

CHAPTER 17
LICENSES AND TAXES

Sec. 17-1. Definitions.

The following words and phrases shall have the meanings as defined by this section:

1. *Person.* The word "person" shall include any individual, partnership, corporation, association or general agent in charge of any business or professional enterprise or undertaking.
2. *Worker.* The word "worker" shall include each employee, manager, owner or agent, receiving a remuneration from the operation or conduct of any business or professional enterprise or undertaking. The term "worker" shall refer to the average annual number of workers.
3. *Transient.* The word "transient" preceding the words vendor, solicitor and salesman shall mean and include any person who has no fixed place of business within the City limits, but goes from place to place or from house to house to display and sell new or used goods, wares, merchandise, novelties and other such things or solicits orders for such articles and things to be delivered later. (*Ord. No. 518, § 1, 6-13-69*)

Sec. 17-2. License Tax Schedule.

Hereafter, any person who shall engage in any occupation, vocation, profession, trade, business, or calling shall pay for and take out an occupational permit to conduct or perform such business within the City of Searcy.

For purposes of this chapter, the following rate per annum unless otherwise specified shall be applied for the imposition and collection of the occupational or privilege tax:

- a. **CONTRACTORS** (Building, Mechanical, General, Heating, etc.)
\$50.00 minimum
plus \$5.00 per worker
- b. **ENTERTAINMENT AND RECREATION FACILITIES** (Theatres, Bowling Alleys, Recreation Halls, Skating Rinks, etc.)
\$50.00 minimum
plus \$5.00 per worker

- c. **HOSPITALS AND NURSING HOMES**
\$40.00 minimum
(1-5 beds) plus \$2.00 for each bed over 5 beds
- d. **INDUSTRIAL** (Manufacturing, processing, warehousing, etc.)
\$50.00 minimum
plus \$3.00 per worker for first 100 workers, \$2.00 for second hundred, and \$1.00 for all over 200 workers
- e. **PROFESSIONAL** (Doctors, Lawyers, Accountants, etc.)
\$50.00 plus \$5.00 for each employee
- f. **RESTAURANTS and FOOD SERVICE** (fixed location)
\$40.00 minimum
plus .50 per seat for customer use or \$2.00 per space if drive-in
- g. **SERVICES** (Barbershops, Beauty Shops, Rental Agencies, Auction Sales, Banks, etc.)
\$40.00 minimum
plus \$5.00 for each worker over three workers
- h. **TRADESMAN** (self-employed painters, plumbers, electricians, etc.)
\$40.00 minimum
plus \$5.00 per employee
- i. **TRAILER PARKS**
\$40.00 minimum
(1-5 trailer spaces)
plus \$2.00 for each space over 5 spaces
- j. **WHOLESALE AND RETAIL SALES**
\$40.00 minimum
plus \$5.00 for each worker
- k. **HOTELS, MOTELS, APARTMENT HOUSES AND BOARDING HOUSES**
\$40.00 Minimum (1-5 unit)
plus \$3.00 per unit for next 20 units, plus \$2.00 per unit for all over 20 units
- l. **SELF-SERVICE LAUNDRIES**
\$40.00 minimum
plus 1.00 for each machine

m. **SOLICITING AND ADVERTISING**

- i. Advertising agency engaged in leasing and/or letting billboards, walls and other outdoor spaces for advertising purposes
.....\$ 50.00
- ii. Advertising agency engaged in soliciting and/or accepting orders for out of town newspapers, magazines, periodicals, publications and other advertising media
.....\$ 25.00
- iii. Individual Book agent engaged in soliciting subscriptions for delivery of books, magazines, newspapers and other periodicals
Per annum.....\$ 40.00
Per week..... \$ 20.00
Per day..... \$ 5.00
- iv. Book vendor going from place to place or from house to house selling and delivering books, magazines and other periodicals, publications and novelties, each, per day
Per Person Per Annum.....\$ 40.00
Per Person Per Week..... \$ 20.00
Per Person Per Day.....\$ 5.00
- v. Taxicab or motor bus\$125.00
- vi. Transient sign painter, window decorator or other such craftsman
Per Month.....\$ 40.00
Per week.....\$ 15.00
Per day.....\$ 5.00
- vii. Transient vendor not herein otherwise listed and taxed shall be required to pay a fixed privilege tax before offering any goods, wares, and merchandise for sale on the streets of the City or to the inhabitants
Per Stay Not to Exceed 1 Month.....\$ 250.00
- viii. Transient vendor of fruits, vegetables, nuts and other such products, delivering from automobiles, trucks, railroad cars, tents, sheds and temporary quarters, except for selling farm products grown in White County
Per month.....\$ 40.00

Per week.....\$ 20.00

Per day.....\$ 5.00

(Ord. No. 518, § 2, 6-13-69; Ord. No. 520, § 1, 11-4-69; Ord. No. 625, § 1, 12-12-79; Ord. No. 681, § 1, 12-11-84; Ord. No. 94-31, 9-13-94)

Sec. 17-3. Permits for Occupations Not Specifically Enumerated.

Any person who shall engage in any occupation, vocation, profession or calling which is not herein specifically enumerated shall pay for and take an occupational permit at the same rate as the tax charged for the most closely related occupation, vocation, profession, trade business or calling herein specified. *(Ord. No. 520, § 2, 11-4-69)*

Sec. 17-4. Transients; Identification Badges.

For occupations and vocations involving transients, the City Clerk, in addition to issuing the permit as specified herein, shall also issue an identification badge which must be worn by all persons engaged in the particular occupation or vocation. *(Ord. No. 518, § 3, 6-13-69)*

Sec. 17-5. Individual License for Each Trade, Profession or Business -- Same location.

Any person engaged in more than one trade, business, profession, vocation or calling connected or joined together in one structure shall pay for and take out a license for such trade, business, profession, vocation or calling which, under the terms of this chapter is the highest amount required for a license for any one of such undertakings. *(Ord. No. 518, § 4, 6-13-69)*

Sec. 17-6. Same -- Separate Locations.

Any person engaged in more than one trade, business, profession, vocation or calling in unconnected or separate structures shall pay for and take out a license for each such trade, business, profession, vocation or calling unless relieved and excused by the board of equalizers. *(Ord. No. 518, § 5, 6-13-69)*

Sec. 17-7. Board of Equalizers -- Created; Duties.

A board of equalizers is hereby created:

- a. To review and equalize any assessment made against any applicant for an occupational or privilege license.
- b. To review and reclassify, if necessary and proper, the status of any applicant for occupational and privilege licenses.
- c. To hear and determine controversies arising between the city and applicants for occupational license or privilege permits, where the applicant is engaged

in more than one taxable trade, business, profession, vocation or calling and is requesting a reduction of the total tax to be paid on all such enterprises and undertakings.

- d. To perform such other duties as may appear proper and right in executing and enforcing the provisions of this chapter. (*Ord. No. 518, § 6, 6-13-69*)

Sec. 17-8. Same -- Appointment; Terms; Regulations.

The Mayor shall appoint, subject to ratification by the Council, five (5) qualified citizens and taxpayers of Searcy to serve as members of the board of equalizers. For the initial appointment only, one member shall be appointed to serve for a term of five (5) years, one for four (4) years, one for three (3) years, one for two (2) years, and one for one (1) year. Upon expiration of the term of each member so appointed a successor shall be appointed by the Mayor, subject to ratification by the City Council, to serve for a term of five (5) years. A board member shall be permitted to succeed himself, if so appointed and ratified. Before entering upon the duties as member of such board of equalizers, each member shall take and subscribe the oath of office required by law. Three members shall constitute a quorum to transact business. The board of equalizers is hereby empowered and authorized to adopt such regulations and administrative guidelines as in the judgment of the board shall be deemed advisable. (*Ord. No. 518, § 6, 6-13-69*)

Sec. 17-9. Taxes Payable; Delinquency, Collection by City Clerk.; Publication of Delinquent Accounts.

- A. All taxes imposed by this chapter shall be due and payable to the City Clerk on the third Monday in January of the year for which it is imposed. The tax collected on said date shall be equal in amount to that rate of tax which shall be in effect as of said date.
- B. If the same be not paid on or before March 1, the City may enforce collection thereof by civil or penal proceedings and there shall be assessed a twenty-five percent(25%) ;late penalty on any sums due on such date.
- C. The City Clerk is hereby authorized to collect all occupational and privilege taxes and to issue licenses and permits to each qualified and acceptable applicant.
- D. In September of each year, the City Clerk/ Treasurer of his or her designated representative shall compile a list of delinquent occupational permit fee accounts and shall cause the same to be published once a week for two (2) consecutive weeks in a newspaper having general circulation within the city limits of the City of Searcy
- E. It shall be unlawful to conduct business without a business license as provided in this Chapter and a business license may be revoked by the Mayor for nonpayment. (*Ord. No.518, § 7, 6-13-69; Ord. No. 520 § 6, 11-4-69; Ord. No. 626, § 1, 12-13-79; Ord. No. 2018-32, 1*)

Sec. 17-10. Penalty for Delinquency.

