

ORDINANCE NUMBER _____ - 2025

AN ORDINANCE TO ESTABLISH THE HELENA-WEST HELENA WATER AND SEWER COMMISSION

WHEREAS, THE CITY OF HELENA-WEST HELENA HAS EXPERIENCED RECURRING WATER SYSTEM FAILURES, INCLUDING EXTENDED OUTAGES IN 2023 AND 2024, HIGH WATER LOSS RATES, DEFERRED MAINTENANCE, AND INADEQUATE FINANCIAL MANAGEMENT; AND

WHEREAS, AN INDEPENDENT COMMISSION WITH PROFESSIONAL MANAGEMENT AND PROTECTED REVENUES CAN ADDRESS THESE CRITICAL ISSUES AND ENSURE SUSTAINABLE UTILITY SERVICES;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HELENA-WEST HELENA, ARKANSAS:

ARTICLE 1: ESTABLISHMENT AND POWERS

Section 1.1 - Commission Created

An independent Water and Sewer Commission is hereby established pursuant to Arkansas Code Annotated § 14-234-116 and § 14-234-301 et seq. to manage and operate the city's water and sewer systems. The Commission shall operate the systems in a governmental capacity as required by A.C.A. § 14-234-110.

Section 1.2 - Powers

The Commission shall have all powers granted to waterworks commissions and sewer committees under Arkansas law, including authority to:

- (a) Manage and operate all water and sewer facilities;
- (b) Set rates, fees, and charges for services;
- (c) Issue revenue bonds pursuant to A.C.A. §§ 14-234-201 et seq.;
- (d) Hire an General Manager and, through the General Manager, employ and manage personnel;
- (e) Adopt operational policies and regulations;
- (f) Acquire property and pursue external funding; and
- (g) Exercise all powers necessary to fulfill its duties.

ARTICLE 2: COMMISSION MEMBERSHIP

Section 2.1 - Composition and Qualifications

The Commission shall consist of five (5) members who are qualified electors of Helena-West Helena.

Each commissioner shall possess either (a) a bachelor's degree in engineering, finance, business administration, public administration, law, or related field, OR (b) at least five (5) years of professional experience in utility management, infrastructure, financial management, or related public service.

Section 2.2 - Appointments and Terms

(a) Initial appointments shall be made by the Mayor and confirmed by two-thirds (2/3) vote of the City Council, with staggered terms of 2, 4, 6, 7, and 8 years.

(b) Subsequent appointments shall be for eight (8)-year terms, made by the Mayor and confirmed by two-thirds (2/3) vote of the City Council.

(c) Vacancies shall be filled in the same manner for the unexpired term.

Section 2.3 - Compensation and Training

(a) Commissioners shall receive \$50 per meeting attended, not to exceed \$600 annually, plus reimbursement for actual expenses.

(b) Commissioners must complete eight (8) hours of training as required by Act 605 of 2021 within one (1) year of appointment.

Section 2.4 - Removal

Commissioners may be removed for cause upon two-thirds (2/3) vote of the City Council pursuant to A.C.A. § 14-234-305. "Cause" includes malfeasance, conviction of a felony, failure to attend three consecutive meetings, or violation of ethics requirements. Commissioners shall not be removed or retaliated against for decisions made in good faith, including declining to authorize in-lieu-of-tax payments.

ARTICLE 3: RATE SETTING AND OPERATIONS

Section 3.1 - Rate Authority

The Commission shall set rates sufficient to cover operating expenses, debt service, capital improvements, and required reserves. Rates shall be based on professional rate studies conducted every five (5) years as required by Act 605 of 2021. The Commission shall provide thirty (30) days public notice and hold a hearing before implementing rate increases.

Section 3.2 - Operational Requirements

The Commission shall:

- (a) Reduce non-revenue water loss to 15% within five (5) years;
- (b) Ensure compliance with all state and federal regulations, including Act 605 of 2021;
- (c) Adopt modern technologies to improve system efficiency;
- (d) Develop asset management and capital improvement programs; and

(e) Maintain safe, reliable water and sewer service.

Section 3.3 - General Manager and Organizational Structure

(a) The Commission shall hire a qualified General Manager to serve as the chief executive officer responsible for day-to-day management and operations of the water and sewer systems.

