

MUNICIPAL CODE

**A Code of the General Ordinances
of the city of Hardy, Arkansas**

Date of Incorporation

July 12, 1894

Date of Codification

Prepared with
assistance of the

ARKANSAS MUNICIPAL LEAGUE

P. O. Box 38
2nd and Willow
North Little Rock, Arkansas 72115
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HARDY MUNICIPAL OFFICIALS

At The Time Of This Code's Preparation

Mayor

Jason Jackson

Recorder/Treasurer

Greg Bess

Police Chief

Tamara Taylor

Director of Public Works

Bill Gilbreath

Aldermen

David Bathrick

Laura Smith

Vicki Rice

Raymond Hicks

Bruce Thurow

Sue Taylor

ORDINANCE NO. _____

**AN ORDINANCE ADOPTING AND ENACTING A
NEW MUNICIPAL CODE OF ORDINANCES OF
THE CITY OF HARDY,
ARKANSAS, ESTABLISHING THE SAME; PROVIDING
FOR THE REPEAL OF CERTAIN ORDINANCES NOT
INCLUDED THEREIN, EXCEPT AS HEREIN
EXPRESSLY PROVIDED; PROVIDING FOR THE
EFFECTIVE DATE OF SUCH CODE AND A PENALTY
FOR THE VIOLATION THEREOF; PROVIDING FOR THE
MANNER OF AMENDING SUCH CODE; AND PROVIDING FOR
THE EFFECTIVE DATE OF THIS ORDINANCE, AND FOR OTHER
PURPOSES.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HARDY,
ARKANSAS:**

Section 1. That the Code of Ordinances is hereby adopted and enacted as the "Hardy Municipal Code". Such code shall be treated and considered as a new and original comprehensive ordinance which shall supersede all other general and permanent ordinances passed by the City Council on or before _____, to the extent provided in Section 2 hereof.

Section 2. That all provisions of such code shall be in full force and effect from and after the _____ day of _____. All previously enacted ordinances, whether or not included in this code, shall remain in full force and effect until specifically repealed, amended, or otherwise affected by action of the governing body.

Section 3. That whenever in such code an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such code the doing of any act is required or the failure to do any act is declared to be unlawful and no specific penalty is provided therefore, the violation of any such provision of such code shall be punishable as provided by Section 1.32.01 of such code.

Section 4. That any and all additions and amendments to such code, when passed in such form as to indicate the intention of the City Council to make the same a part thereof, shall be deemed to be incorporated in such code so that reference to the Hardy Municipal Code shall be understood and intended to include such additions and amendments.

Section 5. That in case of the amendment of any section of such code for which a penalty

is not provided, the general penalty as provided in Section 1.32.01 of such code shall apply to the section as amended; or in case such amendment contains provisions for which a penalty other than the aforementioned general penalty is provided in another section in the same chapter, the penalty so provided in such other section shall be held to relate to the section so amended, unless such penalty is specifically repealed therein.

Section 6. That three copies of such code shall be kept on file in the office of the Recorder/Treasurer preserved in looseleaf form or in such other form as the City Council may consider most expedient. It shall be the express duty of the Recorder/Treasurer, or someone authorized by the Recorder/Treasurer, to insert in their designated places all amendments or ordinances which indicate the intention of the City Council to make the same a part of such code when the same have been printed or reprinted in page form, and to extract from such code all provisions which may be from time to time repealed by the City Council. These copies of such code shall be available for all persons desiring to examine the same.

Section 7. That it shall be unlawful for any person to change or amend by additions or deletions any part or portion of such code, or to insert or delete pages or portions thereof, or to alter or tamper with such code in any manner whatsoever which will cause the law of the city of Hardy to be misinterpreted thereby. Any person violating this section shall be punished as provided in Section 4 of this ordinance.

Section 8. That all ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 9. It is hereby found that many of the ordinances of the city of Hardy are not easily accessible to citizens and municipal officials and thereby has rendered it difficult for many persons to determine the actual laws in effect; and that the city has made unusual efforts to have the laws of the city of Hardy adopted and published. Therefore, an emergency is hereby declared to exist and this ordinance being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

Approved and passed this _____ day of _____.

Mayor

ATTEST:

Recorder/Treasurer

P R E F A C E

The Hardy Municipal Code is a codification of the general ordinances of the city of Hardy, Arkansas.

The loose-leaf binder and numbering system have been designed to permit the code to be easily and efficiently kept up to date. We hope this will enable the municipal code to be of the greatest assistance to the citizens and municipal officials of the city of Hardy.

**ARKANSAS MUNICIPAL LEAGUE
CODE SERVICE**

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TITLE 1

GENERAL PROVISIONS

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CHAPTER 1.04

CODE DESIGNATED AND CITED

Sections:

- 1.04.01 Code designated and cited

1.04.01 Code designated and cited The ordinances embraced in the following chapters and sections shall constitute and be designated "Hardy Municipal Code" and may be so cited.

STATE LAW REFERENCE-See A.C.A. 14-55-701, *et seq.*

CHAPTER 1.08

RULES OF CONSTRUCTION

Sections:

- 1.08.01 Rules of construction

1.08.01 Rules of construction In the construction of this code and all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the City Council.

STATE LAW REFERENCE: A.C.A. refers to the official Arkansas Code Annotated which sets forth the laws passed by the General Assembly of the state of Arkansas.

CITY The words "**the city**" or "**this city**" shall mean the city of Hardy, Arkansas.

CITY COUNCIL Whenever the words "**City Council**" or "**Council**" are used they shall be construed to mean the City Council of the city of Hardy, Arkansas.

COUNTY The words "**the county**" or "**this county**" shall mean the county of Sharp or Fulton, Arkansas.

GENDER A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships, and corporations as well as to males.

MUNICIPALITY The words "**the municipality**" or "**this municipality**" shall mean the city of Hardy, Arkansas.

NUMBER Words used in the singular include the plural, and the plural includes the singular number.

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

OTHER CITY OFFICIALS OR OFFICERS References made to officials, boards, commissions, departments, etc., by title only shall be deemed to refer to the officials, boards, commissions and departments of the city of Hardy, Arkansas.

PERSON The word "**person**" shall extend and be applied to firms, partnerships, associations, organizations and bodies politic and corporate, or any combination thereof, as well as to individuals.

STATE The words "**the state**" or "**this state**" shall be construed to mean the state of Arkansas.

STREET The word "**street**" shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public highways in the city of Hardy, Arkansas.

TENSE Words used in the past or present tense include the future as well as the past or present tense.

CHAPTER 1.12

SUBHEADINGS OF SECTIONS

Sections:

1.12.01 Subheadings of sections

1.12.01 Subheadings of sections The subheadings of sections of this code, which are underlined, are intended merely to indicate the contents of the section and shall not be deemed, or taken to be titles of, such sections, nor as any part of the section.

CHAPTER 1.16

EFFECT OF REPEAL OF ORDINANCES

Sections:

1.16.01 Effect of repeal of ordinances

1.16.01 Effect of repeal of ordinances The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.

CHAPTER 1.20

SEVERABILITY OF PARTS OF CODE

Sections:

1.20.01 Severability of parts of code

1.20.01 Severability of parts of code It is hereby declared to be the intention of the City Council of the city of Hardy, Arkansas, that the titles, chapters, sections, paragraphs, sentences, clauses, and phrases of this code are severable, and if any phrase, clause, sentence, paragraph, chapter, title or section of this code shall be declared unconstitutional or invalid by the judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, chapters, titles and sections of this code.

CHAPTER 1.24

AMENDMENTS TO CODE

Sections:

1.24.01 Amendments to code

1.24.01 Amendments to code All ordinances passed subsequent to this code which amend, repeal or in any way affect this code, may be numbered in accordance with the numbering system of this code and printed for inclusion herein. In the case of repealed titles, chapters, sections or subsections or any part thereof by subsequent ordinances, such repealed portions may be excluded from the code by omission from reprinted pages affected thereby.

Amendment to any of the provisions of this code may be made by amending such provisions by specific reference to the section number of this code in the following manner, if substantially similar language is used: "That section _____ of the Hardy Municipal Code is hereby amended to read as follows: . . ." The new provisions may then be set out in full.

In the event a new section not heretofore existing in the code is to be added, the following or substantially similar language may be used: "That the Hardy Municipal Code is hereby amended by adding a section (or title or chapter) to be numbered _____, which said section (or title or chapter) reads as follows: . . ." The new provisions may then be set out in full.

All sections, titles, chapters or provisions desired to be repealed must be specifically repealed by section, title or chapter number, as the case may be. In the alternative, if an ordinance is repealed by reference to its ordinance number, then the code section, title, chapter or provision setting forth the words of the repealed ordinance shall be deemed to have been repealed and shall be omitted from this code.

CHAPTER 1.28

ALTERING CODE

Sections:

1.28.01 Altering code

1.28.01 Altering code Any ordinance and any portion of this code shall be repealed or amended only by an ordinance duly passed by the governing body of the city of Hardy, or by a vote of the qualified electors as provided in the Constitution or the laws of the state of Arkansas. It shall be unlawful for any person to change or amend by additions or deletions any part or portion of this code, or to insert or delete pages or portions thereof, or to alter or tamper with such code in any manner whatsoever which shall cause the law of the city of Hardy, Arkansas to be misrepresented thereby. Any person violating this section shall be punished as provided by Section 1.32.01 hereof.

CHAPTER 1.32

GENERAL PENALTY

Sections:

1.32.01 General Penalty

1.32.01 General penalty Whenever in this Municipal Code the doing of any act or the omission to do any act or duty is declared unlawful, and further, whenever the amount of the fine shall not be fixed and no penalty declared, any person convicted for a violation of such provision of this code shall be adjudged to pay a fine of not more than Five Hundred Dollars (\$500.00) or double that sum for each repetition of such offense or violation and if the act is continuous, not more than Two Hundred and Fifty Dollars (\$250.00) for each day of continuance. Provided, for any offense committed against the code for which there is set forth by state law a similar offense the penalty therefore shall be no less nor greater than that set forth by state law. STATE LAW REFERENCE-See A.C.A. 14-55-502.

CHAPTER 1.36

REFERENDUM PETITIONS

Sections:

1.36.01 Filing date 1.36.02 Publication 1.36.03 Election 1.36.04 Defeat

1.36.01 Filing date All referendum petitions under Amendment No. 7 to the Constitution of the state of Arkansas must be filed with the Recorder/Treasurer within sixty (60) days after passage of such ordinance or resolution.

1.36.02 Publication Whenever any referendum petition is filed, the Mayor, acting in behalf of the City Council, shall give notice by publication for one insertion in a newspaper published and having a general circulation in the city of Hardy of a time not less than five (5) days after the publication of such notice at which the City Council will hear all persons who wish to be heard on the question whether such petition is signed by the requisite number of petitioners. At the time named, the City Council shall meet at its regular place of meeting, and hear all who wish to be heard on the question, and its decision shall be final, unless suit is brought in the Chancery Court of Sharp County, Arkansas, within sixty (60) days to review its action.

1.36.03 Election If the City Council finds that such petition is signed by the requisite number of qualified petitioners, it shall order a special election to determine by a vote of the

qualified electors whether the ordinance or resolution shall stand or be revoked, and fix a date which shall be met less than ten (10) days after the date of the section of the Council calling the election. The Mayor shall publish a notice of the call of such election in not less than one (1) issue of a newspaper published and having a general circulation in the city of Hardy not less than five (5) days prior to the date of the election. Such notice shall designate by its number, caption and date of passage the ordinance or resolution which has been referred to the people for approval or rejection by their vote at such election. Otherwise, subject to the provisions of Amendment No. 7 to the Constitution of Arkansas, and other applicable laws, said election shall be conducted in the manner provided by law for the conduct of a regular municipal election.

1.36.04 Defeat If any ordinance or resolution referred to the people is defeated at the polls, the City Council shall make note of such fact and shall expunge such ordinances or resolution from its files by erasing the same with red ink.

TITLE 2

CLASSIFICATION, ADMINISTRATION

AND PERSONNEL

Chapters:

- 2.04 City Classification
- 2.08 Ward Boundaries
- 2.12 Social Security Coverage
- 2.16 Election of Officials
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- 2.52 Police Department
- 2.56 Advertising and Promotion Commission
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CHAPTER 2.04

CITY CLASSIFICATION

Sections:

- 2.04.01 Classification of city

2.04.01 Classification of city The city of Hardy, Arkansas, is hereby declared to be a city of the second class. (Ord. No. 66-1, Sec. 1.)

STATE LAW REFERENCE - See A.C.A. 14-37-103.

CHAPTER 2.08

WARD BOUNDARIES

Sections:

2.08.01 Division

2.08.01 Division The city of Hardy shall be divided into three (3) wards, each of which shall have two (2) Aldermen. Said wards shall be known as First Ward, Second Ward and Third Ward.

First Ward shall embrace and comprise the following territory in the city of Hardy, to-wit: All west of Johnston Street (within the corporate lines) from Spring River north to corporation line.

Second Ward shall embrace and comprise the following territory in the city of Hardy, to-wit: All east of Johnston Street (within the corporate lines) from Spring River north to corporation line.

Third Ward shall embrace and comprise the following territory in the city of Hardy, to-wit: All south of Spring River between the corporation lines. (Ord. No. 66-1, Sec. 6.)

CHAPTER 2.12

SOCIAL SECURITY COVERAGE

Sections:

- 2.12.01 Contract
2.12.02 Withholding taxes from wages
2.12.03 City to match withholding

2.12.01 Contract The Mayor and Recorder/Treasurer of the city of Hardy, Arkansas, are hereby authorized and directed to enter into an agreement with the state of Arkansas for the purpose of obtaining insurance coverage for the employees of the city under the terms and provisions of the Federal Social Security Act. (Ord. No. 67-4, Sec. 1.)

2.12.02 Withholding taxes from wages Commencing January 1, 1966, each employee's insurance contribution shall be deducted from his salary check in accordance with the terms and provisions of the Social Security Act. (Ord. No. 67-4, Sec. 2.)

2.12.03 City to match withholding Commencing January 1, 1966, there is hereby appropriated from the general fund of the city of Hardy, Arkansas, the sums of money necessary

to pay the city's share of the insurance tax in accordance with the terms and provisions of the Social Security Act. (Ord. No. 67-4, Sec. 3.)

CHAPTER 2.16

ELECTION OF OFFICIALS

Sections:

2.16.01 Election

2.16.01 Election At the next election for officials of the city of Hardy to be held on the date provided for by the statutes of the state of Arkansas, the qualified electors of the city of Hardy shall elect one Mayor, one Recorder/Treasurer, and two Alderman from each ward to serve for the terms prescribed by the statutes of the state of Arkansas for such offices of cities of the second class, or until their successors are elected and qualified for said offices. (Ord. No. 66-1, Sec. 7.)

CHAPTER 2.20

CITY COUNCIL

Sections:

- 2.20.01 Council meetings - regular
- 2.20.02 Council meetings - special
- 2.20.03 Freedom of information procedure
- 2.20.04 Order of business
- 2.20.05 Non-attendance at meetings

2.20.01 Council meetings – regular. All regular meetings of the Council shall be held at the municipal building on the first Tuesday of each month.

2.20.02 Council meetings – special. Special meetings of the City Council of the city of Hardy, Arkansas, may be held upon the call of the Mayor, whenever in his opinion it shall be necessary, or by three (3) members of the Council by giving at least three (3) days' notice of such special meeting in writing. The notice shall be served personally or through the mails to all members of the Council, the Mayor and City Clerk or Recorder. The notice shall state the time of the meeting and purpose thereof. The Mayor may not vote to enact an emergency clause or to amend or repeal a measure approved by a vote of the people.

2.20.03 Freedom of information procedure All meetings of the City Council of the city of Hardy, Arkansas, shall be public meetings. Notice of the time, place and date of all special meetings shall be given to representatives of the newspapers and radio stations located in Sharp

County, Arkansas and Fulton County, Arkansas, which have requested to be notified at least two (2) hours before the special meeting takes place. Any news media located elsewhere that regularly covers the meetings of the Council and which have requested notification shall also be notified at least two hours before the meeting takes place.

2.20.04 Order of business At all meetings of the Council the following shall be the order of business unless the Council by a majority vote shall order otherwise.

1. Call to order
2. Pledge of Allegiance
3. Invocation
4. Roll call
5. Reading of minutes of the previous meeting
6. Public speakers (per prior request or sign-in)
7. Reports of boards, department heads, and committees
8. Unfinished business
9. New business
10. Council comments
11. Announcements of upcoming events
12. Adjournment

2.20.05 Non-attendance at meetings City Council members will forfeit one-half (½) of one (1) month's Councilmember pay for each regular council meeting not attended. The exception to such forfeiture shall be in cases of severe illness that prevent Councilmember attendance. In this event, the Councilmember must notify the city in advance of the intended absence due to illness. Councilmembers shall be entitled to two (2) non-cumulative excused absences each year for any cause. Otherwise, any non-excused absences must be excused by a majority action of the City Council.

CHAPTER 2.24

MAYOR

- | | |
|---------|-------------------------|
| 2.24.01 | Office created |
| 2.24.02 | Election |
| 2.24.03 | Duties |
| 2.24.04 | Appointment of officers |
| 2.24.05 | Salary |

2.24.01 Office created The office of Mayor is hereby created for the city of Hardy, Arkansas.

2.24.02 Election On the Tuesday following the first Monday in November, 1978 and every four (4) years thereafter, the qualified voters of the city of Hardy, Arkansas, shall elect a Mayor for four (4) years.

2.24.03 Duties As chief executive of the city, the Mayor shall preside over all meetings of the City Council of the city of Hardy, Arkansas, and shall perform such duties as may be required of him by state statute or city ordinance.

STATE LAW REFERENCE: A.C.A. 14-43-504

2.24.04 Appointment of officers The Mayor shall appoint all officers and department heads of the city whose election or appointment is not provided for by state statute or city ordinance, unless the city council shall vote by a two-thirds majority of the total membership of the council to override the mayor's action.

STATE LAW REFERENCE: A.C.A. 14-42-110

2.24.05 Salary The rate of pay of the Mayor shall be determined by the City Council of the city of Hardy, Arkansas, from time to time in a manner that will comply with the Arkansas Constitution.

CHAPTER 2.28

RECORDER/TREASURER

Sections:

- 2.28.01 Combined offices
- 2.28.02 Duties
- 2.28.03 Compensation

2.28.01 Combined offices The offices of City Recorder and City Treasurer shall be combined and said office shall be termed City Recorder/Treasurer, and one person shall hold said office.

STATE LAW REFERENCE - Constitutional Amendment No. 56

2.28.02 Duties The duties of the City Recorder/Treasurer shall be:

- A. To keep an accurate and complete record of the finances of the different departments of the city and of the receipts and disbursements of funds belonging to the different departments of the city, as designated by the City Council.
- B. To perform such other duties as may be required by the ordinances of the city or laws of the State.

2.28.03 Compensation The salary of the Recorder/Treasurer shall be set by the City Council.

CHAPTER 2.32

CITY ATTORNEY

Sections:

2.32.01	Appointment
2.32.02	Duties
2.32.03	Compensation

2.32.01 Appointment The City Attorney of the city of Hardy, Arkansas, shall be elected at the November, 1990 General Election and every four (4) years thereafter to a four (4) year term commencing the next following January 1.

2.32.02 Duties It shall be the duty of the City Attorney to:

- (a) Prepare all resolutions and ordinances pertaining to the city's business at the direction of the mayor;
- (b) Prosecute and defend civil cases pertaining to the City of Hardy which are not covered by the Municipal League Defense Program;
- (c) Attend regularly scheduled council meetings; and,
- (d) Provide responses to the city's legal inquiries at the directive of the mayor or city council.

2.32.03 Compensation The salary of the City Attorney shall be set by the City Council. Said salary shall not include any extraordinary expenses nor litigation fees or costs, of which said litigation fees are reserved to the City Attorney to submit statements for work rendered at a regular hourly rate. In addition, the City Attorney shall be reimbursed for any out-of-pocket expenses advanced in pursuance of the city's business.

CHAPTER 2.36

FIRE DEPARTMENT

Sections:

2.36.01	Creation and personnel
2.36.02	Appointment and removal of Fire Chief
2.36.03	Duties of Fire Chief
2.36.04	LOPFI – Local Police and Fire Insurance

2.36.01 Creation and personnel The Hardy Fire Department is hereby created and shall consist of the following personnel:

One Fire Chief and any number of firefighters as the Fire Chief shall determine as necessary from time to time.

2.36.02 Appointment and removal of Fire Chief The Fire Chief shall be appointed by the Mayor unless appointment is disapproved by a two-thirds (2/3) vote of the Council membership. Such Fire Chief shall be subject to removal by the Mayor unless removal is overruled by the City Council of the city of Hardy, Arkansas, by a two-thirds (2/3) vote of the Council membership.

2.36.03 Duties of Fire Chief The Fire Chief shall be the head of the department and shall be fully responsible for the operation and the equipment of the department. It shall be his duty to determine all matters in connection with the operation of the department except the expenditure of city funds. He shall make periodic reports to the City Council of the city of Hardy, Arkansas, showing the names of paid firefighters, number of hours on duty, the condition of the equipment of the department, and such other matters as shall be determined necessary by resolution or ordinance of the City Council.

2.36.04 LOPFI – Local Police and Fire Insurance

- A. Once accepted by LOPFI, the administration of retirement coverage for all Hardy Fire Pension and Relief Fund participants shall be transferred to LOPFI under authority of A.C.A. 24-11-804, as amended, provided that such retirement coverage for said Pension Fund participants shall mean the administration of that Fund only and not a change in the Pension Fund's benefit program, unless the pension fund is actuarially sound and/or a benefit increase is approved by the city of Hardy, Arkansas.
- B. The Chief Administrative Officer is hereby authorized to enter into an agreement with LOPFI to administer the Hardy Fire Pension and Relief Fund as stated in Section (A) hereof. (Ord. No. 2008-2, Secs. 1-2.)

CHAPTER 2.40

DISTRICT COURT

Sections:

- 2.40.01 District Court
- 2.40.02 Fines

2.40.01 District court the city court of the city of Hardy, Arkansas, is hereby abolished by the City Council of said city of Hardy, Arkansas, and directs the Mayor, Recorder/Treasurer, and other necessary officials to transfer the jurisdiction of said court of the District Court of Ash Flat, Arkansas. (Ord. No. 83-1, Sec. 1.)

2.40.02 Fines

- A. Under authority of Act 942 of 1981, there is hereby levied and shall be collected from each defendant upon plea of guilty, nolo contendere, forfeiture of bond, or determination of guilty for misdemeanors or traffic violations in the District Court of Hardy, Arkansas, the sum of Three Dollars (\$3.00).
- B. The monies collected by the levy of this additional court cost shall be deposited in the District Court account until monthly settlement is made for court costs and money collected by this levy shall then be deposited into a bank account known as the Criminal Justice Fund of the city of Hardy, Arkansas, and such monies shall be used solely for reimbursing the county for expenses incurred in incarcerating city prisoners. (Ord. No. 81-4, Secs. 1-2.)

CHAPTER 2.44

AIRPORT AUTHORITY

Sections:

- 2.44.01 Interlocal agreement
- 2.44.02 Expenses
- 2.44.03 Approval
- 2.44.04 Mayor has authority
- 2.44.05 Board of Commissioners

2.44.01 Interlocal agreement The cities of Ash Flat, Arkansas, Hardy, Arkansas and Sharp County, Arkansas all agree that it would be mutually beneficial to form by interlocal agreement the Sharp County Regional Airport Authority. (Ord. No. 98-2, Sec. 1.)

2.44.02 Expenses The operation and management of a regional airport is a large expenditure for the county and cities acting individually and sound business practice dictates that regional management would be less expensive. (Ord. No. 98-2, Sec. 2.)

2.44.03 Approval Arkansas law provides for such interlocal agreement in A.C.A. 25-20-101, and requires approval of said agreement by the Attorney General, state of Arkansas, which has been accomplished. (Ord. No. 98-2, Sec. 3.)

2.44.04 Mayor has authority The Mayor of the city of Hardy shall have authority to enter into the interlocal agreement upon such terms and conditions which are mutually agreeable to the parties and to sign such agreement and other documents legally binding Sharp County, Arkansas, to said interlocal agreement. (Ord. No. 98-2, Sec. 4.)

2.44.05 Board of Commissioners The authority shall be governed by a six (6) member Airport Board of Commissioners as set out in the attached articles with the initial terms being as follows: Ash Flat, two Commissioners; Hardy, two Commissioners; and Sharp County, two

Commissioners to be appointed upon staggered terms as set out in the attached articles. At least one Commissioner shall be fully experienced in aviation, holding some type of aeronautical license and rating. (Ord. No. 98-2, Sec. 5.)

CHAPTER 2.52

POLICE DEPARTMENT

Sections:

- 2.52.01 Established
- 2.52.02 Duties of Police Chief

2.52.01 Established The city hereby establishes a Police Department which shall be known as the “Hardy Police Department” and the duties thereof shall be to maintain police protection and police services within the city of Hardy.

STATE LAW REFERENCE - See A.C.A. 14-52-101 et seq.

2.52.02 Duties of Police Chief The Police Chief shall be the head of the department and shall be fully responsible for the operation and the equipment of the department. It shall be his duty to determine all matters in connection with the operation of his department, except the expenditure of city funds. He shall attend the first Council meeting of the month and make his monthly report to the City Council concerning the operation and equipment of the department, and such other matters as shall be determined necessary by ordinance of the City Council. Other duties shall be such as are fixed by the laws of the state and ordinances of the city.

CHAPTER 2.56

ADVERTISING AND PROMOTION COMMISSION

Sections:

- 2.56.01 Created
- 2.56.02 Initial members
- 2.56.03 Levy of tax
- 2.56.04 Collection of tax
- 2.56.05 Disposition and use of revenues

2.56.01 Created The city of Hardy Advertising and Tourist Promotion Commission is hereby created. This Commission shall be composed of seven (7) members as follows:

- A. Four (4) members shall be owners or managers of business in the tourism industry, at least three (3) of whom shall be owners or managers of hotels, motels or restaurants. They shall serve for staggered terms of four (4) years.

Pursuant to A.C.A. 26-75-605(a)(1), any individual who is a business owner or a manager of a business that is in the tourist industry need not be a resident of the City of Hardy, however, they must be a resident of Sharp or Fulton County to be eligible to serve on the Hardy Advertising and Promotion Commission.

- B. Two (2) members of the Commission shall be members of the governing body of the city and selected by the governing body and shall serve at the will of the governing body; and
- C. One (1) member shall be from the public at large who shall reside either in the City of Hardy or in Fulton or Sharp County and shall serve for a term of four (4) years.

2.56.02 Initial members The initial members of the Commission shall be selected as follows:

- A. The four (4) tourism industry positions provided for in subdivision 2.56.01 of this ordinance shall be filled by appointment made by the governing body of the city for staggered terms so that:
 - 1. One (1) member will serve for a term of one (1) year;
 - 2. One (1) for a term of two (2) years;
 - 3. One (1) for a term of three (3) years; and
 - 4. One (1) for a term of four (4) years.
- B. The at-large position provided for in subdivision 2.56.01 of this ordinance shall be filled by nomination by the citizens of the city of Hardy and approval by the governing body of the city.
- C. Vacancies on the Commission, whether resulting from expiration of a regular term or otherwise, in any of the four (4) tourism industry positions provided for in in this ordinance or in the at-large position shall be filled by appointment made by the remaining members of the Commission, with the approval of the governing body of the city.

2.56.03 Levy of tax Pursuant to A.C.A. 26-75-601 et seq., a tax of 1.875% is hereby levied upon the following:

- A. The gross receipts to gross proceeds from renting, leasing or otherwise furnishing hotel, motel, house, cabin, bed and breakfast, campground, condominium, or

other similar rental accommodations for sleeping, meeting, or party room facilities for profit within the corporate limits of the City of Hardy, but such accommodations shall not include the rental or lease of such accommodations for periods of thirty (30) days or more; and

- B. The portion of the gross receipts or gross proceeds received by restaurants, cafes, cafeterias, delicatessens, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, and grocery store-restaurants, from the sale of prepared food and beverages for on or off-premises consumption, but such tax shall not apply to such gross receipts or gross proceeds of organizations qualified under section 501(c)(3) of the Federal Internal Revenue Code.

2.56.04 Collection of tax

- A. The tax so levied shall be paid by the persons, firms, and corporations liable therefore and shall be collected by the Advertising and Promotion Commission of the levying city 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 of 1941, 26-52-101 et seq. This tax shall become effective on the 1st day of September, 2001.
- B. The person paying the tax shall report and remit it upon 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 Receipt Act of 1941, 26-52-101 et seq., shall, so far as practicable, be applicable with respect to the enforcement and collection of the tax levied and said provisions are deemed incorporated herein as applicable with respect to the enforcement and collection of the tax. The administration and enforcement, and all actions, shall be by and in the name of the Commission through the proper Commission officials or agents. The Commission shall have the authority to sue and be sued in its name, and it may own, operate, sell, lease, contract, or otherwise deal in or dispose of real property, buildings, improvements, or facilities of any nature in accordance with law.
- C. When a business is sixty (60) days delinquent in remitting the afore mentioned taxes, the Hardy City Business License will be revoked and the business will not be allowed to conduct business as usual until delinquent taxes are paid in full.
- D. The Commission shall promulgate rules and regulations and prescribe all forms as are necessary or required for the enforcement and collection of the tax so levied. In enforcing the tax, the Commission shall utilize the provisions of Ark. Code Ann. § 26-75-603(c), the Commission is authorized and enabled to:
 - (1) Assess penalties and interest against taxpayers who fail to timely report or pay

the tax. The penalty is equal to five percent (5%) of the unpaid tax amount per month not to exceed a total assessment of thirty-five percent (35%) of the unpaid tax. Simple interest on unpaid taxes shall be assessed at the rate of ten percent (10%) per annum;

- (2) Assess unpaid or unreported tax within three (3) years of the date the tax is due;
- (3) Provide for judicial relief from proposed assessments in accordance with Ark. Code Ann. § 26-75-603(d); and
- (4) Issue certificates of indebtedness consistent with that permitted by the provisions of Ark. Code Ann. § 26-75-603(d) and (e).

2.56.05 Disposition and use of revenues

- A. All taxes, interest, penalties, and costs collected pursuant to this ordinance shall be credited to the City Advertising and Promotion Fund which is hereby created. The disposition of revenues and the use of the funds collected shall be credited to the City Advertising and Promotion Fund in accordance to and in compliance with A.C.A. 26-75-604(a).
- B. All funds credited to the City Advertising and Promotion Fund pursuant to A.C.A. 26-75-601, et seq., shall be used for advertising and promoting the city and its environs, for the construction, reconstruction, extension, equipment, improvement, maintenance, repair, and operation of a convention center or for the operation of a convention center, or for operation of tourist promotion facilities in the city or Fulton County or Sharp County if the city owns an interest in said facility, or facilities necessary for, supporting or otherwise pertaining to, a convention center, as stated in A.C.A. 26-75-606(a)(1).
- C. The Commission is the body that determines the use of the City Advertising and Promotion Fund. Pursuant to this section, if the Commission determines that funding of the arts is necessary for or supporting of its city's advertising and promotion endeavors, it can use its fund derived from the hotel and restaurant tax for such purposes.
- D. Funds credited to the City Advertising and Promotion Fund pursuant to A.C.A. 26-75-601 et seq., may be used, spent, or pledged by the Commission, in addition to all other purposes prescribed in A.C.A. 26-75-606, on and for the construction, reconstruction, repair, maintenance, improvement, equipping and operation of public recreation facilities in said city if the city owns an interest in the center or facility, including, but not limited to, facilities constituting city parks.
- E. All taxes levied as authorized in A.C.A. 26-75-601, et seq., shall be credited to the City Advertising and Promotion Fund and shall be used for the purposes described in this section.

- F. Such taxes shall not be used:
1. For general capital improvements within the city;
 2. For the costs associated with general operation of the city;
 3. For general subsidy of any civic groups or Chamber of Commerce.
- G. However, the Advertising and Promotion Commission may contract with such groups to provide to the Commission actual services that are connected with tourism events or conventions.
- H. The Advertising and Promotion Commission may engage personnel and agencies and incur administrative costs as it deems necessary to conduct its business.

CHAPTER 2.60

PERSONNEL POLICIES

Sections:

2.60.01	Personnel Policy Handbook
2.60.02	Equal Opportunity Employer
2.60.03	At-Will Employer

2.60.01 Personnel Policy Handbook The City of Hardy Personnel Policy Handbook dated November 1, 1997 is hereby made effective for the City of Hardy and the City of Hardy Personnel Policy Handbook is incorporated herein by reference.