A penalty of twenty-five (25) percent shall be assessed and added to all occupational licenses and taxes not paid by March 1 of the year in which they are due and payable. To the extent that any transient type worker or professional shall fail to pay the occupation tax due on or before the date of commencement of performance of his occupation, or profession, a late payment penalty shall be assessed upon the amount due for such occupation tax and added thereto. *(Ord. No. 681, § 1(k), 12-11-84; Ord. No. 520, § 3, 11-4-69)*

Sec. 17-11. Display of License.

Each person obtaining a license under this chapter shall post the same in a conspicuous place and shall exhibit the same to any officer of the City when requested to do so. *(Ord. No. 518, § 8, 6-13-69)*

Sec. 17-12. Unlawful to Engage in Business, Trade for Profit Without License.

It shall be unlawful for any person to engage in and carry on any trade, business, profession, vocation or calling for profit or gain within the City limits without obtaining an occupational license as herein provided. *(Ord. No. 518, § 9, 6-13-69)*

Sec. 17-13. Prospective Licensee Required to Produce Pertinent Records; Penalty for Furnishing False Information.

1. The City of Searcy, by and through its designated representative, shall be authorized to require all persons covered by this chapter to produce records upon which the occupational and license taxes are based. Any person so refusing to produce such records shall be guilty of a misdemeanor and punishable as herein provided.
2. Any person covered by this chapter who furnishes false information upon which the tax rate is based shall be deemed guilty of a misdemeanor, and upon a conviction thereof, may be punished as herein otherwise provided. *(Ord. No. 520, §§ 4, 5, 11-4-69)*

Sec. 17-14. Penalty for Violations.

Any person, or agent, servant, employee or worker who violates any of the provisions of this chapter (Sec. 17-1 through 17-13, inclusive) shall be guilty of a misdemeanor and upon conviction, shall be fined in a sum of not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00), and each day's violation shall constitute a separate offense. *(Ord. No. 518, § 10, 6-13-69)*

Sec. 17-15. One-Half Cent Sales Tax.

Under the authority of Arkansas Code Annotated, Section 26-75-201 et seq., there is hereby levied a one-half percent (.50%) tax upon the gross receipts from the sale at retail within the City of

Searcy, of all items which are subject to the Arkansas Gross Receipts Tax Act of 1941, as amended (Arkansas Code Annotated, Section 26-52-101 et seq.) and the imposition of an excise (or use) tax on the storage, use or other consumption within the City of tangible personal property subject to the Arkansas Compensating Tax Act of 1949, as amended (Arkansas Code Annotated, Section 26-53-101 et seq.), at a rate of one-half percent (.50%) of the sale price of the property, or, in the case of leases or rentals, of the lease or rental price (collectively, the "Sales and Use Tax"); provided that, the maximum Sales and Use Tax to be imposed upon a Single Transaction, as hereinafter defined, shall be Twenty Five Dollars (\$25.00).

For purposes hereof, "Single Transaction" shall mean and include:

- 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 this Sales and Use Tax.
- b. Charges for utility services, including, without limitation, water, sewer, gas, electricity, telephone, cable, or other public utility services, to the extent subject to this 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 this Sales and Use Tax, shall be computed in monthly increments, and each such monthly increment shall be considered a single transaction.
- c. In the case of sales of building materials and supplies, groceries, drug items, dry goods and other tangible personal property not otherwise specifically provided for herein, 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, collected and remitted to the State of Arkansas.

Upon the effective date hereof, the two (2) mill tax currently assessed by the City of Searcy pursuant to City Ordinance, under the authority of Arkansas Constitution, Article 12, Section 4 upon real property and tangible personal property within the City of Searcy, shall be and it is hereby repealed and rescinded. (*Ord. No. 93-34, §§ 1-3, 12-14-93*)

Sec. 17-15-1. One Percent (1.00%) Sales Tax - Ninety-six (96) Months

Section 1. Under the authority of Arkansas Code Annotated, §§ 26-75-201 et seq., there is hereby levied a one percent (1.00%) tax, as provided herein, upon the gross receipts

from the sale at retail within the City of Searcy, of all items which are subject to the Arkansas Gross Receipts Tax Act of 1941, as amended (Arkansas Code Annotated, §§ 26-52-101 et seq.), and the imposition of an excise (or use) tax on the storage, use, distribution or other consumption within the City of Searcy of tangible personal property subject to the Arkansas Compensating Tax Act of 1949, as amended (Arkansas Code Annotated, §§ 26-53-101 et seq.), at a rate of one percent (1.00%) of the sale price of the property, or, in the case of leases or rentals, of the lease or rental price (collectively, the "Sales and Use Tax"). The Sales and Use Tax will be levied upon and collected from the gross receipts, gross proceeds or sales price for each such single transaction in the maximum amount allowed, from time to time, under Arkansas law, subject to rebates and limitations as required for certain single transactions as from time to time may be required by the laws of the State of Arkansas.

Section 2. The Sales and Use Tax shall be levied for a period of ninety-six (96) months beginning on July 1, 2014 and ending on June 30, 2022, at which time the Sales and Use Tax will cease.

Section 3. The collections of the Sales and Use Tax received by the City shall be used to fund the needs of the City of Searcy, Arkansas, as may be permitted by Arkansas law. (*Ord. No. 2013-35*)

Sec. 17-16. Advertising and Tourism Promotion

17-16. Advertising and Tourism Promotion.

17-16-1. Definitions.

17-16-1.1. Gross Receipts Tax - Restaurants. A tax of one and no./100ths percent (1.00%) upon the activities defined in Ark. Code Ann. § 26-75-602(c)(2) as may be amended from time to time and including, but not limited to, the gross receipts or gross proceeds from by restaurants, cafes, cafeterias, delicatessens, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store-restaurants, or any other, similar, business for the sale of prepared food and beverages for on-premises or off-premises consumption, but excluding the gross receipts or gross proceeds of organizations: (i) qualified under 26 U.S.C. § 501(c)(3); and (ii) that have not been issued a permit, license or other authority for the sale of distribution of alcoholic beverages from the State of Arkansas.

17-16-1.2. Gross Receipts Tax - Lodging. A tax of three and no./100ths percent (3.00%) upon the activities defined in Ark. Code Ann § 26-75-602(c)(1) as may be amended from time to time and including, but not limited to, the gross receipts or gross proceeds from renting,

leasing, or otherwise furnishing hotel, motel, cabin, bed and breakfast, campground, condominium, or other similar rental accommodations for sleeping, or party room facilities for profit but excluding any rental or lease of any such accommodation for periods of thirty (30) days or more. (Ord No. 2019-17)

17-16-2. Levy of Gross Receipts Tax.

17-16-2.1. From and after June 1, 2019, the Gross Receipts Tax – Restaurant, shall be levied within the corporate limits of the City of Searcy, Arkansas. The tax herein levied shall be paid by the persons, firms, corporations or entities liable therefore, and shall be collected by the Searcy Advertising and Tourism Promotion Commission in the same manner and at the same time as the gross receipt tax levied by the Arkansas Gross Receipts Act of 1941, Ark. Code Ann. § 26-52-101, et seq., as may be amended from time to time, and pursuant to other ordinances of the City of Searcy or rules adopted by the Searcy Advertising and Tourism Promotion Commission.

17-16-2.2 From and after June 1, 2019, the Gross Receipts Tax – Lodging, shall be levied within the corporate limits of the City of Searcy, Arkansas. The tax herein levied shall be paid by the persons, firms, corporations or entities liable therefore, and shall be collected by the Searcy Advertising and Tourism Promotion Commission in the same manner and at the same time as the gross receipt tax levied by the Arkansas Gross Receipts Act of 1941, Ark. Code Ann. § 26-52-101, et seq., as may be amended from time to time, and pursuant to other ordinances of the City of Searcy or rules adopted by the Searcy Advertising and Tourism Promotion Commission.

17-16-2.3 The purpose of the use of the funds generated by levy of the Gross Receipts Tax – Lodging and Gross Receipts Tax – Restaurants shall include all purposes authorized by Ark. Code Ann. § 26-75-606, as may be amended from time to time, and, to the extent permitted by law, for the issuance of bonds pursuant to Ark. Code Ann. § 26-75-608.

17-16-3. Creation of Searcy Advertising and Tourism Promotion Commission.

17-16-3.1 The City of Searcy, Arkansas, Advertising and Tourism Promotion Commission (the “Commission”) is created.

17-16-3.2 The Commission shall be composed of seven (7) members who are

electors of the City of Searcy, Arkansas, and whose selection and term shall be approved by the Searcy City Council.

17-16-3.3 Four (4) members of the Commission shall be owners or managers of businesses in the tourism industry, with at least three (3) of these members shall be owners or managers of hotels, motels, or restaurants located within the corporate limits of the City of Searcy, Arkansas.

