

Prepared by:
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P.O. Box 428
Russellville, Arkansas 72811
Sponsor: A & P Commission
NB#9



ORDINANCE NO. 2077

I, FERN TUCKER, Circuit Clerk and Recorder of the County attested do hereby certify that this instrument was filed for record the 04/29/2010 at 10:23:31 AM, and the same is now duly recorded in Miscellaneous Book 2010-21 Page 790 - 794
Witness my hand and the seal of said court this the 4/29/2010
Fern Tucker - Circuit Clerk and Recorder
By Jane Collins D.C.

AN ORDINANCE AMENDING ORDINANCE NO. 1692, WHICH SET UP THE ADVERTISING AND PROMOTION COMMISSION AND LEVIED A TAX UPON THE GROSS RECEIPTS OF HOTELS AND MOTELS IN THE CITY OF RUSSELLVILLE, ARKANSAS, BY ADDING A GENERAL MISDEMEANOR SECTION FOR NON-COMPLIANCE WITH ORDINANCE NO. 1692, AND FOR OTHER PUPOSES

WHEREAS, the Advertising and Promotion (“A&P”) Commission was set up by the City Council of the City of Russellville, Arkansas, under the authority of state law and Ordinance No. 1692; and

WHEREAS, Ordinance No. 1692, as amended, currently levies a three percent (3%) tax upon the gross receipts of hotels, motels, and lodging establishments within the city limits of the City of Russellville, Arkansas; and

WHEREAS, the A&P Commission needs additional enforcement tools to collect the A&P tax from entities subject to the tax and a general misdemeanor section added to Ordinance No. 1692 would greatly aid the A&P Commission in collect of the A&P tax.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RUSSELLVILLE, ARKANSAS:

SECTION 1: Authority. This Ordinance is passed by the City of Russellville under the authority of the State of Arkansas pursuant to Arkansas Code Annotated §§ 27-75-601 *et seq.*, 14-43-602, 14-54-103, 14-55-101 and 14-55-102.

SECTION 2: Ordinance No. 1692 is hereby amended to add Section 10 to read as follows:

“SECTION 10: The following words and phrases, except where the context clearly indicates the application of a different meaning, when used in Ordinance No. 1692, as amended, shall have the following meaning:

- (a) **A&P Tax**-means the gross receipts tax or gross proceeds tax levied by Ordinance No. 1692, as amended from time to time.
- (b) **Assessment**-means a tax is assessed when it is recorded as the liability of a taxpayer on the Commission’s records. The assessment becomes a first assessment following the decision of the Commission or its designated agent, if the assessment is protested.
- (c) **Business entity**-means a corporation, association, partnership, joint venture, limited liability company, limited liability partnership, trust or other legal business entity.

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- (d) **Commission**-means the City of Russellville, Arkansas, Advertising and Promotion Commission, and any agent or representative designated by the Commission to perform any function hereunder.
- (e) **City**-means the City of Russellville, Arkansas.
- (f) **Delinquency date**-means the A&P Tax is delinquent and subject to penalty on the first day of the month following the month it was due.
- (g) **Due date**-means the A&P Tax is due no later than the last day of the month following the month the A&P Tax is imposed on gross receipts or gross proceeds.
- (h) **Person**-means any natural person, firm, corporation or other business entity.
- (i) **Taxpayer**-means any person liable to remit the A&P Tax.”

SECTION 2: Ordinance No. 1692 is hereby amended to add Section 11 to read as follows:

“**SECTION 11: Penalty.** Any person in violation of any section or provision of this Ordinance shall be punishable by a fine of not more than \$1,000.00 plus court costs and any applicable fees authorized by the State of Arkansas and the City of Russellville. Each day a taxpayer does not comply with the requirements due under Ordinance No. 1692 it shall constitute a separate offense under the provisions of this Section. If a court of competent jurisdiction finds that a taxpayer fails to comply with the regulations of Ordinance No. 1692 is continuous in respect to time, then the fine shall not exceed \$500.00 for each day that it is found to be unlawfully continued plus applicable court costs and fees.”