2.60.02 Equal Opportunity Employer. The city of Hardy, Arkansas, is committed to providing equal employment opportunities without regard to race, color, religion, national origin, sex, age, handicap or veteran status as required by all federal and state laws. Furthermore, the city does not discriminate on the basis of disability. The city's commitment extends to all employment-related decisions, terms and conditions of employment, including job opportunities, promotions, pay and benefits.

2.60.03 At-Will Employer The city of Hardy, Arkansas, is an at-will employer. This means that the city of Hardy or any city employee may terminate the employment relationship at any time for any reason with the understanding that neither has an obligation to base that decision on anything but his or her intent not to continue the employment relationship. No policies, comments, or writings made herein or during the employment process shall be construed in any way to waive this provision.

TITLE 3

FISCAL AFFAIRS

Chapters:

- 3.04 Purchases
- 3.08 Sales and Use Tax
- 3.12 Property Taxes

CHAPTER 3.04

PURCHASES

Sections:

- 3.04.01 \$5,000.00 or under
- 3.04.02 Over \$5,000.00
- 3.04.03 Approval of payments
- 3.04.04 Sale or exchange of supplies, materials or equipment valued at less than \$5,000.00

3.04.01 \$5,000.00 or under The Mayor or his duly authorized representative shall have exclusive power and responsibility to make purchases of all supplies, apparatus, equipment, materials and other things requisite for public purposes for the city of Hardy, Arkansas, and to make all necessary contracts for work or labor to be done, or material or other necessary things to be furnished for the benefit of the city where the amount of the expenditure for any purpose or contract does not exceed the sum of Five Thousand Dollars (\$5,000.00). (Ord. No. 85-3, Sec. 1.)

3.04.02 Over \$5,000.00 Where the amount of expenditure for any purchase or contract exceeds the sum of Five Thousand Dollars (\$5,000.00), the Mayor or his duly authorized representative shall invite competitive bids thereon by legal advertisement in any local newspaper. Bids received pursuant to said advertisement shall be opened and read on the date set for receiving said bids, in the presence of the Mayor, or his duly authorized representative. The contract shall be awarded to the lowest responsible bidder; provided, however, the Mayor, or his duly authorized representative, may reject any and all bids received. (Ord. No. 85-3, Sec. 2.)

3.04.03 Approval of payments The Mayor or his duly authorized representative may approve for payment out of any funds previously appropriated for that purpose, or disapprove any bills, debts or liabilities asserted as claims against the city, when funds on hand are adequate to pay such bills, debts or liabilities. The payment or disapproval of any bills, debts or liabilities not covered by a previous appropriation shall require confirmation of the governing body. (Ord. No. 85-3, Sec. 3.)

3.04.04 Sale or exchange of supplies, materials or equipment valued at less than \$5,000.00 That the Mayor or his duly authorized representative may sell or exchange any municipal supplies, materials or equipment without competitive bidding if such supplies, materials or equipment have a value of less than Five Thousand Dollars (\$5,000.00). That no supplies, materials or equipment shall be sold without receiving competitive bids therefore if the value thereof exceeds the sum of Five Thousand Dollars (\$5,000.00); provided, however, if the Mayor shall certify in writing to the governing body that, in his opinion, the fair market value of such item or lot (to be disposed of in one unit) is less than Five Thousand Dollars (\$5,000.00), the same may be sold by the Mayor without competitive bidding. (Ord. No. 85-3, Sec. 4.)

CHAPTER 3.08

SALES AND USE TAX

Sections:

- 3.08.01 Sales tax
- 3.08.02 Single transaction

3.08.01 Sales tax

- A. There shall be levied a tax of five (5) mills on all taxable property, both real and personal, within the corporate limits of the city of Hardy, Arkansas, for the year 1968 for the purpose of buying a new fire truck and for the purpose of providing revenue to pay the general expenses of the Hardy Fire Department. This tax shall be collected on a voluntary basis. (Ord. No. 67-5, Secs. 1-2.)
- B.
 - 1. As authorized by Act 990 of 1975 of the Acts of Arkansas, as amended, there is hereby levied a sales and use tax at the rate of one percent (1%) on the receipts from the sale at retail within the city of Hardy, Arkansas, of all such items which are subject to taxation under the Arkansas Gross Receipts Tax Act, Act 336 of 1941 of the Acts of Arkansas, as amended.
 - 2. Taxes in excess of Twenty-Five Dollars (\$25.00) paid to the city on a single transaction shall be rebated to the purchaser of the item subject to taxation under Section (B) (1) hereof. The City Clerk of the city of Hardy, Arkansas may promulgate reasonable rules and regulations not inconsistent with the provisions of the ordinance to implement the rebate procedure of taxes paid in excess of Twenty-Five Dollars (\$25.00) per single transaction.
 - 3. Said question of the levy of a sales and use tax as provided in Section (B)(1) hereof shall be submitted to a vote of the citizens of Hardy,

Arkansas, by special election to be held on July 14, 1981. (Ord. No. 81-2, Secs. 1-3.)

3.08.02 Single transaction “Single transaction” is defined according to the nature of the goods purchased as follows:

- A. When two or more devices in which, upon which or by which any person or property is, or may be, transported or drawn, including but not limited to, on-road vehicles, whether required to be licensed or not, off-road vehicles, farm vehicles, airplanes, water vessels, motor vehicles or non-motorized vehicles and mobile homes, are sold to a person by a seller, each individual unit, whether part of a “fleet” sale or not, shall be treated as a single transaction for the purpose of the Sales and Use Tax.
- B. The charges for utility services, which are subject to the Sales and Use Tax, and which are furnished on a continuous service basis, whether such services are paid daily, weekly, monthly or annually, for the purposes of the Sales and Use Tax, shall be computed in daily increments, and each such daily charge increment shall be considered to be a single transaction for the purposes of the Sales and Use Tax.
- C. For sales of building materials and supplies to contractors, builders or other persons, a single transaction, for the purposes of the Sales and Use Tax, shall be deemed to be any single sale which is reflected on a single invoice, receipt or statement, on which an aggregate sales (or use) tax figure has been reported and remitted to the state of Arkansas.
- D. When two or more items of major household appliances, commercial appliances, major equipment and machinery are sold, each individual unit shall be treated as a single transaction for the purposes of the Sales and Use Tax.
- E. For groceries, drug items, dry goods and other tangible personal property and/or services not otherwise expressly covered in this section, a single transaction shall be deemed to be any single sale which is reflected on a single invoice, receipt or statement, on which an aggregate sales tax figure has been reported and remitted to the state of Arkansas. (Ord. No. 83-2, Sec. 1.)

CHAPTER 3.12

PROPERTY TAXES

Sections:

3.12.01 Property taxes

3.12.01 Property taxes The City Council of the city of Hardy, Arkansas, does hereby assign by this ordinance the millage rate of two point nine (2.9) mills applying to properties within Sharp County and Fulton County that are within the boundaries of the city of Hardy. (Ord. No. 2008-1, Sec. 1.)

TITLE 4

BUSINESS LICENSES AND REGULATIONS

Chapters:

- 4.04 Electric Franchise
- 4.08 Street Lighting Contract
- 4.12 Telephone Franchise
- 4.20 Business/Occupation Licenses
- 4.30 Alcohol Beverage Tax

CHAPTER 4.04

ELECTRIC FRANCHISE

Sections:

- 4.04.01 Franchise fee
- 4.04.02 Payments
- 4.04.03 Electric service
- 4.04.04 Contract

4.04.01 Franchise fee Beginning October 1, 1983, and continuing thereafter until canceled by either party, the Company shall pay to the City five percent (5%) of its then current year gross electric revenue collections of its residential and commercial customers located in the corporate limits of the city. (Ord. No. 83-3, Sec. 1.)

4.04.02 Payments Payments to the City by the Company shall be made quarterly throughout the calendar year. Entergy, its successors or assigns, shall pay to the city on or about October 15, 1983, an amount which represents one-half (1/2) of the accumulated difference between the taxes collected and taxes paid. (Ord. No. 83-3, Secs. 2-3.)

It is expressly agreed and understood by the City that said payments shall constitute and be considered as complete payment and discharge by the Company of all licenses, fees, occupation and privilege taxes, charges, impositions, or other taxes (other than automobile license fees, special millage taxes and general ad valorem taxes) which are now and may in the future be imposed by the City under authority conferred upon the City by law. (Ord. No. 53-1, Sec. 1.)

4.04.03 Electric service The Company shall have the privilege of crediting any amount due the City with any unpaid balance due said Company for electric service rendered to the City. It is expressly agreed and understood between the City and the Company that if any licenses, charges, fees, impositions or taxes (other than automobile license fees, special millage taxes, and

general ad valorem taxes) be charged, imposed, or levied by the City in the future, then in such even the obligation of the Company set forth in 4.04.02 shall immediately terminate. (Ord. No. 53-1, Sec. 2.)

4.04.04 Contract This ordinance shall remain in effect for a term of five (5) years and for successive periods of one (1) year each unless and until canceled not more than six (6) months, nor less than three (3) months, prior to the expiration of the original term or any anniversary thereof. (Ord. No. 53-1, Sec. 3.)

CHAPTER 4.08

STREET LIGHTING CONTRACT

Sections:

- 4.08.01 Contract
- 4.08.02 Street lighting
- 4.08.03 Types of lighting
- 4.08.04 Changes

4.08.01 Contract The city of Hardy, Arkansas, (hereinafter called the City) hereby contracts with Entergy, its successors or assigns (hereinafter called the Company), for the lighting by the Company of the streets, parks, and public ways of the said City. (Ord. No. 53-2, Sec. 1.)

4.08.02 Street lighting The Company agrees, in consideration of the stipulations and agreements hereinafter set out, and the payments herein agreed to be made by the City, to furnish electric lighting service for street lighting purposes in the City for a period of five (5) years from date of execution hereof as provided in 4.08.09, and for successive periods of one (1) year each unless and until canceled not more than six (6) months, nor less than three (3) months, prior to the expiration of the original term of any anniversary thereof. (Ord. No. 53-2, Sec. 2.)

4.08.03 Types of lighting The Company agrees to furnish and maintain, and the City agrees to use and pay for the lighting service described below, and for any and all additional lighting service subsequently agreed upon, under the terms of this contract or any amendment hereto, at the rates and under the conditions set out in the Municipal Street Lighting Rate attached hereto and made a part hereof. (Ord. No. 53-2, Sec. 3.)

<u>Number of lamps</u>	<u>Size of lamps</u>	<u>Character of service</u>	<u>Type of fixture</u>
36	100 watt	Multiple	Open – 4’ bracket
13	200 watt	Multiple	Enclosed – 6’ bracket
9			Center suspension

4.08.04 Changes The lamps furnishing lighting service hereunder, and described in 4.08.03, are to be located at such points as are shown on a list and/or map, to be furnished to the City by the Company. In the event changes in the number, size, type or location of the lamps in use be requested by the City under the terms herein set out, three (3) copies of such request, duly signed by the Mayor and attested by the Clerk, shall be forwarded to the Company. Such changes shall be effective upon approval by the Company. One copy of each such approved request shall be returned to the Clerk.

<u>Kind of service</u>	Electric
<u>Class of service</u>	Municipal Street Lighting Service (MSL)
<u>Availability</u>	This schedule is available for street lighting service.
<u>Character of service</u>	The character of the street lighting circuit (series or multiple) shall be determined by the Company and is subject to change by the Company.
<u>Rate</u>	<p><u>Overhead series system – Company owned and maintained</u> \$1.00 per lamp per month for 1,000 lumen lamps \$1.40 per lamp per month for 2,500 lumen lamps \$1.70 per lamp per month for 4,000 lumen lamps \$2.20 per lamp per month for 6,000 lumen lamps</p> <p><u>Overhead multiple system – Company owned and maintained</u> \$1.00 per lamp per month for 100 watt lamps \$1.40 per lamp per month for 150 watt lamps \$1.70 per lamp per month for 200 watt lamps \$2.20 per lamp per month for 300 watt lamps</p> <p><u>Whiteway series system – City owned and maintained</u> \$1.00 per lamp per month for 2,500 lumen lamps \$1.40 per lamp per month for 4,000 lumen lamps</p> <p><u>Whiteway multiple system – City owned and maintained</u> \$1.00 per lamp per month for 150 watt lamps \$1.60 per lamp per month for 200 watt lamps \$2.20 per lamp per month for 300 watt lamps</p>

All overhead street lighting fixtures installed by the Company shall be standard 4-foot brackets with non-enclosed lamps, and the following additional charges shall be made for special fixtures:

\$.55 per fixture per month for fixtures with enclosed lamps and with 6' ft to 8' ft brackets
\$.25 per fixture per month for center suspension fixtures
\$.10 per fixture per month for brackets over 8 ft. long and not more than 12 ft. long.

Terms of payment All bills will be rendered monthly and will be payable within ten (10) days of date of bill.

Terms of contract Not less than five (5) years.

Conditions of service

- A. All lamps will burn from dusk to dawn, subject to a reasonable maintenance schedule.
- B. All lamps renewals will be furnished and made by the Company.
- C. The Company will replace broken glassware, and make repairs to conduit, cable, and Whiteways standards of City-owned Whiteway systems when requested and authorized by the City, and City agrees to pay the company for all authorized Whiteway maintenance costs within ten (10) days of date of bill.
- D. This rate schedule not applicable unless five (5) or more street lights are installed and used within the city limits. (Ord. No. 53-2, Sec. 4.)

CHAPTER 4.12

TELEPHONE FRANCHISE

Sections:

- 4.12.01 Franchise fee
- 4.12.02 Quarterly payments
- 4.12.03 Extra fees

4.12.01 Franchise fee Beginning August 1, 1999, and continuing thereafter until canceled, Century Tel of Arkansas, Inc., shall pay to the City four and one-half percent (4 ½%) of its current year gross basic local service revenue collections of its residential and commercial customers located in the corporate limits of the city. (Ord. No. 99-3, Sec. 1.)

4.12.02 Quarterly payments Payments to the City by Century Tel of Arkansas, Inc., shall be made quarterly throughout the calendar year. (Ord. No. 99-3, Sec. 2.)

4.12.03 Extra fees It is recognized by the city of Hardy, Arkansas, that in the event it imposes any privilege, occupation, poll, or other City special tax except ad valorem taxes, upon

the Telephone Company in excess of the amount herein levied, the Telephone Company shall have the privilege, in accordance with the decisions of the Arkansas Public Service Commission, of collecting the amount of such tax in excess of that herein levied, pro rata, from the customers receiving telephone service within the city of Hardy. (Ord. No. 67-8, Sec. 3.)

CHAPTER 4.20

BUSINESS/OCCUPATION LICENSES

Sections:

4.20.01	Permit
4.20.02	Renewal
4.20.03	Application
4.20.04	Fine
4.20.05	Transient business permit
4.20.06	Temporary structures

4.20.01 Permit The city of Hardy has established a basic business permit for which a fee of Fifty Dollars (\$50.00) is to be collected each calendar year for the privilege of doing business within the city limits of Hardy, Arkansas. (Ord. No. 2013-3, Sec. 1.)

4.20.02 Renewal The permit shall be renewed by January 30th of each year and a fee of Fifty Dollars (\$50.00) shall be collected by the City Recorder/Treasurer or their agent. (Ord. No. 2013-3, Sec. 2.)

4.20.03 Application The application for a business or occupation license within the city of Hardy, Arkansas, shall include the following:

- A. The legal name of the business and owner of the business; the mailing address and legal street address for the business; the nature of the business; the date that the application is being made and the approximate date that the business first intends on doing business in Hardy. For any business or vendor requiring a Health Department permit, a copy of the Health Department permit must be attached.
- B. The sales tax permit number (if applicable) shall be included on the application. The state sales permit shall remain in plain view for inspection by any governmental agency or the general public.
- C. Businesses requiring state of Arkansas permits for the sale of alcohol must include an Arkansas permit number on application. (Ord. No. 2013-3, Sec. 3.)

4.20.04 Fine Failure to provide all information shall result in the applicant being refused

a business or occupation license permit for doing business within the city limits of Hardy, Arkansas. In the event that the applicant should attempt to do business within the city limits of Hardy, Arkansas, without the permit, the applicant may be fined the sum of Fifty Dollars (\$50.00) per day for each day that they fail to possess a business, occupation license. (Ord. No. 2013-3, Sec. 4.)

4.20.05 Transient Business permit. A “Transient Business” as defined herein has no legally established, long-term physical place of business, holds an Arkansas Sales Tax Permit, and operates within the city subject to the permitting procedure in this ordinance. Such businesses must register at City Hall and receive a “City of Hardy Transient Business Permit” for One-Hundred Dollars (\$100.00).

Transient businesses shall operate in full compliance with a valid business license issued by the City of Hardy; and during all business activities, the vendor shall display the license in a conspicuous location which is legible to the public at large. The license shall expire 45 days after issuance for the permitted location. The license may be renewed (1) one time per applicant or business within 12-month period for the same location at an additional cost of Fifty Dollars (\$50.00). Permit will state beginning and ending dates, and the applicant must provide full written disclosure of nature of business at time of application. All transient businesses must be located in a Commercial Zone within the City of Hardy. Residential occupancy in a transient business location is prohibited.

Businesses in town specifically for a special event will fall under the auspices of that event organizer, who will record tax ID, health permits, and collect appropriate taxes at end of event, and submit those documents to the Mayor.

4.20.06 Temporary structures It is unlawful to use or occupy temporary structures along Main Street and U.S. Highways 412 and 63 or on any other public property within the city limits of Hardy, Arkansas, unless an area within the city is designated by the City through a majority action of the Hardy City Council as a place suitable for temporary structures. Temporary structures include trailers of any kind, trucks, vans, tents, campers or pull trailers, or any other constructed temporary structure.

- A. This ordinance shall be in effect for the area within the city of Hardy, Arkansas, city limits.
- B. The exception to 4.20.06 shall be the use of trailers or temporary structures to be used in a show, festival or event either sponsored or approved by the City Council of Hardy, Arkansas. The example of such an event would be the annual Homesteaders Day or Spring River Car Show. Any other show, festival or event wishing to be exempted from this ordinance must first seek permission of the Hardy City Council. The exception from this ordinance for any such show, festival or event shall only exist for the time period specified within their request for approval by the city Council of Hardy, Arkansas. Any use of a trailer or a

temporary structure beyond the days or times of the show, festival or event shall be a violation of this ordinance.

- C. Any violation of 4.20.06 shall be punishable by a penalty or fine of up to Fifty Dollars (\$50.00) per day or any part of any day thereof for which a temporary structure shall be used by an individual or group within the city of Hardy city limits in specific violation of the provisions herein.

CHAPTER 4.30

ALCOHOLIC BEVERAGE TAX

Sections:

- 4.30.01 Permits
- 4.30.02 Permit Required
- 4.30.03 Fees
- 4.30.04 Time of sales

4.30.01 Permits. A City of Hardy Alcohol Permit shall be issued to any holder of a valid alcohol permit issued by the State Alcoholic Beverage Control Division. The City of Hardy Alcohol Permit shall be displayed on the premises as required by the rules and regulations of the Alcoholic Beverage Control Division.

4.30.02 Permit Required. Before any person shall be authorized to offer for sale at retail the liquors defined in A.C.A. Title 3, Subchapter 5 (beer and light wine), he or she shall apply to and secure from the city clerk a “City of Hardy Alcohol Permit.”

4.30.03 Fees. City of Hardy permit fees shall be in addition to the fees imposed by the State Alcoholic Beverage Control Division and shall be set at the maximum allowed, currently one-half (1/2) of the fees imposed by the State Alcoholic Beverage Control Division, except that

(a) the permit fee for a private club shall be \$350.00, and

(b) the permit fee for the sale of beer and light wine at retail shall be calculated as follows:

(i) For a retailer whose annual gross sales of beer and/or light wine do not exceed \$1,000.00, the permit fee shall be \$15.00.

(ii) For a retailer whose annual gross sales of beer and/or light wine do not exceed \$2,000.00, the permit fee shall be \$30.00.

(iii) For a retailer whose annual gross sales of beer and/or light wine exceed

\$2,000.00, the permit fee shall be \$30.00 plus \$5.00 for each \$1,000.00 gross annual sales in excess of \$2,000.00.

(iv) The permit fee for a new applicant with no sales history shall be \$40.00.

The City of Hardy permit fee shall be paid at the time the permit is granted and each yearly renewal fee shall be paid at the same time that is required by the State Alcoholic Beverage Control Division.

4.30.04 Time of sales. It shall be unlawful for any person to sell or offer for sale any controlled alcoholic beverage for off-premises consumption before the hour of 7:00 A.M. or after the hour of 11:00 P.M. and at any time on Sunday.

It shall be unlawful for a private club to sell or offer for sale any controlled alcoholic beverage for on-premises consumption before the hour of 10:00 A.M. or after the hour of 12:00 midnight. All other times of sales shall be those established by the statutes of the State of Arkansas and/or the rules and regulations promulgated by the State Alcoholic Beverage Control Division.

TITLE 5

HEALTH AND SANITATION

Chapters:

- 5.04 Maintenance of Real Property
- 5.05 Condemned Structures
- 5.06 Littering Illegal
- 5.08 Solid Waste Collection
- 5.12 Tri-County Regional Solid Waste Disposal Authority
- 5.16 Dumping

CHAPTER 5.04

MAINTENANCE OF REAL PROPERTY

Sections:

- 5.04.01 Unsightly or unsanitary conditions on real property
- 5.04.02 Notice required
- 5.04.03 Notification of unknown real property owner
- 5.04.04 Enforcement of lien and collection of costs
- 5.04.05 Inspections
- 5.04.06 Vacant lots
- 5.04.07 Requirement to remove debris after disaster
- 5.04.08 Notification
- 5.04.09 Penalty for Sections 5.04.06 - 5.04.08

5.04.01 Unsightly or unsanitary conditions on real property All property owners located within the city of Hardy, Arkansas, are required to cut weeds and grass, remove garbage, debris, lumber, inoperable appliances, rubbish and other unsanitary and unsightly articles and things from their property, and to eliminate, fill up, or remove stagnant pools of water or any other unsanitary things, place or condition which might become a breeding place for mosquitoes, flies and germs harmful to the health of the community.

5.04.02 Notice required If the owner or owners of any real property within the city, after the giving of seven (7) days' notice in writing by Mayor or Chief of Police or his/her designee, shall refuse or neglect to perform the duties in connection with his or their property as specified in Section 5.04.01, the city is authorized to enter upon the property and have said weeds, rank grass or other vegetation cut and removed, or eliminate any unsanitary and unsightly condition, and the cost shall be charged against the premises and shall constitute a lien thereon.

5.04.03 Notification of unknown real property owner In case the owner of any lot or other real property is unknown or his whereabouts are not known or he is a nonresident of this state, a copy of the written notice referred to shall be posted upon the premises and before any action to enforce the lien shall be had, the Municipal Recorder or City Clerk or his/her designee shall make an affidavit setting out the facts as to unknown address or whereabouts of nonresidents, and service of publication as now provided for by law against nonresident defendant may be had and an attorney ad litem shall be appointed to notify the property owner by certified letter addressed to his last known place of residence if same can be found.

5.04.04 Enforcement of lien and collection of costs The lien herein provided for may be enforced and collected in either one of the following manners:

- A. The lien may be enforced at any time within eighteen (18) months after work has been done, by an action in the Circuit Court; or
- B. The amount of the lien herein provided by may be determined at a hearing before the City Council of the city of Hardy, Arkansas, held after thirty (30) days' written notice by certified mail to the owner or owners of the property, if the name and whereabouts of the owner or owners be known, and if the name of the owner or owners cannot be determined, then the amount will be determined only after publication of notice of such hearing in a newspaper having a bona fide circulation in Sharp County, Arkansas or Fulton County, Arkansas, for one (1) insertion per week for two (2) consecutive weeks and the amount so determined at said hearing, plus ten percent (10%) penalty for collection, shall be certified by the City Council of the city of Hardy, Arkansas, to the Sharp County Tax Collector or Fulton County Tax Collector, and by him placed on the tax books as delinquent taxes, and collected accordingly, and the amount, less three percent (3%) thereof, when so collected shall be paid to the city of Hardy, Arkansas.

STATE LAW REFERENCE - See A.C.A. 14-54-901 - 14-54-904

5.04.05 Inspections The Chief of Police or his/her designee is charged with the enforcement of this chapter and for any unsightly or unsanitary condition or conditions that are found, a citation may be issued to the owners of any lot or other real property, stating the date of the inspection, the condition or conditions that must be corrected within seven (7) days.

5.04.06 Vacant lots Property owners are prohibited from permitting the accumulation of debris upon vacant lots in the city of Hardy, Arkansas. It shall be the duty of the property owners to remove all debris or refuse which is unsightly or which may endanger public health if and when notified by the Mayor or his/her designee. It shall be the duty of the property owner within fifteen (15) days from receipt of such notice to remove all debris on said lot.

5.04.07 Requirement to remove debris after disaster If any property owner shall suffer the loss, either total or partial, of a house by fire or tornado, it shall be the duty of the Mayor or

his/her designee to immediately notify, in writing, the property owner to remove all debris from the lot. It shall be the duty of the property owner within fifteen (15) days from receipt of such notice to remove all debris or refuse on said lot.

5.04.08 Notification It shall be the duty of the Mayor or his/her designee to notify in writing all property owners who own lots on which debris or refuse is situated due to the destruction of houses by fire, and on other lots on which has accumulated such unsightly debris and refuse, whether caused by fire or otherwise, and it shall be the duty of the property owner to remove such debris or refuse within fifteen (15) days after receipt of notice.

5.04.09 Penalty for Sections 5.04.06 - 5.04.08 If any property owner shall fail or refuse to remove such debris or refuse as mentioned in Sections 5.04.06 - 5.04.08 within the time fixed by this chapter after receiving such notice from the City, he shall upon conviction be fined in the sum of not less than Seventy-Five Dollars (\$75.00) and each day that such property owner refuses to comply with this chapter after the expiration of the time limit provided, shall be considered a separate offense.

CHAPTER 5.05

CONDEMNED STRUCTURES

Sections:

5.05.01	Unlawful
5.05.02	Condemnation required
5.05.03	Description of property, reason for condemnation
5.05.04	Notice of condemnation
5.05.05	Removal
5.05.06	Sale of structure
5.05.07	Proceeds of sale
5.05.08	Enforcement of lien
5.05.09	Penalty
5.05.10	Judicial condemnation, penalty, previous sections applicable

5.05.01 Unlawful That is shall be and it is hereby declared to be unlawful for any person or persons, partnership, corporation or association to own, keep or maintain any house, building and/or structure within the corporate limits of the city of Hardy, Arkansas, which constitutes a nuisance and which is found and declared to be a nuisance by resolution of the City Council.

5.05.02 Condemnation That any such house, building or structure which is found and declared to be a nuisance by resolution of the City Council will be condemned to insure the removal thereof as herein provided and as authorized by A.C.A. § 14-54-1501, *et seq.*, A.C.A. § 14-54-901, *et seq.*, and A.C.A. § 14-56-203, *et seq.*

5.05.03 Description of property, reason for condemnation The resolution of the City

Council condemning any house, building and/or structure which constitutes a nuisance will include in said resolution an adequate description of the house, building, and/or structure; the name(s) if known of the owner(s) and mortgagee(s) and/or lienholder(s) thereof; and shall set forth the reason or reasons said house, building and/or structure is or has been condemned as a nuisance

5.05.04 Notice of condemnation

- A. Prior to the consideration of a resolution by the City Council declaring any house, building and/or structure as a nuisance, the owner(s) and any mortgagee(s) or lienholder(s) of such house, building and/or structure shall be mailed written notification thirty (30) days in advance of the date, time and place that the City Council will consider said resolution. In addition, said notice shall inform the owner(s) and any mortgagee(s) or lienholder(s), of the right to be heard at the City Council meeting on the proposed resolution declaring such house, building and/or structure to be a nuisance.
- B. Should the owner(s) and mortgagee(s) and/or lienholder(s) of any such house, building and/or structure be unknown or their whereabouts be unknown or if they do not reside in Arkansas, then a copy of the written notice shall be posted upon said premises and the city Mayor or his designee shall make an affidavit setting out the facts as to unknown address, unknown whereabouts and/or non-resident status of said owner(s), mortgagee(s), and lienholder(s). Thereupon, service of publication as now provided for by law against unknown and/or non-resident defendant(s) may be had and an attorney ad litem shall be appointed to notify such persons by registered letter addressed to their last known place(s) of residence or business.
- C. After a house, building and/or structure has been found and declared to be a nuisance and condemned by resolution as herein provided, a true or certified copy of said resolution will be mailed to the owner(s) and mortgagee(s) and/or lienholder(s) thereof, if the whereabouts of said owner(s), and mortgagee(s) and/or lienholder(s) thereof be known or their last known address be known and a copy thereof shall be posted at a conspicuous place on said house, building and/or structure. Provided, that if the owner(s) and mortgagee(s) and/or lienholder(s) of said house, building and/or structure be unknown or if his or their whereabouts or last known address be unknown, the posting of the copy of said resolution as hereinabove provided will suffice as notice of the condemnation.

5.05.05 Removal If the house, building and/or structure constituting a nuisance has not been torn down and removed, or said nuisance otherwise abated, within thirty (30) days after posting the true copy of the resolution at a conspicuous place on said house, building and/or structure constituting the nuisance, after placing the project up for bids, it will be torn down and/or removed by the Mayor or his duly designated representative, this bidding action and

representative will need final approval of Council. The Council reserves the right to reject any and all bids.

5.05.06 Sale of structure The Mayor or any other person or persons designated by him and approved by Council will tear down and remove any such house, building and/or structure constituting a nuisance will insure the removal thereof and dispose of the same in such a manner as deemed appropriate in the circumstances and to that end may, if the same have a substantial value, sell said house building and/or structure, or any saleable material thereof, by public sale to the highest bidder for cash, ten (10) days' notice thereof being first given by one publication in some newspaper having a general circulation in the city, to insure its removal and the abatement of the nuisance.

5.05.07 Proceeds of sale All the proceeds of the sale of any such house, building or structure, or the proceeds of the sale of saleable materials therefrom and all fines collected from the provisions of this ordinance shall be paid by the person or persons collecting the same to the City of Hardy. If any such house, building or structure, or the saleable materials therefrom be sold for an amount which exceeds all costs incidental to the abatement of the nuisance (including the cleaning up of the premises) by the city of Hardy, Arkansas, plus any fine or fines imposed, the balance thereof will be returned by the City of Hardy to the former owner or owners of such house, building and/or structure constituting the nuisance.

5.05.08 Enforcement of lien If the city has any net costs in removal of any house, building or structure, the city shall have a lien on the property as provided by Section 1 of Act 8 of 1983, A.C.A. § 14-54-901, *et seq.* The lien may be enforced in either one of the following manners:

- A. The lien may be enforced at any time within eighteen (18) months after work has been done, by an action in the Chancery Court; or
- B. The amount of the lien herein provided may be determined at a hearing before the governing body of the municipality held after thirty (30) days' written notice by certified mail to the owner or owners of the property, if the name and whereabouts of the owner or owners be known, and if the name of the owner or owners cannot be determined, then only after publication of notice of such hearing in a newspaper having a bona fide circulation in the county wherein the said property is located for one (1) insertion per week for four (4) consecutive weeks, the determination of said governing body being subject to appeal by the property owner in the Chancery Court, and the amount so determined at said hearing, plus ten percent (10%) penalty for collection, shall be by the governing body of the municipality certified to the tax collector of the county wherein said municipality is located, and by him placed on the tax books as delinquent taxes, and collected accordingly, and the amount, less three percent (3%) thereof, when so collected shall be paid to the municipality by the County Tax Collector.

5.05.09 Penalty A fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Fifty Dollars (\$250.00) is hereby imposed against the owner(s) of any house, building, and/or structure found and declared to be a nuisance by resolution of the City Council of the city of Hardy, Arkansas, thirty (30) days after the same has been so found and declared to be a nuisance and for each day thereafter said nuisance be not abated constitutes a separate and distinct offense punishable by a fine of Fifty Dollars (\$50.00) for each said separate and distinct offense, provided the notice as herein provided in Section 5.05.04 hereof has been given within ten (10) days after said house, building and/or structure has been by resolution found and declared to be a nuisance.

5.05.10 Judicial condemnation, penalty, previous sections applicable In the event it is deemed advisable by the City Council of the city of Hardy, Arkansas, that a particular house, building and/or structure be judicially declared to be a nuisance by a court having jurisdiction of such matters, the City Council is hereby authorized to employ an attorney to bring such an action for said purpose in the name of the city, and the only notice to be given to the owner or owners of any such house, building or structure sought to be judicially declared to be a nuisance will be that as now provided for by law in such cases in a court of competent jurisdiction.