17-16-3.4 Two (2) members of the Commission shall be members of the Searcy City Council selected by the said Searcy City Council to so serve; provided, however, that in the event that any such person shall cease to be a member of the Searcy City Council, such person shall no longer serve on the Commission and that seat shall be deemed to be vacant and replaced pursuant to the terms of this Section.

17-16-3.5 One (1) Member of the Commission shall be from the general public at large and shall be an elector in the City of Searcy, Arkansas.

17-16-3.6 Selection of the Initial Members of the Commission shall be made pursuant to Ark Code Ann. § 26-75-605.

A. The four (4) tourism industry positions shall be filled by appointment made by the Searcy City Council for staggered terms so that: (i) one (1) member shall serve for an initial term of one (1) year; (ii) one (1) member shall serve for an initial term of two (2) years; (iii) one (1) member shall serve for an initial term of three (3) years; and (iv) one (1) member shall serve for a term of four (4) years.

B. The at-large position shall be filled by nomination of the Mayor of the City of Searcy and shall be approved by the Searcy City Council. This position shall serve a term of two (2) years.

C. The City Council Members shall serve annual terms.

17-16-3-7 A vacancy will be deemed to exist when a member of the Commission dies or resigns or ceases to possess any of the qualifications for membership, or when a member is removed from the Commission by a vote of a majority of the members of the City Council at a regular meeting of the City Council upon a finding by such majority that such removal is in the best interest of the City Council of the City of Searcy; provided, however, that no City Council member may be removed by the Commission. In the event

of a vacancy occurring on the Commission of any of the four (4) tourism industry positions or the at-large position, that vacancy shall be filled by an appointment of the remaining members of the Commission, subject to the approval of the City Council., it shall be filled in the manner heretofore provided, with the member filling the vacancy serving the balance of the term of the former member who created the vacancy.

17-16-4. Creation of Searcy Advertising and Tourism Promotion Fund.

17-16-4.1 The funds received by the Searcy Advertising and Tourism Promotion Commission, under the provisions of this Ordinance shall be paid into a fund to be known as the Searcy Advertising and Tourism Promotion Fund to be used in the manner set forth herein or as may be permitted by law.

17-16-4-2 All revenues received by the Commission pursuant to this levy shall be deposited by the Commission in such account or accounts as may be designated by the Commission. *(Ord. No. 2009-10, § 1, 5-12-2009; Repealed by Special Election; adopted 2019-08)*

Sec. 17-17. Administration of Advertising and Tourism Promotion Levy.

Sec. 17-17-1. Definitions. For the purposes of this Section, the following terms shall have the following definitions.

- (a) *Commission* means the Searcy Advertising and Tourism Promotion Commission Created in Section 17-16 of the Searcy Code of Ordinances.
- (b) *Person* means any natural person, firm, corporation or other business entity.
- (c) *Taxpayer* means any person liable to remit the advertising and tourism promotion tax as required by Section 17-16 of the Searcy Code of Ordinances.
- (d) *A&P Tax* means the advertising and promotion tax levied pursuant to Section 17-16 of the Searcy Code of Ordinances.

Sec. 17-17-2. Administration and regulations. The administration of A&P Tax is vested in the Commission and the Commission shall promulgate rules and regulations and prescribe all forms to the Mayor of the City of Searcy as are necessary or required for the enforcement and collection of the A&P tax.

Sec. 17-17-3. Permits.

- (a) It shall be unlawful for any person subject to the A&P tax to transact business within the city prior to the issuance and receipt of an A&P tax permit from the Commission.
- (b) A separate A&P tax permit must be obtained from the Commission for each location at which the person conducts a business which is subject to the A&P tax.
- (c) An A&P tax permit shall have no stated term.

Sec. 17-17-4. Application for permit. Any person subject to the A&P tax transacting business in the city shall file with the Commission through City Hall an application for an A&P tax permit to conduct that business, the form and contents of which application shall be as prescribed by the Commission from time to time.

Sec. 17-17-5. Permits not assignable, display required and expiration.

- (a) The A&P tax permit shall not be assignable and shall be valid only for the person in whose name it is issued and for the location thereon designated.
- (b) The A&P tax permit shall at all times be conspicuously displayed at the location thereon designated.
- (c) The A&P tax permit shall expire at the time of cessation of the business of the person at the location designated thereon.
- (d) It shall be unlawful for any person subject to the A&P tax to transact business within the City when their A&P tax permit has expired.

Sec. 17-17-6. Discontinuance of business - unpaid taxes.

- (a) Any person operating under an A&P tax permit, upon discontinuance of the business at the location designated thereon, shall return the A&P tax permit to the Commission for cancellation together with remittance of any unpaid and accrued A&P taxes.
- (b) Failure to surrender the A&P tax permit and pay any and all accrued A&P taxes shall be sufficient cause for the Commission, through its designated representative, to refuse the issuance of any A&P tax permit in the future to the person.

- (c) In the case of the sale of any business which is subject to the A&P tax, the A&P tax shall be deemed to be due and payable at the time of the sale of the fixtures and equipment incident to business and shall constitute a lien against the said fixtures and equipment and inventory in the hands of the purchaser of the business until all A&P taxes have been paid.

Sec. 17-17-7. Revocation or suspension - renewal.

- (a) Whenever a person to whom an A&P tax permit has been issued fails to comply with any provision of this ordinance, including any rule or regulation prescribed by the Commission from time to time, the Commission, through its designated representative, shall give notice to the person of an intention to revoke the A&P tax permit.
- (b) The person may, within ten (10) days after receipt of the Notice of Intent to Revoke the A&P tax permit, apply to the Commission for a hearing. Hearing procedures are as follows:
 - i. The hearing shall be conducted at a time and place to be designated by the Commission and the person requesting the hearing shall be entitled to introduce testimony and be represented by counsel, and the Commission shall determine at the hearing whether the person's A&P tax permit should be revoked. All decisions shall be by a majority vote of all commissioners of the Commission.
 - ii. Failure of the person to appear at the hearing shall be grounds for the Commission to remove the Taxpayer's A&P tax permit.
 - iii. The person shall be entitled, within thirty (30) days from the date of the revocation of the A&P tax permit, to appeal to the Circuit Court of White County, Arkansas, where the action shall be tried *de novo*.
- (c) An appeal shall lie from the Circuit Court to the Supreme Court of Arkansas, as in other cases provided by law.
- (d) Any revoked or suspended permit may be renewed upon the filing of proper returns and the payment of all A&P taxes due or removal of any other cause of revocation or suspension.
- (e) It shall be unlawful for any person subject to the A&P tax to transact business within the City of Searcy when the A&P tax permit is revoked or suspended.

Sec. 17-17-8. Preparation of returns - payment of A&P Tax and Discount for Prompt Payment.

- (a) The A&P tax shall be due and payable as of the first day of each calendar month by the Taxpayer and shall be delinquent if not paid on or before the first day of the next calendar month.
- (b) It shall be the duty of the Taxpayer on or before the twentieth (20th) day of each calendar month to deliver to the Commission, upon forms prescribed and furnished by the Commission, returns under oath showing the total combined gross receipts which are subject to the A&P tax for the preceding calendar month and the amount of tax due. The tax due shall be remitted with the return.
- (c) The returns shall contain such further information as the Commission may require by a full vote of the Commission and, once the Taxpayer has become liable for the payment of the A&P tax, the Taxpayer must continue to file a return, even though no tax may be due, until such time as the Taxpayer surrenders the A&P tax permit.
- (d) If not paid on or before the twentieth (20th) day of each calendar month, the full amount of the A&P tax shall be due from that date; provided, however, no penalty for delinquency shall be assessed if payment thereof is made on or before the first day of the calendar month next following.
- (e) If the return is delivered on or before the twentieth (20th) day of the calendar month, the Taxpayer may remit therewith to the Commission ninety-eight (98%) percent of the A&P tax due on or before the twentieth (20th) of that calendar month. A return is "delivered" on the date it is postmarked if it is delivered by U.S. Postal Service.
- (f) Failure of the Taxpayer to remit the A&P tax on or before the twentieth (20th) of each calendar month shall cause the Taxpayer to forfeit his claim to the discount and the Taxpayer must remit to the Commission one hundred (100%) percent of the amount of the A&P tax due, plus any penalty and interest accrued thereon.

Sec. 17-17-9. Additional Penalties and Tax.

- (a) If a Taxpayer shall fail to comply with certain provisions of this ordinance, then the following penalties and additions to tax shall be applicable:

- i. In the case of a Taxpayer's failure to file the A&P tax return and pay the tax due on or before the date prescribed, determined with regard to any extension of time for filing thereof, unless it is shown that the failure is due to reasonable cause and not to willful neglect, there shall be added to the amount required to be shown as tax on the A&P tax return five percent (5%) of the amount of the A&P tax if the failure is not more than one (1) month, with an additional five percent (5%) for each additional month or fraction thereof during which the failure continues, not to exceed thirty-five percent (35%) in the aggregate;
- ii. In addition to any penalty assessed hereunder, simple interest on any unpaid A&P tax shall be assessed at the rate of (10%) percent per annum from the delinquency date.

