purposes of this ordinance, the words and phrases defined in the sections hereunder shall have the meanings herein respectively ascribed to them unless a different meaning is clearly indicated by the context.