When any such house, building and/or structure has been declared judicially to be a nuisance by a court of competent jurisdiction, a fine of Fifty Dollars (\$50.00) is hereby imposed against the owner or owners thereof from the date said finding is made by the court and for each day thereafter said nuisance be not abated constitutes a separate and distinct offense punishable by a fine of Fifty Dollars (\$50.00) for each separate and distinct offense. In the event the owner or owners of any such house, building and/or structure judicially found to be a nuisance fails or refuses to abide by the orders of the court, the Mayor, his designee, or any other person or persons referred to in Section 5.05.06 of this ordinance will take such action as provided in Section 5.05.06 hereof, and Section 5.05.07 of this ordinance will be applicable to such owner or owners. The provisions contained in the immediately preceding sentences apply independently of any action as may be taken by the court judicially declaring the nuisance.

STATE LAW REFERENCE – See A.C.A. § 14-54-1501, *et seq.*, A.C.A. § 14-54-901, *et seq.*, and A.C.A. § 14-56-203, *et seq.*

CHAPTER 5.06

LITTERING

5.06.01 Littering illegal It shall be unlawful for any person to place, dispose, or otherwise permit to be located upon, in, on, or about any public street, sidewalk, alley or public thoroughfare or any private or public property adjacent thereto, any litter, refuse or debris. The fine for each separate occurrence shall not exceed \$125.00.

CHAPTER 5.08

SOLID WASTE COLLECTION

Sections:

5.08.01	Created
5.08.02	Definition
5.08.03	Fees
5.08.04	Payment
5.08.05	Charges
5.08.06	Containers
5.08.07	Burning or dumping
5.08.08	Collection schedule

5.08.01 Created There is hereby created a city Garbage Department within and for the city of Hardy, Arkansas, to be supervised and controlled by the City Council and the Mayor. The Council of the city of Hardy, Arkansas, shall have the power to employ a foreman and such other laborers as may appear necessary to efficiently and systematically gather, transport, and dispose of all garbage inside the city limits; to demand and collect fees as herein fixed; to maintain said department; and to exercise a general supervisory control over the garbage operations of this city.

5.08.02 Definition

Garbage shall include all waste matter and materials coming from human inhabitants and places of business not of a kind to run through sewers, including street filth, droppings from animals, decayed foods, flesh, vegetables and fruits, dead animals and bones waste from slaughter houses, processing plants and factories, all used boxes, barrels, containers, waste paper and sweepings from stores, warehouses, restaurants hotels, and other such places of business; grass, leaves, shrubbery and small trees, discarded cane, jars, glass containers, crockery and other utensils and vessels, discarded furniture, machinery and other such matter not to exceed one hundred (100) pounds; all houses, storehouses and warehouses trash and sweepings, as well as other unsightly and unsanitary materials and things that appear detrimental to the beauty of the city or the health of its inhabitants.

5.08.03 Fees

Garbage fees:

Residential rates will be \$13.50 per month per account.

Commercial rates will be \$21.00 per month per account.
(Ord. No. 2011-6, Sec. 1.)

5.08.04 Payment The fees herein fixed are on a monthly basis or schedule and are due and payable on the first day of each month at the office of the Recorder/Treasurer in the same manner as water bills are paid and shall be paid by the person owning the property or by the person paying the water bill charged to the property. In cases where one water meter serves more than one apartment or dwelling house or more than one business establishment, the fee shall be collected on a unit basis.

5.08.05 Charges The City of Hardy shall have the power to adjust, fix and collect fees from and against any person, firm and corporation. All places of business or residences living or doing business in and around Hardy, Arkansas, and using city water will be charged.

5.08.06 Burning or dumping It shall be unlawful for any person, firm or corporation to burn trash or garbage except in incinerators approved by the City Health Director or the Chief of the City Fire Department or to dump or throw any garbage in any vacant lot or into the street or alley in said city.

5.08.07 Collection schedule Garbage shall be collected from business houses and other such establishments once per week, and from dwelling houses and other homes at least once per week by zones or wards.

CHAPTER 5.12

TRI-COUNTY REGIONAL SOLID WASTE DISPOSAL AUTHORITY

Sections:

- 5.12.01 Created
- 5.12.02 Initial member
- 5.12.03 Powers
- 5.12.04 Directors and votes
- 5.12.05 Application

5.12.01 Created The city of Hardy, Arkansas, shall join in the creation of a Tri-County Regional Solid Waste Disposal Authority, along with the following counties/cities and towns: Fulton County; cities of Salem, Viola, and Mammoth Springs; Sharp County; cities of Ash Flat, Cave City, Evening Shade, Hardy, Sidney and Williford; IZARD County; cities of Horseshoe Bend, Calico Rock Franklin, Oxford, Melbourne, Pineville, Mt. Pleasant and Guion. (Ord. No. 90-3, Sec. 1.)

5.12.02 Initial member The city of Hardy, Arkansas, is hereby authorized to become an initial member of the Tri-County Regional Solid Waste Disposal Authority. (Ord. No. 90-3, Sec. 2.)

5.12.03 Powers The powers of such authority shall be as follows:

- A. To own, acquire, construct, reconstruct, extend, equip, improve, operate, maintain, sell, lease, contract concerning or otherwise deal in or dispose of any real property, personal property, or mixed property of any and every kind that can be used or that will be useful in the controlling, collecting, storing, removing, handling, reducing, disposing of, treating and otherwise dealing in and concerning solid wastes, including, without limitation, property that can be used or that will be useful in extracting, converting to steam (including the acquisition, handling, storage and utilization of coal, lignite or other fuels of any kind or water that can be used or that will be useful in converting solid waste to steam) and distributing such steam to users thereof or otherwise separating and preparing solid waste for reuse.
- B. To have perpetual succession as a body politic and corporate and to adopt bylaws for the regulation of the affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties.
- C. To adopt an official seal and alter the same at pleasure.
- D. To maintain an office at such place or places as it may determine.
- E. To sue and be sued in its own name and to plead and be impleaded.
- F. To make and execute contracts and other instruments necessary or convenient in the exercise of the powers and functions of the authority under Act 699 of 1979, including contracts with persons, firms, corporations and others.
- G. To apply to the appropriate agencies of the state, the United States or any state thereof, and to any other proper agency for such permits, licenses, certificates or approvals as may be necessary and to construct, maintain and operate projects in accordance with and to obtain, hold and use, such licenses, permits, certificates or approvals in the same manner as any other person or operating unit of any person.
- H. To employ engineers, architects, attorneys, real estate counselors, appraisers, financial advisors and such other consultants and employees as may be required in the judgment of the authority and to fix and pay their compensation from funds available to the authority thereof.
- I. To purchase all kinds of insurance including, but not limited to, insurance against tort liability, business interruption and/or risks of damage to property.
- J. To fix, charge and collect rents, fees and charges for the use of any project or portion thereof or for steam produced therefrom.

- K. To accomplish projects as authorized by Act 699 of 1979 and the ordinances creating the authority.
- L. To distribute steam produced by a project to any person, municipality or county.
- M. To buy, sell, exchange, own and generally deal in real property, improved and unimproved, and buildings of every class and description.
- N. To pledge or hypothecate any and all property of the authority both real, personal and mixed, owned or leased by the authority for cash, on credit and time payment and to generally finance any property, both real, personal and mixed, sold or leased by this authority.
- O. To issue tax-exempt bonds pursuant to the terms and provisions authorized in Act 699 of 1979 and amendments thereto.
- P. To do any and all other acts and things necessary, convenient or desirable to carry out the purposes and to exercise the powers granted to the Authority herein. (Ord. No. 90-3, Sec. 3)

5.12.04 Directors and votes That the number of directors of such Authority and the voting rights of each director shall be as follows:

The number of directors constituting the Board of Directors of the Authority shall be the same as the number of members of the Authority, with each member entitled to place one (1) director on the Board of Directors of the Authority. Each such director shall be entitled to one (1) vote on all matters relating to the affairs of the Authority. (Ord. No. 90-3, Sec. 4)

5.12.05 Application The application of the initial members of the Tri-County Arkansas Regional Solid Waste Disposal Authority is attached hereto and made part hereof, and said application if approved in all things. (Ord. No. 90-3, Sec. 5.)

CHAPTER 5.16

DUMPING

Sections:

- 5.16.01 Unlawful
- 5.16.02 Supervision
- 5.16.03 Fine
- 5.16.04 Tickets
- 5.16.05 Fees per load
- 5.16.06 Commercial user

5.16.01 Unlawful It shall be unlawful for any person to dump trash or rubbish in an unorderly manner upon the property owned by the city of Hardy, Arkansas, and now being used as a city dump ground. (Ord. No. 69-17, Sec. 1.)

5.16.02 Supervision There shall be an attendant on duty to supervise dumping six (6) days per week and he shall have authority to supervise and direct where to dump, collect fees, and in case of refusal to dump where directed, he shall take name, address and vehicle license number and notify the city of Hardy immediately of the violation. (Ord. No. 69-17, Sec. 2.)

5.16.03 Fine Any person, firm or corporation 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 to exceed Ten Dollars (\$10.00), plus court costs for first offense, second offense not less than Twenty-Five Dollars (\$25.00) or more than Fifty Dollars (\$50.00) plus court costs. (Ord. No. 69-17, Sec. 3.)

5.16.04 Tickets There shall be printed for use by the attendant, dumping tickets printed in duplicate form and in numerical order which will be filled out and the original given to the customer at time of dumping. The duplicate will be turned over to the City Treasurer along with the fees collected on the 25th day of each month. (Ord. No. 69-17, Sec. 4.)

5.16.05 Fees per load The following fees will be collected from individuals who use the city dump grounds:

- \$.25 per load for trash hauled in passenger cars
 - \$.50 per load for pickups with conventional beds and no sideboards
 - \$1.00 per load for flatbed pickups, pickup with racks and large trucks
- (Ord. No. 69-17, Sec. 5.)

5.16.06 Commercial user The fees charged a commercial user will be set by the City Council upon application to use the facility. (Ord. No. 69-17, Sec. 6.)

TITLE 6

ANIMALS AND FOWL

Chapters:

- 6.04 Dogs
- 6.08 Animals
- 6.12 Livestock and Fowl

CHAPTER 6.04

DOGS

Sections:

- 6.04.01 Vaccination
- 6.04.02 Running at Large
- 6.04.03 Dog Bites
- 6.04.04 Boarding fee
- 6.04.05 Impoundment
- 6.04.06 Vicious dog defined
- 6.04.07 Vicious dogs prohibited
- 6.04.08 Vicious dog regulations
- 6.04.09 Unconfined dogs
- 6.04.10 Fine

6.04.01 Vaccination All dogs kept in the city shall be vaccinated annually against rabies by an accredited veterinarian once the animal is three months of age. It is made the duty of all owners of dogs or persons having possession or control of dogs within the city to have such animals vaccinated with vaccine against rabies in an amount, quantity and quality to be approved by the state veterinarian. It shall be the duty of said owner or person having the control of said dog to cause a metal vaccination tag to be securely attached to the dog's neck. Alternatively, if said vaccination tag is not openly displayed on the animal, it shall be the duty of the owner to provide proof of vaccination upon request by City Police or the City Code Enforcement Officer or Animal Control Officer.

6.04.02 Running at large Any dog within the city of Hardy, Arkansas, without a valid license tag and vaccination tag will immediately impounded.

6.04.03 Dog Bites Should a dog bite any person, the dog must be immediately impounded and so held until it can be ascertained if the dog has rabies or if it is a vicious dog. If it is ascertained that the dog has rabies or that the dog is a vicious dog which presents a hazard to

public safety, then the dog must be immediately destroyed by the most reasonable and humane means then available.

6.04.04 Boarding fee Should it become necessary to impound any dog within the city limits of Hardy, Arkansas, the person responsible for the release of said animal shall be charged a board bill of Twenty Dollars (\$20.00) per day from the time of impoundment until release.

6.04.05 Impoundment Any dog impounded pursuant to this ordinance shall be held for a period of five (5) days. If after due diligence is made to locate the owner, and the owner is unknown or if the owner does not make arrangements to retrieve the animal, it shall be rehomed or destroyed.

6.04.06 Vicious dogs prohibited. No person, firm, corporation or association shall own or maintain any vicious dog within the city of Hardy, Arkansas.

6.04.07 Vicious dog defined.

A. Any animal which, without provocation, attacks or bites, or has attacked or bitten a human being or domestic animal; or,

B. Any animal with a propensity, tendency or disposition to attack unprovoked, to cause injury to or otherwise threaten the safety of human beings or domestic animals; or,

C. Any animal which chases or charges a person or domestic animal in a menacing manner, or attempt to do so.

6.04.08 Vicious dog regulations. In addition to any other action taken under this ordinance regarding a vicious dog, any vicious dog that is unconfined or is otherwise owned in violation of this ordinance shall be seized by the Animal Control Officer or the owner can have the vicious dog removed outside the city limits until a final disposition with the District Court of Sharp County. In the event the court orders the vicious dog destroyed, then it shall be humanely euthanized by a licensed veterinarian or the Animal Control Officer with the cost for having the vicious dog euthanized assessed against the owner or custodian of said vicious dog. The owner or custodian of any dog seized under this section shall be assessed a \$20.00 per day boarding fee for each dog confined under this section, beginning with the day the animal was taken into custody.

6.04.09 Unconfined Dogs. It shall hereafter be unlawful for any owner to keep within the corporate limits of the city of Hardy, Arkansas, any unconfined dog. A dog is "unconfined" if it is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the dog. The pen or structure must be at least ten feet by ten feet (10 x 10) with each pen or structure containing no more than two (2) dogs at any one time. All such pens or structures must be kept in a clean and sanitary condition.

A dog may be unconfined for the following purposes:

- A. Transporting the dog to or from a state-licensed veterinary office; or
- B. Transporting the dog to or from a state-licensed kennel for the lodging or breeding of dogs; or
- C. Transporting the dog to the location of the purchaser of the dog; or
- D. Recreation.

When exercising these exceptions, the owner of a dog shall not suffer or permit the dog to become unconfined unless the lease provisions below have been fully met.

The owner of a dog shall not suffer or permit the dog to go beyond the premises of the owner unless the dog is securely restrained by a chain or leash and under the physical restraint of an adult person whose weight is equal to or greater than said dog. Any person, while walking a dog, is responsible for cleaning up any feces left on the property of others.

6.04.10 Fine. Any owner or custodian of a dog in violation of any provision of this Chapter 6.04 shall be guilty of a misdemeanor for each violation and upon conviction thereof shall be fined in an amount not to exceed Two Hundred Dollars (\$200.00) for each offense. Each day that a violation continues shall constitute a separate offense.

CHAPTER 6.08

ANIMALS

Sections:

- 6.08.01 Number of animals
- 6.08.02 Clean Premises
- 6.08.03 Disturbing the peace
- 6.08.04 Fine
- 6.08.05 Definition

6.08.03 Number of animals It shall be unlawful for any person, firm or corporation to own, keep or harbor more than four (4) animals over the age of six (6) months within the corporate limits of the city unless such person, firm or corporation receives the permission of the City Council to maintain an animal hospital or a kennel, pays such fees as the Council may establish for the keeping of a kennel or animal hospital and make such sanitary arrangements as the Council may require, and that each animal kept within the corporate limits shall be currently licensed and vaccinated for rabies.

6.08.02 Clean premises It shall be unlawful for any person, firm, association or corporation hereafter keeping or harboring animals to fail to keep the premises where such animals are kept free from offensive odors to the extent that such odors are disturbing to any person residing within a reasonable proximity of the said premises, and it shall be unlawful to allow premises where animals are kept to become unclean and a threat to the public health by any failure to diligently and systematically remove all animal waste from the premises.

6.08.03 Disturbing the peace. It shall hereafter be unlawful for any person, firm, association or corporation to keep on his, her, it's or their premises under his, her, it's or their control, any animal which by loud vocal sounds shall disturb the peace and quiet of any person who may reside within reasonable proximity of the place where such animal is kept.

6.08.04 Fine Each day shall constitutes separate violations of this ordinance, and upon conviction said owner shall be fined Fifty Dollars (\$50.00) plus court costs. (Ord. No. 84-3, Sec. 5.)

6.08.05 Definition

Animal is defined as dogs, cats, chickens, ducks, geese, goats, cows, horses, pigs or any other animal in these groups.

CHAPTER 6.12

LIVESTOCK AND FOWL

Sections:

- 6.12.01 Livestock
- 6.12.02 Small animals

6.12.01 Livestock

- A. Owner of large animals shall keep such animals in an enclosure or pen with no more than two (2) animals in one pen. Any large animal or livestock pen shall be at least one hundred (100) feet from any other livestock pen to prevent congestion of foul animal odors from waste discharge. A pen shall be at least ten thousand (10,000) square feet.
- B. A formal complaint by any citizen, if found valid, against an owner of penned livestock, of odor or pollution shall be addressed by the owner to the satisfaction of a city inspection. Failure to address the cause of such complaint if found valid, shall result in a fine of at least Ten Dollars (\$10.00) not to exceed Twenty-Five Dollars (\$25.00). If cause of the complaint is not successfully addressed within ten (10) days, an additional fine of Twenty-Five Dollars (\$25.00) shall be assessed and repeated after each ten (10) days of refusal to address cause of the valid complaint.
- C. This ordinance applies to owner of animals whether the pen is on the property of the owner or on property leased, rented or otherwise permitted by another property owner.

- D. Exceptions to this ordinance is hereby made to licensed animal hospitals and kennels, properly conforming to the standards of rabies vaccination and other health precautions.
- E. Efforts shall be made by the city to apprehend large animals having no owner and remove them from being a nuisance to city residents. (Ord. No. 2000-1, Sec. 1-5.)

6.12.02 Small animals

- A. Owners shall keep small animals under sanitary and nuisance control and waste matter from these animals shall be kept cleaned from any public properties or any neighbor's properties. A formal complaint by any citizen, if found valid against an owner of small animals, must be addressed by the owner to the satisfaction of a city inspection. Failure to address the cause of such complaint if found valid, shall result in a fine of at least Ten Dollars (\$10.00) and nor more than Twenty-Five Dollars (\$25.00). If cause of the valid complaint is not addressed within ten (10) days, an additional fine of Twenty-Five Dollars (\$25.00) shall be assessed and repeated after each ten (10) days of refusal to address cause of the valid complaint.
- B. Efforts shall be made by the city to apprehend small animals having no owner, and remove them from being a nuisance to city residents. (Ord. No. 2000-1, Secs. 1-2.)

TITLE 7

PUBLIC PEACE, SAFETY AND MORALS

Chapters:

- 7.04 State Criminal Statutes and Penalties
- 7.08 Curfew
- 7.12 Burial Permits
- 7.16 Prohibited Weapons
- 7.20 Vandalizing City Property
- 7.24 Storage and Handling of Volatile Combustibles
- 7.28 Outside Fire Service
- 7.32 Open Burning
- 7.36 Outdoor Shielded Lighting
- 7.48 Noise
- 7.52 Sexually Oriented Businesses

CHAPTER 7.04

STATE CRIMINAL STATUTES AND PENALTIES

Sections:

- 7.04.01 Unlawful
- 7.04.02 Criminal law adopted
- 7.04.03 Penalties

7.04.01 Unlawful Each and every act, matter or thing which the laws of the state of Arkansas, make a misdemeanor, is hereby prohibited within the corporate limits of the city of Hardy, Arkansas, and made unlawful as a violation of this ordinance. (Ord. No. 66-2, Sec. 1.)

7.04.02 Criminal law adopted 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, are hereby adopted and incorporated into the criminal code of the ordinances of the city of Hardy, Arkansas. (Ord. No. 66-2, Sec. 2.)

7.04.03 Penalties Each and every person who shall, within the corporate limits of the city of Hardy, Arkansas, 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 imposed by the city courts of cities of the second class. All fines when imposed, to be paid to the Recorder/Treasurer, shall deposit said fines in the city treasury and make monthly or quarterly reports to the City Council of such fines collected. (Ord. No. 66-2, Sec. 3.)

CHAPTER 7.08

CURFEW

Sections:

7.08.01	State of emergency
7.08.02	Designated areas
7.08.03	Fine
7.08.04	Juvenile curfew
7.08.05	Accompanied by parents
7.08.06	Violation by adults
7.08.07	Fine

7.08.01 State of emergency The Mayor, any time a condition which in his judgment a civil disturbance, riot, insurrection or time of local disaster has arisen or is imminent, said Mayor 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. (Ord. No. 67-7, Sec. 1.)

7.08.02 Designated areas No person or persons shall congregate, operate any businesses or be upon the streets or other public ways, unless on official business for the city or state, in any area or areas designated by the Mayor as curfew areas in the city during the time of any declared emergency. (Ord. No. 67-7, Sec. 2.)

7.08.03 Fine Any person, firm or corporation violating any provision of this ordinance shall upon conviction thereof shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) or more than one (1) year imprisonment, or by both fine and imprisonment. (Ord. No. 67-7, Sec. 3.)

7.08.04 Juvenile curfew A curfew shall be and is hereby established for all persons under the age of eighteen (18) years. Said curfew shall commence each night at 10:00 p.m. and shall continue until 6:00 a.m. of the following morning, except Friday and Saturday nights, which shall be 11:30 p.m. until 6:00 a.m. (Ord. No. 77-5, Sec. 1.)

7.08.05 Accompanied by parents Curfew shall not apply to those persons accompanied by one or both parents. (Ord. No. 77-5, Sec. 2.)

7.08.06 Violation by adults No adult person including parents shall knowingly allow the violation of these provisions. (Ord. No. 77-5, Sec. 3.)

7.08.07 Fine Any person violating the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not to exceed Twenty-Five Dollars (\$25.00) for the first offense, and Fifty Dollars (\$50.00) for each offense thereafter. (Ord. No. 77-5, Sec. 4.)

CHAPTER 7.12

BURIAL PERMITS

Sections:

- 7.12.01 Burial permit
- 7.12.02 Fine

7.12.01 Burial permit The City Council of the city of Hardy, Arkansas, does hereby direct and order that a burial permit be obtained by the funeral establishment handling the funeral service, free of charge, at City Hall for each individual interment in the city of Hardy Cemetery which permit will describe the cemetery location of the burial plot. (Ord. No. 2004-1, Sec. 1.)

7.12.02 Fine Penalty for failure to obtain such burial permit prior to digging a grave shall result in a fine of not less than Five Hundred Dollars (\$500.00) to be levied against the funeral establishment of the burial service. (Ord. No. 2004-1, Sec. 1.)

CHAPTER 7.16

PROHIBITED WEAPONS

Sections:

- 7.16.01 Injury
- 7.16.02 Responsibility
- 7.16.03 Fine

7.16.01 Injury Due to the injury which affect the citizenry and because of safety, health and welfare of the citizens of the city of Hardy, Arkansas, the operation of any gas, powder, air or spring-operated rifle, BB pellet gun or pistol, when used and discharged within the city limits of Hardy, Arkansas, shall be declared illegal and punishable as a misdemeanor. (Ord. No. 78-3, Sec. 1.)

7.16.02 Responsibility No person or persons shall carry, use or discharge any type of

powder, gas, air or spring-operated gun that discharges shot, pellets, or bullets, within the city limits of the city of Hardy, Arkansas. Furthermore, if any minor child or children discharges such firearms so described herein, their parent, parents, or those having actual custody and care of such respective minors shall therefore be held liable for such acts of said child or children and shall be subject to the penalty provision of this ordinance. (Ord. No. 78-3, Sec. 2.)

7.16.03 Fine Any person, persons, parent and/or legal guardian having control and custody of a minor child or children, in violation of the provisions of this ordinance shall, upon conviction thereof, be fined in any sum not less than Five Dollars (\$5.00) nor more than Twenty-Five Dollars (\$25.00) for each offense. (Ord. No. 78-3, Sec. 3.)

CHAPTER 7.20

VANDALIZING CITY PROPERTY

Sections:

7.20.01 Fine

7.20.01 Fine The City Council of the city of Hardy does deem it necessary for the common good of all our citizens to affix a fine of Fifty Dollars (\$50.00) to Five Hundred Dollars (\$500.00), with the amount to be assigned at the city's discretion according to the degree of damage incurred, on those performing unofficial acts of removal, destruction, vandalizing or tampering of city properties, equipment or facilities within the boundaries of the city of Hardy. (Ord. No. 2003-5, Sec. 1.)

CHAPTER 7.24

STORAGE AND HANDLING OF VOLATILE COMBUSTIBLES

Sections:

7.24.01 Prohibited

7.24.01 Prohibited The city of Hardy has incurred a need to locate and construct water well sites within the city limits of Hardy, Arkansas. Therefore, in the interest of the city and its people, the City Council passes this ordinance to make it illegal from this date forward to transport, use or store hazardous chemicals, or build any structure within a one hundred (100) foot radius of the sites known as Well No. 1 and 2, and to require that the street fronting any well site within the city of Hardy be signed at each end prohibiting the transport of hazardous chemicals. Any such activity will be prohibited by the city of Hardy. (Ord. No. 93-2, Sec. 1.)

CHAPTER 7.28

OUTSIDE FIRE SERVICE

Sections:

7.28.01	Authorization
7.28.02	Conditions
7.28.03	Fees
7.28.04	Compensation
7.28.05	Mutual aid agreements
7.28.06	Distribution of funds

7.28.01 Authorization No Fire Department apparatus shall be taken beyond the corporate limits of the city of Hardy, Arkansas, to assist at any fire, or for any other purpose, except by order of the Mayor or Fire Chief, and subject to the restrictions and conditions hereinafter set forth. (Ord. No. 70-21, Sec. 1.)

7.28.02 Conditions The Mayor or Fire Chief are authorized in their discretion, to aid in the extinguishment of fires in another city or town, public institutions, corporations, or other property within a reasonable distance from the city, or on property immediately adjacent to the city in which there is a possibility of fire spreading within the corporate limits, under the following conditions:

- A. A request from a city or incorporated town for assistance must come only from the Mayor, Fire Chief or such other person as may be designated by mutual agreement.
- B. Calls may be responded to only by such apparatus which in the judgment of the Mayor or Fire Chief 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 individuals 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 institutions, corporation or individuals must compensate the city of Hardy, Arkansas, for any loss of damage to such apparatus while answering such call, and be responsible to the members of the Fire Department of the city of Hardy, Arkansas, for any injuries suffered or incurred by them while responding to such call and while working at such fire. (Ord. No. 70-21, Sec. 2.)

7.28.03 Fees Unless there exists a mutual aid agreement, every municipality, institution, corporation or individual requesting and receiving such service of the Fire Department of the city of Hardy, Arkansas, shall pay for such services and the use of apparatus as follows:

- A. Pumper \$75.00
If pumper is used, an additional \$25.00 per each half hour or part hereof.
- B. Chemical truck \$75.00
If chemicals are used, an additional \$25.00 plus cost of chemicals.
- C. Truck with booster pump \$75.00
If booster pump is used, an additional \$25.00.

Such fees shall be payable to the municipal treasury within fifteen (15) days after demand. (Ord. No. 70-21, Sec. 3.)

7.28.05 Mutual aid agreements The Mayor, City Clerk and Fire Chief 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. The parties with whom such mutual aid agreement is entered into shall agree to indemnify the city of Hardy, Arkansas, against any and all loss, cost and damage which it may suffer or sustain by reason of damage to any apparatus arising from any cause whatsoever while such apparatus is going to or from the scene of the fire or while at the scene of the fire. The duty to indemnify shall be performed within fifteen (15) days after demand.
- B. As to each fire driver injured while driving to or from the fire or while at the scene of the fire, and as to each fireman helping at the fire, injured between the time he reports to the foreman of his company and the time his service ends, the party entering into such mutual aid agreement shall pay within fifteen (15) days after demand to the city of Hardy, Arkansas, a sum sufficient to pay the medical and hospital expenses of such injured driver or fireman. (Ord. No. 70-21, Sec. 5.)

7.28.06 Distribution of funds Monies collected under the terms of 7.28.04 of this ordinance 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. (Ord. No. 70-21, Sec. 6.)

CHAPTER 7.32

OPEN BURNING

Sections:

7.32.01	Unlawful
7.32.02	Containers
7.32.03	Position of container
7.32.04	Open lot
7.32.05	Public property
7.32.06	Separate offense
7.32.07	Fine

7.32.01 Unlawful Thirty (30) days from and after the passage and approval of this ordinance, it shall be unlawful for any person, firm or corporation to burn or cause to be burned any trash, waste paper, hay, grass, straw, leaves, weeds, litter or combustible or flammable waste or rubbish of any kind or to permit any such fire or burning within the city limits, after 10:00 p.m. or before 6:00 a.m. (Ord. No. 68-1, Sec. 1.)

7.32.02 Containers It shall be unlawful for any trash, waste paper, hay, grass, stray, weeds, leaves, litter or combustible or flammable waste or rubbish of any kind to be burned except in a metal, brick, concrete or rock container with steel cover, and openings in said containers shall not be greater than two inch mesh. (Ord. No. 68-1, Sec. 2.)

7.32.03 Position of container It shall be unlawful for any trash burner to be placed closer than ten (10) feet from any structure. (Ord. No. 68-1, Sec. 3.)

7.32.04 Open lot It shall be unlawful to burn any weeds, leaves, grass, vines or other growth or any accumulation of waste paper, hay, grass, straw or weeds or combustible or flammable waste or rubbish of any kind in any yard, vacant lot, or open space without written permission from the Fire Chief or Fire Inspector. (Ord. No. 68-1, Sec. 4.)

7.32.05 Public property It shall be unlawful for any person to burn or cause to be burned any substance defined in 7.32.01, 7.32.01 and 7.28.04 of this ordinance upon any street, alley or public property of the city at any time without the written permission of the City Council. (Ord. No. 68-1, Sec. 5.)

7.32.06 Separate offense Where the violation of any section or part of section of this ordinance is continuous, each twenty-four (24) hours or part thereof shall constitute a separate offense. (Ord. No. 68-1, Sec. 6.)

7.32.07 Fine Any person, persons, firm or corporation violating any of the provisions of

this ordinance, shall be fined in any sum not less than Five Dollars (\$5.00) or more than Twenty-Five Dollars (\$25.00) for each offense. (Ord. No. 68-1, Sec. 7.)

CHAPTER 7.36

OUTDOOR SHIELDED LIGHTING

Sections:

7.36.01	Cost of acquiring
7.36.02	Cost of operating
7.36.03	Exemption

7.36.01 Cost of acquiring The City Council of Hardy finds that the cost of acquiring shielded outdoor lighting fixtures, verses non-shielded outdoor lighting fixtures, is prohibitive. (Ord. No. 2007-1, Sec. 1.)

7.36.02 Cost of operating The City Council of Hardy hereby determines that the projected cost of operating shielded outdoor lighting fixtures, versus non-shielded outdoor fixtures, is prohibitive. (Ord. No. 2007-1, Sec. 2.)

7.36.03 Exemption The city of Hardy hereby expressly intends to avail itself of the exemption from the requirements of the act pertaining to the purchase of shielded outdoor lighting fixtures. (Ord. No. 2007-1, Sec. 3.)

CHAPTER 7.48

NOISE

Sections:

7.48.01	Disturbing the peace
7.48.02	Fine

7.48.01 Disturbing the peace It shall be a violation of this chapter if any person shall make any loud, raucous, improper, unreasonable, offensive or unusual noise, disorder or tumult, which disturbs, injures, or endangers the comfort, repose, health, peace or safety of others within the city, or to permit such noise, disorder or tumult to be made in or about the city, and the same is hereby declared to be a public nuisance.

7.48.02 Fine Upon conviction thereof, any person shall be fined in any sum not more than Three Hundred Dollars (\$300.00).

CHAPTER 7.52

SEXUALLY ORIENTED BUSINESS

Sections:

7.52.01	Purpose and intent
7.52.02	Definitions
7.52.03	Classification
7.52.04	Location of sexually oriented businesses
7.52.05	Areas in which sexually oriented businesses may be located
7.52.06	Non-conforming sexually oriented business
7.52.07	Non-conforming sexually oriented business
7.52.08	Enforcement

7.52.01 Purpose and intent It is the purpose of this section to regulate sexually oriented businesses to promote the health, safety and general welfare of the citizens, to preserve the Historic District of the city, and to establish reasonable and uniform regulation to prevent the concentration of sexually oriented businesses within the Historic District of the city of Hardy. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this section 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, unless otherwise restricted by law. (Ord. No. 2013-4, Sec. 1.)