Sec. 17-17-10. Examination and Investigations.

- (a) In the administration of this ordinance, the Commission or its designated representative, for the purpose of determining the accuracy of a return or fixing any liability hereunder, may make an examination or investigation of the place of business, the tangible personal property, equipment, and facilities, and the books, records, papers, vouchers, accounts, and documents of any Taxpayer or other person. Every Taxpayer or other person and his agents and employees shall exhibit to the Commission or its designated representative these places of business and items and facilitate any examination or investigation.
- (b) No Taxpayer shall be subjected to unnecessary examination or investigations, and only one (1) inspection of a Taxpayer's books of account may be made for each taxable year unless the Taxpayer requests otherwise or unless the Commission or its designated representative, after investigation, notifies the Taxpayer in writing that an additional inspection is necessary.
- (c)
 - i. When conducting an investigation or an audit of any Taxpayer, the Commission or its designated representative may, in its discretion, examine the records and files of any person, except where privileged by law, any other business, institution, financial institution, the records of any state agency, agency of the United States Government, or agency of any other state where permitted by agreement or reciprocity.

ii. The Commission or its designated representative may compel production of these records by summons. A summons may be served directly by the Commission, its designated representative, or the Searcy Police Department.

(d) In the administration of this ordinance, the Commission or its designated representative may:

i. Administer oaths, conduct hearings, and compel by summons the attendance of witnesses, testimony, and the production of any books, records, papers or other data of any person or Taxpayer; or

ii.

A. Examine under oath any person regarding the business of any Taxpayer concerning any matter incident to the administration of this ordinance.

B. The fees of witnesses required by the Commission or its designated representative to attend any hearing shall be the same as those allowed to the witnesses appearing before circuit courts of this state. The fees shall be paid in the manner provided for the payment of other expenses incident to the administration hereof.

(e)

i. The investigation may extend to any person that the Commission or its designated representative determines has access to information which may be relevant to the examination or investigation.

ii. When any summons requiring the production of records as described in this subsection is served on a third-party record keeper, written notice of the summons shall be mailed to the Taxpayer that his records are being summoned at least fourteen (14) days prior to the date fixed in the summons as the day for the examination of the records.

iii. Notice to the Taxpayer required by this section is sufficient if it is mailed by certified mail to the last address on record with the Commission.

- iv. When the Commission or its designated representative have the power to issue a summons for its own investigative or auditing purposes, then the Commission shall honor any reasonable request by any Taxpayer to issue a summons on the Taxpayer's behalf.

(f)

- i. The Commission or the Taxpayer may apply to a court of competent jurisdiction in White County, Arkansas, for an order compelling the production of the summoned records.
- ii. Failure to comply with the order of the court for the production of records may be punished by the court as for contempt.

(g)

- i. The cost of producing records of a third party required by a summons shall be borne by the Taxpayer if he requests the summons to be issued.
- ii. If the Commission or its designated representatives initiate the summons for third-party records, the Commission shall bear the reasonable cost of producing the records. The Commission or its designated representatives may later assess the cost against any delinquent or deficient Taxpayer as determined by the records.

Sec. 17-17-11. Time Limitation for Assessments, Collection, Refunds and Prosecution.

- (a) Except as otherwise provided in this ordinance, no assessment of the A&P tax shall be made after the expiration of three (3) years from the date the return was required to be filed or the date the return was filed, whichever period expires later. The Commission shall not begin court proceedings after the expiration of the three-year period unless there has been a previous assessment for the collection of the tax.
- (b) Upon written agreement of the Commission and the Taxpayer, the time within which the Commission may make a final assessment, as provided herein, may be extended to a date mutually agreed upon in the written agreement.
- (c) Where, before the expiration of the time prescribed for the assessment of the tax or of extensions thereof, both the Commission and the Taxpayer

have consented in writing to an assessment after that time, then the A&P tax may be assessed at any time prior to the expiration of time agreed upon.

- (d) In the case of a fraudulent return or failure to file a report or return required hereunder, the Commission may compute, determine, and assess the estimated amount of A&P tax due from any information in its possession or may begin an action in court for the collection of the tax without assessment, at any time.
- (e) Whenever a Taxpayer requests an extension of time for filing any return required hereunder, the limitation of time for assessing any tax shall be extended for a like period.
- (f) Where the assessment of the A&P tax has been made within the period of limitation property applicable thereto, the A&P tax may be collected by levy or proceeding in court, but only if the levy is made or the proceeding is begun within ten (10) years after the date of the assessment of the tax.
- (g) No person shall be prosecuted, tried, or punished for any of the various criminal offenses arising under the provisions of this ordinance unless the indictment of the Taxpayer is instituted within six (6) years after the Commission of the offense.

Sec. 17-17-12 Notice Requirements.

- (a)
 - i. The Commission shall give a Taxpayer notice of any assessment, demand, decision, or hearing before the Commission or its designated representative which directly involves the Taxpayer.
 - ii. All notices required to be given by the Commission to a Taxpayer shall be either served by personal service or sent by mail to the Taxpayer's last address on record with the Commission. If this mail is returned unclaimed or refused, then proper notice shall be deemed to have been served and given, and the Commission may take any action permitted by this ordinance or otherwise by law.
 - iii. All notice of final assessment hereunder shall be sent by certified mail, return receipt requested.

- (b) The Taxpayer, when giving notice to the Commission, shall give notice either by mail or by personal service on the Commission. The notice the Taxpayer gives shall be effective when postmarked or, in case of personal service, when so served.
- (c) The Commission and any Taxpayer may, by written agreement, provide for any other reasonable means of giving notice.
- (d) All notices shall be in writing.

Sec. 17-17-13. Assessment and Collection of Taxes Generally.

- (a)
 - i. The Commission or its designated representatives are authorized and required to make the inquiries, determinations, and assessments of the A&P tax including interest, additions to taxes, and assessable penalties, imposed hereby.
 - ii. The assessment shall be made by recording the liability of the Taxpayer in the offices of the Commission in accordance with rules or regulations prescribed by the Commission.
 - iii. Upon request of the Taxpayer, the Commission shall furnish the Taxpayer a copy of the record of the assessment.

- (b)
 - i. The Commission shall collect all A&P taxes imposed by law.
 - ii. As soon as practicable after the making of assessment of the A&P tax, the Commission shall give notice to each person liable for the unpaid tax, stating the amount and demanding payment within ten (10) days.
 - iii. Upon receipt of notice and demand from the Commission, the person liable for the tax shall pay the stated amount including ay interest, additions to tax, and assessable penalties at the place and time stated in the notice and demand.

Sec. 17-17-14. Proposed Assessments.

- (a)

- i. If any Taxpayer fails to file any return as required hereunder, the Commission from any information in its possession or obtainable by it, may determine the correct amount of tax for the taxable period. If a return has been filed, the Commission or its designated representative shall examine the return and make any audit or investigation that is considered necessary.
- ii. When no return has been filed and the Commission determines that there is an A&P tax due for the taxable period, or when a return has been filed and the Commission determines that the A&P tax disclosed by the return is less than the tax disclosed by its examination, the Commission shall propose the assessment of additional tax plus penalties, as the case may be, and shall give notice of the proposed assessment to the Taxpayer. The notice shall explain the basis for the proposed assessment and shall state that a final assessment, as provided for herein, will be made if the Taxpayer does not protest such proposed assessment as provided hereby. The Taxpayer does not have to protest the proposed assessment to later be entitled to exercise the right to seek a judicial review of the assessment.
- iii. Any demand for additional payment of the A&P tax which is made as the result of a verification of a mathematical error on the return shall not be deemed to be a proposed assessment under the provisions of this section and shall not be subject to the hearing or appeal provisions of this section.

Section 17-17-15. Taxpayer Relief.

- (a) Any Taxpayer who wishes to seek administrative relief from any proposed assessment of taxes or proposed notice of disallowance of a claim for refund by the Commission shall follow the procedure provided by this section.
- (b)
 - i. A Taxpayer may at his option either request the Commission to consider his request for relief solely upon written documents furnished by the Taxpayer or upon the written documents and any evidence produced by the Taxpayer at a hearing.
 - ii. A Taxpayer who requests the Commission to render its decision based on written documents is not entitled to law to any other

administrative hearing prior to the Commission's rendering of its decision and, if necessary, the issuing of a final assessment and demand for payment or issuing of a certificate of indebtedness.

- (c) Within thirty (30) days after service of notice of the proposed assessment, the Taxpayer may file with the Commission a written protest under oath, signed by himself or his authorized agent, setting forth the Taxpayer's reasons for opposing the proposed assessment.
- (d) The Commission may, in its discretion, extend the time for filing a protest for any period of time not to exceed an additional ninety-day (90) day period.