(b) The General Manager shall:

- (i) Implement policies and directives established by the Commission;
- (ii) Manage daily operations and supervise all employees;
- (iii) Prepare annual budgets, financial reports, and performance reports for Commission review;
- (iv) Execute contracts and purchase orders within authority delegated by the Commission;
- (v) Serve as primary spokesperson for operational matters;
- (vi) Attend all Commission meetings and provide operational updates;
- (vii) Handle emergency situations and report to Commission; and
- (viii) Perform other duties as assigned by the Commission.

(c) The General Manager serves at the pleasure of the Commission and may be terminated by majority vote. Compensation shall be established by the Commission based on qualifications, experience, and comparable utility positions.

(d) The Commission shall hire additional staff as necessary to operate the systems, including licensed operators, maintenance personnel, administrative staff, and customer service representatives.

Section 3.4 - Policies and Procedures

Within one (1) year of assuming control, the Commission shall adopt comprehensive policies addressing personnel management, procurement, customer service, financial controls, ethics, and operational procedures. The General Manager shall be responsible for implementing these policies and developing standard operating procedures.

ARTICLE 4: FINANCIAL MANAGEMENT

Section 4.1 - Dedicated Accounts and Separation

All water and sewer revenues shall be deposited in dedicated accounts separate from the city's general fund and used exclusively for system operations, maintenance, capital improvements, debt service, and reserves. The Commission has sole authority over these accounts.

Section 4.2 - Prohibition on Transfers

No funds shall be transferred to the city's general fund except as permitted in Section 4.3. Any unauthorized transfer is void.

Section 4.3 - In-Lieu-of-Tax Payments

(a) The Commission may, at its sole discretion, make payments to the general fund in lieu of taxes as

permitted by A.C.A. § 14-234-114, not to exceed five percent (5%) of gross revenues.

(b) Such payments may only be made after the Commission has maintained ALL of the following conditions for three (3) consecutive years:

(i) Full compliance with Act 605 of 2021, including rate studies, required reserves, timely audits, and board training;

(ii) Non-revenue water loss below 20%;

(iii) Operating reserves equal to at least three (3) months of expenses;

(iv) Debt service coverage ratio of at least 1.25;

(v) Annual deposits of 5% of gross revenues into capital reserve account;

(vi) Average capital investment of 15% of gross revenues over three years;

(vii) Three consecutive years of positive net income from operations;

(viii) No significant deferred maintenance (certified by independent engineer);

(ix) Adequate rates to meet all obligations without deficit spending;

(x) 36 consecutive months of full regulatory compliance with no violations; and

(xi) Independent verification that all conditions are met.

(c) The Commission must make a formal determination at a public meeting, with 30 days public notice, and approval by at least four (4) commissioners before any payment is authorized. Even if conditions are met, the Commission may decline to make payments based on current needs and long-term sustainability.

(d) The city shall not borrow from, require loans from, or pledge Commission revenues or assets for any purpose.

Section 4.4 - Reserve Requirements

The Commission shall maintain:

(a) Operating reserves equal to at least three (3) months of operating expenses (exceeding the one-month state minimum under Act 605);

(b) A refurbishment and replacement account funded annually at 5% of gross revenues; and

(c) An emergency reserve equal to 5% of the operating budget.

Section 4.5 - Act 605 Compliance

The Commission shall maintain full compliance with Act 605 of 2021, including:

- (a) Rate studies every five years, filed with Arkansas Legislative Audit and Natural Resources Division;
- (b) Implementation of rate study recommendations within required timeframes;
- (c) Maintenance of minimum reserves;
- (d) Annual audits and budget adoption;
- (e) Board member training; and
- (f) Timely payment of all federal and state obligations.

Section 4.6 - Annual Audit

The Commission shall retain an independent certified public accountant to conduct an annual financial audit within 120 days of fiscal year end. The audit shall be filed with Arkansas Legislative Audit, presented to City Council, and made publicly available.

ARTICLE 5: TRANSPARENCY AND ACCOUNTABILITY

Section 5.1 - Public Meetings

The Commission shall hold monthly public meetings subject to the Arkansas Freedom of Information Act. Meeting agendas, minutes, and materials shall be posted online and made publicly available.