7.52.02 Definitions

Adult arcade - any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled image-producing devices are maintained to show images to five or fewer viewers at one time, and where the images so displayed are distinguished or characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas.”

Adult bookstore or adult video store - a commercial establishment which as one of its principal business purpose, offers for sale or rental for any form of consideration any one or more of the following:

- A. Books magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, DVDs or video reproduction, slides or other visual representations which depict or describe “specified sexual activities” or “specified anatomical areas,” or,

- B. Instruments, devices or paraphernalia, which are designed for, use in connection with “specific sexual activities.”

Adult cabaret - a nightclub, bar, restaurant or similar commercial establishment which regularly features:

- A. Persons who appear in a state of nudity; or
- B. Live performances which are characterized by the exposing of “specified anatomical areas” or by “specified sexual activities,” or
- C. Films, motion pictures, videocassettes, slides or other photographic reproductions, which are characterized by the depiction of “specified sexual activities” or “specific anatomical areas.”

Adult motion picture theater - a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, DVDs, slides, or similar photographic reproductions are regularly shown which are characterized or distinguished by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specific anatomical areas.”

Adult novelty – A commercial establishment which as its principal or partial business offers for sale or rental for any form of consideration any one or more of the following: instruments, devices, or paraphernalia which are designed for use in connection with “specific sexual activities.”

Adult theaters - a theater, concert hall, auditorium or similar commercial establishment, which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of “specified anatomical areas” or “specific sexual activities.”

Historic District – any land within the city limits of Hardy that has been designated by the city of Hardy as an Historic District because of the many buildings placed on the National Register of Historic Places, specifically the land bound by Kelly, Front, Third and Church Streets.

Nudity or state of nudity -

- A. The appearance of the bare human buttocks, anus, male genitals, female genitals or female breast.
- B. A state of dress that fails to opaquely cover a human buttocks, anus, male genitals, female genitals or areola of the female breast.

Person - an individual, proprietorship, partnership, corporation, association or other legal entity.

Semi-nude - a state of dress in which clothing covers no more than the genitals, pubic region and or the female breast, as well as portion of the body covered by supporting straps or devices.

Sexually oriented business - an adult arcade, adult bookstore, adult novelty shop, adult video shop, adult motion picture theater or adult theater whose inventory, merchandise or performances are characterized by a preponderance of “specified sexual activities” or “specified anatomical areas.”

Specified sexual activities -

- A. Human genitals in a state of sexual stimulation or arousal;
- B. Act of human masturbation, sexual intercourse or sodomy;
- C. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

Specified anatomical areas -

- A. Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the areola; and
- B. Human male genitals in a discernible turgid state even if completely and opaquely covered. (Ord. No. 2013-4, Sec. 2.)

7.52.03 Classification Sexually oriented businesses are classified as follows:

- A. Adult arcade;
- B. Adult bookstores or adult video stores;
- C. Adult cabarets;
- D. Adult motion picture theaters;
- E. Adult novelty stores;
- F. Adult theaters
(Ord. No. 2013-4, Sec. 3.)

7.52.04 Location of Sexually Oriented Businesses

- A. A person commits an offense if that person operates or causes to be operated a sexually oriented business within 1,000 feet of:
 - 1. The Historic District of the city of Hardy;

2. A building or district designated as historic by listing on the National Register of Historic Places or so identified by the Arkansas Historic Preservation Program;
 3. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
 4. A public or private elementary school, middle school, secondary or post-secondary school, nursery school or child care facility. "School" includes the school grounds;
 5. A neighborhood park or family residential center;
 6. A hospital, medical clinic or nursing facility.
 7. The boundary of a residential zone;
 8. Any room, building, premises, place or establishment that sells or dispenses an alcoholic beverage, which means, but is not limited to, distilled spirits, wine or beer.
- B. A person commits an offense if that person causes or permits the operation, establishment or maintenance of a sexually oriented business with 750 feet of another sexually oriented business.
- C. For the purpose of Subsection (1), measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where a sexually oriented business is conducted, to the nearest property line of the restricted areas outlined in Section (4).
- D. For the purposes of Subsection (2) of this section, the distance between any two (2) sexually oriented businesses shall be measured in a straight line without regard to intervening structures or objects, from the closest exterior wall of the structure in which the business is located. (Ord. No. 2013-4, Sec. 4.)

7.52.05 Areas in which sexually oriented businesses may be located The City Council directs that sexually oriented businesses may only be located outside of 1,000 feet of the restricted areas as outlined in 7.52.04. (Ord. No. 2013-4, Sec. 5.)

7.52.06 Non-conforming sexually oriented business It is believed that there are currently no sexually oriented businesses located within the Historic District of the city of Hardy. If it is later determined that a sexually oriented business existed within the Historic District of the city

of Hardy prior to the effective date of this ordinance, then an amending ordinance shall be prepared to address the issues relating to the non-conforming business. (Ord. No. 2013-4, Sec. 6.)

7.52.07 Non-conforming sexually oriented business A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the subsequent location of a use defined in 7.52.04 within 1,000 feet of the property line of a sexually oriented business. This provision applies only to an ongoing sexually oriented business, not to a sexually oriented business that has been terminated for any reason or discontinued for a period of ninety (90) days or more subsequent to the location of the use defined in 7.52.04. (Ord. No. 2013-4, Sec. 7.)

7.52.06 Enforcement

- A. Any person violating any part of this ordinance, upon conviction, is punishable by a fine not to exceed Five Hundred Dollars (\$500.00).
- B. If the violation is, in its nature, continuous in respect to time, the penalty for allowing the continuance thereof is a fine not to exceed Two Hundred Fifty Dollars (\$250.00) for each day that the same is unlawfully continued.
- C. A person who operates or causes to be operated a sexually oriented business in violation of 7.52.04 of this ordinance will be subject to a suit for injunction as well as prosecution for criminal violations.
(Ord. No. 2013-4, Sec. 8.)

TITLE 8

VEHICLES AND TRAFFIC

Chapters:

- 8.04 Adoption of State Laws
- 8.08 Traffic
- 8.12 Parking
- 8.16 One-Way Streets
- 8.20 Vacating Streets
- 8.30 Emergency Vehicles
- 8.40 Non-Operating Vehicles

CHAPTER 8.04

ADOPTION OF STATE LAWS

Sections:

- 8.04.01 Adoption of state laws

8.04.01 Adoption of state laws The "Uniform Act Regulating Traffic on Highways of Arkansas", as contained in Title 27 of the Arkansas Statutes, three (3) copies of which are on file in the office of the Mayor, is hereby adopted as traffic rules and regulations within and for the city. Any person convicted of violation of said statutes shall be deemed guilty of the violation of the ordinances of the city, and shall be fined or imprisoned or both in the manner set out under the state statutes.

CHAPTER 8.08

TRAFFIC

Sections:

- 8.08.01 Speed limit
- 8.08.02 Fine

8.08.01 Speed limit The maximum speed on all streets in the city of Hardy, Arkansas, shall be 25 miles per hour, except where appropriate speed limit signs are posted designating authorized speeds. (Ord. No. 78-2, Sec. 1.)

8.08.02 Fine Any person violating the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not to exceed Twenty-Five Dollars (\$25.00). (Ord. No. 78-2, Sec. 3.)

CHAPTER 8.12

PARKING

Sections:

8.12.01	Parking
8.12.02	Restricted parking
8.12.03	Citations for parking violations
8.12.04	Firearms
8.12.05	Fine
8.12.06	Main Street parking

8.12.01 Parking It shall be unlawful to park a motor vehicle on a sidewalk, within an intersection, on a crosswalk headed in the direction opposite to the flow of traffic, traveling on the right hand side of the street, or in the street beside a vehicle authorized to park parallel to the curb. (Ord. No. 78-2, Sec. 2.)

8.12.02 Restricted parking The city shall designate certain areas along Main Street and other adjacent streets for which hourly parking may be restricted. The exact hours of restriction or the number of hours for which a car may be parked in one spot shall be designated by the appropriate Street Committee which is composed of members of the City Council of Hardy, Arkansas. These areas shall be clearly marked with any time restrictions being noted on the signs. (Ord. No. 95-1, Sec. 2.)

8.12.03 Citations for parking violations The Mayor shall have the authority to appoint city employees to issue citations for parking violations occurring within the corporate limits of the city of Hardy based upon the parking restrictions established by the Street Committee. It is understood that according to Arkansas law, that the person employed need not meet the certification requirements prescribed by the Arkansas Commission of Law Enforcement Standards and Training. However, the Mayor may request that the Police Chief provide a certain required number of hours of training prior to being allowed to issue citations for parking violations. These employees shall be hired at the discretion of the Mayor with the City Council having the authority to set the salary or salaries for such employees. (Ord. No. 95-1, Sec. 3.)

8.12.04 Firearms The person employed under this ordinance shall not carry firearms nor take any other official law enforcing action except those enumerated within this ordinance. (Ord. No. 95-1, Sec. 4.)

8.12.05 Fine The city hereby imposes a fine to be enforced by the Police Chief,

policemen, or other law enforcement agencies of an amount not less than Ten Dollars (\$10.00) per offense, nor more than One Hundred Dollars (\$100.00) per offense. The fine shall be in addition to any other appropriate court costs being added by the Sharp County District Court. (Ord. No. 95-1, Sec. 5.)

CHAPTER 8.16

ONE-WAY STREETS

Sections:

8.16.01 Second Street

8.16.01

- A. All motor vehicle traffic on Second Street in Hardy, Arkansas, shall travel one way west from Johnson Street to Kelly Street and one way west from Spring Street to Johnston Street.
- B. Any person violating this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than Twenty-Five Dollars (\$25.00) nor more than Thirty-Two Dollars and Fifty Cents (\$32.50.) (Ord. No. 84-2, Secs. 1-2.)

CHAPTER 8.20

VACATING STREETS

Sections:

8.20.01 Vacating streets

8.20.01 Vacating streets

Ord. No. 77-3 Northeast corner of Lot 8 Horn First Addition
Ord. No. 82-2 Alley, Lots 1-6, Block 2, McCaleb's Addition
Ord. No. 2011-5 Alley, Lots 5 & 6, Block 2 of McCaleb's Addition

CHAPTER 8.30

EMERGENCY VEHICLES

Sections:

8.30.01	Right-of-way
8.30.02	Following prohibited
8.30.03	Restriction of vehicular traffic
8.30.04	Strict enforcement
8.30.05	Exempt personnel
8.30.06	Penalty

8.30.01 Right-of-way When any emergency vehicle is on an emergency run, a siren and/or flashing red light shall be operated at all times while said vehicle is in motion. Any such moving emergency vehicle shall be entitled to and shall receive the right-of-way over all pedestrian and vehicle traffic. When the operator of any non-emergency vehicle is approached from any direction by such emergency vehicle, he shall immediately move his vehicle to the extreme right side of the street, and shall come to a full stop, remaining at such full stop until all such emergency vehicle movements have passed.

8.30.02 Following prohibited No person except as herein authorized shall follow any emergency vehicle which is operating its emergency signals.

8.30.03 Restriction of vehicular traffic No vehicular traffic (other than that of authorized personnel specified herein) shall be permitted within a three (3) block radius of any emergency, unless such vehicular movement is permitted by order of the fire, police or medical personnel in charge at the scene of such emergency. Fire, police or other authorized personnel shall have the specific authority to order all pedestrians and spectators outside said emergency area at any time.

8.30.04 Strict enforcement The provisions hereof shall be strictly enforced by members of the Police Department.

8.30.05 Exempt personnel The following personnel when acting in the line of duty are specifically exempt from the provisions of this chapter;

- A. All regular and volunteer Fire Department personnel.
- B. All regular and auxiliary police personnel.
- C. News reporting and photography personnel for public communications media.
- D. Medical, nursing and ambulance personnel.
- E. Law enforcement officers; and other persons specifically authorized by the Mayor, Police Chief or Fire Chief.
- F. Public utility personnel.

8.30.06 Penalty Any person violating any of the provisions hereinabove shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than Twenty-Five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00).

CHAPTER 8.40

NON-OPERATING VEHICLES

Sections:

8.40.01	Definitions
8.40.02	Prohibiting non-operating vehicles
8.40.03	Exceptions
8.40.04	Penalty for violation
8.40.05	Violators

8.40.01 Definitions

- A. Non-operating motor vehicles as used in this chapter means a motor vehicle with one or more of the following characteristics:
1. the engine or motor is inoperative;
 2. the wheels all or any one of them are removed;
 3. the motor vehicle has flats on two or more tires;
 4. major operating components are missing, such as: windshield glass, door glass, fenders, gauges, steering wheel, tie rods, springs, drive train, gear box, rear end, or any parts connected with the steering geometry of the motor vehicle, the seats are removed;
 5. Any of the major operating components such as those listed in item (a)(4) above are in such damaged condition so as to make the motor vehicle useless;
 6. The motor vehicle does not have a current Arkansas registration.
- B. Motor vehicle means a car, automobile, truck, bus, omnibus, tractor truck, or other vehicle licensed to travel upon the roads of Arkansas, or subject to licensing for travel or intended as a carrier for goods and persons from point to point which uses power derived from a motor or engine especially an internal combustion engine, or rotary engine.

8.40.02 Prohibiting non-operating vehicles It is unlawful to have a non-operating motor vehicle.

8.40.03 Exceptions Nothing in this chapter shall be construed so as to apply to:

- A. Any motor vehicle that can be started and moved under its own power on demand;
- B. Motorcycles and motor bikes;
- C. Antique automobiles, provided the vehicle has an antique license as by law required; and
- D. Temporarily disabled motor vehicles provided they are restored to running condition within thirty (30) days from date of disablement.

8.40.04 Penalty for violation A violation of this chapter is hereby declared to be a misdemeanor and punishable by a fine of not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00) or by a jail sentence of one (1) to ten (10) days. Each day a non-operating motor vehicle is upon the premises of a person shall constitute a separate offense.

8.40.05 Violators A person shall be deemed in violation of this chapter if:

- A. Such person owns or has registered to him a non-operating motor vehicle that is in a prohibited area within the terms of this chapter; or
- B. Such person owns property that non-operating motor vehicles are placed, parked or found resting on in a prohibited area within the terms of this chapter;
- C. It shall be a prima facie case that the record owner is the owner of property in question;
- D. It shall be a prima facie case that the registered owner of a motor vehicle is the owner of the motor vehicle.

TITLE 9

STREETS AND SIDEWALKS

Chapters:

- 9.04 Streets, Alleys, Gutters or Ditches
- 9.08 Sidewalks

CHAPTER 9.04

STREETS, ALLEYS, GUTTERS OR DITCHES

Sections:

- 9.04.01 Permit
- 9.04.02 Fine
- 9.04.03 Guidelines

9.04.01 Permit Any person desiring to fill in ditches, make driveways across ditches or in any way change the flow of water through ditches along city streets in the city of Hardy, Arkansas, shall obtain a permit from the city first, and they shall then follow the guidelines adopted by the city insuring that such ditch will still properly drain water along the streets. (Ord. No. 85-1, Sec. 1.)

9.04.02 Fine Any person violating this ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than Fifty Dollars (\$50.00) and not more than One Hundred Dollars (\$100.00) and each day shall constitute a separate violation. (Ord. No. 85-1, Sec. 2.)

9.04.03 Guidelines Any person found in violation of this ordinance shall be given written notice from the city and ten (10) days to comply with the guidelines before they are in violation of this ordinance. (Ord. No. 85-1, Sec. 3.)

CHAPTER 9.08

SIDEWALKS

Sections:

- 9.08.01 Construction and repair
- 9.08.02 Enforcement
- 9.08.03 Fine

9.08.01 Construction and repair The state of Arkansas has conferred upon cities of the second class to regulate the use of sidewalks and all structures and excavations thereunder, to require the owner or occupant of any premises to keep the sidewalks in front or alongside the premises free from obstruction, to build and maintain suitable pavement or sidewalk improvements there along whenever they may become necessary to the safety or convenience of travel, and to designate the kind of sidewalk improvement to be made, the kind of material to be used, and the time within which the improvement is required to be completed. The kind and character of sidewalk improvement for the same street or block shall be uniform. (Ord. No. 2003-1, Sec. 1.)

9.08.02 Enforcement The city shall have power to enforce obedience to the sidewalk, order, resolution or notice upon the owners or occupants failing or refusing to obey them by the imposition of fines upon conviction in the appropriate court, in like manner and with the consequences and effect as for a violation of any other ordinance of the city. Each day any person fails or refuses to obey this ordinance shall constitute a separate offense. (Ord. No. 2003-1, Sec. 2.)

9.08.03 Fine Nothing contained in this statute shall be so construed as to prevent the city from proceeding by civil action or in any other manner provided by existing laws. Fines for violations of this ordinance be it inaction, refusal or other manner of non-compliance will result in imposition of a fine starting at Fifty Dollars (\$50.00) and continuing daily according to A.C.A. 14-54-105, that each day the failure or refusal is continued shall constitute a separate offense. (Ord. No. 2003-1, Sec. 3.)

TITLE 10

UTILITIES

Chapters:

- 10.04 Sewer Regulations
- 10.08 Water Rates
- 10.12 Sewer Rates
- 10.16 Water Superintendent
- 10.20 Cross-Connection Program
- 10.24 Identity Theft Prevention Program
- 10.28 Treatment of Address Discrepancies

CHAPTER 10.04

SEWER REGULATIONS

Sections:

- 10.04.01 Definitions
- 10.04.02 Prohibited discharges
- 10.04.03 Chemical discharges
- 10.04.04 Heavy metals and toxic materials
- 10.04.05 Garbage
- 10.04.06 Storm water and other unpolluted drainage
- 10.04.07 Temperature
- 10.04.08 Radioactive wastes
- 10.04.09 Impairment of facilities
- 10.04.10 Compliance with existing authority
- 10.04.11 Approving authority requirements
- 10.04.12 Approving authority review and approval
- 10.04.13 Requirements for traps
- 10.04.14 Requirements for building sewers
- 10.04.15 Sampling and testing
- 10.04.16 Payment and agreement required
- 10.04.17 Industrial cost recovery system
- 10.04.18 Savings clause
- 10.04.19 Conditions or permits
- 10.04.20 Power to enter property
- 10.04.21 Authority to disconnect service
- 10.04.22 Notice
- 10.04.23 Continuing prohibited discharges

- 10.04.24 Fine
- 10.04.25 Failure to pay
- 10.04.26 Penalty for criminal mischief

10.04.01 Definitions As used in this ordinance:

Approving authority means the Mayor or his duly authorized representative.

BOD (denoting Biochemical Oxygen Demand) means the quantity of oxygen by weight, expressed in mg/l, utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at twenty (20°) degrees C.

Building sewer means the extension from the building drain to the public sewer or other place of disposal (also called house lateral and house connection).

City means the city of Hardy, Arkansas, or any authorized person acting in its behalf.

COD (Chemical Oxygen Demand) means measure of the oxygen consuming capacity of inorganic and organic matter present in the water or wastewater expressed in mg/l as the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.

Control manhole means a manhole giving access to a building sewer at some point before the building sewer discharge mixes with other discharges in the public sewer.

Control point means a point of access to a course of discharge before the discharge mixes with other discharges in the public sewer.

Garbage means animal and vegetable wastes and residue from preparation, cooking, and dispensing of food, and from the handling, storage and sale of food products and produce.

Industrial waste means waste resulting from any process of industry, manufacturing, trade, or business from the development of any natural resource, or any mixture of the waste with water or normal wastewater, or distinct from normal wastewater.

Industrial waste charge means the charge made on those persons who discharge industrial wastes into the city's sewerage system.

Milligrams per liter (mg/l) means the same as parts per million and is a weight-of-volume ratio; the milligram-per-liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

Natural outlet means any outlet into a watercourse, ditch, lake or other body of surface or ground water.

Normal domestic wastewater means wastewater excluding industrial wastewater discharged by a person into sanitary sewers and in which the average concentration of total suspended solids is not more than 250 mg/l and BOD is not more than 250 mg/l.

Overload means the imposition of organic or hydraulic loading on a treatment facilities in excess of its engineered design capacity.

Person includes corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership association, and any other legal entity.

pH means the logarithm (Base 10) of the reciprocal of the hydrogen ion concentration.

Public sewer means pipe or conduit carrying wastewater or unpolluted drainage in which owners of abutting properties shall have the use, subject to control by the city of Hardy.

Sanitary sewer means a public sewer that conveys domestic wastewater or industrial wastes or a combination of both, and into which storm water, surface water, groundwater, and other unpolluted wastes are not intentionally passed.

Sludge means any discharge of water, wastewater, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flow during normal operation.

Standard methods means the examination and analytical procedures set forth in the latest edition, at the time of analysis, of "Standard Methods for the Examination of Water and Wastewater" as prepared, approved and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

Storm sewer means a public sewer which carries storm and surface waters and drainage and into which domestic wastewater or industrial wastes are not intentionally passed.

Storm water means rainfall or any other forms of precipitation.

Superintendent means the Water and Wastewater Superintendent of the city of Hardy or his duly authorized deputy, agent or representative.

Suspended solids means solids measured in mg/l that either float on the surface of, or are in suspension in water, wastewater, or other liquids, and which are removable by laboratory filtering.

To discharge includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions.

Trap means a device designed to skim, settle, or otherwise remove grease, oil, sand, flammable wastes or other harmful substances.

Unpolluted wastewater means water containing

- A. No free or emulsified grease or oil;
- B. No acids or alkalis;
- C. No phenols or other substances producing taste or odor in receiving water;
- D. No toxic or poisonous substances in suspension, colloidal state, or solution;
- E. No noxious or otherwise obnoxious or odorous gases;
- F. No more than an insignificant amount in mg/l each of suspended solids and BOD, as determined by the Arkansas Department of Pollution Control and Ecology;
- G. Color not exceeding fifty (50) units as measured by the Platinum-Cobalt method of determination as specified in Standard Methods.

Waste means rejected, unutilized or superfluous substances in liquid, gaseous, or solid form resulting from domestic, agricultural, or industrial activities;

Wastewater means a combination of the water carried waste from residences, business buildings, institutions, and industrial establishments, together with any ground, surface, and storm water that may be present

Wastewater facilities includes all facilities for collection, pumping, treating, and disposing of wastewater and industrial wastes.

Wastewater treatment plant means any city-owned facilities, devices, and structures used for receiving, processing and treating wastewater, industrial waste, and sludges from the sanitary sewers.

Wastewater service charge means the charge on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative of normal wastewater.

Watercourses means a natural or man-made channel in which a flow of water occurs, either continuously or intermittently. (Ord. No. 78-6, Sec. 1.)

10.04.02 Prohibited discharges

- A. No person may discharge to public sewers any waste which by itself or by interaction with other wastes may
 1. Injure or interfere with wastewater treatment processes or facilities;
 2. Constitute a hazard to humans or animals; or
 3. Create a hazard in receiving waters of the wastewater treatment plant effluent.

- B. All discharges shall conform to the requirements of this ordinance.
(Ord. No. 78-6, Sec. 2.)

10.04.03 Chemical discharges

- A. No discharge to public sewers may contain:
1. Cyanide greater than 0.05 mg/l;
 2. Fluoride other than that contained in the public water supply;
 3. Chlorides in concentrations greater than 250 mg/l;
 4. Gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas; or
 5. Substances causing an excessive Chemical Oxygen Demand (COD).
- B. No waste or wastewater discharged to public waters may contain:
1. Strong acid, iron pickling wastes, or concentrated plating solutions whether neutralized or not;
 2. Fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees Fahrenheit (0 and 65° Centigrade).
 3. Objectionable or toxic substances, exerting an excessive chlorine requirement, to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the approving authority for such materials; or
 4. Obnoxious, toxic, or poisonous solids, liquids, or gases in quantities sufficient to violate the provisions of 10.04.02(A).
- C. No waste, wastewater, or other substance may be discharged into public sewers which has a pH lower than 6.0 or higher than 9.0 or any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel at the wastewater facilities.
- D. All waste, wastewater, or other substance containing phenols, hydrogen sulfide, or other taste-and-odor producing substances, shall conform to concentration limits established by the approving authority. After treatment of the composite wastewater, concentration limits may not exceed the requirements established by state, federal, or other agencies with jurisdiction over discharges to receiving waters. (Ord. No. 78-6, Sec. 5.)

10.04.04 Heavy metals and toxic materials

- A. No discharges may contain concentrations of heavy metals greater than amounts specified in subsection (B) of this section.

- B. The maximum allowable concentrations of heavy metals stated in terms of milligrams per liter (mg/l), determined on the basis of individual sampling in accordance with “Standard Methods” are:

Arsenic	0.05 mg/l
Barium	5.00 mg/l
Boron	1.00 mg/l
Cadmium	0.02 mg/l
Chromium (total)	0.05 mg/l
Copper	0.02 mg/l
Lead	0.10 mg/l
Manganese	0.5 mg/l
Mercury	0.002 mg/l
Nickel	0.08 mg/l
Selenium	0.02 mg/l
Silver	0.01 mg/l
Zinc	0.05 mg/l

- C. No other heavy metals or toxic materials may be discharged into public sewers without a permit from the approving authority specifying conditions of pretreatment, concentrations, volumes, and other applicable provisions.

- D. Prohibited heavy metals and toxic materials include but are not limited to:

Antimony
Beryllium
Bismuth
Cobalt
Molybdenum
Uranylion
Rhenium
Strontium
Tellurium
Herbicides
Fungicides
Pesticides
(Ord. No. 78-6, Sec. 4.)

10.04.05 Garbage

- A. No person may discharge garbage into public sewers unless it is shredded to a degree that all particles can be carried freely under the flow conditions normally prevailing in public sewers. Particles greater than one-half (1/2) inch in any dimension are prohibited.

- B. The approving authority is entitled to review and approve the installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horse power (0.76 hp metric) or greater. (Ord. No. 786-, Sec. 5.)

10.04.06 Storm water and other unpolluted drainage

- A. No person may discharge to public sanitary sewers, unpolluted storm water, surface water, ground water, roof runoff or subsurface drainage, unpolluted cooling water, unpolluted industrial process waters, or other unpolluted drainage.
- B. In compliance with applicable state and federal statutes, the approving authority may designate storm sewers and other watercourses into which unpolluted drainage described in subsection (A) of this section be discharged. (Ord. No. 78-6, Sec. 6.)

10.04.07 Temperature No person may discharge liquid or vapor having a temperature higher than one hundred fifty degrees (150°) Fahrenheit (65° Centigrade), or any substance which causes the temperature of the total wastewater treatment plant influent to increase at a rate of ten degrees (10°) Fahrenheit or more per hour, or a combined total increase of plant influent temperature to one hundred ten degrees (110°) Fahrenheit. (Ord. No. 78-6, Sec. 7.)

10.04.08 Radioactive wastes

- A. No person may discharge radioactive wastes or isotopes into public sewers without the permission of the approving authority.
- B. The approving authority may establish, in compliance with applicable state and federal regulations, regulations for discharge of radioactive wastes into public sewers. (Ord. No. 78-6, Sec. 8.)

10.04.09 Impairment of facilities

- A. No person may discharge into public sewers any substance capable of causing obstruction to the flow in sewers, interference with the operation of treatment processes of facilities, or excessive loading of treatment facilities.
- B. Discharges prohibited by Section (A) include, but are not limited to, materials which exert or cause concentrations of:
 - 1. Inert suspended solids greater than 250 mg/l including but not limited to Fuller's earth, lime slurries and lime residues.
 - 2. Dissolved solids greater than 500 mg/l including but not limited to sodium chloride and sodium sulfate.

3. Excessive discoloration including but not limited to dye wastes and vegetable tanning solutions.
 4. BOD, COD, or chlorine demand in excess of normal plant capacity
- C. No person may discharge into public sewers any substance that may:
1. Deposit grease or oil in the sewer lines in such a manner as to clog the sewers;
 2. Overload skimming and grease handling equipment;
 3. Pass to the receiving waters without being effectively treated by normal wastewater treatment processes due to the non-amenability of the substance to bacterial action;
 4. Deleteriously affect the treatment process due to excessive quantities.
- D. No person may discharge any substance into public sewers which is not amenable to treatment or reduction by the processes and facilities employed, or is amenable to treatment only to such a degree that the treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- E. The approving authority shall regulate the flow and concentration of slugs when they may impair the treatment process, cause damage to collection facilities, incur treatment costs exceeding those for normal wastewater, or render the waste unfit for stream disposal or industrial use. (Ord. No. 78-6, Sec. 9.)
- F. Certain items and materials are prohibited and are not to be introduced into the sanitary sewer system either directly through a drain or indirectly through a waste disposal or by any other means at any time:
1. Glass, metal and plastic
 2. Diapers, sanitary napkins or tampons
 3. Socks, rags or clothes
 4. Explosives or flammable material
 5. Lubricating oils or grease
 6. Cooking oil or animal fat in such quantities as to obstruct sewer system
 7. Strong chemicals or gasoline
 8. Any other item or material that will cause damage to the sanitary sewer system or obstruct the normal operation of the sanitary sewer system.
(Ord. No. 2011-1, Sec. 1.)
- G. Any user of the sanitary sewer system who causes damage to or obstruction of the sanitary sewer system by introducing any prohibited item or material or by allowing any prohibited item or material to enter the sanitary sewer system shall

pay for all costs of repairing the damage or clearing the obstruction, including without limitation the costs of repairing or replacing or freeing from obstructions any grinder pump damaged or obstructed by such prohibited item or material being deposited into the sanitary sewer system. (Ord. No. 2011-1, Sec. 2.)

- H. It is the responsibility of each homeowner or owner of property on which a grinder pump is located to prevent the introduction of any prohibited item or material into the sanitary sewer system. The homeowner or other owner of the property on which any damaged or obstructed grinder pump is located shall be responsible for any damage to such grinder pump caused by the introduction of any prohibited item or material into the sanitary sewer system. (Ord. No. 2011-1, Sec. 3.)
- I. Any user who is found to have willfully violated this ordinance by depositing any prohibited item or material into the sanitary sewer system so as to cause damage to the system or obstruction of the system shall be fined not less than Twenty-Five Dollars (\$25.00) nor more than Two Hundred Fifty Dollars (\$250.00) for each offense. Each day on which a violation shall occur shall be deemed a separate and distinct offense. (Ord. No. 2011-1, Sec. 4.)
- J. No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sanitary sewer system. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct and/or causing damage to or destruction of property. (Ord. No. 2011-1, Sec. 5.)
- K. To comply with the state of Arkansas, Health Department Plumbing regulations, 6.2.1 (Commercial and Institutional Building Code), commercial establishments within the boundaries of the city of Hardy, operating a business entity common to the discharge of grease into the city wastewater sewage system, are hereby required to install a grease collection trap preventing immediate grease flushing into the city of Hardy wastewater sewage system.
 - 1. Grease build-up in these grease collection traps is to be removed and disposed of as a responsibility of the business owner or operator, a minimum of four (4) times annually, or as necessary and demanded from city inspection, and not allowed to flush into the wastewater sewage system. A copy of the disposal receipt shall be kept available for review by the city when and if called for. The city of Hardy hereby reserves the right to inspect these grease collection traps whenever deemed necessary.
 - 2. Any commercial entity operating a business of this type not having a grease collection trap is allowed thirty (30) days from the date of a city inspection for the installation of such trap. Failure to install the required

grease collection trap shall result in discontinued waste service to the business in violation of this requirement.

3. To stress the urgency of this matter, a fine shall be levied if grease traps are found in a condition forcing grease into the city wastewater sewage system. An initial fine of Two Hundred Fifty Dollars (\$250.00) shall apply. An additional fine of One Hundred Dollars (\$100.00) shall further be imposed if the trap is not cleaned within the next thirty (30) days. Further failure will result in discontinued water service to the business entity in violation until the problem is corrected and all fines paid. (Ord. No. 2000-6, Sec. 1.)

10.04.10 Compliance with existing authority

- A. Unless exception is granted by the approving authority, the public sanitary sewer system shall be used by all persons discharging wastewater, industrial waste or polluted liquids.
- B. Unless authorized by the Arkansas Department of Pollution Control and Ecology, no person may deposit or discharge any waste included in subsection (A) of this section on public or private property into or adjacent to any natural outlet, watercourse, storm sewer or other area within the jurisdiction of the city.
- C. The approving authority shall verify prior to discharge that wastes authorized to be discharged will receive suitable treatment within the provisions of laws, regulations, ordinances, rules and orders of federal, state and local governments. (Ord. No. 78-6, Sec. 10.)