Sec. 17-17-16. Hearing on Proposed Assessments.

- (a)
 - i. The Commission or its designated representative shall serve as hearing officer to review all written protests submitted by Taxpayers, hold all hearings, and made written findings as to the applicability of the proposed assessment.
 - ii. The hearing on written and oral protests and determinations made by the hearing officer shall not be subject to the provisions of the Arkansas Administrative Procedure Act, Arkansas Code Annotated §§ 25-15-201, *et seq*, as may be amended from time to time.
- (b) The actual hearing on the written protest shall be held by the Commission in its offices or at any other place designated by the Commission and including, but not limited to, the chambers of the Searcy City Council, with notice of such location to be afforded to any person subject to such hearing.
- (c)
 - i. The hearing officer shall set the time and place for hearing on the written protest and shall give the Taxpayer reasonable notice thereof.
 - ii. At the hearing, the Taxpayer may be represented by an authorized representative and may present evidence in support of his position.

- iii. After the hearing, the hearing officer shall render its decision in writing and shall serve copies upon both the Taxpayer and the Commission.

(d)

- i. If the proposed assessment is sustained, in whole or part, the Taxpayer may request in writing, within twenty (20) days of the mailing of the decision, that the Commission revise the decision.
- ii. If the Commission refuses to make a revision of if the Taxpayer does not make a request for revision, then a final assessment shall be made upon the final determination of the hearing officer or the Commission.
- iii. A Taxpayer may seek relief from the final decision of the hearing officer or the Commission on a final assessment of a tax deficiency by following the procedure set forth in this section.

(e)

- i. In addition to the hearing procedures set out in this subsection, the Commission or the hearing officer may hold administrative hearings by telephone, video conference, or other electronic means if the Commission or the hearing officer determines that conducting the hearing in such a manner:
 - A. is in the best interest of the Taxpayer and the Commission;
 - B. is agreed to by both parties;
 - C. is not fiscally unsound or administratively burdensome;
 - D. adequately protects the confidentiality of the Taxpayer's information; and
 - E. is in compliance with state law.
- ii. The Commission is authorized to contract with third parties for all services necessary to conduct hearings by telephone, video, or other electronic means.

- iii. Any person who enters into a contract with the Commission to provide services necessary to conduct hearings by telephone, video, or other electronic means shall be subject to the laws providing for the confidentiality of Taxpayer records.

Sec. 17-17-17. Judicial Relief.

- (a) Within thirty (30) days after the issuance and service on the Taxpayer of the notice and demand for payment of a deficiency in tax established by (1) an audit determination that is not protested by the Taxpayer, or (2) a final determination of the hearing officer or the Commission, a Taxpayer may seek judicial relief from the final determination by either:
 - i. Within thirty (30) days of the date of the final assessment, paying the entire amount of the A&P tax due, including any interest or penalties, for any taxable period or periods covered by the final assessment and filing suit to recover that amount within one (1) year of the date of payment. The Commission may proceed with collection activities, including the filing of a certificate of indebtedness as authorized hereunder, within thirty (30) days of the issuance of the final assessment for any assessed but unpaid A&P taxes, penalties, or interest owed by the Taxpayer for other taxable periods covered by the final assessment, while the suit for refund is being pursued by the Taxpayer for other taxable periods covered by the final assessment; or
 - ii.
 - A. Within thirty (30) days of the issuance and service on the Taxpayer of the notice and demand for payment, filing with the Commission a bond in double the amount of the tax deficiency due and by filing suit within thirty (30) days thereafter to stay the effect of the Commission's determination.
 - B. The bond shall be subject to the condition that the Taxpayer shall file suit within thirty (30) days after filing the bond, shall faithfully and diligently prosecute the suit to a final determination, and shall pay any deficiency found by the court to be due and any court costs assessed against him.
 - C. A Taxpayer's failure to file suit, diligently prosecute the suit, or pay any tax deficiency and court costs, as required

by subsection (a) of this section, shall result in the forfeiture of the bond in the amount of the assessment and assessed court costs.

- (b) Jurisdiction for a suit to contest a determination of the Commission under this section shall be in a Circuit Court in White County, where the matter shall be tried *de novo*.
- (c) The methods provided in this section shall be the sole alternative methods for seeking relief from a written decision of the Commission or the hearing officer establishing a deficiency in the A&P tax. No injunction shall issue to stay proceedings for assessment or collection of any A&P taxes.
- (d) In any court proceeding under this section, the prevailing party may be awarded a judgment for court costs.

Sec. 17-17-18. Issuance of Certificates of Indebtedness and Execution.

- (a)
 - i.
 - A. If a Taxpayer does not timely and properly pursue his remedies seeking relief from a decision of the Commission or hearing officer and a final assessment is made against the Taxpayer, or if the Taxpayer fails to pay the deficiency assessed upon notice and demand, then the Commission through its authorized representatives shall, as soon as practicable thereafter, issue to the Circuit Clerk of any county of the state in which the Taxpayer's business is located a certificate of indebtedness certifying that the person named therein is indebted to the Commission for the amount of the tax established by the Commission as due.
 - B. If a Taxpayer has a delinquent A&P tax liability to the Commission of less than One Thousand Dollars (\$1,000), the Commission or its hearing officer may enter into an agreement with the Taxpayer to allow the Taxpayer to pay the delinquency in installments. The Commission or its hearing officer may choose not to issue a certificate of indebtedness during the period of the installment agreement if it determines that it is in the best interest of the Commission.

ii. The Circuit Clerk shall enter immediately upon the Circuit Court judgment docket:

- A. The name of the delinquent Taxpayer;
- B. The amount certified as being due;
- C. The name of the tax; and
- D. The date of entry upon the judgment docket.

iii.

- A. The entry of the certificate of indebtedness shall have the same force and effect as the entry of a judgment rendered by the Circuit Court. This entry shall constitute the Commission's lien upon the title of any real and personal property of the Taxpayer in the county where the certificate of indebtedness is recorded.
- B. This lien is in addition to any other lien existing in favor of the Commission to secure payment of taxes, applicable interest, penalties, and costs. The lien is superior to other liens of any type or character attaching to the property after the date of entry of the certificate of indebtedness on the judgment docket. This lien is superior to all claims of unsecured creditors.
- C. The certificate of indebtedness authorized by this subsection shall continue in force for ten (10) years from the date of recording and shall automatically expire after the ten-year period has run. Actions on the lien on the certificate of indebtedness shall be commenced within ten (10) years after the date of recording of the certificate, and not afterward.

(b)

i. After entry of the certificate, the Circuit Clerk shall issue a writ of execution directed to the Commission, authorizing the Commission to levy upon and against all real and personal property of the Taxpayer.

- ii. The Commission shall have all remedies and make take all proceedings for the collection of the tax which may be taken for the recovery of a judgment at law.
- iii. The writ shall be issued, served, and executed in the same manner as provided for in the issuance and service of executions rendered by the Circuit Court of this state, except the Commission shall act in the place of the County Sheriff.
- iv. The Commission shall have this authority for all liens either presently filed or filed after the passage of this ordinance.

(c)

- i. Nothing in this chapter shall preclude the Commission from resorting to any other means provided by law for collecting delinquent taxes.
- ii. The issuance of a certificate of indebtedness, entry by the Clerk, and levy of execution as provided in this section shall not constitute an election of remedies with respect to the collection of the tax.
- iii. The taxes, fees, interest, and penalties imposed or levied hereby may be collected in the same way as a personal debt of the Taxpayer.
- iv. The Commission may sue to the same effect and extent as for the enforcement of a right of action for debt.
- v. All provisional remedies available in these actions are available to the Commission in the enforcement of the payment of the A&P tax.

(d)

- i. In addition to the remedies provided herein, the Commission may direct the Circuit Clerk to issue a writ of execution directed to the sheriff of any county authorizing the sheriff to levy upon and against all real and personal property of the Taxpayer. The writ shall be issued, served, and executed in the same manner as provided for in the issuance and service of executions rendered by the Circuit Courts of this state.

- ii. The Circuit Clerks and Sheriffs shall be entitled to receive the same fees provided by law in these matters. These fees shall be collected from the Taxpayer by either the Commission or the Sheriff in addition to the tax, penalties and interest included in the certificate of indebtedness. If the Sheriff is unable, after diligent effort, to collect the tax, interest, penalties and costs, the Commission may pay such fees as are property shown to be due to the Clerk and Sheriff.
- (e) The Commission may contract with persons inside or outside the state to help the Commission collect delinquencies of resident or non-resident Taxpayers.

Sec. 17-17-19. Injunction Proceedings. When a return required hereunder has not been filed or does not furnish all the information required by the Commission or when the A&P taxes imposed by law have not been paid or when any required license or permit has not been secured, the Commission may institute any necessary action or proceeding in a court of competent jurisdiction in White County to enjoin the person or Taxpayer from continuing operations until the report or return has been filed, required licenses or permits secured, or taxes paid as required. The injunction shall be issued without a bond being required from the Commission.