SECTION 3: Ordinance No. 1692 is hereby amended to add Section 12 to read as follows:

“**SECTION 12: Severability.** The provisions of this Ordinance are declared to be severable. If any section, sentence, clause, or phrase of the Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decisions shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect; it being the legislative intent that this Ordinance shall remain in effect notwithstanding the validity of any part.”

SECTION 4: Ordinance No. 1692, Section 9(d)(2)(A), is hereby amended to read as follows:

“**SECTION 9(d)(2)(A):** Examine under oath any person regarding the business of any taxpayer concerning any matter incident to the administration of Ordinance No. 1692, as

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amended from time to time.”

SECTION 5: Ordinance No. 1692, Section 9(e)(2), is hereby amended to read as follows:

“**SECTION 9(e)(2):** When any summons requiring the production of records as described in subsection (c) of this section is served on a third-party record keeper, written notice of the summons shall be mailed to the taxpayer that their records are being summoned at least fourteen (14) calendar days, excluding legal holidays, prior to the date fixed in the summons as the day for the examination of records.”

SECTION 6: Ordinance No. 1692, Section 9(f), is hereby amended to read as follows:

“**SECTION 9(f):** When the Commission or its designated agent has the power to issue a summons for their investigation, then they shall honor any reasonable request by any taxpayer being investigated by the Commission or its designated agent to issue a summons on the taxpayer’s behalf in the jurisdiction of Pope County, Arkansas.”

SECTION 7: Ordinance No. 1692, Section 9(g)(1), is hereby amended to read as follows:

“**SECTION 9(g)(1):** The Commission or its designated agent or the taxpayer may apply to Circuit Court of Pope County for any order compelling production of the summoned records.”

SECTION 8: Ordinance No. 1692, Section 9(h)(3), is hereby amended to read as follows:

“**SECTION 9(h)(3):** Refusal to permit the Commission or its designated agent to examine books, records, and other documents pursuant to this Section shall be deemed a violation of this Ordinance and subject to penalties described in Section 11 of Ordinance No. 1692.”

SECTION 9: Ordinance No. 1692, Section 8(f), is hereby deleted.

SECTION 10: Severability. The provisions of this Ordinance are declared to be severable. If any section, sentence, clause, or phrase of the Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decisions shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect; it being the legislative intent that this Ordinance shall remain in effect notwithstanding the validity of any part.

ORDAINED, this 18th day of March, 2010.

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TYRONE WILLIAMSON
TYRONE WILLIAMSON, MAYOR

ATTEST:

Kathy Collins
KATHY COLLINS, CITY CLERK

I, Kathy Collins, City Clerk of Russellville, Arkansas, hereby certify that the above and foregoing is a true and correct copy of Ordinance No. 2077 passed by the City Council of the City of Russellville, Pope County, Arkansas, on the 18th day of March, 2010.

APPROVED AS TO FORM:

William F. Smith III
WILLIAM F. SMITH III, CITY ATTORNEY



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SECTION 14: The City Council of the City of Russellville, Arkansas, finds that the immediate implementation of this Ordinance is necessary to aid the Advertising and Promotion Commission of the City of Russellville, Arkansas, in the collection of the A&P tax and enforcement of Ordinance No. 1692 which the City Council finds is essential to protect the public peace, health, safety, and welfare of the residences of City of Russellville, Arkansas, and; therefore, an emergency is hereby declared in order to allow this Ordinance to go into effect on immediately upon and after passage and publication.

ORDAINED, this 18th day of March, 2010.



TYRONE WILLIAMSON
TYRONE WILLIAMSON, MAYOR

ATTEST:

Kathy Collins
KATHY COLLINS, CITY CLERK

I, Kathy Collins, City Clerk of Russellville, Arkansas, hereby certify that the above and foregoing is a true and correct copy of Ordinance No. 2077 passed by the City Council of the City of Russellville, Pope County, Arkansas, on the 18th day of March, 2010.

APPROVED AS TO FORM:

William F. Smith III
WILLIAM F. SMITH III, CITY ATTORNEY

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