10.04.11 Approving authority requirements

- A. If discharges or proposed discharges to public sewers may deleteriously affect wastewater facilities, processes, equipment, or receiving waters; create a hazard to life or health; or create a public nuisance, the approving authority shall require
 1. Pretreatment to an acceptable condition for discharge to the public sewers;
 2. Control over the quantities and rates of discharge; and
 3. Payment to cover the cost of handling and treating the wastes.
- B. The approving authority is entitled to determine whether a discharge or proposed discharge is included under subsection (A) of this section.
- C. The approving authority shall reject wastes when
 1. It determines that a discharge or proposed discharge is included under subsection (A) of this section; and

2. The discharger does not meet the requirements of subsection (A) of this section. (Ord. No. 78-6, Sec. 11.)

10.04.12 Approving authority review and approval

- A. If pretreatment or control is required, the approving authority shall review and approve design and installation of equipment and processes.
- B. The design and installation of equipment and processes must conform to all applicable statutes, codes, ordinances and other laws.
- C. Any person responsible for discharges requiring pretreatment, flow-equalizing, or other facilities shall provide and maintain the facilities in effective operating condition at his own expense. (Ord. No. 78-6, Sec. 12.)

10.04.13 Requirements for traps

- A. Discharges requiring a trap include grease or waste containing grease in excessive amounts, oil, sand, flammable wastes, and other harmful ingredients.
- B. Any person responsible for discharges requiring a trap shall at his own expense and as required by the approving authority:
 1. Provide equipment and facilities of a type and capacity approved by the approving authority;
 2. Locate the trap in a manner that provides ready and easy accessibility for cleaning and inspection; and
 3. Maintain the trap in effective operating condition.
(Ord. No. 78-6, Sec. 13.)

10.04.14 Requirements for building sewers Any person responsible for discharges through a building sewer carrying industrial wastes shall, at his own expense be required be the approving authority to:

- A. Install an accessible and safely located control manhole;
- B. Install meters and other appurtenances to facilitate observation sampling and measurement of the waste; and
- C. Maintain the equipment and facilities.
(Ord. No. 78-6, Sec. 14.)

10.04.15 Sampling and testing

- A. Sampling shall be conducted according to customarily accepted methods, reflecting the effect of constituents upon the sewage works and determining the existence of hazards to health, life, limb and property. (NOTE: The particular analyses involved will determine whether a twenty-four (24) hour composite sample from all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls. Where applicable, sixteen (16) hour, eight (8) hour or some other period may be required. Periodic grab samples are used to determine pH).
- B. Examination and analyses of the characteristics of waters and wastes required by this ordinance shall be conducted in accordance with the latest edition of "Standard Methods," and determined from suitable samples taken at the control manhole provided or other control point authorized by the approving authority.
- C. BOD and suspended solids shall be determined from composite sampling, except to detect unauthorized discharges.
- D. The city may select an independent firm or laboratory to determine flow, BOD, and suspended solids.
- E. The city is entitled to select the time of sampling at its sole discretion so long as at least annual samples are taken. (Ord. No. 78-6, Sec. 15.)

10.04.16 Payment and agreement required

- A. Persons making discharges of industrial waste shall pay a charge to cover the cost of collection and treatment.
- B. When discharges of industrial waste are approved by the approving authority, the city or its authorized representative shall enter into an agreement or arrangement providing terms of acceptance by the city, and payment by the person making the discharge. (Ord. No. 78-6, Sec. 16.)

10.04.17 Industrial cost recovery system In the event the city elects to accept an industrial waste which contains excessive BOD and suspended solids sufficient to constitute a significant load on the treatment works, a surcharge shall be added to the normal rates for sewer service as established by ordinance according to the following formula:

In the event the industrial load of any industrial user amounts to as much as a thirty percent (30%) of the plant capacity, a substantial prepayment of the city's capital investment in plant facilities shall be required before application of the surcharge.

$$\text{IUS} = V(A (\text{BOD} - 250) + B (\text{SS}-200))$$

Where the following definitions apply

IUS – Industrial User Surcharge

V = Volume of discharge in million gallons

A = BOD surcharge factor (dollars per million gallons per mg/l)

BOD = 5 day, 20 degree C strength of composite samples of waste as determined by standard methods.

B = Suspended solids surcharge factor (dollars per million gallons per mg/l)

SS = Suspended Solids value of the composite samples as determined by standard methods in mg/l.

The value of each of these factors A & B shall be determined annually as the capitalized annual cost of removal of BOD and SS at the sewage plant after considering the cost of operation and maintenance, sinking fund, chemicals, power, depreciation, repairs, overhead, and all other costs attributable thereto. The method of calculation shall be in accordance with federal guidelines pertaining to this subject. (Ord. No. 78-6, Sec. 17.)

10.04.18 Savings clause A person discharging industrial wastes into public sewers prior to the effective date of this ordinance may continue without penalty so long as he

- A. Does not increase the quantity or quality of discharge, without permission of the approving authority;
- B. Has discharged the industrial waste at least twelve (12) months prior to the effective date of this ordinance; and
- C. Applies for and is granted a permit no later than one hundred twenty (120) days after the effective date of this ordinance. (Ord. No. 78-6, Sec. 18.)

10.04.19 Conditions or permits

- A. The city may grant a permit to discharge to persons meeting all requirements of the savings clause provided that the person:
 - 1. Submit an application within ninety (90) days after the effective date of this ordinance on forms supplied by the approving authority;
 - 2. Secure approval by the approving authority of plans and specifications for pretreatment facilities when required; and
 - 3. Has complied with all requirements for agreements or arrangements including, but not limited to, provisions for payment of charges, installation and operation of pretreatment facilities, and sampling and analysis to determine quantity and strength, and provides a sampling point subject to the provisions of this ordinance and approval of the approving authority.

4. Provides a sampling point subject to the provisions of this ordinance and approval of the approving authority.
- B. A person applying for a new discharge shall meet all conditions of subsection (A) of this section and secure a permit prior to discharging any waste. (Ord. No. 78-6, Sec. 19.)

10.04.20 Power to enter property

- A. The Superintendent and other duly authorized employees of the city bearing proper credentials and identification are entitled to enter any public or private property at any reasonable time for the purpose of enforcing this ordinance.
- B. Anyone acting under this authority shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection.
- C. Except when caused by negligence or failure of the company to maintain safe conditions, the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the sampling operation.
- D. The Superintendent and other duly authorized employees of the city bearing proper credentials and identification are entitled to enter all private properties through which the city holds a negotiated easement for the purposes of
 1. Inspection, observation, measurement, sampling or repair;
 2. Maintenance of any portion of the sewerage system lying within the easements; and
 3. Conducting any other authorized activity. All activities shall be conducted in full accordance with the terms of the negotiated easement pertaining to the private property involved.
- E. No person acting under authority of this provision may inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the public sewers. (Ord. No. 78-6, Sec. 20.)

10.04.21 Authority to disconnect service The city may terminate water and wastewater disposal service and disconnect an industrial customer from the system when:

- A. Acids or chemicals damaging to sewer lines or treatment processes are released to the sewer causing rapid deterioration of these structures or interfering with proper conveyance and treatment of wastewater;

- B. A government's agency informs the city that the effluent from the wastewater treatment plant is no longer of a quality permitted for discharge to a watercourse, and it is found that the customer is delivering wastewater to the city's system that cannot be sufficiently treated or requires treatment that is not provided by the city as normal domestic treatment; or
- C. The industrial customer
 - 1. Discharges industrial waste or wastewater that is in violation of the permit issued by the approving authority;
 - 2. Discharges wastewater at an uncontrolled variable rate in sufficient quantity to cause an imbalance in the wastewater treatment system;
 - 3. Fails to pay monthly bills for water and sanitary sewer services when due; or
 - 4. Repeats a discharge of prohibited wastes to public sewers.

If service is discontinued pursuant to subsection (A) (2) of this section, the city shall:

- 1. Disconnect the customer;
- 2. Supply the customer with the governmental agency's report and provide the customer with all pertinent information; and
- 3. Continue disconnection until such time as the industrial customer provides additional pretreatment or other facilities designed to remove the objectionable characteristics from his industrial wastes. (Ord. No. 78-6, Sec. 21.)

10.04.22 Notice The city shall serve persons discharging in violation of this ordinance with written notice stating the nature of the violation and providing a reasonable time limit for satisfactory compliance. (Ord. No. 78-6, Sec. 22.)

10.04.23 Continuing prohibited discharges No person may continue discharging in violation of this ordinance beyond the time limit provided in the notice. (Ord. No. 78-6, Sec. 23.)

10.04.24 Fine A person who continues prohibited discharges is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than One Hundred Dollars (\$100.00) for each act of violation and for each day of violation.

In addition to proceeding under authority of subsection (A) of this section, the city is entitled to pursue all other criminal and civil remedies to which it is entitled under authority of statutes or other ordinances against a person continuing prohibited discharges. (Ord. No. 78-6, Sec. 24.)

10.04.25 Failure to pay In addition to sanctions provided for by this ordinance, the city is entitled to exercise sanctions provided for by the other ordinances of the city for failure to pay the bill for water and sanitary sewer service when due. (Ord. No. 78-6, Sec. 25.)

10.04.26 Penalty for criminal mischief The city may pursue all criminal and civil remedies to which it is entitled under authority of statutes and ordinances against a person negligently, willfully or maliciously causing loss by tampering with or destroying public sewers or treatment facilities. (Ord. No. 78-6, Sec. 26.)

CHAPTER 10.08

WATER RATES

Sections:

- 10.08.01 Water rates
- 10.08.02 Service fees and disconnects
- 10.08.03 Utilities for public entities

10.08.01 Water rates The following water rates become effective for the billing cycle of December 15, 2012 – January 15, 2013, and all billing cycles thereafter:

A. Residential water rates

Monthly base rate which includes the first 1,000 gals. per month or portion thereof	\$16.12
Each additional 1,000 gals. per month or portion thereof after base rate	\$5.45

B. Business water rates

Monthly base rate which includes the first 1,000 gals. per month or portion thereof	\$16.12
Each additional 1,000 gals. per month or portion thereof after base rate	\$5.45

C. Wholesale, high volume water rates

Monthly base rate	\$92.39
Per 1,000 gals. (Ord. No. 2012-1, Secs. 1-3.)	\$5.45

A fee will be applied to each and every monthly account at a rate of Five Dollars

(\$5.00) per residential account and Six Dollars (\$6.00) per business account. All funds collected by the city for the aforementioned purpose shall be paid into a separate restricted account which is hereby created to be known as the Pump Maintenance and Replacement Account. Such funds shall be used for the purpose of maintaining and replacing pumps for the water and wastewater divisions. (Ord. No. 2011-4, Secs. 1-2.)

D.

1. The City Council of Hardy, Arkansas, recognizes that there is a need to establish a fourth rate to be known as a combination residential/business rate for water, sewer and trash pickup within the city of Hardy. This rate shall be the same as that charged to a business for the same service or services. (Ord. No. 92-1, Sec. 1.)
2. It is also essential that all residential, in-home businesses and normal businesses be treated as fairly as possible in assessing rates for these necessary services. In-home businesses shall be those businesses operating under one roof with the residence. Businesses located on the same property with residence but not under the same roof shall be deemed a normal business and subject to the full business rate structure as enclosed herewith. (Ord. No. 2003-6, Sec. 1.)

E. None of the facilities afforded by the water system shall be furnished without a charge being made therefore.

F. The operation of the water system shall be on a fully metered basis. That is, that meters shall be installed at each water connection, and all bills for water services shall be rendered in the net amount due. If any water bill is not paid on or before the tenth (10th) day after the bill therefore, shall be rendered a ten percent (10%) penalty shall be added and if any bill is not paid within thirty (30) days after the bill shall be rendered, water service shall be disconnected. There shall be no dual connections, that is, there shall be not more than one user on a single meter. (Ord. No. 80-1, Sec. 1.)

G. Tapping fee From the date of passage of this ordinance, it is hereby declared that the fee for tapping a water line for service to a resident or business customer inside the city limits shall be as follows:

$\frac{3}{4}$ " tap \$350 plus actual cost of any additional work, including but not limited to, road bores, street cutting or extra-deep trenching.

Any tap larger than $\frac{3}{4}$ " will be actual cost to city plus any additional work, including but not limited to road bores, street cutting, or extra-deep trenching. (Ord. No. 2013-2, Sec. 1.)

The tap fee due to the city of Hardy must be paid to the city prior to connection to the city water system. (Ord. No. 2013-2, Sec. 4.)

- H. Meter deposit Meter deposits shall be collected for water meters installed by the city of Hardy water company for service to a residential, rental property, or business customer inside the city limits shall be as follows:

Residential/homeowner	\$75
Residential/rental	\$150
Business/owner or rental (any building with a business requiring business license)	\$150
Heavy commercial users	\$200
Lawn water sprinkler	\$75

Relocation of the water meter of a business or residence or rental (i.e. from one location to the other) new deposits as stated here will apply.

Authority to enforce this ordinance shall be vested in the Mayor or his/her assign or agents. (Ord. No. 2013-2, Secs. 2, 3, 5.)

- I. Reconnection charge In the event any premises are disconnected from the system, the customer concerned, prior to reconnection, shall pay all delinquent charges, together with a reconnection charge of Ten Dollars (\$10.00) for each reconnection of the premises to the water system. (Ord. No. 80-1, Sec. 1.)

10.08.02 Service fees and disconnects

- A. Service fees A service call after regular working hours due to user failure to provide a water shut-off valve, will be charged to the user at actual cost to the city comprised of:

1. Hourly wage of city servicing employee.
2. Expense consideration for any city equipment used in such call.
3. Expense of employee benefits borne by the city for applicable employee hourly wages.

- B. Water disconnects

1. Seasonal residents and residents of any similar category will be assessed a disconnect, or meter pulling fee of Seventy-Five Dollars (\$75.00) after which time water, sewer and trash billings will cease until meter is reactivated.

- 2. Water users who have been disconnected for non-payment will be charged a fee of Twenty-Five Dollars (\$25.00) to reactivate water supply, in addition to all amounts in arrears for past due services.
- C. Rental responsibility Property owners of rental homes will bear the final responsibility of water, sewer and trash billings, for each rental location. All initial deposits will be issued and carried on city records in property owner's name. (Ord. No. 2001-19, Sec. 1-3.)

10.08.03 Utilities for public entities

- A. The city of Hardy will no longer be encumbered with utility expenses of above description, for any entity occupying city properties and property structures and that such utility expenses shall be the responsibility of the property occupants in each case, except for lease stipulations of utility provisions applying to Sharp County Library. (Amendment to Ord. No. 2001-6, Sec. 1.)
- B. Responsibility of these utility expenses shall be uniform in application, applying equally to all occupants of city properties and property structures. (Ord. No. 2001-6, Sec. 2.)

CHAPTER 10.12

SEWER RATES

Sections:

10.12.01 Rates

10.12.01 Rates The monthly sewer charge for each customer shall be determined each month by water usage, and the amount to be paid by each customer shall be computed on the basis of the following schedule of rates:

- A. Residential sewer rates

First 1,000 gals. per month or portion thereof	\$7.25
All over 1,000 gals. per month or portion thereof	\$1.95 per T
- B. Business water rates

First 1,000 gals. per month or portion thereof	\$8.25
All over 1,000 gals. per month or portion thereof	\$2.12 per T

(Ord. No. 2001-20, Secs. 4-5.)

- C. Under the provisions of A.C.A. 14-235-223, a lien is fixed upon the land for any unpaid sewer charge, even though the use of the sewer system is by a tenant or lessee instead of the owner. If any sewer charge is not paid on or before the thirtieth (30) day after the bill therefore shall be rendered, a ten percent (10%) penalty shall be added, and if any sewer charge is not paid on or before the thirtieth (30) day after the bill is rendered, suit shall be brought to enforce the lien and to collect the amount due, together with the expenses of the collection and a reasonable attorney's fee. (Ord. No. 1998.)
- D. Tapping fee There shall be a tapping fee in an amount equal to the actual cost to the city for all customers who hereafter connect with and use the sewer system. (Ord. No. 80-1, Sec. 2.)
- E. Charges None of the facilities or services afforded by the sewer system shall be furnished without a charge being made therefore. Vacant, unoccupied property not actually using the sewer system shall not be subject to a charge, but the burden of showing vacancy and non-occupancy shall rest upon the owner of the property. (Ord. No. 80-1, Sec. 2.)
- F. Statement A single statement will be submitted for monthly water and sewer charges. Collections shall be applied first to discharge of sewer charges. (Ord. No. 80-1, Sec. 2.)

CHAPTER 10.16

WATER SUPERINTENDENT

Sections:

- 10.16.01 Duties
- 10.16.02 Water shut-off
- 10.16.03 Rental property
- 10.16.04 Unlawful
- 10.16.05 Fine

10.16.01 Duties It shall be the duty of the Water Superintendent to turn water on at any residence or business establishment in the city of Hardy, Arkansas, only after notification that the proper deposit has been made to the City Clerk. (Ord. No. 70-20, Sec. 1.)

10.16.02 Water shut-off It shall be the duty of the Water Superintendent to shut the water off immediately after notification that a residence or business has been vacated. (Ord. No. 70-20, Sec. 2.)

10.16.03 Rental property It shall be the duty of any person having rental property, to

notify the Water Superintendent immediately when a piece of property has been rented or vacated where water is used. (Ord. No. 70-20, Sec. 3.)

10.16.04 Unlawful It shall be unlawful for any person to turn water on at the valve serviced by the city for the purpose of using water without permission of the Water Superintendent. (Ord. No. 70-20, Sec. 4.)

10.16.05 Fine Any person, violating any provision of this ordinance, shall upon conviction there, be punished by a fine not less than Twenty-Five Dollars (\$25.00) nor more than Fifty Dollars (\$50.00) for the first offense, and not to exceed One Hundred Dollars (\$100.00) for each succeeding offense, and shall be held liable to the water company for the full amount of water used. (Ord. No. 70-20, Sec. 5.)

CHAPTER 10.20

CROSS-CONNECTION CONTROL PROGRAM

Sections:

10.20.01	Intent
10.20.02	Purpose
10.20.03	Definitions
10.20.04	Operating criteria
10.20.05	Facilities requiring backflow protection
10.20.06	Approval of backflow prevention devices
10.20.07	Non-compliance
10.20.08	Ownership
10.20.09	Installation and costs
10.20.10	Testing and maintenance

10.20.01 Intent In compliance with the state of Arkansas *Rules and Regulations Pertaining to Public Water Systems*, Section VII.E, the city of Hardy finds it necessary for the health, safety and welfare of the people served by the water division of the city utilities department to adopt cross-connection control standards which establish the requirements for the design, construction and maintenance of connections to the public water supply. These standards are supplemental to, but do not supersede or modify the Arkansas State Plumbing Code (ASPC) and its latest revisions under which the city operates.

Cross reference – State Plumbing Code adopted October 7, 1968. (Ord. No. 96-1, Sec. 1.1)

10.20.02 Purpose The purposes of this ordinance are:

- A. To provide for the protection of the public potable water supply.

- B. To isolate at the service connection any actual or potential pollution or contamination within the consumer's premises and
- C. To provide a continuous, systematic and effective program of cross-connection control. (Ord. No. 96-1, Sec. 1.2)

10.20.03 Definitions

Backflow shall mean the flow of water or other liquids, mixtures or substances into the distribution pipes of a potable supply of water from any source other than its intended source.

Backflow preventer shall mean a device or means to prevent backflow.

Double-Check Valve Assembly means an assembly composed of two (2) single, independently acting, approved check valves, including tightly closing shutoff valves located at each end of the assembly and suitable test cocks for testing the water-tightness of each check valve.

Reduced-Pressure Principle Backflow Prevention Assembly means a device containing a minimum of two (2) independently acting, approved check valves, together with an automatically operated pressure differential relief valve located between the check valves. The assembly will include two (2) cut-off valves and four (4) test cocks. (Ord. No. 96-1, Sec. 1.3)

10.20.04 Operating criteria It is the primary responsibility of the water purveyor and/or the city of Hardy to evaluate the hazards inherent in supplying a consumer's water system, i.e., determine whether solid, liquid or gaseous pollutants or contaminants are, or may be, handled on the consumer's premise in such a manner as to possibly contaminate the public water system. When a hazard or potential hazard to the public water system is found on the consumer's premises, the consumer shall be required to install an approved backflow prevention device at each public water service connection to the premises in accordance with this ordinance's requirement. The type of device shall depend on the degree of hazard involved. The degree of hazard shall be as described in AWWA Manual M-14 or as described below. Where more than one type of protection is possible, the actual method utilized shall be at the discretion of the water purveyor and/or the city of Hardy after physical inspection of the hazard.

- A. In the case of any premises where there is an auxiliary water supply, there shall be no physical connection between said auxiliary water supply and the consumer's water system which is served by the public water supply system. Where such connections are found, disconnections shall be accomplished and the public water system shall be protected against the possibility of future reconnection by an approved reduced-pressure-principle backflow prevention device at the service connection.
- B. In the case of any premises where there is water or a substance that would be objectionable but not hazardous to health, if introduced into the public water

system, the public water system shall be protected by an approved double-check valve assembly.

- C. In the case of any premises where there is any material dangerous to human health which is handled in such a fashion as to create an actual or potential threat to the public water system, the public water system shall be protected by an approved reduced-pressure principal backflow prevention assembly.
- D. In case of any premises where there are uncontrolled cross-connections, either actual or potential, the public water system shall be protected by an approved reduced-pressure principle backflow prevention assembly at the service connection.
- E. In the case of any premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross-connection survey, the public water system shall be protected by the installation of an approved reduced-pressure principal backflow prevention assembly at the service connection. (Ord. No. 96-1, Sec. 1.4)

10.20.05 Facilities requiring backflow protection The following is a partial list of facilities which may require reduced-pressure principal backflow preventers at the service connection. Requirements are based upon the degree of hazard afforded the public potable water system.

1. Automatic car washes
2. Auxiliary water systems
3. Exterminators
4. Facilities with boilers or chilled water systems
5. Fire systems
6. Hospitals, medical buildings, sanitariums, morgues, mortuaries, autopsy facilities, nursing and convalescent homes and clinics
7. Irrigations systems
8. Laboratories (industrial, commercial, medical and school)
9. Laundries
10. Radiator shops
11. Restricted, classified or other closed facilities closed
12. Sand and gravel plants
13. Wastewater treatment plants, pump stations and storm water pumping facilities
14. Waterfront homes, facilities and industries
15. Swimming pools
16. Others, as found with high hazards

The following is a partial list of facilities which may require double check valve assemblies:

1. Apartments
2. Beauty parlors and barber shops
3. Doctors and dental offices
4. Greenhouses and nurseries
5. Hotels and motels
6. Laundry and cleaners
7. Restaurants and food handling facilities
8. Service stations
9. Others (with suspected medium hazards)
(Ord. No. 96-1, Sec. 1.5)

10.20.06 Approval of backflow prevention devices Any backflow prevention device required herein shall be an approved type in accordance with AWWA specifications C506-78 or its latest revision, the Arkansas Department of Health Regulation and the water purveyor and/or the city of Hardy. (Ord. No. 96-1, Sec. 1.6)

10.20.07 Non-compliance Service to be discontinued. Notice: Consent to enter.

- A. In emergency situations when the public potable water supply is being contaminated or is in immediate danger of contamination, the water service will be discontinued by the water purveyor and/or superintendent.
- B. No water service connection shall be installed on the premises of any consumer unless the public potable water system is protected as required by this ordinance.
- C. Delivery of water to premises of any consumer may be discontinued by the water purveyor and/or the city of Hardy if any protective device required by this article has not been installed, or is defective, or has been removed or bypassed. Discontinued water service shall not be resumed until conditions at the consumer's premise have been abated or corrected to the satisfaction of the water purveyor and/or superintendent.
- D. Upon discovery of a violation of this ordinance, written notice shall be given to the consumer. If violations are not corrected by date and time as stated on the notice, the water supply will be discontinued and the violation may be referred to the Water Commission for further action.
- E. For the purpose of making any inspections or discharging the duties imposed by this article, the water purveyor, and/or the city of Hardy, the State Health Department, and/or Plumbing Inspector shall have the right to enter upon the premises of any consumer. Each consumer, as a condition of the continued delivery to his premises of water from the public water supply, shall be considered as having stated his consent to the entry upon his premise of the water purveyor and/or superintendent, the State Health Department and/or Plumbing Inspector for the purpose stated herein. (Ord. No. 96-1, Sec. 1.7)

10.20.08 Ownership The consumer shall purchase, own and maintain all backflow prevention devices installed at the point of delivery to the consumer's water system. (Ord. No. 96-1, Sec. 1.8)

10.20.09 Installation and costs Customers of the water system requiring backflow prevention assemblies shall pay all costs associated with installation of the appropriate size and type of device under private contract. New installations shall be completed prior to the final plumbing inspection so that the device can be included as part of the inspection. Devices shall be installed above ground in a location that is readily accessible for maintenance and testing and should be located not less than 12" above ground, or more than 30". (Ord. No. 96-1, Sec. 1.9)

10.20.10 Testing and maintenance The consumer will be responsible for the annual testing of the backflow prevention assembly by contract with a certified assembly test technician. The consumer will annually furnish the water purveyor and/or the city with a certificate of such satisfactory testing by the anniversary date of the installation of the assembly. In instances where the water purveyor, the city and/or Plumbing Inspector deems the hazard to be great enough, testing may be required at more frequent intervals, cost of which would be borne by the consumer. Any maintenance fees required as a result of inspections or testing shall be paid by the consumer through private contract. Records of inspections, testing or repairs shall be kept by the water purveyor and/or the city and made available to the State Health Department. (Ord. No. 96-1, Sec. 1.10.)

CHAPTER 10.24

IDENTITY THEFT PREVENTION PROGRAM

Sections:

10.24.01	Title
10.24.02	Purpose
10.24.03	Definitions
10.24.04	Findings
10.24.05	Process of establishing a covered account
10.24.06	Access to covered account information
10.24.07	Credit card payments
10.24.08	Sources and types of red flags
10.24.09	Prevention and mitigation of identity theft
10.24.10	Updating the program
10.24.11	Program administration
10.24.12	Outside service providers

10.24.01 Title This article shall be known as the Identity Theft Prevention Program. (Ord. No. 2009-1, Sec. 1.)

10.24.02 Purpose The purpose of this article is to comply with 16 CFR 681.2 in order to detect, prevent and mitigate identity theft by identifying and detecting identity theft red flags and by responding to such red flags in a manner that will prevent identity theft. (Ord. No. 2009-1, Sec. 2.)

10.24.03 Definitions For purposes of this article, the following definitions apply:

City means the city of Hardy.

Covered account means

- A. An account that a financial institution or creditor offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions, such as a credit card account, mortgage loan, automobile loan, margin account, cell phone account, utility account, checking account, or savings account; and
- B. Any other account that the financial institution or creditor offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the financial institution or creditor from identity theft, including financial, operational, compliance, reputation, or litigation risks.

Credit means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefore.

Creditor means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit and includes utility companies and telecommunications companies.

Customer means a person that has a covered account with a creditor.

Identity theft means a fraud committed or attempted using identifying information of another person without authority.

Person means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

Personal Identifying Information means a person's credit card account information, debit card information bank account information and drivers' license information and for a natural person includes their social security number, mother's birth name, and date of birth.

Red flag means a pattern, practice, or specific activity that indicates the possible existence of identity theft.

Service provider means a person that provides a service directly to the city.
(Ord. No. 2009-1, Sec. 3.)

10.24.04 Findings

- A. The city is a creditor pursuant to 16 CFR 681.2 due to its provision of maintenance of covered accounts for which payment is made in arrears.
 - B. Covered accounts offered to customers for the provision of city services include water and sewer and trash services.
 - C. The city's previous experience with identity theft related to covered accounts was adequate for its time frame.
 - D. The processes of opening a new covered account, restoring an existing covered account, making payments on such accounts have been identified as potential processes in which identity theft could occur.
 - E. The city limits access to personal identifying information to those employees responsible for or otherwise involved in opening or restoring covered accounts or accepting payment for use of covered accounts. Information provided to such employees is entered directly into the city's computer system and is not otherwise recorded.
 - F. The city determines that there is a moderate risk of identity theft occurring in the following ways:
 - 1. Use by an applicant of another person's personal identifying information to establish a new covered account;
 - 2. Use of a previous customer's personal identifying information by another person in an effort to have service restored in the previous customer's name;
 - 3. Use of another person's credit card, bank account, or other method of payment by a customer to pay such customer's covered account or accounts;
 - 4. Use by a customer desiring to restore such customer's covered account of another person's credit card, bank account, or other method of payment.
- (Ord. No. 2009-1, Sec. 4.)

10.24.05 Process of establishing a covered account

- A. As a precondition to opening a covered account in the city, each applicant shall provide the city with personal identifying information of the customer in the form of a valid government-issued identification card containing a photograph of the customer or, for customers who are not natural persons, a photograph of the customer's agent opening the account. Such applicant shall also provide any information necessary for the department providing the service for which the covered account is created to access the applicant's consumer credit report. Such information shall be entered directly into the city's computer system and shall not otherwise be recorded.
- B. Each account shall be assigned an account number and personal identification number (PIN) which shall be unique to that account. The city may utilize computer software to randomly generate assigned PINs and to encrypt account numbers and PINs. (Ord. No. 2009-1, Sec. 5.)

10.24.06 Access to covered account information

- A. Access to customer accounts shall be password-protected and shall be limited to authorized city personnel.
- B. Such password(s) shall be changed by the Mayor on a regular basis, shall be at least eight (8) characters in length and shall contain letters, numbers and symbols.
- C. Any unauthorized access to or other breach of customer accounts is to be reported immediately to the Mayor and the password changed immediately.
- D. Personal identifying information included in customer accounts is considered confidential and any request or demand for such information shall be immediately forwarded to the Mayor and the City Attorney. (Ord. No. 2009-1, Sec. 6.)

10.24.07 Credit card payments

- A. In the event that credit card payments that are made over the internet are processed through a third party service provider, such third party service provider shall certify that it has an adequate identity theft prevention program in place that is applicable to such payments.
- B. All credit card payments made over the telephone or the city's website shall be entered directly into the customer's account information in the computer data base.
- C. Account statements and receipts for covered accounts shall include only the last four digits of the credit or debit card or the bank account used for payment of the covered account. (Ord. No. 2009-1, Sec. 7.)

10.24.08 Sources and types of red flags All employees responsible for or involved in the process of opening a covered account, restoring a covered account or accepting payment for a covered account shall check for red flags as indicators of possible identity theft and such red flags may include:

- A. Alerts from consumer reporting agencies, fraud detection agencies or service providers Examples of alerts include, but are not limited to:
1. A fraud or active duty alert that is included with a consumer report;
 2. A notice of credit freeze in response to a request for a consumer report;
 3. A notice of address discrepancy provided by a consumer reporting agency;
 4. Indications of a pattern of activity in a consumer report that is inconsistent with the history and usual pattern of activity of an applicant or customer, such as:
 - a. A recent and significant increase in the volume of inquiries;
 - b. An unusual number of recently established credit relationships;
 - c. A material change in the use of credit, especially with respect to recently established credit relationships; or
 - d. An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.
- B. Suspicious documents Examples of suspicious documents include:
1. Documents provided for identification that appear to be altered or forged;
 2. Identification on which the photograph or physical description is inconsistent with the appearance of the applicant or customer;
 3. Identification on which the information is inconsistent with information provided by the applicant or customer;
 4. Identification on which the information is inconsistent with readily accessible information that is on file with the financial institution or creditor, such as a signature card or a recent check; or

5. An application that appears to have been altered or forged, or appears to have been destroyed and reassembled.

C. Suspicious personal identification, such as suspicious address change Examples of suspicious identifying information include:

1. Personal identifying information that is inconsistent with external information sources used by the financial institution or creditor. For example:
 - a. The address does not match any address in the consumer report; or
 - b. The Social Security Number (SSN) has not been issued, or is listed on the Social Security Administration's Death Master File.
2. Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer, such as a lack of correlation between the SSN range and date of birth.
3. Personal identifying information or a phone number, or address, is associated with known fraudulent applications or activities, as indicated by internal or third-party sources used by the financial institution or creditor.
4. Other information provided, such as fictitious mailing address, mail drop addresses, jail addresses, invalid phone numbers, pager numbers or answering services, is associated with fraudulent activity.
5. The SSN provided is the same as that submitted by other applicants or customers.
6. The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of applicants or customers.
7. The applicant or customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.
8. Personal identifying information is not consistent with personal identifying information that is on file with the financial institution or creditor.
9. The applicant or customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.