Sec. 17-17-20. Settlement or Compromise of Liability Controversies.

- (a) The Commission may enter into an agreement to compound, settle, or compromise any controversy relating to the A&P tax when:
 - i. The controversy is over the amount of tax due; or
 - ii. The inability to pay results from the insolvency of the Taxpayer.
- (b) The Commission may waive or remit the interest or penalty, or any portion thereof, ordinarily accruing because of a Taxpayer's failure to pay the A&P tax within the statutory period allowed for its payment.
 - i. If the Taxpayer's failure to pay the tax is satisfactorily explained to the Commission; or
 - ii. If the failure results from a mistake by the Taxpayer of either the law or the facts subjecting him to such tax; or

- iii. If the inability to pay the interest or penalty interests from the insolvency or bankruptcy of the Taxpayer.
- (c) In settling or compromising any controversy relating to the liability of a person for the A&P tax for any taxable period, the Commission is authorized to enter into a written closing agreement concerning the liability. When the closing agreement is signed by the Commission, it shall be final and conclusive, and except upon a showing of fraud or misrepresentation of a material fact, no additional assessment or collection shall be made by the Commission, and the Taxpayer shall not institute any judicial proceeding to recover such liabilities as agreed to in the closing agreement.
- (d) The Commission shall promulgate rules and regulations establishing guidelines for determining whether a proposed offer in compromise is adequate and is acceptable to resolve a tax dispute.

Sec. 17-17-21. Release of Property from Lien.

- (a) Upon written application by any person, the Commission may release any property from the lien imposed by any assessment, order, judgment or certificate of indebtedness obtained by or from any levy made by it if:
 - i. Either full payment is made to the Commission of the sum it considers adequate consideration for the release; or
 - ii. Adequate security deposit is made with the Commission to secure the payment of the debt evidenced by the lien.
- (b) When the Commission determines that its assessment, certificate of indebtedness, or judgment is clouding the title of property because of an error in the description of properties or similarity in names, the Commission may issue a release without the payment of any consideration.
- (c) The Commission's release shall be given under its seal and filed in the office of the Circuit Clerk in the county in which the lien is filed, or it shall be recorded in any office in which conveyances of real estate may be recorded.

Sec. 17-17-22. Violations. Any person subject to the A&P tax who is transacting business within the City of Searcy without a valid A&P tax permit shall be guilty of a violation which shall be punishable up to a five

hundred dollar (\$500.00) fine. Each day a person transacts business within the City without a valid A&P tax permit shall constitute a separate violation.

Sec. 17-17-23.

Criminal Penalties. Sanctions for any Taxpayer who willfully attempts to evade or defeat the payment of the A&P tax, or who assists a Taxpayer to evade or defeat the payment, or otherwise fails to file a report, fails to pay the tax, or makes a false or fraudulent report, return, statement, claim, application, or other instrument required by the Commission in connection with the A&P tax, or knowingly makes a false answer to any question from the Commission or its designated representative concerning any A&P tax, neglects to answer a subpoena to appear and answer questions about records for the A&P tax, or fails to obtain an A&P tax permit as required, or who acts, or fails to act, in conformance with the provisions of this chapter shall be guilty of an A Class misdemeanor and upon conviction shall be fined not more than One Thousand Dollars (\$1,000.00) and/or incarcerated in the county jail for not longer than one (1) year. Each day that a violation continues to exist shall constitute a separate offense. (*Ord. No. 2009-22, § 1, 6-15-09*)

Section 17-18. Supplemental Tax Upon the Sale of Certain Beverages; Disposition of Proceeds. Pursuant to Ark. Code Ann. § 3-9-223(f), as may be amended from time to time, there is levied a supplemental tax of five (5) percent upon the gross proceeds or gross receipts derived from a private club licensed or permitted by the State of Arkansas from the charges to members for the preparation and serving of mixed drinks, for the cooling and serving of such beer and wine drawn from the private stocks of such member or otherwise provided for consumption. The sums derived from this supplemental tax shall be appropriated in the manner provided by Arkansas law. The City of Searcy shall maintain any information provided by the State of Arkansas in connection with any audit associated with the operation of any private club subject to the confidentiality requirements of Ark. Code Ann. § 26-18-303, as may be amended from time to time. (*Ord. No. 2018-17, § 1*)

Section 17-18-1. Penalty Upon Late Payment of Supplemental Tax; Right to Inspect Records; Confidentiality of Records.

- A. All sums due hereunder shall be paid to or as directed by the City of Searcy and shall be received by the City on or before the 20th day of any month immediately following the collection of any supplemental tax under this Section.
- B. Any sums due, but received after, the 20th day of any month in which such payment might be due shall be assessed a late penalty for each month for which the payment is deemed to be delinquent in the amount

of ten percent (10%) of the sum due for the collection thereof.

- C. The City Clerk/Treasurer or the designee of the City Clerk/Treasurer shall have the right to inspect and examine the records of any permittee subject to collect and remit the supplemental tax provided for herein.
- D. Any records received by the City of Searcy in connection with this Section shall be subject to all applicable laws concerning the confidentiality of these records that may be applicable.
- E. All reports shall be submitted to the City upon forms acceptable to the City of Searcy. (*Ord. No. 2018-23, § 1*)

[Sec. 17-19 – Reserved]

Sec. 17-20 The Operation and Licensing of Certain Outdoor and Mobile Food Vendors.

Sec. 17-20-1 Definitions: The following words and phrases shall have the following meanings for the purposes of this Section:

- A. Mobile Food Establishment – a food establishment preparing and/or serving foods from a self-contained vehicle either motorized or within a trailer that is readily movable without disassembling for transport to another location. Mobile food establishment may serve as a conveyance for outdoor vending at a fixed location and may be a mobile cart, stationary cart, pedal cart, trailer, van, portable building, or similar chassis with or without an engine.
- B. Mobile Food Vendor – any person or persons who operate or sell food from a mobile food establishment.
- C. Mobile Outdoor Vending – exhibiting, displaying, selling or offering for sale any goods, wares or merchandise from a conveyance at a fixed location on public or private property.
- D. Mobile Outdoor Vendor – a person that exhibits, displays, sells or offers for sale any goods, wares or merchandise from a conveyance at a fixed location. This definition does not include a door-to-door solicitor, mobile food vending, children’s lemonade stands or homeowners having garage sales.
- E. Fixed Location 6 month – a vendor occupying a location for a period of 6 months or less.

- F. Fixed Location 12 month – a vendor occupying a location for a period of 6 months to 12 months.
- G. Temporary – a vendor occupying a location for 7 days or less.
- H. Roving Mobile Vendor – a vendor traveling constantly without a fixed destination

Sec. 17-20-2 Fee Schedule: Each application for the issuance of a business license under this Section shall be accompanied by a fee, as designated below. A fixed mobile vendor must operate at the location(s) specified on the application. Each additional location will be charged a fee of \$10.

Fixed location 6 months	Fixed location 12 months	Roving Mobile Vendor	Temporary
\$50	\$100	\$250	\$10

Multiple locations for Fixed Vendor- \$10 per location

Sec. 17-20-3 Zoning Districts: Mobile vendors and mobile food vendors shall be allowed as indicated in the following zoning districts in compliance with the Zoning Code.

Permitted Uses	R-1	R-2	R-3	R-4	R-AH	C-1	C-2	C-3	C-4	I-1	I-2	U-T
Fixed Vendor						P	P	P	P	P	P	
Temporary Vendor						P	P	P	P	P	P	
Roving Mobile Vendor	P	P	P	P	P	P	P	P	P	P	P	P

P = Permitted

Sec. 17-20-4. Mobile Vendor Permit Requirements. Mobile vendors and mobile food vendors shall be subject to the following regulations:

- A. Mobile fixed vendors/mobile food vendors are permitted in the C-1, C-2, C-3, C-4, I-1, and I-2 zoning districts by right and on city owned properties zoned U-T with approval from the Mayor or his designee.
- B. Roving Mobile Vendors are permitted in all zoning districts.
- C. Mobile vendors/mobile food vendors shall not operate within City street rights of way, City parks, or other public properties without first securing an agreement with the Mayor or his designee.