Section 5.2 - Public Reporting

The Commission shall:

- (a) Publish an annual financial report including audited statements, performance metrics, compliance status, and five-year projections;
- (b) Conduct at least one annual public town hall meeting; and
- (c) Maintain a website with meeting information, financial reports, rate schedules, and contact information.

Section 5.3 - Ethics

The Commission shall adopt a code of ethics addressing conflicts of interest, financial disclosure, and prohibited conduct. All commissioners and key employees shall certify compliance annually and complete ethics training.

ARTICLE 6: RELATIONSHIP WITH CITY

Section 6.1 - Commission Independence

The Commission operates as an independent body with full authority over water and sewer systems. The Commission's operational, personnel, and financial decisions are not subject to City Council approval except as specifically provided in this ordinance or state law.

Section 6.2 - City Council Authority

The City Council retains authority to:

- (a) Appoint and remove commissioners as provided in Article 2;
- (b) Receive annual reports and attend public Commission meetings;
- (c) Approve Commission rules of procedure; and
- (d) Request special reports on matters of public interest.

Section 6.3 - Limitations on City Authority

The City Council shall not:

- (a) Override Commission decisions on rates, operations, personnel, or expenditures;
- (b) Require transfers to the general fund except as permitted in Article 4;
- (c) Intercept, delay, or impound Commission revenues;
- (d) Retaliate against commissioners for decisions made in good faith;
- (e) Require the Commission to guarantee city debt; or
- (f) Take actions that impair the Commission's independence or ability to meet its obligations.

Section 6.4 - Independent Legal Counsel

The Commission may retain independent legal counsel at Commission expense to advise the Commission and protect its authority and independence.

ARTICLE 7: TRANSITION

Section 7.1 - Implementation Timeline

- (a) The Mayor shall nominate commissioners within 30 days; City Council shall confirm within 60 days.
- (b) Within 15 days of the fifth commissioner's appointment, the Mayor shall call an organizational meeting.
- (c) Within 60 days of the organizational meeting, the Mayor and City Council shall execute all documents necessary to transfer complete control of water and sewer systems to the Commission, pursuant to A.C.A. § 14-234-308.

Section 7.2 - Transfer of Authority and Personnel

- (a) Upon transfer, the Commission assumes all operational control, revenues, contracts, personnel, and obligations related to water and sewer systems.

(b) All current employees of the city's water and sewer departments become Commission employees with no break in service. The Commission shall honor existing compensation and benefits for a transition period of at least six (6) months.

(c) Within six (6) months of assuming control, the Commission should recruit and hire a qualified General Manager to serve as chief executive officer responsible for day-to-day management. Until a General Manager is hired, the Commission may appoint an interim manager from existing staff or retain a contract manager.

Section 7.3 - Initial Priorities

The Commission's initial priorities shall include:

- (a) Recruiting and hiring a qualified General Manager;
- (b) Conducting a comprehensive assessment of system conditions;
- (c) Developing policies and procedures;
- (d) Completing a rate study as required by Act 605 of 2021; and
- (e) Developing a multi-year capital improvement plan.

ARTICLE 8: GENERAL PROVISIONS

Section 8.1 - Severability

If any provision of this ordinance is held invalid, the remaining provisions shall remain in effect.

Section 8.2 - Amendment

This ordinance may be amended by the City Council after providing the Commission 60 days notice, holding a public hearing, and ensuring amendments do not impair existing obligations or reduce the Commission's independence without the Commission's consent by vote of at least four commissioners.

EMERGENCY CLAUSE

The City Council finds that Helena-West Helena has experienced multiple water system failures causing public health emergencies, that the systems suffer from chronic deferred maintenance and inadequate management, and that immediate establishment of an independent commission is necessary to protect public health, safety, and welfare.

Therefore, an emergency is declared, and this ordinance shall take effect immediately upon passage and approval.

PASSED this ____ day of _____, 2025.

[Mayor's Name]
Mayor of Helena-West Helena

ATTEST:

[City Clerk's Name]
City Clerk

APPROVED AS TO FORM:

[City Attorney's Name]
City Attorney