D. Unusual use of or suspicious activity relating to a covered account Examples of suspicious activity include:

1. Shortly following the notice of a change of address for an account, city receives a request for the addition of authorized users on the account.
2. A new revolving credit account is used in a manner commonly associated with known patterns of fraud patterns. For example: The customer fails to make the first payment or makes an initial payment but no subsequent payments.
3. An account is used in a manner that is not consistent with established patterns of activity on the account. There is, for example:
 - a. Non-payment when there is no history of late or missed payments;
 - b. A material change in purchasing or spending patterns.
4. An account that has been inactive for a long period of time is treated as a new account with the same provisions.
5. Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's account.
6. The city is notified that the customer is not receiving paper account statements.
7. The city is notified of unauthorized charges or transactions in connection with a customer's account.
8. The city is notified by a customer, law enforcement or another person that it has opened a fraudulent account for a person engaged in identity theft.

E. Notice from customers, law enforcement, victims or other reliable sources regarding possible identity theft or phishing relating to covered accounts (Ord. No. 2009-1, Sec. 8.)

10.24.09 Prevention and mitigation of identity theft

- A. In the event that any city employee responsible for or involved in restoring an existing covered account or accepting payment for a covered account becomes aware of red flags indicating possible identity theft with respect to existing covered accounts, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity

theft. If, in his or her discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the Mayor. If, in his or her discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to the Mayor, who may in his or her discretion determine that no further action is necessary. If the Mayor, in his or her discretion, determines that further action is necessary, a city employee shall perform one or more of the following responses, as determined to be appropriate by the Mayor:

1. Contact the customer;
 2. Make the following changes to the account if after contacting the customer it is apparent that someone other than the customer has accessed the customer's covered account:
 - a. Change any account numbers, passwords, security codes, or other security devices that permit access to an account; or
 - b. Close the account.
 3. Cease attempts to collect additional charges from the customer and decline to sell the customer's account to a debt collector in the event that the customer's account has been accessed without authorization and such access has caused additional charges to accrue;
 4. Notify a debt collector within twenty-four (24) hours of the discovery of likely or probable identity theft relating to a customer account that has been sold to such debt collector in the event that a customer's account has been sold to a debt collector prior to the discovery of the likelihood or probability of identity theft relating to such account;
 5. Notify law enforcement in the event that someone other than the customer has accessed the customer's account causing additional charges to accrue or accessing personal identifying information; or
 6. Take other appropriate action to prevent or mitigate identity theft.
- B. In the event that any city employee responsible for or involved in opening a new covered account becomes aware of red flags indicating possible identity theft with respect to an application for a new account, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his or her discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the Mayor. If, in his or her discretion, such employee deems that identity theft is unlikely or that reliable information is

available to reconcile red flags, the employee shall convey this information to the Mayor who may, in his or her discretion, determine that no further action is necessary. If the Mayor, in his or her discretion, determines that further action is necessary, a city employee shall perform one or more of the following responses, as determined to be appropriate by the Mayor:

1. Request additional identifying information from the applicant;
2. Deny the application for the new account;
3. Notify law enforcement of possible identity theft; or
4. Take other appropriate action to prevent or mitigate identity theft.
(Ord. No. 2009-1, Sec. 9.)

10.24.10 Updating the program The City Council shall annually review and, as deemed necessary by the Council, update the Identity Theft Prevention Program along with any relevant red flags in order to reflect changes in risks to customers or to the safety and soundness of the city and its covered accounts from identity theft. In so doing, the City Council shall consider the following factors and exercise its discretion in amending the program:

- A. The city's experiences with identity theft;
- B. Updates in methods of identity theft;
- C. Updates in customary methods used to detect, prevent, and mitigate identity theft;
- D. Updates in the types of accounts that the city offers or maintains; and
- E. Updates in service provider arrangements.
(Ord. No. 2009-1, Sec. 10.)

10.24.11 Program administration The Superintendent of Public Works and the Hardy Chief of Police are responsible for oversight of the program and for program implementation. The Mayor is responsible for reviewing reports prepared by staff regarding compliance with red flag requirements and with recommending material changes to the program, as necessary in the opinion of the Mayor, to address changing identity theft risks and to identify new or discontinued types of covered accounts. Any recommended material changes to the program shall be submitted to the City Council for consideration by the Council.

- A. The Superintendent of Public Works and the Hardy Chief of Police will report to the Mayor at least annually on compliance with the red flag requirements. The report will address material matters related to the program and evaluate issued such as:

1. The effectiveness of the policies and procedures of city in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts;
 2. Service provider arrangements;
 3. Significant incidents involving identity theft and management's response; and
 4. Recommendations for material changes to the program.
- B. The Mayor is responsible for providing training to all employees responsible for or involved in opening a new covered account, restoring an existing covered account or accepting payment for a covered account with respect to the implementation and requirements of the Identity Theft Prevention Program. The Mayor shall exercise his or her discretion in determining the amount and substance of training necessary. (Ord. No. 2009-1, Sec. 11.)

10.24.12 Outside service providers In the event that the city engages a service provider to perform an activity in connection with one or more covered accounts the Mayor shall exercise his or her discretion in reviewing such arrangements in order to ensure, to the best of his or her ability, that the service provider's activities are conducted in accordance with policies and procedures, agreed upon by contract, that are designed to detect any red flags that may arise in the performance of the service provider's activities and take appropriate steps to prevent or mitigate identity theft. (Ord. No. 2009-1, Sec. 12.)

CHAPTER 10.28

TREATMENT OF ADDRESS DISCREPANCIES

Sections:

- | | |
|----------|--|
| 10.28.01 | Title |
| 10.28.02 | Purpose |
| 10.28.03 | Definitions |
| 10.28.04 | Policy |
| 10.28.05 | Furnishing consumer's address to consumer reporting agency |
| 10.28.06 | Methods of confirming consumer addresses |

10.28.01 Title Treatment of Address Discrepancies. (Ord. No. 2009-1 as amended by Sec. 1.)

10.28.02 Purpose Pursuant to 16 CFR 681.1, the purpose of this article is to establish a

process by which the city will be able to form a reasonable belief that a consumer report relates to the consumer about whom it has requested a consumer credit report when the city has received a notice of address discrepancy. (Ord. No. 2009-1 as amended by Sec. 2.)

10.28.03 Definitions For purposes of this article, the following definitions apply:

City means city of Hardy.

Notice of address discrepancy means a notice sent to a user by a consumer reporting agency pursuant to 15 U.S.C. 1681(c)(h)(1), that informs that user of a substantial difference between the address for the consumer that the user provided to request the consumer report and the address(es) in the agency's file for the consumer. (Ord. No. 2009-1 as amended by Sec. 3.)

10.28.04 Policy In the event that the city receives a notice of address discrepancy, the city employee responsible for verifying consumer addresses for the purpose of providing the municipal service or account sought by the consumer shall perform one or more of the following activities, as determined to be appropriate by such employee:

- A. Compare the information in the consumer report with:
 - 1. Information the city obtains and uses to verify a consumer's identity in accordance with the requirements of the Customer Information Program rules implementing 31 U.S.C. 5318(1);
 - 2. Information the city maintains in its own records, such as applications for service, change of address notices, other customer account records or tax records; or
 - 3. Information the city obtains from third-party sources that are deemed reliable by the relevant city employee; or
- B. Verify the information in the consumer report with the consumer. (Ord. No. 2009-1 as amended by Sec. 4.)

10.28.05 Furnishing consumer's address to consumer reporting agency

- A. In the event that the city reasonably confirms that an address provided by a consumer to the city is accurate, the city is required to provide such address to the consumer reporting agency from which the city received a notice of address discrepancy with respect to such consumer. This information is required to be provided to the consumer reporting agency when:
 - 1. The city is able to form a reasonable belief that the consumer report relates to the consumer about whom the city requested the report;

2. The city establishes a continuing relation with the consumer; and
 3. The city regularly and in the ordinary course of business provides information to the consumer reporting agency from which it received the notice of address discrepancy.
- B. Such information shall be provided to the consumer reporting agency as part of the information regularly provided by the city to such agency for the reporting period in which the city establishes a relationship with the customer.
(Ord. No. 2009-1 as amended by Sec. 5.)

10.28.06 Methods of confirming consumer addresses The city employee charged with confirming consumer addresses may, in his or her discretion, confirm the accuracy of an address through one or more of the following methods:

- A. Verifying the address with the consumer;
- B. Reviewing the city's records to verify the consumer's address;
- C. Verifying the address through third party sources; or
- D. Using other reasonable processes.
(Ord. No. 2009-1 as amended by Sec. 6.)

TITLE 11

BUILDINGS AND CONSTRUCTION

Chapters:

- 11.04 Plumbing Code
- 11.08 Electrical Code
- 11.12 Fire Prevention Code
- 11.16 Housing Code
- 11.24 Building Code
- 11.28 Energy Code

CHAPTER 11.04

PLUMBING CODE

Sections:

- 11.04.01 Definitions
- 11.04.02 State code
- 11.04.03 Inspection and supervision
- 11.04.04 Applications; permits

11.04.01 Definitions

Plumbing for the purposes of this ordinance is hereby defined as the definitions of Act 200 of 191 (A.C.A. 17-31-101 and following) and the Arkansas State Plumbing Code. (Ord. No. 96-3, Sec. 1.)

11.04.02 State code The provisions and regulations of the Arkansas State Plumbing Code, and amendments thereto, adopted by the State Board of Health of Arkansas are made a part of this ordinance by reference, three (3) certified copies of which shall be on file in the office of the City Clerk and shall extend over and govern the installation of all plumbing installed, altered or repaired within or without the city of Hardy, Arkansas, wherever water and/or sewage service originating from the municipal water and/or sewer is furnished. (Ord. No. 96-3, Sec. 2.)

11.04.03 Inspection and supervision

- A. There is hereby created the position of Plumbing Inspector or Inspectors who shall be employed by the city of Hardy, Arkansas.

- B. The Plumbing Inspector or Inspectors shall have experience in plumbing to the extent that enables him to know when plumbing is installed correctly.
- C. The Plumbing Inspector or Inspectors shall not be directly connected in any way with any person, firm, corporation, directly or indirectly engaged in the business of plumbing or plumbing suppliers.
- D. The Inspector shall receive as full compensation for his services, a salary designated by the city of Hardy, Arkansas.
- E. It shall be the duty of the Plumbing Inspector or Inspectors to enforce all provisions of this ordinance and such Inspector or Inspectors are granted the authority to enter all buildings within or without the corporate limits of the city of Hardy, Arkansas, when such buildings are connected or to be connected to the municipal water and/or sewer system.
- F. The Plumbing Inspector shall prepare or cause to be prepared suitable forms for applications, permits, inspection reports and other such materials.
- G. It shall be the duty of the Plumbing Inspector to inspect and test all plumbing work for compliance with this ordinance and its adopted Plumbing Code, and to enforce changing of such installations that do not meet the requirements. It further shall be his duty to see that all persons installing or altering plumbing shall be qualified by state law. (Ord. No. 96-3, Sec. 3.)

11.04.04 Applications; permits

- A. Before beginning any work in the city of Hardy, Arkansas, the person installing or altering same, shall apply to the Plumbing Inspector or other designated official and obtain a permit to do such work. Only those persons legally authorized to do plumbing may be issued permits. A permit may be issued to a homeowner to install or alter plumbing in a single family residence, provided the homeowner does the work himself and that such work shall meet the code requirements.
- B. All application for permits be made on suitable forms provided. The application shall be accompanied by fees. (Ord. No. 96-3, Sec. 4.)

CHAPTER 11.08

ELECTRICAL CODE

Sections:

11.08.01	Adoption
11.08.02	Office of Electrical Inspector
11.08.03	Duties
11.08.04	Permits
11.08.05	Inspection
11.08.06	Standards
11.08.07	Licensing of electricians
11.08.08	Bond required
11.08.09	Qualification
11.08.10	Failure to comply
11.08.11	Fine
11.08.12	License to individual

11.08.01 Adoption There is adopted for the city of Hardy, Arkansas, for the purpose of establishing rules and regulations for the construction, alteration, removal and maintenance of electric wiring and apparatus, including permits and penalties, that certain Electric Code known as the National Fire Protection Association, being particularly the 1991 edition thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, of which not less than three (3) copies have been and now are filed in the office of the City Clerk of the city of Hardy, Arkansas, and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions hereof shall be controlling in the construction, alteration, maintenance or removal of all electric wiring and apparatus within the corporate limits of the city of Hardy, Arkansas. (Ord. No. 96-4, Sec. 1.)

11.08.02 Office of Electrical Inspector There is hereby created the office of Electrical Inspector who shall be appointed by the Mayor. The Electrical Inspector shall be of good moral character, shall be versed in the approved methods of electrical construction for safety of life and property and the National Electrical Code. (Ord. No. 96-4, Sec. 2.)

11.08.03 Duties

- A. The Electrical Inspector, who for the purpose of this ordinance shall be known as the City Electrician, and hereinafter referred to as such, shall have the duty and is hereby authorized, empowered, and directed to regulate and determine the placing of electric wires or other appliances for electric lights, heat or power in the city of Hardy, Arkansas, and to cause all such wires, appliances, or apparatus to be placed, constructed and guarded as not to cause fires or accidents, endangering

life or property, and to constructed as to keep to a minimum the loss or waste of electric current.

- B. It shall be the duty of the City Electrician to inspect and/or test all electrical work and equipment or apparatus for compliance with the code. Whenever electric wiring, appliances or apparatus shall be defective or hazardous through improper manufacture of improper or insufficient insulation or for any other reason, he shall at once cause the removal of such defect or defect, at the expense of the owners of such wiring, appliance or apparatus. (Ord. No. 96-4, Sec. 3.)

11.08.04 Permits No installation, alteration or removal shall be made in/or of the wiring of any building or structure for light, heat or power or to increase the load of energy earned by such wires or equipment, nor shall any building or structure be wired for electric lights, appliances, motors, apparatus, or heating devices nor alterations made thereto without a written permit therefor being first obtained from the city license-issuing Clerk, by the person, firm or corporation having direct charge of such installation. (Ord. No. 96-4, Sec. 4.)

11.08.05 Inspection Upon the completion of the wiring, installation or alteration of any building or structure for light, heat, power, appliance of apparatus, it shall be the duty of the person, firm or corporation having direct charge of such to notify the City Electrician who shall, as early as possible, inspect such wiring, installation, appliance and apparatus. If installed, altered and constructed in compliance with the permit and in accordance with the requirements of the ordinance, he shall execute a certificate of satisfactory inspection, which shall contain the date of such inspection and the result of his examination. No such certificate shall be issued unless such electric wiring, motors, heating devices, appliances, and apparatus be in strict accord with the rules and requirements and the spirit of this ordinance, nor shall current be turned on such installation, equipment, appliance, motors, heating device and apparatus until said certificate be issued. The amount of fee or charge to be made for such inspections and certificate is to be fixed and determined by the City Council. (Ord. No. 96-4, Sec. 5.)

11.08.06 Standards All electrical construction, all materials, appliances, motors, heating devices and apparatus used in connection with electrical work and the operation of all electrical apparatus within the city of Hardy, Arkansas, shall conform to the rules and requirements of the National Electrical Code current when work is performed or equipment and apparatus installed, however, the necessity, good service and said result often require larger sizes of wire, more branch circuits, and better types of equipment than the minimum which is specified in the National Electric Code. Therefore, the City Electrician supervising the enforcement of this code will have the responsibility and authority for making interpretations of the rules, for deciding upon the approval of equipment materials, construction and for granting the special permission contemplated in a number of the rules and the City Electrician where necessary shall follow the code procedure for securing

11.08.07 Licensing of electricians Any person, firm or corporation desiring to engage in the business of electrical construction or of the installation of wiring and apparatus for electric

lights, appliances, heating or power in the city of Hardy, Arkansas, shall, before doing to, obtain a license therefore, the fee for which shall be Fifty Dollars (\$50.00) per year which shall be paid to the City Treasury before such license shall become effective. (Ord. No. 96-4, Sec. 7.)

11.08.08 Bond required Every person, firm or corporation doing electrical business in the city of Hardy, Arkansas, shall execute and deliver to the city a bond with a surely bonding company in the sum of Ten Thousand Dollars (\$10,000.00) to indemnify the city or any citizen for any damage caused by the failure of such person, firm or corporation doing the electrical work to comply strictly with the provisions of this ordinance. (Ord. No. 96-4, Sec. 8.)

11.08.09 Qualification No license shall be issued until the party applying for same has given satisfactory evidence to the City Electrician of his or their ability to do said electrical work in a safe and satisfactory manner. No permit for installation or alteration of any wiring, heating devices, motors, appliances and apparatus shall be issued until the license and bond herein required have been obtained. (Ord. No. 94-6, Sec. 9.)

11.08.10 Failure to comply Any person, firm or corporation who shall fail to correct any defect or defects in his or her work or to meet the required standards after having been given notice of the unfit condition by the City Electrician within a reasonable time, shall be refused any other permit until such defect or defects have been corrected and shall be subject to revocation of license for continual defective work or either upon conviction for violation of the provision of this ordinance. (Ord. No. 94-6, Sec. 10.)

11.08.11 Fine Any person, firm or corporation found guilty of violating any of the provisions of this ordinance shall be subject to a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Fifty Dollars (\$250.00) together with the costs of such prosecution, or by imprisonment. Each day during which violation continues shall be a separate offense. (Ord. No. 94-6, Sec. 11.)

11.08.12 License to individual Any individual desiring to perform his own electrical work personally shall not be required to make the required bond or to obtain the required license, but shall be required to obtain the regular permit for that particular job. Such work done by an individual must be done by him personally on his own particular job and not be a way of performing a service to the public generally. (Ord. No. 94-6, Sec. 12.)

CHAPTER 11.12

FIRE PREVENTION CODE

Sections:

11.12.01	Adoption
11.12.02	Enforcement
11.12.03	Definition
11.12.04	Establishment of limits of districts in which storage of flammable liquids in outside above ground tanks, bulk storage of liquefied petroleum gases and storage of explosives and blasting agents is to be restricted
11.12.05	Modifications
11.12.06	Appeals
11.12.07	Fine

11.12.01 Adoption There is hereby adopted by the City Council of Hardy, Arkansas, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Fire Prevention Code, Recommended by the Standard Fire Prevention Code, being particularly the 1994 edition thereof, and the whole thereof save and except such portions as are hereinafter deleted, modified or amended by 11.12.05 of this ordinance of which not less than three (3) copies have been and are now filed in the office of the Clerk of the city of Hardy, Arkansas, and the same are hereby adopted and incorporated as full as if set at length herein, and from the date of which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of Hardy, Arkansas. (Ord. No. 96-5, Sec. 1.)

11.12.02 Enforcement The code hereby adopted shall be enforced by the Chief of the Fire Department. (Ord. No. 96-5, Sec. 2.)

11.12.03 Definition **Municipality** shall be held to mean the city of Hardy, Arkansas. (Ord. No. 96-5, Sec. 3.)

11.12.04 Establishment of limits of districts in which storage of flammable liquids in outside above ground tanks, bulk storage of liquefied petroleum gases and storage of explosives and blasting agents is to be restricted The limits referred to in Section 73 of the code hereby adopted in which storage of flammable liquids in outside above ground tanks is prohibited, the limits referred to in Section 103 of the code hereby adopted, in which bulk storage of liquefied petroleum gas is restricted, and the limits referred to in Section 53b of the code hereby adopted, in which storage of explosives and blasting agents is prohibited, are hereby established as follows:

- A. The area designated on the official Zoning Map of the municipality as the Central Business District.

- B. Within 1,500 feet of any dwelling structure in any built-up area within the corporate limits of the municipality,

with the exception of outside above ground tanks for the storage of flammable liquids or for the bulk storage of liquefied petroleum gases having been located in such designated areas prior to the adopting date of this ordinance, provided, however, that the Fire Chief shall inspect such facilities and issue a letter of modification as hereinafter set forth in 11.12.05 of this ordinance. (Ord. No. 68-72, Sec. 4.)

11.12.05 Modifications The Chief of the Fire Department shall have the power to modify any of the provisions of the code hereby adopted upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the Chief of the Fire Department thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant. (Ord. No. 96-5, Sec. 5.)

11.12.06 Appeals Whenever the Chief of the Fire Department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief of the Fire Department to the City Council within thirty (30) days from the date of the decision appealed. (Ord. No. 96-5, Sec. 6.)

11.12.07 Fine

- A. Any person who shall violate any of the provisions of the code hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate of permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the City Council or by a court of competent jurisdiction within the time fixed herein, shall severally for each and every such violation and non-compliance respectively, be guilty of a misdemeanor, punishable by a fine of not less than Fifty Dollars (\$50.00) nor more the Two Hundred Fifty Dollars (\$250.00).

The imposition of one penalty for any violation shall not excuse the violation or permit to continue, and all such persons shall be required to correct or remedy such violations or defects within a reasonable time, and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.

- B. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions. (Ord. No. 96-5, Sec. 7.)

CHAPTER 11.16

HOUSING CODE

Sections:

- 11.16.01 Adoption of Southern Standard Housing Code
11.16.02 Housing Board of Appeals

11.16.01 Adoption of Southern Standard Housing Code There is hereby adopted by the City Council of Hardy, Arkansas, that certain health and housing standards known as Southern Standard Housing Code, of which not less than three (3) copies have been and are now filed in the office of the Clerk of the city of Hardy, Arkansas, and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling on all dwellings and premises within the corporate limits of Hardy, Arkansas. (Ord. No. 68-13, Sec. 1.)

CHAPTER 11.24

BUILDING CODE

Sections:

- 11.24.01 Adoption of Building Code
11.24.02 Establishment of office of Building Official
11.24.03 Qualifications of Building Official
11.24.04 Duties of Building Official
11.24.05 Liability
11.24.06 Right of entry
11.24.07 Definitions
11.24.08 Fire limits established
11.24.09 Temporary structures

11.24.01 Adoption of Building Code There is hereby adopted by the City Council of Hardy, Arkansas, for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, including permits and penalties, that certain Building Code be known as the Standard Building Code recommended by the Southern Building Code Congress International, Inc., being particularly the 1994 edition thereof, Appendix C, and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended, of which

not less than three (3) copies have been and now are filed in the office of the Clerk or Recorder of the city of Hardy, Arkansas, and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling in the construction of all buildings and structures therein contained within the corporate limits of the city of Hardy, Arkansas. (Ord. No. 96-2, Sec. 1.)

11.24.02 Establishment of office of Building Official

- A. The office of Building Official is hereby established and the executive official in charge shall be known as the Building Official.
- B. The Building Official shall be appointed by the Mayor of Hardy.
- C. During temporary absence or disability of the Building Official the Mayor shall designate an acting Building Official. (Ord. No. 96-2, Sec. 2.)

11.24.03 Qualifications of Building Official He shall be in good health, physically capable of making the necessary examinations and inspections. He shall not have any interest whatsoever, directly or indirectly, in the sale or manufacture of any material, process or device entering into or used in or connected with building construction, alterations, removal, and demolition. (Ord. No. 96-2, Sec. 3.)

11.24.04 Duties of Building Official

- A. He shall receive applications required by this code, issue permits and furnish the prescribed certificates. He shall examine the premises for which permits have been issued and shall make necessary inspections to see that the provisions of law are complied with and that construction is prosecuted safely. He shall enforce all provisions of the Building Code. He shall, when requested by proper authority, or when the public interest so requires, make investigations in connection with matters referred to in the Building Code and render written reports on the same. To enforce compliance with law, to remove illegal or unsafe conditions, to secure the necessary safeguards during construction, or to require adequate exit facilities in buildings and structures, he shall issue such notices or orders as may be necessary.
- B. Inspections required under the provisions of the Building Code shall be made by the Building Official or his duly appointed assistant. The Building Official may accept reports of inspectors of recognized inspection services, after investigation of their qualifications and reliability. No certificate called for by any provision of the Building Code shall be issued on such reports unless the same are in writing and certified to by a responsible office of such service.
- C. The Building Official shall keep comprehensive records of applications, of permits issued, or certificates issued, of inspections made, of reports rendered, and of notices or orders issued.

- D. All such records shall be open to public inspection for good and sufficient reasons at the stated office hours, but shall not be removed from the office of the Building Official without his written consent.
- E. The Building Official shall make written reports to his immediate superior once each month, or more often if requested, including statements of permits and certificates issued, and orders promulgated. (Ord. No. 96-2, Sec. 4.)

11.24.05 Liability Any officer or employee, or member of the Board of Adjustments and Appeals, charged with the enforcement of this code, acting for the city in the discharge of his duties, shall not hereby render himself liable personally, and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted on the discharge of his duties. Any suit brought against any officer or employee because of such act performed by him in the enforcement of any provision of this code shall be defended by the City Attorney or a legal representative of the city. (Ord. No. 96-2, Sec. 5.)

11.24.06 Right of entry The Building Official, in the discharge of his official duties, and upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour. (Ord. No. 96-2, Sec. 6.)

11.24.07 Definitions

- A. Wherever the word "Municipality" is used in the Building Code, it shall be held to mean the city of Hardy, Arkansas.
- B. Wherever the term "Corporation Counsel" is used in the Building Code, it shall be held to mean the Attorney for the city of Hardy, Arkansas. (Ord. No. 96-2, Sec. 7.)

11.24.08 Fire limits established The fire limits of the city of Hardy, Arkansas, are hereby established as follows: See map attached to the point of beginning. Note: The fire limits should include all closely built districts of a predominantly business or commercial occupancy, together with such blocks or portions of blocks surrounding these districts on all sides as constitute an exposure to these districts, including area where a definite trend toward business or commercial development is manifested. The outer belt of blocks or part blocks surrounding the closely build districts ordinarily should be not less than 200 feet wide. (Ord. No. 96-2, Sec. 8.)

11.24.09 Temporary structures From the effective date of this ordinance, it shall be unlawful to use or occupy temporary structure along Main Street and U.S. Highways 412 and 63 within the city limits of Hardy, Arkansas with the following conditions:

- A. It shall be unlawful to move upon any property located along or adjacent to Main Street and U.S. Highways 412 and 63 a trailer or pull vehicle of any kind.

- B. It shall be unlawful to construct a temporary structure of any kind along Main Street and U.S. Highways 412 and 63.
- C. This ordinance shall be in effect for an area 150 feet either side of the road easement for Main Street and U.S. Highways 412 and 63.
- D. The exception to this ordinance shall be the use of trailers or temporary structures to be used in a show, festival or event either sponsored or approved by the city of Hardy. An example of such an event would be the semi-annual Old Hardy Town Arts & Crafts Festival and the semi-annual Antique Festivals sponsored by the Spring River Area Chamber of Commerce. Any show, festival or event wishing to be exempted from this ordinance must first seek permission of the city of Hardy or its elected Mayor. The exception from this ordinance for any such show, festival or event shall only exist for the time period specified within their request for approving to the city of Hardy, Arkansas. Any use of a trailer or a temporary structure beyond the days or times of the show, festival or event shall be a violation of this ordinance.
- E. The violation of this ordinance shall be punishable by a penalty or fine of up to Fifty Dollars (\$50.00) per day or any part of any day thereof for which a temporary structure shall be used by an individual or group along Main Street and U.S. Highway 412 and 63 in specific violation of the provisions herein. (Ord. No. 93-1, Secs. 2-3.)

CHAPTER 11.28

ENERGY CODE

Sections:

11.28.01 Adopted

11.28.01 Adopted There is hereby adopted by the City Council of Hardy, Arkansas, for the purpose of establishing rules and regulations for energy efficient standards for new building construction, this code known as the 2011 Arkansas Energy Code, being particularly the 2011 Arkansas Energy Code edition thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended, of which not less than three (3) copies of this ordinance, as well as, three (3) copies of the 2011 Arkansas Energy Code, have been and now are filed in the office of the Clerk or Recorder of the city of Hardy, Arkansas, and the same ordinance is hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling in the construction of all buildings and structures therein contained within the corporate limits of the city of Hardy, Arkansas. (Ord. No. 2012-3, Sec. 1.)

TITLE 12

PARKS AND RECREATION

[Reserved] (Ord. 2001-14 is repealed)

TITLE 13

PLANNING

Chapters:

13.04 Planning Commission

CHAPTER 13.04

PLANNING COMMISSION

Sections:

13.04.01 Planning Commission

13.04.02 Chairman

13.04.01 Planning Commission The City Council of the city of Hardy, Arkansas, shall serve as the Planning Commission and Board of Adjustment for the city of Hardy, Arkansas. (Ord. No. 2012-1, Sec. 2.)

13.04.02 Chairman The Mayor of the city of Hardy, Arkansas, shall serve as the chair of the Planning Commission. (Ord. No. 2012-1, Sec. 3.)

TITLE 14

ZONING

Chapters:

- 14.04 Zoning Ordinance
- 14.08 Annexing, Vacating and Rezoning Property

CHAPTER 14.04

ZONING ORDINANCE

Sections:

- 14.04.01 Authority and purpose
- 14.04.02 Definitions
- 14.04.03 Use zones
- 14.04.04 General regulations
- 14.04.05 Board of Zoning Adjustment
- 14.04.06 Amendments to zoning regulations
- 14.04.07 Enforcement and administration

14.04.01 Authority and purpose

Section 1 Authority Act 186 of 1957 of the General Assembly of the state of Arkansas, as amended, empowers the city of Hardy to enact zoning regulations and to provide for their administration, enforcement and amendment. The Hardy City Council, pursuant to the provisions of Act 186 of 1957 of the General Assembly, as amended, has established a Planning Commission, which has divided the city into districts and has prepared regulations pertaining to these districts in accordance with the Comprehensive Development Plan. These regulations apply to all land and structures and are in effect throughout the entire city limits of Hardy.

Section 2. Purpose

- A. The City Council deems it necessary, for the purpose of promoting health, safety, morals, order, and general welfare of the city to enact these zoning regulations.
- B. These zoning regulations are designed to lessen congestion in the street; to secure safety from fire and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements; to

stabilize property values; and to insure orderly development of the community for the general welfare of the citizens.

- C. These zoning regulations provide for zoning districts of suitable and harmonious uses with the purpose of conserving the value of buildings and encouraging the most appropriate use of land in the city of Hardy. (Ord. No. 96-6, Ch. 1.)

14.04.02 Definitions

- A. For the purpose of these regulations, certain terms or words used herein shall be interpreted as follows:
1. **Shall** is mandatory; **may** is permissive.
 2. **Used** or **occupied** shall include the words intended, designed or arranged to be used or occupied.
 3. **Lot** includes **plot** and **parcel**.
 4. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- B. For the purpose of these regulations, the following terms or words are defined as follows:

Accessory structure A subordinate structure located on the lot with the principal structure. Where an accessory structure is attached to the principal structure in a substantial manner as by a roof, such accessory shall be considered as a part of the principal structure. An example of an accessory structure for a non-residential structure would be the educational buildings of a church, with the sanctuary being the principal structure.

Accessory use A use which is customarily incidental to the principal use. In buildings restricted to residential use, the home office of a professional person or customary family workshops not conducted for compensation shall be deemed an accessory use.

Alley A narrow public way not in excess of twenty (20) feet which affords a secondary means of access to abutting properties and not intended for traffic circulation.

Area This term refers to the amount of land surface in a lot or parcel.

Area requirements The yard, lot area, width of lot, and parking requirements as set forth in a specific district.

Dwelling, single-family A detached structure designed for or occupied by one family only.

Dwelling, two-family A detached structure for or occupied by two (2) families only, with separate housekeeping and cooking facilities for each.

Dwelling, multi-family A structure designed for or occupied by three (3) or more families, with separate housekeeping and cooking facilities for each.

Dwelling unit A structure or portion thereof providing complete housekeeping facilities for one (1) family. The term shall not be deemed to include motels, rooming houses, or mobile homes.

Existing The established fact of the use of land or structure at time of effective date of these regulations.

Family One or more persons occupying premises and living as a single, non-profit housekeeping unit provided that, unless all members are related by blood or marriage, the number of persons shall not exceed five (5).

Floor area The sum of the gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating buildings but not including cellar or basement space not used for retailing and not including accessory off-street parking or loading space.

Home occupation Any occupation or activity which is clearly incidental and secondary to the use of the premises for dwelling and which is carried on wholly within a main building or accessory building by a member of a family residing on the premises, in connection with which there is no advertising other than an identification sign of not more than one square foot in area, and no other display or storage of materials or exterior indication of the home occupation or variation from the residential character of the main building or accessory building, and in connection with which not more than one person outside the family is employed and no equipment used which creates offensive noise, vibration, smoke, dust, odors, heat or glare. When within the above requirements, a home occupation includes, but is not limited to the following:

1. Art studio
2. Dressmaking
3. Professional home office of a physician, dentist, lawyer, engineer, architect, accountant, salesperson, real estate agent, insurance agent, or other similar occupation
4. Teaching, with musical instruction limited to one or two students at a time.