- D. Mobile vendors/mobile food vendors must locate on a paved surface or approved parking area.
- E. A valid copy of all necessary permits required by state and county health authorities. All permits shall be conspicuously displayed at all times during operation of the business.
- F. A picture of the mobile food establishment.
- G. A picture of the applicant, between 2 to 3 inches in size, to be attached to the final approved mobile vending permit.
- H. Valid driver's license and proof of insurance.
- I. Authorization by the property owner or legal representative of record, stating that the mobile vendor is permitted to operate on the subject property for a specified period of time. For the purposes of this authorization, an electronic writing may suffice, at the discretion of the Mayor or his designee.
- J. A site plan roughly drawn to scale showing the location of the property lines, building setback lines, vehicle parking spaces, the sidewalk location and any proposed dining or sitting areas.
- K. All mobile food vendors shall provide garbage receptacles for customer use.
- L. The mobile vendor has the responsibility to dispose of all wastes in accordance with all applicable laws.
- M. Account set up with Searcy Sanitation to dispose of trash. The Sanitation department will provide the vendor with a list of acceptable disposal locations, subject to the following:
 - i. Roving Mobile Vendors and Temporary Vendors are not required to have an account; however, vendors are still responsible for the disposal of any solid waste or trash.
 - ii. Fixed vendors are required to have an account set up with Searcy Sanitation. The business license shall be subject to termination should the sanitation bill be delinquent for nonpayment for more than thirty (30) days.
- N. A permanent wastewater connection is prohibited.
- O. All utility hookups must be approved by the City and be in conformance with all

applicable state and local codes.

- P. The mobile vendor permit issued shall not be transferable in any manner.
- Q. The mobile vendor permit issued shall be conspicuously displayed at all times during the operation of the mobile vending business.
- R. Mobile vendors/mobile food vendors shall not locate in fire lanes, block the ingress/egress to the area, cause traffic hazards, block sidewalks, streets, alleys, or any other public place or by causing people to congregate at or near the place where food or merchandise is being sold or offered for sale.
- S. During business hours and at the conclusion of business activities at a given location, the mobile vendor shall clean the area around the mobile vending establishment of all trash, litter, and debris.
- T. Signage is limited to signs attached flat to the exterior of the mobile vending structure of equipment. Must conform to sign ordinance provided in the Zoning Code and applicable set back or right-of-way restrictions.
- U. Mobile food establishments must meet the following conditions in order to pass inspection by Fire Department:
 - i. The vendor must have a 10lb ABC fire extinguisher mounted inside the vehicle with a current service tag. If the vendor uses grease laden vapors then an additional Class K fire extinguisher is required.
 - ii. LP tanks must be secured to the mobile food establishment.
 - iii. Mobile food establishment cannot be located within 10ft of a permanent structure if truck has any apparatus designed to combust any inflammable fuel
 - iv. Hood suppression system over cooking surface that produces grease laden vapors.
 - v. Or any other applicable fire codes.

Sec. 17-20-5 Temporary Mobile Vendors. Mobile vendors and mobile food vendors who wish to apply for a permit with the City of Searcy on a temporary basis, may apply for a Temporary Mobile Vendor Permit. All temporary permits issued shall be valid only for the time period established on the permit, not to exceed 7 days, and are required to meet the same conditions listed above.

Sec. 17-20-6 Sidewalk Café Requirements. Public rights-of-way are designed for free and unobstructed travel. However, the City of Searcy recognizes that certain developed and developing areas in a traditional town are unique and that certain public amenities are not inconsistent with the underlying dedication for the public right-of-way, as long as they do not impede travel or interfere with the public safety. This ordinance is designed to encourage pedestrian activity and make the urban environment more attractive. Sidewalk cafés shall meet the following requirements in order to be approved:

- A. Applicants requesting a license must provide a detailed site plan and written description illustrating the type, location and dimensions of all furniture to be placed in the public right-of-way. Sidewalk cafés may not be enclosed by fixed walls or other permanent structures.
- B. Sidewalk cafés must be open to the air, except that an awning or canopy conforming to requirements established by the Unified Development Code and Building Code may be constructed over the sidewalk café. In order to provide sufficient pedestrian clearance, umbrellas must have 7 feet of free and clear space from the sidewalk surface to the lower edge of the umbrella.
- C. Property shall be kept clean and free of refuse with no permanent trash containers placed on the premises.
- D. All furnishings and fixtures must be of a temporary nature
- E. For sidewalk cafés using city right-of-way for operation, there shall be a minimum of 5 feet or 50% of the total sidewalk width for clearance, whichever is greater, to provide adequate and unobstructed pedestrian movement.
- F. If at any time the sidewalk café is determined to impede travel or interfere with the public safety, as determined by the Code Enforcement office, the sidewalk café shall be modified or removed.
- G. One A-frame sandwich/menu board is permitted within the sidewalk cafés' border during hours of operation, subject to the applicable regulations in Chapter 20: Signs

Sec. 17-20-7. Exemptions. The following activities, businesses, and/or persons, as such are commonly known, shall be exempt from mobile vendor/mobile food vendor regulations. However, this exemption shall not be construed to limit or restrict the application of other laws and regulations pertaining to such activities, businesses and/or persons:

- A. Newspaper couriers.

- B. Youth lemonade stands and similar uses.
- C. Stands used to sell or distribute flowers, fruit, vegetables, produce, or plants grown in White County
- D. Delivery or distribution of food, goods or products ordered or purchased by customers from a point of sale other than a mobile vendor/mobile food vendor.
- E. Delivery or distribution of food by or for any not-for-profit organization, governmental agency, or other charitable organization.
- F. Any City sponsored or Main Street Searcy organized event

Sec. 17-20-8. Parking. In no instance, with the exception of special events, may the mobile vendor/ mobile food vendor reduce the number of available parking spaces below the minimum required for the primary business or other businesses on that same lot.

Sec. 17-20-9. Enforcement; Revocation of Permit. Failure to comply with any provisions of this ordinance that result in the finding by a court of competent jurisdiction, after the issuance of a citation of a violation of this ordinance, as follows:

- **First Violation: \$50 fine within a 12 month period.**
- **Second violation: \$100 fine within a 12 month period.**
- **Third violation: within a 12 month period**

Upon a third violation, the City shall revoke any permit and no application for such a permit may be considered from an applicant, or a principal of the said applicant for a period of twelve (12) months from and after the date of any such revocation. (*Ord. No. 2018-15, § 1*)

Sec. 17-21-1. Requirement of Permit for Certain Events.

- A. A special event permit shall be required to hold a special event, as defined in this Chapter that makes use of public rights-of-way, City streets, sidewalks, alleys or easement.
- B. A special event permit shall be required to hold outdoor public events on private property and on other City-owned properties.

Sec. 17-21-2. Definitions. As used in this chapter:

"City" is the city of Searcy, Arkansas.

"Chief of Police" is the chief of police for the city or his or her designee.

"Special Event" is any march, demonstration, walk, run, bike ride/race, procession or motorcade consisting of persons, animals, or vehicles or a combination thereof upon the streets, or

within the parks within the city with an intent of attracting public attention that substantially interferes with the normal flow or regulation of traffic upon the streets, and/or public parks.

"Event" is a planned public or social occasion.

"Special Event Permit" is a permit as required by this chapter.

The "Code Enforcement" office is the department responsible for the issuance of any and all permits required under this chapter.

"Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

"Sidewalk" is any area or way set aside or open to the general public for purposes of pedestrian traffic, whether or not it is paved.

"Street" is any place or way set aside or open to the general public for purposes of vehicular traffic, including any berm or shoulder parkway, right-of-way, or median strip thereof.

Sec. 17-21-3. Exceptions. This chapter shall apply to every special event and to every event except the following:

- A. Funeral processions/proceedings by vehicle under the most reasonable route from the funeral home, church or residence of the deceased to the place of interment;
- B. Students going to and from school classes or participating in educational activities, provided that such conduct is under the immediate direction and supervision of the proper school authorities;
- C. City of Searcy acting within the scope of its functions;
- D. Private gatherings, affairs or activities on private property that may inadvertently interfere with the normal flow or regulation of traffic upon the public streets;
- E. Peaceful and non-violent political speeches, gatherings, rallies or protests conducted in a manner so as not to disturb the peace, prevent other parties from the free exercise of their free speech and/or rights to access public properties and the conduct of which does not block the streets and/or roadways in such a manner as to adversely affect the free passage and transport of others;
- F. Main Street Searcy events;
- G. White County Fair and the White County Fair Parade conducted by the White County Fair Board.
- H. School events held on school property

Sec. 17-21-4. Application for permit.

- A. A person seeking a Special Event Permit shall file an application provided by the City of Searcy with the Code Enforcement office and the application shall be signed by the applicant.
- B. For Special Events, an application for a permit shall be filed with the Police Department at least 45 business days and not more than 180 days before the Special Event is proposed to commence.
- C. The application for a Special Event permit shall set forth the following information:

1. The name, address, and telephone number of the person, group of persons, firm, partnership, association, company or organization seeking to conduct such Special Event;
 2. The requested date of the Special Event;
 3. The route to be traveled, including the starting point and the termination point;
 4. The approximate number of persons who, and animals and vehicles which will constitute such Special Event and the type of animals and description of the vehicles;
 5. The hours when such Special Event will start and terminate;
 6. A statement as to whether the Special Event will occupy all or only a portion of the width of the streets proposed to be traversed;
 7. The approximate number of participants (spectators are by definition not participant(s));
 8. The approximate number of spectators;
 9. A designation of any public facilities or equipment to be utilized; and
 10. A waste plan
- D. Payment of the fee in the amount of \$100; and
- E. The payment of any other sums, if any, that may be required under this chapter.