However a home occupation shall not be interpreted to include barber shops and restaurants or any other business of occupation which requires other than occasional retail or walk-in traffic.

Lot A portion of parcel of land considered as a unit, devoted to a certain use or occupied by a building or a group of buildings that are unified by a common interest or use, and the customary accessories and open spaces belonging to same.

Lot of record A lot which is part of a subdivision recorded in the office of the County Recorder or a lot or parcel so recorded.

Mobile home A detached single family dwelling unit with a permanent steel chassis possessing all of the following characteristics:

- A. Designed for long term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities, with plumbing and electrical connections provided for attachment to outside facilities;
- B. Designed to be transported after fabrication on its own wheels;
- C. Arriving at the site where it is to be occupied as a complete dwelling and ready for occupancy except for minor and incidental unpacking and assembly operations, location of foundation supports, connections to utilities and the like.

Mobile home park (commercial) A commercial operation where space for mobile homes is provided by the day, week or longer periods of time.

Modular home A single family housing unit that is constructed basically as a conventionally built wood frame house except that it is built at a factory and transported to the site on which it will be permanently located. (Amendment No. 1, March 1997)

Non-conforming A use of structure or both that existed prior to the adoption of these regulations but which does not meet the requirements of these regulations.

Open space Any unoccupied space on a lot that is open and unobstructed to the sky and occupied by no structures or portion of structures whatever.

Parking space An on-lot space available for the parking of one motor vehicle and having an area of not less than two square feet exclusive of space necessary to provide access to a street or alley.

Principal use The chief or main recognized use of a structure, or lot or land.

Property line The line bounding a lot as described herein.

Street A public way which affords the principal means of access to abutting properties.

Structure Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things structures include buildings, fences, billboards, and poster panels, but do not include walks, parking areas, and drives.

Travel trailer A travel trailer, pick-up camper, tent, tent-trailer, or similar device used for temporary portable housing or a unit which:

- A. Can operate independently of external sewer, water, and electrical connections;
- B. Contains water storage facilities and may contain a lavatory, kitchen sink, and/or
- C. Is identified by the manufacturer as a travel trailer and/or is designed as a travel trailer.

Use of land The unoccupied portion of a lot shall be considered to be in the same use as is the principal structure located on the lot unless such land is utilized for open storage or agriculture outside of the structure, then the use of land shall be classified according to the nature of its use.

Yard A horizontal distance from a lot line to a parallel designated line. A yard is an open space extending the full distance of the lot. (Ord. No. 96-6, Ch. 2.)

114.04.03 Use zones The city of Hardy is divided into the following use zones as indicated on the Zoning Map, which is a part of these regulations.

Residential use zone The residential use zone is intended primarily for residences, with permitted related uses such as churches, schools, and recreational facilities. The permitted uses and the area requirements establish the character of the use district.

R-1 Residential

Commercial use zones Commercial use zones are intended for the conduct of business and provision of services and the processing and manufacturing of goods which by the nature of the operation do not constitute a nuisance or a danger to the community.

C-1 Central Business District Commercial
C-2 General Business

Industrial use zone Industrial use zone is intended for general manufacturing and industrial activities, and for the bulk storage of goods.

I-1 Industrial

Flood plain zone The flood plain zone is intended for the protection of persons and property from the hazards of development in floodable area.

The boundaries of these districts are shown on the Zoning Map which accompanies and is made a part of these regulations. The original of this map is properly attested and on file with the City Clerk, and this map with all the information shown thereon shall have the same force and effect as if fully set forth or described herein.

Where uncertainty exists as to the boundaries of districts shown on the Zoning Map, the following rules shall apply:

- A. Boundaries indicated as approximately following the centerlines of streets, highways and alleys shall be construed as following such lines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following city limits shall be construed as following city limits.
- D. Boundaries indicated as following railroad lines shall be construed as following to be midway between the main tracks.
- E. Boundaries indicated as parallel to or extensions of features mentioned in the preceding rules shall be so construed.
- F. In circumstances not covered by the preceding rules, the Board of Adjustment shall interpret the district boundaries.

Residential R-1 This zone is intended primarily for residential neighborhoods characterized by permanent residential dwellings containing a suitable lot area.

- A. Permitted uses
 - 1. Residential structures. Does not include travel, trailers or single-wide mobile homes, but may include double-wide mobile homes or modular homes with the following provisions:
 - a. Tongues, wheels, axles shall be permanently removed after unit is placed
 - b. Structure to be situated on a permanent foundation
 - c. The exterior shall be situated and maintained to give the appearance of a site-built home (Amendment No. 2, March 1997)

2. Public schools, parks churches and religious educational buildings
3. Municipal recreational uses and public utilities and structures
4. Accessory structures or uses incidental to the permitted principal use
5. Home occupations

B.

1. Minimum lot area

- | | | |
|----|-----------------------------|--|
| a. | Single-family | 6,500 sq. ft. |
| b. | Two-family and multi-family | additional 1,500 sq. ft. for each additional family unit per lot |

2. Minimum lot width (at front yard building line)

- | | | |
|----|-----------------------------|---------|
| a. | Single-family | 60 feet |
| b. | Two-family and multi-family | 75 feet |

3. Front yard minimum of 25 feet. On corner lots the front yard shall be considered as parallel to the street upon which the lot has the least dimension.

- | | | | |
|----|----|------------------|---|
| 4. | a. | Side yard (each) | minimum 7 ½ ft. from each property line |
| | b. | Side yard street | same as side yard |

5. Rear yard minimum 10 ft. from rear lot line or center of alley if one exists

6. Off-street parking

- | | |
|----|--|
| a. | Single-family and two-family dwellings: Parking space shall be provided on the lot to accommodate two motor vehicles for each family unit. |
| b. | Multi-family dwellings: Two on-lot parking spaces for each family unit shall be provided |

C. Area requirement, place of public assembly

1. Height maximum height shall be 2 ½ stories and not to exceed 35 ft. for that portion of the structure used for assembly or offices.
2. Yard requirements minimum of 25 ft. from all property lines.
3. On-lot Places of public assembly shall provide one on-lot parking space

to accommodate one motor vehicle for each two persons accommodated in the assembly hall.

Central Business District C-1 The Central Business District represents the area of intensive commercial uses, including retail stores, banks, offices and the like. It is the retail core of the city. Due to the permanency of the existing structures, and the nature of this district, structures may be built to the front and in most cases, side property line.

A. Permitted uses

1. Retail establishments selling goods as grocery, drug, hardware, variety, dry goods, automotive parts, etc.
2. Eating establishments as cafes and restaurants
3. Banks and offices for professional and service people
4. Motion picture theater and places of amusement unless otherwise prohibited
5. Barber shops and beauty shops
6. Printing offices
7. Commercial billboards and signs
8. Places of public assembly

B. Area requirements

1. Front yard No front yard is required
2. Side yard No side yard is required, except when a lot abuts a lot in the Residence District, in which case a side yard of five (5) feet shall be provided.
3. Rear yard No rear yard is required, except on a lot abutting a lot in the Residence District, in which case a rear yard of twenty-five (25) feet shall be provided.

C. Loading and unloading Loading and unloading facilities shall be provided so as not to block any public way.

D. Parking requirements

1. Commercial uses one parking space for each 200 sq. ft. of floor area
2. Places of public assembly one parking space for each two (2) persons.

General Commercial C-2 This General Commercial Zone is intended for those businesses which cater to the highway traffic, and provide convenience shopping and services for the surrounding area.

A. Permitted uses

1. Any retail or person service business, motels, service stations, restaurants, office buildings
2. Commercial warehousing and wholesaling
3. Commercial billboards and signs
4. Dry cleaning and laundry establishments (attended or unattended)
5. Automotive repairs and sales (new and used)
6. Places of public assembly
7. Farm implement sales and storage

B. Area requirements

1. Front yard minimum of 30 ft.
2. Side yard minimum of 5 ft. of property abutting a residential use zone
3. Rear yard minimum of 10 ft. from rear lot line or center of alley if one exists
4. Lot coverage no structure shall cover more than one-half of the lot area

C. Off-street loading and unloading Loading and unloading facilities shall be provided so as not to block any public right-of-way.

D. Off-street parking requirements

1. Commercial uses one parking space for each 200 sq. ft. of floor area
2. Places of public assembly one parking space for each two (2) persons.

Industrial I-1 This zone will provide space for manufacturing and agricultural processing activities. It is also intended for the storage and sale of bulk materials which are prohibited in the commercial zones.

A. Permitted uses

1. The manufacturing, compounding, processing, packaging or assembling of such products when it is found by the Enforcement Officer that the location and the safeguards taken will so reduce the noise, dust, odor, or vibration as not to be detrimental or dangerous to the health, safety, or general welfare of the people.
2. Storage of bulk material when it is found by the Enforcement Officer that

the specific location and safeguards taken will so reduce the danger of fire or explosion as not to be dangerous to the health safety, or general welfare of the people.

- B. Residential uses prohibited No structure may be constructed or altered for residential use.
- C. Area requirements All structures shall be built at least twenty-five (25) ft. from all property lines, abutting residential areas. A minimum of 12'6" from all other property lines.
- D. Height
 - 1. Maximum height of a structure shall be three (3) stories and not to exceed 45 ft.
 - 2. The Board of Adjustment may waive the height requirements when it is demonstrated that the equipment and structure to house the operation requires greater height
- E. Off-street parking Adequate on-lot parking shall be provided for all employees and visitors. The adequacy of such space shall be determined by the Enforcement Officer.
- F. Off-street loading and unloading facilities Each structure or use shall provide off-street loading and unloading facilities which will not block a street, alley, or other public way.

Flood Plane FP-1 This district is designed for those areas of the city of Hardy that are subject to periodic flooding and are, therefore, not suitable for certain types of urban development. This district is designed to help protect persons and property from the hazards of development in these floodable areas, and to protect the community from the costs which may be incurred when unsuitable development occurs in these areas.

- A. Permitted uses
 - 1. Public or no-profit recreation facilities such as a park, playground, swimming pool, golf course, or play field.
 - 2. Temporary buildings, the uses of which are incidental to construction operations being conducted on the same or adjoining tract or subdivision and which shall be removed upon completion or abandonment of such construction or upon the expiration of a period of two (2) years from the time of erection of such temporary building, whichever is sooner.

3. Agricultural uses such as orchards for growing or propagation of plants, trees, and shrubs.
 4. Railroad rights-of-way, including a strip of land with tracks and auxiliary facilities for track operations.
- B. Exception Uses and structures permitted in a district adjacent to the Flood Plain District on a lot within a subdivision located at the edge of the FP District, or partly within the adjacent district when such subdivision has been approved. According to the regulations governing the subdivision of land and on condition that the subdivision improvements such as filling channel improvement, or drainage structures, will protect the lot from periodic flooding. Plans for such improvements shall be reviewed and processed according to the requirements for other subdivision improvements.

Special Uses The City Council of Hardy or the Board of Zoning Adjustment by special permit after public hearing and after study and report by the Planning Commission subject to such reasonable conditions and protective restrictions as are deemed necessary, may authorize the following special uses in any district from which they are otherwise prohibited:

- A. Cemetery or mausoleum
- B. Funeral home
- C. Greenhouse or nursery
- D. Hospital, clinic or institution not primarily for the mentally ill or those with contagious diseases, provided that less than forty percent (40%) of the total land area is occupied by buildings and that all the required yards are increased by one (1) foot for each foot of building height in excess of height limits specified in these regulations.
- E. Nursing homes
- F. Radio tower or broadcasting station
- G. Mobile home on individual lot, but only as a temporary occupancy. Six (6) months after occupancy, the procedure for obtaining a special permit must be repeated to reinstate this as a special use.
- H. Mobile home park
 1. Definition: A mobile home park means any plot of ground upon which two (2) or more mobile homes, occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodation.
 2. A mobile home space means a plot of ground within a mobile home park designed for the accommodation of one mobile home.
 3. The mobile home park shall conform to the following requirements:

- a. The park shall be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water.
- b. Mobile home spaces shall be provided consisting of a minimum of 1,500 sq. ft. for each space which shall be at least 30 ft. wide and clearly defined.
- c. Mobile homes shall be so harbored on each space that there shall be at least a 15 ft. clearance between mobile homes.
- d. All mobile home spaces shall abut a driveway of not less than 20 ft. in width, which shall have unobstructed access to a public street.
- e. Each mobile home park shall provide service buildings to house such toilet, bathing and other sanitation facilities as the city and/or state may specify.
- f. An electrical outlet supplying at least 110 volts shall be provided each mobile home space.

I. Travel trailer park

1. Definition: Any plot of ground on which two (2) or more travel trailers, occupied for camping or for periods of short stay are located.
2. Short stay is defined as one (1) to ninety (90) days. If stay for any individual trailer in a park is to be more than ninety (90) days, a permit must be requested from the Planning Commission by the operator or manager of the park at least thirty (30) days in advance of the extended stay. If it is impossible to comply with the thirty (30) days' notice provision, the operation or manager of the park must immediately request the City Clerk that the request be put on the agenda of the Planning Commission for the next regular monthly meeting.
3. Extensions will be for thirty (30) days only. A maximum of two (2) extensions will be allowed, and following that time, thirty (30) days must elapse before that travel trailer may re-register in the park.
4. Travel trailer parks shall be designed, operated and maintained according to the rules and regulations of the Arkansas Health Department Travel Trailer Park.

14.04.04 General regulations

Section 1 Annexed area

- A. Territory annexed to the city of Hardy after adoption of these regulations shall be given use designations within ninety (90) days after the effective date of annexation in accordance with the amendment procedures of these regulations.

- B. Before official use designation is made after annexation, all requests for building permits shall be referred to the city Planning Commission or a committee thereof. The Planning Commission or its designated committee may recommend issuance of the permit if said use conforms to the land use plan and the structure meets the requirements of the zone in which it is to be located.

Section 2 Completion of existing buildings Nothing herein contained shall require any change in construction or designated use of a building actually under construction at the time of the adoption of these regulations. Under construction shall be considered to be when foundations are set and poured.

Section 3 Home occupations

- A. An occupation may be carried on in a residential structure in a residential district only if the following are complied with:
1. It does not involve the use of commercial vehicles operating from the residence.
 2. It does not require the use of more than two (2) rooms otherwise normally considered as living space.
 3. It does not require the use of an accessory building or of yard space or an activity outside the main structure not normally associated with residential uses.
 4. It does not have a sign in excess of two (2) sq. ft. to denote the business, occupation, or profession.
 5. It does not involve the external display of goods and services.
 6. The occupation must be carried on only by a member of the family residing in the dwelling unit.
 7. The occupation must be of a nature that does not cater to the day to day needs of the general public, i.e., the merchandising of convenience goods, such as groceries, sundries, etc.
- B. Occupations carried on in a residential structure or accessory building in a residential district at the time of the adoption of these regulations must comply with the regulations established in 14.04.03 of this chapter, within two (2) years of the date of the passage of these regulations, or said business, occupation, or profession shall be deemed in violation of these regulations.

Section 4 Existing lots and lot area On any lot in a residential use district which is on a plat of record at the time of passage of these regulations, a one-family structure may be erected even though the lot be of less area or width than required by the regulations of the residential use area in which the lot is located, provided all other area requirements are met.

Section 5 Non-conforming buildings and uses The lawful use of a building or premises existing at the time of adoption or amendment of these zoning regulations may be continued although such use does not conform with the provisions of these regulations. Such non-conforming use may not be extended. The total structural repairs or alterations in such a non-conforming building shall not exceed fifty percent (50%) of the assessed value of the building unless permanently changed to a conforming use. If such non-conforming use is discontinued for a period of twelve (12) months, any future use of the building and premises shall conform to these regulations. Whether a non-conforming use exists shall be a question of fact and shall be decided by the Board of Zoning Adjustment after public notice and in accordance with the rules of the Board. (Ord. No. 96-6, Sec. 4.)

14.04.05 Board of Zoning Adjustment

Section 1 Organization A Board of Zoning Adjustment is hereby created which shall consist of the Planning Commission as a whole and the chairperson of the one shall likewise be the chairperson of the other.

Section 2 Meetings The Board of Zoning Adjustment shall establish regular meeting dates, adopt rules for the conduct of its business, establish a quorum and procedure, and keep a public record of all findings and decisions. Each session of the Board of Zoning Adjustment shall be a public meeting with public notice of said meeting and business to be carried on published in a newspaper of general circulation in the city, at least one time seven (7) days prior to this meeting.

Section 3 Appeals from decision of Building Official An appeal may be taken to the Board of Zoning Adjustment by any person, group, or organization, public or private, affected by a decision of the Building Official. Such appeal shall be taken within such time as prescribed by the Board by general rules, by filing with the Building Official and with the Board a notice of appeal, specifying the grounds thereof. A fee of Twenty-Five Dollars (\$25.00) shall accompany all notices of appeals.

Section 4 Powers The Board of Zoning Adjustment shall have the following powers:

- A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Building Official in the enforcement of these regulations and may affirm or reverse, in whole or part, said decision of the Enforcement Officer.
- B. To hear requests for variances from the literal provisions of the zoning regulations

in instances where strict enforcement of the zoning regulations would cause undue hardship due to circumstances unique to the individual property under consideration, and grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning regulations. The Board of Zoning Adjustment shall not permit, as a variance, any use in a zone that is not permitted under the regulations. The Board of Zoning Adjustment may impose conditions in the granting of a variance to insure compliance and to protect adjacent property.

- C. To hold public hearings, on, and decide the following exceptions to or variation of these regulations:
 - 1. To permit the extension of a district where the boundary line thereof divides a lot held in a single ownership at the time of adoption these regulations.
 - 2. Interpret the provisions of these regulations in such a way as to carry out the intent and purpose of the plan, as shown upon zoning map where the street layout on the ground varies from the street layout as shown on the map.
 - 3. Classify commercial or industrial uses which are likely to create hazards and review the locations of proposed industrial uses.

Section 5 Variance and special use permits

- A. The Board shall hear requests from variances from the standard provisions on the zoning regulations in instances where strict compliance with the provisions of the regulations would cause undue hardship due to the circumstances unique to the individual property under consideration.
- B. The Board may grant variances or special use permits only when it is demonstrated that such action will be in keeping with the spirit and intent of the zoning regulations.
- C. The Board shall not permit as a variance any use in a zone that is not permitted under these regulations in conformance with Act 186 of 1957 as amended.
- D. The Board may impose conditions in the granting of the variance or special use permit to insure compliance and to protect adjacent property.

Section 6 Other function of Board The Board may hear applications and take such action as permitted on matters specifically referred to it under these regulations.

Section 7 Appeals from decisions of the Board Appeal from the decision of the Board shall be to a court of record within thirty (30) days from the decision of the Board in accordance with Act 186 of 1957 as amended.

Section 8 Notice of public hearing Whenever an appeal or application for a variance or special use permit is made to the Board, the Board shall cause to have published at the expense of the appellant or applicant a notice of the time and place of the public hearing upon such appeal or application, which notice shall be published at least once not less than seven (7) days preceding the date of such hearing in an official paper or a paper of general circulation in Hardy, said notice to designate the particular location with which the appeal or application is concerned, and a brief statement as to what the appeal or application consists of. The Board shall also give or cause to be given such additional notice of such hearing to interested persons and organizations as it shall deem feasible and practicable. (Ord. No. 96-6, Sec. 5.)

14.04.06 Amendments to zoning regulations

Section 1 Amendments by public body

- A. The City Council may suggest that the Planning Commission amend the text of these regulations, or the Planning Commission itself may desire to initiate an amendment.
- B. Amendments to the text proposed by the Planning Commission shall be advertised in a paper of general circulation at least fifteen (15) days in advance of a public hearing to be conducted by the Planning Commission. After the public hearing, the Planning Commission shall make a report and recommendation to the City Council pertaining to the proposed amendment to the text. The City Council action on the report and recommendation shall be final.

Section 2 Amendments by individual property owners

- A. A petition, giving the legal description of the property involved and the zoning classification requested for the property, or indicating the proposed amendment, shall be submitted to the Planning Commission by the property owner or his/her legally designated agent. The petition shall also include a statement and diagram explaining the proposed change.
- B. Upon receipt of the petition, the Planning Commission in accordance with Act 186 of the 1957 General Assembly as subsequently amended, shall proceed as follows:
 - 1. The Planning Commission shall hold a public hearing on a proposed amendment. Notice of the public hearing shall be published in a newspaper of general circulation in the city, at least one time fifteen (15) days prior to the hearing.

2. Following the public hearing, the proposed amendment may be approved as presented or in modified form by a majority vote of the Planning Commission and recommended to the City Council for adoption.
3. If the Planning Commission disapproves a proposed amendment, the reasons for such disapproval shall be given in writing to the petitioner within fifteen (15) days from the date of the decision.
4. The City Council, by majority vote, may by ordinance adopt the recommended amendment submitted by the Planning Commission or may return the proposed change to the Planning Commission for further study and recommendation.

If the City Council does not concur with the recommendation of the Planning Commission, either as first submitted or as submitted after re-study, the City Council may, by a majority vote, amend these regulations by granting the request for the proposed change in zoning classification in full or in modified form.

5. Following disapproval of a proposed amendment by the Planning Commission, the petitioner may appeal such disapproval to the City Council. provided that the petitioner states specifically in writing to the City Clerk why he/she considers the Planning Commission's findings and decision are in error. Such appeal shall be filed with the City Clerk within fifteen (15) days of receipt of notice of Planning Commission action.
- C. No application for a change in zoning classification will be reconsidered by the Planning Commission within twelve (12) months from date of final disapproval unless the Commission finds that a substantial reason exists for waiving this limitation.
- D. Before any action shall be taken as provided in this section, any person or persons proposing a change in the zoning classification of his/her property shall deposit with the City Clerk the sum of Fifty Dollars (\$50.00) to cover the approximate cost of this procedure, and under no condition shall said sum or any part thereof be refunded for failure of said change to be approved by the Planning Commission and adopted by the City Council. (Ord. No. 96-6, Sec. 6.)

14.04.07 Enforcement and administration

Section 1 Responsibility The Building Official shall be responsible for the administration and enforcement of these regulations.

Section 2 Building permits No structure shall be erected, moved, added to, or structurally altered without a building permit. No building permit shall be issued except in conformity with the provisions of these regulations, except after written order by the Board of Adjustment.

Section 3 Procedure for approval of applications for building permits

- A. Application An application for a building permit, provided by the City Clerk, shall be completed and filed with the Building Official or the City Clerk. The Building Official may discuss the proposed project with the applicant, briefing him/her on requirements and answer any questions related to the construction process. The Building Official will then advise the chairperson of the Planning Commission of each application in order that it will be placed on the agenda of the next meeting of the Planning Commission, which meets at least monthly, on the last Tuesday of each month.
- B. Documents required
1. New Homes
 - a. Plot plan A plot plan, showing lot lines and dimensions and location of the proposed house and the proposed system of sewage disposal. The plot plan should also include set back lines and all easements.
 - b. Building plan A complete set of house plans and specifications which will be retained by the city in its permanent files. These plans must be identical to those which the contractor shall use to build and complete the construction.
 - c. Specifications Complete specifications, showing exterior finish and roof color.
 - d. Bond
 - (1) A completion bond in an amount equal to the cost of building, but not less than \$25,000.00 must be furnished by the contractor.
 - (2) If the applicant is acting as his/her own contractor, and plans to build the house himself, a letter from the bank or lending institution must be submitted with the application stating that an amount sufficient to cover the construction cost is available for construction of the applicant's home.
 2. Additions to existing structures and/or additional buildings or structures (Residential)

- a. Plot plan A plot plan, showing lot lines and dimensions and location of the proposed construction and any necessary addition to the septic system. The plot plan should also include set back lines and all easements.
- b. Floor plan A plan showing floor plan and elevation of the proposed addition.
- c. Specifications A minimum set of specifications showing exterior finish and material from which compatibility with existing structures can be determined.
- d. Bond
 - (1) A completion bond in an amount equal to the cost of the addition must be furnished by the contractor if the amount of the construction is over \$2,500.00.
 - (2) If the applicant is acting as his/her own contractor, and plans to do the work on his home himself, a letter from the bank or lending institution must be submitted with the application stating that an amount equal to the estimated cost of construction is available for the addition to the applicant's home if the cost is over \$2,000.00.

3. Commercial buildings and/or structures

- a. Plot plan A plot plan, showing lot lines and dimensions and location of the proposed construction and the proposed system of sewage disposal. The plot plan should also include set back lines and all easements.
- b. Building plan A complete set of building plans and specifications which will be retained by the city in its permanent files. These plans must be identical to those which the contractor shall use to build and complete the construction.
- c. Specifications Complete specifications, showing exterior finish and roof color if visible from ground level.
- d. Bond Completion of the project must be assured by one of the following:
 - (1) A completion bond in an amount equal to the cost of construction or \$50,000.00 (whichever is larger), must be furnished by the contractor.
 - (2) If the applicant is his/her own contractor and plans to do the work himself, a letter from a bank or lending institution must be submitted with the application stating that an amount equal to the estimated cost of construction is available to complete the project.

4. Additions to existing structures and/or additional buildings or structures (Commercial)
- a. Plot plan A plot plan, showing lot lines and dimensions and location of the proposed construction and the proposed system of sewage disposal. The plot plan should also include set back lines and all easements.
 - b. Building plan A complete set of building plans and specifications which will be retained by the city in its permanent files. These plans must be identical to those which the contractor shall use to build and complete the construction.
 - c. Specifications Complete specifications, showing exterior finish and roof color if visible from ground level.
 - d. Bond Completion of the project must be assured by one of the following:
 - (1) A completion bond in an amount equal to the cost of construction or \$50,000.00 (whichever is larger), must be furnished by the contractor.
 - (2) If the applicant is his/her own contractor and plans to do the work himself, a letter from a bank or lending institution must be submitted with the application stating that an amount equal to the estimated cost of construction is available to complete the project.

Section 4 Time limitations The exterior of the structure erected on or moved on any plot of land shall be completed within six (6) months after the construction has begun. The interior of any such structure shall be completed within twelve (12) months after the date of start of the construction.

Building permits shall be issued for a period of twelve (12) months, and the following time limitation shall be observed:

- A. Failure to complete construction, and have final inspection within twelve (12) months from the date of issuance shall void the building permit, and no refund of fee or deposit will be allowed. A new building permit, including then current fee and deposit, shall be required before final inspection can be made.
- B. Construction must begin within sixty (60) days from date of issuance. If construction has not begun within sixty (60) days, the building permit will be void, and the permit fee will be refunded. The deposit will not be refunded, and a new building permit, including fee and deposit, shall be required to begin construction. If in the opinion of the Building Official, the delay in starting construction is unavoidable (weather, etc.) start date may be extended a maximum of two (2) weeks. (Amendment No. 3, March 1997.)

Section 5 Submitting applications Applications shall not be submitted to the Planning Commission until they have been completely corrected and until all requirements have been met.

Section 6 Fees

- A. An application fee shall be paid at the time the application is filed. In no case shall this application fee be refundable.
- B. A refundable deposit shall be paid to the City Clerk with each application. This deposit shall be returned to the applicant upon submission of completion certificates from the City Building Official, Plumbing and Electrical Inspectors. Deposit amounts shall be as follows:

	<u>Application fee</u>	<u>Deposit</u>
New home	\$50.00	\$50.00
Addition to home	\$25.00	\$25.00
Additional home structure	\$25.00	\$25.00
Commercial building	\$100.00	\$100.00
Commercial – addition to building	\$75.00	\$100.00
Commercial – additional building	\$75.00	\$100.00

Section 7 Appeals Whenever the Planning Commission shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the ordinance do not apply or that the true intent and meaning of the ordinance have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Planning Commission to the City Council within thirty (30) days from the date of the decision being appealed.

Section 8 Violations

- A. If the Building Official shall find that the provisions of these regulations are being violated, he/she shall notify in writing the person or persons responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it.
- B. Should the person or persons responsible for such violation fail to take the necessary action to correct it, the Building Official shall notify the City Council of the violation, said City Council shall certify the violation to the City Attorney, said City Attorney shall within seven (7) days thereafter apply to Chancery Court for an injunction, mandamus, or other process to prevent, enjoin, abate, or remove said violation to these regulations.

Section 9 Fine Any person or corporation who shall violate any of the provisions of these regulations of rail to comply therewith or with any of the requirements thereof, or who shall build or alter any building in violation of any detailed statement of plan submitted and approved hereunder, shall be guilty of a misdemeanor and shall be liable to a fine of not more than One Hundred Dollars (\$100.00). Each day that such violation is permitted to exist shall constitute a separate offense. The owner or owners of the building or premises or part thereof where anything in violation of these regulations shall be placed or shall exist, and any architect, builder, contractor, agent, person, or corporation employed in connection therewith and who may have assisted in the commission of any such violation shall be guilty of a separate offense and upon conviction shall be fined as hereinbefore provided. (Ord. No. 96-6, Sec. 7.)

CHAPTER 14.08

ANNEXING, VACATING AND RE-ZONING PROPERTY

Sections:

14.08.01 Annexing
14.08.02 Vacating

14.08.01 Annexing

Ord. No. 62-18 W ½ of Twp 19 N, Range 5 West
Ord. No. 67-1 Part of N ½ of Sec. 2, Twp 19 N, Range 5 West
Ord. No. 67-2 W ½ of SW ½ of Sec. 12, Twp 19 N, Range 5 West
Ord. No. 97-1 Part of N ½ of Sec. 10 & 11, Twp 19 N, Range 5 West
Ord. No. 97-3 Part of NE ¼ of Sec. 10, Twp 19 N, Range 5 West
Ord. No. 99-5 Sec. 1, 2, 3, 10, 12, 13, 14, 18, 35 and 36 in Twp 20 N, Range 5 West

14.08.02 Vacating

Ord. No. 2000-4 Lot 5, Block 5 Lots 14 & 15, Block 2 & 11 in Rio Vista Second Addition

TITLE 15
SUBDIVISION REGULATIONS

Chapters:

15.04 Flood Damage Prevention

CHAPTER 15.04

FLOOD DAMAGE PREVENTION

Sections:

- 15.04.01 Statutory authorization
- 15.04.02 Finding of fact
- 15.04.03 Statement of purpose
- 15.04.04 Lands to which this ordinance applies
- 15.04.05 Methods of reducing flood losses
- 15.04.06 Flood Damage Prevention Code adopted by reference
- 15.04.07 Abrogation and greater restrictions
- 15.04.08 Interpretation
- 15.04.09 Waning and disclaimer of liability
- 15.04.10 Compliance
- 15.04.11 Penalty for non-compliance
- 15.04.12 Definitions
- 15.04.13 Administration
- 15.04.14 Provisions for flood hazard reduction

15.04.01 Statutory authorization, findings of fact, purpose and methods.

- A. Statutory authorization The legislature of the state of Arkansas has in A.C.A. 14-264-101 et seq. delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Mayor and City Council of the city of Hardy, Arkansas, do ordain as follows: (Ord. No. 2011-2, Sec. 1.)

15.04.02 Finding of fact

- A. The Federal Emergency Management Agency (FEMA) has identified Special Flood Hazard Areas of Hardy, Arkansas, in the current scientific and engineering report entitled "The Flood Insurance Study (FIS) for Sharp County, Arkansas, and incorporated areas, dated September 16, 2011, with an effective Flood Insurance Rate Map (FIRM) dated September 16, 2011.

- B. These Special Flood Hazard Areas are subject to periodic flooding events that result in loss of life and property, pose health and safety hazards, disrupt commerce and governmental services, and cause extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- C. These periodic flooding events are exacerbated by the cumulative effect of floodplain developments which cause an increase in flood heights and velocities, and by the placement of inadequately elevated, inadequately flood proofed or otherwise unprotected structures or uses vulnerable to floods into Special Flood Hazard Areas. Such structures or uses are inherently hazardous to other lands because of their adverse impact on flooding events. (Ord. No. 2011-2, Sec. 2.)

15.04.03 Statement of purpose The purpose of this ordinance is to promote the public health, safety and general welfare, to prevent adverse impacts from any floodplain development activities, and to minimize public and private losses due to flooding events in identified Special Flood Hazard Areas. This ordinance advances the stated purpose through provisions designed to:

- A. Protect human life and health;
- B. Protect natural floodplains against unwise development;
- C. Eliminate adverse impacts of necessary floodplain development;
- D. Minimize expenditure of public monies on flood control projects;
- E. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- F. Minimize prolonged business interruptions due to flooding events;
- G. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in Special Flood Hazard Areas;
- H. Minimize future flood blight areas to help maintain a stable tax base; and
- I. Provide for notice to potential buyers when property is in a Special Flood Hazard Area. (Ord. No. 2011-2, Sec. 3.)

15.04.04 Lands to which this ordinance applies The ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction of the city of Hardy, Arkansas. (Ord. No. 2011-2, Sec. 4.)

15.04.05 Methods of reducing flood losses This ordinance uses the following methods to accomplish the stated purpose:

- A. This ordinance restricts or prohibits structures or uses in Special Flood Hazard Areas that adversely impact health, safety or property during flooding events;
- B. This ordinance requires protection against flood damage for structures or uses vulnerable to floods at the time of initial construction, or after substantial improvement of the structure, or after substantial damage has occurred;
- C. This ordinance controls the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation and transport of flood waters;
- D. This ordinance controls floodplain development (structural development, placement of manufactured structures, clearing, grading, mining, drilling, dredging, placement of fill, excavating, watercourse alteration, drainage improvements, roadway or bridge construction, individual water or sewer installations and other activities) which may increase flood damage by increasing flood elevations, flood water velocities, or flood discharge patterns;
- E. This ordinance regulates the construction of flood barriers which unnaturally divert floodwaters or which may adversely impact other lands. (Ord. No. 2011-2 Sec. 5.)

15.04.06 Flood Damage Prevention Code adopted by reference There is hereby adopted by reference a Flood Damage Prevention Code for city of Hardy, Arkansas, dated September 16, 2011. The code shall include:

ARTICLE 1 DEFINITIONS
ARTICLE 2 ADMINISTRATION
ARTICLE 3 PROVISIONS FOR FLOOD HAZARD REDUCTION

Three (3) copies of the referenced code shall be filed in the office of the Recorder/Treasurer and Mayor and shall be available for inspection and copying by any person during normal office hours. (Ord. No. 2011-2, Sec. 6.)

15.04.07 Abrogation and greater restrictions This ordinance does not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Whenever there is a conflict or overlap between this ordinance and another ordinance, easement, covenant, or deed restriction, the instrument with the more stringent restrictions applies. (Ord. No. 2011-2, Sec. 7.)

15.04.08 Interpretation In the interpretation and application of this ordinance, all provisions must:

- A. Be considered as minimum requirements;
- B. Be liberally construed in favor of the governing body; and
- C. Be deemed to neither limit nor repeal any other powers granted under state statutes. (Ord. No. 2011-2, Sec. 8.)

15.04.09 Warning and disclaimer of liability The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes. Documented scientific and engineering data form the basis for these requirements. On rare occasions, flooding events greater than those considered for this ordinance will occur. In addition, flood heights may increase over time due to man-made or natural causes. This ordinance does not imply that land outside Special Flood Hazard Areas will be free from flooding, nor that strict adherence to this ordinance protects uses permitted within Special Flood Hazard Areas from all flood damages. This ordinance specifically does not create liability on the part of the community, nor any official or employee of the community, for any flood damages that result while strictly following this ordinance, or from any lawful administrative decision made under the provisions of this ordinance. (Ord. No. 2011-2, Sec. 9.)

15.04.10 Compliance Constructing, locating, substantially altering or changing the use of any structure or land after the effective date of this ordinance requires full compliance with the provisions of this ordinance and all other applicable regulations. (Ord. No. 2011-2, Sec. 10.)

15.04.11 Penalty for non-compliance Flood hazards are reduced by compliance with the provisions of this code. Accordingly, enforcement of this ordinance discourages non-compliance and is a recognized mechanism for flood hazard reduction.

- A. The Floodplain Administrator must enforce the provisions of this ordinance and is authorized to:
 - 1. Issue cease and desist orders on non-compliant floodplain development projects;
 - 2. Issue citations for non-compliance;
 - 3. Request that FEMA file a 1316 Action (Denial of Flood Insurance) against non-compliant properties; and
 - 4. Take any other lawful action necessary to prevent or remedy any instance of non-compliance with the provisions of this ordinance.
- B.
 - 1. It is a misdemeanor to violate or fail to comply with any provision of this ordinance.

2. Any person found in a court of competent jurisdiction, guilty of violating this ordinance is subject to fines of not more than Five Hundred Dollars (\$500.00) per day for each violation; in addition the defendant is subject to payment of all associated court costs and costs involved in the case. (Ord. No. 2011-2, Sec. 11.)

15.04.12 Definitions Unless specifically defined below, words or phrases used in this code have their common usage meaning to give the most reasonable application to this code. Additional definitions for floodplain management terms can be found at Part 59.1 of 44 CFR.

44 CFR (Emergency Management and Assistance – National Flood Insurance Program Regulations) Pars 59-75 contain federal regulations upon which local floodplain managements are based.

44 CFR 65.12 contains the section of the federal regulations which involves revision of flood insurance rate maps to reflect base flood elevations caused by proposed encroachments.

100 year flood is any flood with a 1% change of occurring in any given year. The term is misleading because of its statistical derivation. A 100 year flood may occur many times in any given 100 year period or it may not occur at all in 100 years.

500 year flood is any flood with a 0.2% chance of occurring in any given year. As with the 100 year flood, this term is also misleading because of its statistical derivation. A 500 year flood may occur many times in any given 500 year period or it may not occur at all in 500 years.

Accessory structures are structures which are on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure (such as garages and storage sheds).

Adverse impact means any negative or harmful effect.

AE or A1-30 risk zones are special flood hazard areas where detailed studies have determined base flood elevations. AE has replaced A1-30 in newer flood maps.

AH risk zones are special flood hazard areas characterized by shallow flooding with ponding effects (where floodwaters accumulate in depressions and linger until absorbed or evaporated).

AO risk zones are special flood hazard areas characterized by shallow flooding with sheet flow (where floodwaters flow in a broad, shallow sheet rather than through a narrow channel).

A risk zones are special flood hazard areas without detailed studies, where base flood elevations have not been determined.

Appeal Board means a person or persons specifically designated to render decisions on variance applications and floodplain management complaints.

Automatic entry and exit of floodwaters means that the water must be able to enter and exit with no intervening action from a person.

Base flood is the flood profile used as the basis for the NFIP regulations. The federal government has selected the 100 year flood as the base flood.

Base flood is the flood profile used as the basis for the NFIP regulations. The federal government has selected the 1% chance flood as the base flood.

Basement is any enclosed area that is below grade on all sides.

BFE is the acronym for Base Flood Elevation.

Buoyancy is the upward force exerted by water. Buoyancy can cause underground tanks to float free and can lift structures off foundations.

Certificates of Compliance are formal documents issued by floodplain administrators certifying that completed projects comply with the requirements of the local code.

CFR is the acronym for the Code of Federal Regulations. The Code of Federal Regulations is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government. It is divided into 50 titles that represent broad areas subject to federal regulation. The federal regulations pertaining to the national Flood Insurance Program are found in Title 44, Emergency Management and Assistance.

Clearing is the act of cutting timber or shrubs from an area.

Commercial business park is typically an area of offices or light industrial usage, although retail, service, or industrial usage is sometimes included in supporting roles. For example, a commercial business part of office complexes may also include restaurants which service these offices.

Concrete deadman anchors are heavy steel rods embedded in buried sections of concrete, used to secure items in place under tension.

Covenant is a clause in a contract that requires one party to do, or refrain from doing, certain things. A covenant frequently appears as a restriction that a lender imposes on a borrower.

Crawlspace is a type of structural foundation where the space beneath the lowest floor is typically not deep enough to allow a person to stand and not all four walls are below grade.

Critical facilities include: Governmental facilities that are considered essential for the delivery of critical services and crisis management (such as data and communication centers and key governmental complexes); facilities that are essential for the health and welfare of the whole population (such as hospitals, prisons, police and fire stations, emergency operations centers, evacuation shelters and schools); mass transportation facilities (such as airports, bus terminals, train terminals); lifeline utility systems (including potable water, wastewater, oil, natural gas, electric power and communications systems); high potential loss facilities (such as nuclear power plants or military installations); hazardous material facilities (such as industrial facilities housing or manufacturing or disposing of corrosives, explosives, flammable materials, radioactive materials and toxins.

D zones are areas in which the flood hazard has not been determined, but may be possible.

Deed restriction refers to a clause in a deed that limits the future uses of the property in some respect. Deed restrictions may impose a vast variety of limitations and conditions, for example, they may limit the density of buildings, dictate the types of structure that can be erected, prevent buildings from being used for specific purposes or even from being used at all.

Development means any man-made change to improved or unimproved real estate. It includes, but not limited to, construction, reconstruction, or placement of a building, or any addition or substantial improvements to a building. Development also includes the installation of a manufactured home on a site, preparing a site for a manufactured home, or installing/parking a travel trailer. The installation of utilities, construction of roads, bridges, culverts or similar projects are also developments. Construction or erection of levees, dams, walls, or fences; drilling, mining, filling, dredging, grading, excavating, paving, or other alterations of the ground surface are developments. Storage of materials including the placement of gas and liquid storage tanks are developments, as are channel modifications or any other activity that might change the direction, height, or velocity of flood or surface waters. Development will normally not include maintenance of existing drainage ditches, gardening, plowing, planting, harvesting of crops, or similar practices that do not involve filling, grading, or construction of levees.

Development permit refers to the permit required for placing a development in the floodplain.

Easements are right or permissions held by one person to make specific, limited use of land owned by another person.

Elevation Certificate refers to REMA form 81-31, which for the purposes of this code must be properly completed by a professional engineer, surveyor or architect licensed to practice in the state of Arkansas.

Erosion is the process of soil removal by moving water.

Existing structure means, for floodplain management purposes, a structure which is in place before any reconstruction, rehabilitation, addition, or other improvement takes place.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Federal Emergency Management Agency or FEMA, is the federal agency responsible for administering the National Flood Insurance Program.

FEMA is the acronym for the Federal Emergency Management Agency.

Fill refers to the placement of natural sand, dirt, soil, rock, concrete, cement, brick or similar material at a specified location to bring the ground surface up to a desired elevation.

FIRM is the acronym for Flood Insurance Rate Map.

Flood fringe refers to the portion of the 100 year floodplain which is outside the floodway

Flood Insurance Rate map or FIRM refers to the official flood map of a community on which FEMA has categorized Special Flood Hazard Areas into risk premium zones.

Flood Insurance Study or FIS is the official report provided by FEMA. It contains flood profiles, floodway tables, engineering methods, and other descriptive and technical data.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Flooding events are general or temporary conditions of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or from the unusual and rapid accumulation or runoff of surface waters from any source.

Floodplain refers to any land area susceptible to inundation by floodwaters from any source. For the purposes of this code, floodplain refers to the land area susceptible to being inundated by the base flood.

Floodplain administrator refers to the community official designated in the local Flood Damage Prevention Code as responsible for the code's administration.

Floodplain development permit is a permit issued by the local floodplain administrator and is required before beginning any development in an area designated as a Special Flood Hazard Area on the community's FIRM.

Floodproofing is a combination of structural and nonstructural additions, changes or adjustments to structures that reduce or eliminate the risk of flood damage.

Floodproofing Certificate refers to FEMA form 81-65 which for the purposes of this code must be properly completed by a professional engineer or architect licensed to practice in the state of Arkansas.

Floodway or regulatory floodway refers to a stream channel and the land to either side of the stream channel that must remain undeveloped and open in order to allow floodwaters to pass without increasing the base flood elevation more than a designated height. For the purposes of this code, the height is one (1) foot. Severe restrictions or prohibitions are imposed on development within the floodway.

Flow-through openings are openings specifically designed to allow floodwaters to flow into and out of enclosed spaces, minimizing the danger of foundation or wall collapse from lateral hydrostatic pressure.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Grade means the surface of the ground.

Grading means to smooth the surface of the ground, typically with heavy construction equipment.

Highest Adjacent Grade (HAG) means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historical structure means any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either;
 - 1. By an approved state program as determined by the Secretary of the Interior; or
 - 2. Directly by the Secretary of the Interior in states without approved programs.

Hydrodynamic forces are the forces and stresses associated with moving water, including impacts from objects carried in the water.

Hydrostatic flood forces are the forces and stresses associated with standing floodwaters.

Lacustrine flooding is flooding associated with a lake.

Lateral forces are the horizontal hydrostatic forces associated with standing water. Water exerts an equal force in all directions, and as little as three (3) feet of standing water can generate sufficient lateral force to collapse a foundation or wall.

Lowest floor refers to the lowest floor of the lowest enclosed are (including basement). For a typical slab-on-grade construction, the lowest floor is the top of the first floor of the structure. For a typical basement foundation construction, the elevation of the lowest floor is the top of the basement floor. For a typical crawlspace foundation construction, the elevation of the lowest floor is the top of the first floor of the structure. For a typical split-level construction, the elevation of the lowest floor is the top of the first living area floor. For a manufactured home installation, the elevation of the lowest floor will be the bottom of the lowest I-beam. The garage floor and crawlspaces are not the lowest floor as long as there are no living areas in the garage and it is used solely for storage, parking vehicle and entry to the structure, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Section 60.3 of the National Flood Insurance regulations.

Manufactured homes or structures means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term manufactured home does not include a recreational vehicle.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land subdivided into two or more manufactured home lots for rent or sale.

Mean Sea Level (MSL) means for the purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community's FIRM are referenced.

Mixed use structures are structures with both a business and a residential component, but where the area used for business is less than 50% of the total floor area of the structure.

New construction means, for floodplain management purposes, structures for which the start of construction commenced on or after the date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of street, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

No adverse impact principal is a principle of restricting or prohibiting land development that does harm or adversely affects someone else's property or land.

Non-residential structures are structures used only for commercial or public purposes, such as businesses, schools, churches, etc.

No-Rise Certificates are formal certifications signed and stamped by a professional engineer licensed to practice in the state of Arkansas, demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that a proposed development will not result in any increase in flood levels within the community during the occurrence of a base flood event.

Piers are columns of masonry or other structural material (commonly cement blocks stacked up to support a manufactured home) usually rectangular, used to support other structural members. For the purpose of this ordinance, piers must be permanent in nature.

Pillings are steel tubes driven to rock or a suitable soil bearing layer and connected to the foundation of a structure.

Ponding is a flooding effect where floodwaters accumulate in shallow depressions and linger until absorbed or evaporated.

Recreational vehicle means a vehicle which is:

- A. Built on a single chassis;
- B. 400 sq. ft. or less then measured at the largest horizontal projections;
- C. Designed to be self-propelled or permanently towable by a light-duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Risk zones categorize special flood hazard areas into groupings by the specific risk of flooding. Zones A, AE or A1-30, AO and AH are Special Flood Hazard Areas.

Riverine flooding is flooding associated with a river or stream channel

RV is the acronym for recreational vehicle.

Screw augers are any type of anchor that twists into the soil, typically to a depth of four feet or more. They are not suitable for securing manufactured homes against floodwaters because saturated grounds often soften and fail to hold the anchor in place.

Section 404 wetlands permit is a permit required under Section 404 of the Clean Water Act for the discharge of dredged and fill material into any surface water of the United States. The U.S. Army Corps of Engineers issues Section 404 permits.

SFHA is the acronym for Special Flood Hazard Area.

Slab anchors are anchors where the hook of the anchor is wrapped around a horizontal rebar in the slab before the concrete is poured.

Special Flood Hazard Areas are geographical areas identified on FEMA flood maps as being at-risk for flooding. The maps further categorize these areas into various flood risk zones A, AE of A1-30, AH, and AO.

Start of construction includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filing; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footing, piers or foundations or the erection of temporary forms; nor does it include

the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

State Coordinating Agency is the agency that acts as a liaison between FEMA and a community for the purposes of floodplain management. The Arkansas Natural Resources Commission is the State Coordinating Agency for Arkansas.

Stream channels are depressed natural pathways through which water of any quantity routinely flows.

Structural development is a development that includes the placement or construction of a structure.

Structure means for floodplain management purposes a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial damage is damage of any origin where the cost to restore a structure to its original undamaged state would equal or exceed 50% of the market value of the structure before any damage occurred. In determining whether substantial damage has occurred, estimators must use standard contractor and materials costs. There are no exceptions for homeowners who make their own repairs or for discounted or free raw materials.

Substantial improvement is any reconstruction, remodeling, additional or improvement to a structure with a cost equaling or exceeding 50% of the market value of the structure before any improvement. Improvements to correct identified violations of local health, sanitary or safety codes are not substantial improvements, regardless of the cost, as long as they are the minimum improvement necessary to bring the structure up to code. Alterations to historical structures are also exempted, as long as the improvement does not affect the structure's official status of historical structure.

Uses vulnerable to floods are simply any land or structural uses that may be negatively affected by a flood.

Variance is a formal, written permission from the Appeals Board to construct or develop in a way that is inconsistent with the requirements of this code. The variance only deals with this code – the Appeals Board has no authority to waive any other governmental requirement, and has no say in the cost of flood insurance.

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development

without the Elevation Certificate, other certifications, or other evidence of compliance required in this code is presumed to be in violation until such time as that documentation is provided.

Watercourse alteration refers to any change that occurs within the banks of a watercourse.

Water surface elevation means the height in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

X risk zones are a special group of insurance risk zones. One type, shown as non-shaded areas on FEMA issued flood maps, indicates a zone where flooding is not expected to occur. The second type, shown as shaded areas of FEMA flood maps, indicates a flood hazard area that is expected to be affected by the 500 year flood, but not be the 100 year base flood. (Ord. No. 2011-2, Art. 1.)

15.04.13 Administration

- A. Designation of the Floodplain Administrator The Mayor of Hardy, Arkansas, or her/his designee, is hereby appointed the Floodplain Administrator.
- B. Duties and responsibilities of the Floodplain Administrator It is the duty and responsibility of the Floodplain Administrator or his designee to:
 - 1. Obtain accreditation each year as required by A.C.A. 14-268-106 through the State Coordinating Agency which is the Arkansas Natural Resources Commission.
 - 2. Administer and implement the provisions of this code and other appropriate sections of 44 CFR (Emergency Management and Assistance – National Flood Insurance Program Regulations) as they pertain to floodplain management.
 - 3. Review applications for Floodplain Development permits to:
 - a. Evaluate proposed projects for reasonable safety from flooding;
 - b. Evaluate proposed projects for conformance with No Adverse Impact Principals;
 - c. Ensure that all other permits necessary (including Section 404 Wetlands Permits as required by the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) for proposed projects are obtained from the appropriate government agency prior to issuing a Floodplain Development Permit; and

- d. Ensure that proposed projects conform to the applicable provisions of this code.
4. Approve or deny applications for Floodplain Development Permits on the basis of:
 - a. The proposed development's compliance or non-compliance with the provisions of this code;
 - b. The expected flood elevation, flood water velocity, flood duration, rate of rise and sediment transport of the floodwaters expected at the proposed development site;
 - c. The proposed development's potential to adversely impact life and property by changing flooding patterns, changing erosion rates, or being swept onto other lands by flood waters;
 - d. The proposed development's susceptibility to flood damage;
 - e. The proposed development's compatibility with existing and planned community development;
 - f. The proposed development's accessibility by ordinary and emergency vehicles during flooding events;
 - g. The anticipated costs of providing governmental services to the proposed development during and after flooding events, including maintenance and repair of streets, bridges, facilities and public utilities such as sewer, gas, electrical and water systems;
 - h. The proposed development's functionally dependent use;
 - i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed development; and
 - j. The relationship of the proposed use to the comprehensive plan for that area.
5. Interpret the exact location of the boundaries of special Flood Hazard Areas whenever a mapped boundary appears to be different from actual field conditions. (The sole purpose of this interpretation is to determine the applicability of the provisions of this code to the proposed project.)
6. Notify adjacent communities and the State Coordinating Agency, which is the Arkansas Natural Resources Commission, a minimum of sixty (60) days prior to any alteration or relocation of a watercourse, and submit evidence of all such notifications to FEMA.
7. Ensure that the flood carrying capacity within an altered or relocated portion of a watercourse is not diminished, and that the alteration or relocation does not adversely impact any other lands.
8. Obtain, review and reasonably utilize, whenever the current Flood

Insurance Study or current Flood Insurance Rate Map does not provide base flood elevation data, any base flood elevation data and floodway data available from any federal, state or other source. The Floodplain Administrator may obtain such data by requiring the applicant to submit it in conjunction with a Floodplain Development Permit application. (The sole use of this data is the administration of the provisions of this code.)

9. Inspect floodplain developments as necessary to ensure construction is in accordance with the application data that formed the basis for the decision to issue the Floodplain Development Permit.
10. Issue Certificates of Compliance.
11. Maintain all records and documents pertaining to this code for public inspection.

C. Establishment of development permit A Floodplain Development Permit is required for all structural development, placement of manufactured structures, clearing, grading, mining, drilling, dredging, placement of fill, excavating, watercourse alteration, drainage improvements, roadway or bridge construction, individual water or sewer installations or any other development in a Special Flood Hazard Area to ensure conformance with the provisions of this code.

D. Permit procedures

1. Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard.
2. The documentation required with each application for a Floodplain Development Permit, and the specific provision of this code applicable to the proposed development, are dependent upon the type of development proposed and the Risk Zone of the proposed development site. Article 3, Section A contains standards for all developments in all Risk Zones. Article 3, Section B contains standards for specific development types in specific Risk Zones.
3. The decision of the Floodplain Administrator to approve or deny issuance of a Floodplain Development Permit is subject to appeal to the designated Appeal Board. Within Hardy, Arkansas the designated Appeal Board is the _____.

- E. Procedures for variance from the requirements of this code
1. Applicants must submit petitions for variances directly to the Appeal Board (Section E).
 2. Variances may only be issued:
 - a. If showing a good and sufficient cause;
 - b. Granting of the variance will not result in any adverse impact upon other lands;
 - c. If granting of the variance will not result in any additional threats to public safety;
 - d. If granting of the variance will not result in extraordinary public expense;
 - e. If granting of the variance does not create a nuisance, cause fraud on or victimization of the public, or conflict with existing laws or ordinances;
 - f. If granting of the variance will not result in increased flood heights or an increase in expected flood velocities;
 - g. If the requested variance is the minimum necessary, considering the flood hazards, to afford the necessary relief; and
 - h. Upon determination that the requested variance is necessary to avoid an extraordinary hardship to the applicant.
 3. Variances may not be issued for developments inside a regulatory floodway unless
 - a. All requirements of 44 CFR 65.12 are first met; or
 - b. The following requirements are met:
 - (1) A No-Rise Certificate signed and sealed by a professional engineer licensed to practice in the state of Arkansas is submitted to document that no increase in the base flood elevation would result from granting a variance for the proposed development;
 - (2) Protective measures are employed to minimize damages during flooding events; and
 - (3) The variance does not result in any adverse impact to other lands.
 4. Examples of developments for which variance petitions may be appropriate include by are not limited to
 - a. The new construction of, or substantial improvement to, a structure

on a lot of one-half acre or less in size that is surrounded by contiguous lots with existing structures constructed below the base flood elevation;

- b. For the reconstruction, rehabilitation or restoration of an historical structure, provided that:
 - (1) The proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure; and
 - (2) The variance is the minimum necessary to preserve the historic character and design of the structure.

- c. The new construction of, substantial improvement to, or other development necessary to conduct a functionally dependent use, provided that:
 - (1) The criteria outlines in Article 2, Section E, (3) and (4) and Article 2, Section F are met, and
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

F. Appeal Board

- 1. Within Hardy, Arkansas, the Hardy City Council is the designated Appeal Board.
- 2. The Appeal Board will consider an appeal only with allegations of an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this code
- 3. Upon consideration of the factors noted in Article 2, Section E and F, and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance.
- 4. Appeal Board decision are binding only upon the requirements of this code, and have no bearing on the decision of any lending institution to require the purchase of flood insurance or on the determination of such insurance.
- 5. Any time the Appeal Board issues a variance, it must provide the applicant with a formal written warning of an increased risk of flood damage due to removal of restrictions designed to lessen such risks. The notice must also

warn of a corresponding increase in the cost of flood insurance, since the cost of such insurance will be commensurate with the increased risk.

6. Aggrieved parties may appeal any decision of the Appeal Board to a court of competent jurisdiction. (Ord. No. 2011-2, Art. 2.)

15.04.14 Provisions for flood hazard reduction The following standards apply to all developments in Special Flood Hazard Areas, regardless of the type of proposed development of the Risk Zone of the proposed site.

- A. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- B. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- C. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- D. All critical facilities constructed or substantially improved in Special Flood Hazard Areas (SFHA) must be constructed or modified to exceed 500 year flood protection standards or located outside the SFHA.
- E. The placement or construction of all new structures must be in full compliance with the provisions of this code.
- F. For the purposes of this code, all mixed-use structures are subject to the more stringent requirements of residential structures.
- G. A substantial improvement or substantial damage to an existing structure triggers a requirement to bring the entire structure into full compliance with the provisions of this code. The existing structure, as well as any reconstruction, rehabilitation, addition, or other improvement, must meet the standards of new construction in this code.
- H. Any improvement to an existing structure that is less than a substantial improvement requires the improvement, but not the existing structure, to be in full compliance with the provisions of this code.
- I. All manufactured homes to be placed within a Special Flood Hazard Area on a community's FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured

homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. Screw augers or expanding anchors will not satisfy the requirement of this provision.

- J. The design or location of electrical, heating, ventilation, plumbing, and air conditioning equipment for new structures, or for any improvements to an existing structure, must prevent water from entering or accumulating within the components during base flood events.
- K. The design of all new and replacement water supply systems must minimize or eliminate infiltration of floodwaters into the system during base flood events.
- L. The design of all new and replacement sanitary sewage systems must minimize or eliminate infiltration of floodwaters into the system during flooding events, and must prevent sewage discharge from the systems into floodwaters.
- M. The placement of on-site waste disposal systems must avoid impairment to, or contamination from, the disposal system during base flood events.
- N. Construction of basement foundations in any Special Flood Hazard Area is prohibited.
- O. New construction and substantial improvements, with fully enclosed areas (such as garages and crawlspaces) below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are below the base flood elevation shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - 1. A minimum of two (2) openings on separate walls having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
 - 2. The bottom of all openings shall be no higher than one (1) foot above grade.
 - 3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

- P. The placement of recreational vehicles (RV) in Special Flood Hazard Areas must either
1. Be temporary, as demonstrated by the RV being fully licensed, being on wheels or a jacking system, attached to the site only by quick disconnect type utilities and security devices, having no permanently attached additions, and being immobile for no more than 180 consecutive days; or else
 2. Meet all provisions of this code applicable to manufactured home structures.
- Q. All proposals for the development of a residential subdivision, commercial business park or manufactured home park/subdivision must have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- R. All proposals for the development of a residential subdivision, commercial business park or a manufactured home park/subdivision must include an adequate drainage plan to reduce exposure to flood hazards.
- S. All proposals for the development of a commercial business park or a manufactured home park/subdivision must include an adequate evacuation plan for the escape of citizens from affected non-residential structures during flooding events.

Section B Risk Zone specific standards In addition to the general standards, the following standards apply to specific development types in specific Risk Zones. Risk Zones listed in this code that do not appear on the current FIRM are not applicable.

In AE or A1-30 Risk Zones: Special Flood Hazard Areas with base floods determined

- A. For residential structure in Zone AE or A1-30:
1. For all new residential structures, the top surface of the lowest floor must have an elevation two (2) feet or more above the published BFE. This elevation must be documented on an Elevation Certificate properly completed by a professional engineer, surveyor or architect licensed to practice in the state of Arkansas.
 2. For all substantial improvements or substantial damage to existing residential structure, the entire structure becomes subject to the requirements of a new residential structure.

3. For any reconstruction, rehabilitation, addition, or other improvement to an existing residential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new residential structure.
- B. For non-residential structures in Zone AE of A1-30:
1. All new commercial, industrial or other non-residential structures must either:
 - a. Have the lowest floor (including basement) elevated two (2) feet or more above the base flood level or
 - b. Be floodproofed such that, together with attendant utility and sanitary facilities, be designed so that below an elevation of three (3) feet above the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effect of buoyancy.
 - c. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify on a Floodproofing Certificate that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.
 2. For all substantial improvements or substantial damage to existing commercial, industrial or other non-residential structures the entire structure becomes subject to the requirements of a new non-residential structure.
 3. For any reconstruction, rehabilitation, addition, or other improvement to an existing non-residential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new non-residential structure.
- C. For manufactured homes in Zone AE or A1-30:
1. All manufactured homes that are placed or substantially improved on sites:
 - a. Outside of a manufactured home park or subdivision;
 - b. In a new manufactured home park or subdivision;
 - c. In an expansion to an existing manufactured home park or

- subdivision; or
 - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated two (2) feet or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - 2. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision of the community's FIRM that are not subject to the provisions of paragraph (1) of this section be elevated so that either:
 - a. The lowest floor of the manufactured home is two (2) feet or more above the base flood elevation; or
 - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - 3. For all substantial improvements or substantial damage to existing manufactured home, the entire structure becomes subject to the requirements of a new manufactured home.
 - 4. For any reconstruction, rehabilitation, addition, or other improvement to an existing manufactured home that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new manufactured home.
- D. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

Floodways: High risk areas of stream channel and adjacent floodplain

- A. Developments in regulatory floodways are prohibited, unless
 - 1. A No-Rise Certificate, signed and stamped by a professional engineer

licensed to practice in the state of Arkansas, is submitted to demonstrate through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed development would not result in any increase in flood levels within the community during the occurrence of a base flood event; or

2. All requirements of 44 CFR 65.12 are first met.
- B. No Manufactured Home may be placed in a regulatory floodway, regardless of elevation height, anchoring methods, or No-Rise Certification.

In AH or AO Risk Zones: Special Flood Hazard Areas of shallow flooding

- A. For residential structure in Zones AH or AO:
1. All new residential structures must be constructed with the top surface of the lowest floor elevated two (2) feet or more above the published BFE or two (2) feet or more above the highest adjacent grade in addition to the depth number specified (at least two (2) feet if no depth number is specified) on the community's FIRM. This elevation must be documented on an Elevation Certificate properly completed by a professional engineer, surveyor or architect licensed to practice in the state of Arkansas.
 2. For all substantial improvement or substantial damage to existing residential structures the entire structure becomes subject to the requirements of a new residential structure.
 3. For any reconstruction, rehabilitation, addition, or other improvement to an existing residential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new residential structure.
- B. For non-residential structures in Zones AH or AO:
1. All new commercial, industrial or other non-residential structure must either:
 - a. Have the top surface of the lowest floor elevated two (2) feet or more above the published BFE, or two (2) feet or more above the highest adjacent grade in addition to the depth number specified (at least two (2) feet if no depth number is specified) on the community's FIRM, with documentation on an Elevation Certificate properly completed by a professional engineer, surveyor or architect licensed to practice in the state of Arkansas;

or

b. Be floodproofed such that the structure, together with attendant utility and sanitary facilities be designed so that below three (3) feet or more above the published BFE in Zone AH, or three (3) feet or more above the base specified flood depth in an AO Zone, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

2. For all substantial improvements or substantial damage to existing commercial, industrial or other non-residential structure the entire structure becomes subject to the requirements of a new non-residential structure.

3. For any reconstruction, rehabilitation, addition, or other improvement to an existing non-residential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new non-residential structure.

b. Be floodproofed such that, together with attendant utility and sanitary facilities, be designed so that below an elevation of three (3) feet above the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components have in the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

c. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify on a Floodproofing Certificate that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

2. For all substantial improvements or substantial damage to existing commercial, industrial or other non-residential structures the entire structure becomes subject to the requirements of a new non-residential structure.

3. For any reconstruction, rehabilitation, addition, or other improvement to an existing non-residential structure that is less than a substantial improvement, only the improved are, but not the entire structure, becomes subject to the requirements of a new non-residential structure.

D. For manufactured homes in Zone A:

1. All manufactured homes that are placed or substantially improved on sites:
 - a. Outside of a manufactured home park or subdivision;
 - b. In a new manufactured home park or subdivision;
 - c. In an expansion to an existing manufactured home park or subdivision; or
 - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated two (2) feet or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
2. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision on the community's FIRM that are not subject to the provisions of paragraph (1) of this section be elevated so that either:
 - a. The lowest floor of the manufactured home is two (2) feet or more above the base flood elevation; or
 - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
3. For all substantial improvements or substantial damage to existing manufactured home, the entire structure becomes subject to the requirements of a new manufactured home.
4. For any reconstruction, rehabilitation, addition, or other improvement to an existing manufactured home that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new manufactured home.

- E. Base flood elevation data and a regulatory floodway, utilizing accepted engineering practices, shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than fifty (50) lots or five (5) acres, whichever is lesser, if not otherwise provided.

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