Sec. 17-21-5. Police Protection:

- A. The Chief of Police or his designee shall determine whether and to what extent additional police protection is reasonably necessary for the Special Event for traffic control and public safety.
- B. The Chief of Police or his designee shall base this decision on the size, location, duration, time and date of the event, the number of streets and intersections blocked, and the need to detour or preempt citizen travel and use of the streets and sidewalks. If possible, without disruption of ordinary police services or compromise of public safety, regularly scheduled on-duty personnel may police the event. If additional police protection for the special event is deemed necessary by the Chief of Police or his designee, he or she shall so inform the applicant for the permit.

Sec. 17-21-6. Fire Support:

- A. The Searcy Fire Department may, but shall not be required to, assess safety issues regarding fire, buildings, tents and the physical safety of all those involved in your event. Any applicant shall be required to specify if any of these conditions exist:
1. Tents or canopies larger than 225 square feet (15x15)
 2. Propane is used for cooking

3. Changes are made to building exits or when the character or use of a facility is altered
4. Liquid or gas-fueled vehicle or equipment, for display or competition, inside a tent or building
5. Candles, open flame devices, flammable or combustible liquids or gases
6. Pyrotechnics/special effects
7. Cryogenics
8. Anytime a material, occupancy load or operation is introduced into a tent or building that could possibly pose a hazard
9. Special amusements are provided, such as haunted houses

None of the elements listed in this section may be employed during the Special Event absent a specific waiver by the Fire Marshal and the Mayor of the City of Searcy. Notwithstanding the use of any of these elements, the City may restrict the use of any of the elements referenced in this Section or require any conditions upon the use of these elements that might be reasonably determined to be necessary by the City.

Sec. 17-21-7. Electricity Plan:

- A. The use of generators, electrical wiring and extension cords during your event may require an inspection and permit issued by the Inspection Department. The site plan with the application packet for the special event shall include the location of any elements that will utilize any electrical service and designate whether the electricity shall either be generated by generators to be provided by the applicant or whether electrical power is requested to be provided by the City. Event producers may use the City's active electrical outlets for minimal requirements only upon the request to the City and which shall be subject to a separate fee of not less than \$50 nor more than \$300 per outlet for the duration of the Special Event; however, additional permits may be required. The event producer is responsible to ensure proper usage of all electrical services, and is responsible for all electrician fees, including fees for servicing/repairing blown electrical services due to improper use of electrical supply.

Sec. 17-21-8. Waste Plans:

- A. A waste plan is required for all events. The plan can be a map or a detailed description but must be provided with the application for the Special Event and shall include where and when waste services will be available. The City may, upon a review of the application require the applicant to contract for trash removal and portable restroom services. In the event that the City requires the applicant to contract for waste removal and for the provision of portable restroom facilities, the City shall require that copies of the contracts be included with the waste plan prior to consideration for approval and the City may direct that additional waste receptacles

or portable restroom facilities be placed at the sole cost, fee and expense of the applicant.

- B. The event producer is responsible for the removal of all trash immediately following each event. Failure to clean up after the event may require the City to contract for clean-up services. In the event that the City is required to engage in any cleanup efforts after a special event, the applicant shall be barred from consideration for any future special event until such payment arrangements have been made in full, including a penalty for late payment in the amount of an additional 50% over and above the actual costs incurred by the City. Recycling is not required, but is encouraged. The applicant shall only place waste receptacle and portable restroom facilities as, and in places directed by, the Searcy Sanitation Department.

Sec. 17-21-9. Standards for issuance

- A. The Chief of Police or his designee, shall approve or deny a permit as provided for herein when, from a consideration of application and from such other information as may otherwise be obtained, it finds that:
1. The conduct of the Special Event will not substantially interrupt the safe and orderly movement of other pedestrian or vehicular traffic contiguous to its route or location;
 2. The conduct of the Special Event will not require the diversion of so great a number of City Police officers to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection of the city;
 3. The concentration of persons, animals, and vehicles at public assembly points of the Special Event will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such public assembly areas;
 4. The conduct of the Special Event is not reasonably likely to cause injury to persons or property;
 5. The Special Event is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route;
 6. Adequate sanitation and other required health facilities are or will be made available in or adjacent to any public assembly areas;
 7. There are sufficient parking places near the site of the Special Event to accommodate the number of vehicles reasonably expected;
 8. The applicant has secured the police protection, if any, required under this Chapter;
 9. Such Special Event is not for the primary purpose of advertising any product, goods or event that is primarily for private profit and the parade itself is not primarily for profit. The prohibition against advertising any product, goods

- or event shall not apply to signs identifying organizations or sponsors furnishing or sponsoring exhibits or structures used in the parade;
10. No Special Event permit application for the same time and location is already granted or has been received and will be granted;
 11. No Special Event permit application for the same time but not location is already granted or has been received and will be granted, and the police resources required for that Special Event are so great that in combination with the subsequent proposed application, the resulting deployment of police services would have an immediate and adverse effect upon the welfare and safety of persons and property;
 12. No event is scheduled elsewhere in the city where the police resources required for that event are so great that the deployment of police services for the proposed Special Event would have an immediate and adverse effect upon the welfare and safety of persons and property;
 13. No Special Event application shall be considered that is less than 45 days from the proposed event.

No permit shall be granted that allows for the erection or placement of any structure, whether permanent or temporary, on a city street, sidewalk or right-of-way unless advance approval for the erection or placement of the structure is obtained.

Sec. 17-21-10. Nondiscrimination.

- A. The City shall uniformly consider each application upon its merits and shall not discriminate in granting or denying permits under this chapter based upon political, religious, ethnic, race, disability, sexual orientation or gender-related grounds.

Sec. 17-21-11. Notice of denial of application:

- A. The Police Department shall act promptly upon a timely filed application for a Special Event permit. If the Police Department, after consultation with the Chief of Police or his designee, disapproves the application, it shall notify the applicant either by telephone, facsimile, personal delivery or certified mail prior to the event and state the reasons for the denial.

Sec. 17-21-12. Alternative permit:

- A. The Police Department, after consultation with the Chief of Police or his designee, in denying an application for a Special Event permit, may authorize the conduct of the Special Event at a date, time, location, or route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within 48 hours after notice of the changes to the permit, file a written notice of acceptance with the Code Enforcement office.

- B. An alternate Special Event permit shall conform to the requirements of, and shall have the effect of, Special Event permits issued under this chapter.

Sec. 17-21-13. Appeal procedure:

- A. Any applicant shall have the right to appeal the denial by the Chief of Police of a Special Event permit to the Mayor.

Sec. 17-21-14. Duties of permittee:

- A. A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances.
- B. The Special Event chairperson or other person heading such activity shall carry the Special Event permit upon his or her person during the conduct of the Special Event Assembly.

Sec. 17-21-15. Prohibitions; Penalties. The following prohibitions shall apply to all Special Events:

- A. It is unlawful for any person to stage, present or conduct any Special Event without first having obtained a permit as herein provided;
- B. It is unlawful for any person to participate in a Special Event for which the person knows a permit has not been granted;
- C. It is unlawful for any person in charge of, or responsible for the conduct of, a duly licensed Special Event to knowingly fail to comply with any condition of the permit;
- D. It is unlawful for any person to engage in any Special Event activity that would constitute a substantial hazard to the public health, safety or welfare, or that would materially interfere with or endanger the public peace or rights of residents to the quiet and peaceful enjoyment of their property;
- E. It is unlawful for any person to ride, drive or cause to be ridden or driven any animal or any animal drawn vehicle upon any public street, unless specifically authorized by the permit; and
- F. Violation of this chapter shall be punishable by fines and costs no less than \$200 nor greater than \$500. Any subsequent violation of this Chapter within 12 months shall be punishable by a fine and costs of not less than \$500 and not more than \$1,000 and may be subject to a period of incarceration of not more than 30 days.

Sec. 17-21-16. Public conduct during parades or special events.

- A. No person shall unreasonably hamper, obstruct or impede, or interfere with any Special Event or with any person, vehicle or animal participating or used in a Special Event.

- B. No driver of a vehicle shall drive between the vehicles or persons comprising a Special Event when such vehicles or persons are in motion and are conspicuously designated as a Special Event.
- C. The Chief of Police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street constituting a part of the route of a Special Event. The Chief of Police or his designee shall post signs to that effect, and it is unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street unposted in violation of this chapter.

Sec. 17-21-17. Revocation of Permit.

- A. The Chief of Police or his designee shall have the authority to revoke a Special Event permit instantly upon violation of the conditions or standards for issuance as set forth in this chapter or when a public emergency arises where the police resources required for that emergency are so great that deployment of police services for the Special Event would have an immediate and adverse effect upon the welfare and safety of persons or property. *(Ord. No. 2019-24)*

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