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TITLE – CITY BUSINESS PERMITS AND REGULATIONS CODE
[Adopted by Ordinance No. 2513]

ARTICLE I GENERAL

CHAPTER 1 GENERAL

ARTICLE II BUSINESS PERMITS AND REGULATIONS

- CHAPTER 1 RESERVED**
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TITLE - CITY CODE FOR BUSINESS PERMITS AND REGULATIONS

ARTICLE I – GENERAL

CHAPTER 1 – GENERAL

SECTION 1: TITLE

- 1.1** This Code shall be known as, referred to and cited as “The City of Russellville, Arkansas, Code for Business Permits and Regulations.” Any reference to the word “Code” in this Chapter shall mean this Title and all Articles contained therein.

SECTION 2: PRIOR ACTS OF THE CITY ELECTED OFFICIALS, CITY EMPLOYEES AND SAVINGS

- 2.1** The repeal of any prior ordinance or portion thereof by adoption of this Code shall not affect or impair any act done or right vested or accrued before such repeal takes effect but every such act done or right vested or accrued shall remain in full force and effect to all intents and purposes as if such repeal had not taken place. No act or duty performed in the past by any City officials or employees shall be deemed invalid while the City officials or employees were operating under the authority of state law, prior ordinances or part thereof that are repealed by this Code. All acts prior to the passage of this Code viewed within all respects as if such prior ordinances or part thereof had not been repealed.
- 2.2** The repeal or amendment of prior ordinances does not release or extinguish any penalty, forfeiture, or liability incurred or right accruing or accrued under prior ordinances, unless the repealing or amending act so provides expressly. Those prior ordinances shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of the right, penalty, forfeiture, or liability.
- 2.3** The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.

SECTION 3: SEVERABILITY

- 3.1** If any Code, Article, Chapter, Section, Subsection, Provision, Paragraph, Sentence, Clause, or Phrase of this Code is declared unconstitutional or invalid for any reason by a court of competent jurisdiction, such decision shall not affect the validity of the remaining parts of this Code.

SECTION 4: AMENDMENTS TO CODE.

- 4.1** All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code, may be numbered in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repealed titles, chapters, sections or subsections or any part thereof, by subsequent ordinances, such

repealed portions may be excluded from the Code by omission from reprinted pages affected thereby.

- 4.2** Amendment to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section of the City of Russellville, Arkansas, Code for Business Permits and Regulations is hereby amended to read as follows:..." The new provisions shall then be set out in full.
- 4.3** In the event a new section not heretofore existing in this Code is to be added, the following language shall be used: "That the Code for Offenses Code for Business Permits and Regulations is hereby amended by adding a section (or Codes or chapter) to be numbered which said section (or Code or chapter) reads as follows: The new provisions shall then be set out in full.
- 4.4** All sections, codes, chapters or provisions desired to be repealed must be specifically repealed by section, code, or chapter number, as the case may be.

SECTION 5: REPEALER

- 5.1** Ordinance Nos. 813, 1406, 1467, 1811 and 1915 are hereby repealed in their entirety.

SECTION 6: VIOLATION PENALTIES.

- 6.1** Unless stated elsewhere specifically in a Chapter or Section, pursuant to A.C.A. §14-55-501, any person violates any Section of this Code shall be guilty of a misdemeanor and shall be liable to a fine of not less than \$100.00, up to, but not exceeding:

- 6.1.1** One thousand dollars (\$1,000.00) for the first offense;
- 6.1.2** Two thousand dollars (\$2,000.00) for the second offense;
- 6.1.3** Four thousand dollars (\$4,000.00) for each subsequent offense after the second offense;
- 6.1.4** Plus court costs and applicable fees.

- 6.2** Each day such violation is permitted to exist shall constitute a separate offense.

- 6.3** If it is found that any violation of this Code is found to be continuous in respect to time, the fine or penalty for allowing the continuous thereof, in violation of this Code, shall not exceed five hundred dollars (\$500.00) for each day that it is unlawfully continued, plus court costs and applicable fees.

SECTION 7: DEFINITIONS.

The following definitions shall apply throughout this Title and Code:

- 7.1** "A.C.A." mean the abbreviation "A.C.A." means the Arkansas Code of 1987 Annotated, as amended or revised in the future.
- 7.2** "City", "municipal corporation" or "municipality" means the City of Russellville, Arkansas, a municipal corporation organized and incorporated under the laws of the State of Arkansas.

- 7.3** “*City council*” or “*council*” means the term "city council" or "council" means the City Council of the City of Russellville, Arkansas, organized as a Mayor-Council form of city government.
- 7.4** “*Code*” means a Code or all the various Codes contained in this Title.
- 7.5** “*County*” means Pope County, Arkansas.
- 7.6** “*Emancipated Juvenile*” means a juvenile who no longer has a parent-child relationship as a result of marriage, or as a result of being recognized as an adult by order of a court of competent jurisdiction.
- 7.6** “*Juvenile*” means any unemancipated or unmarried person under the age of eighteen (18) years of age.
- 7.7** “*Law Enforcement Officer*” or “*Police Officer*” as used in this Title and Code shall mean any appointed or elected law enforcement officer employed by the City public law enforcement department, office, or agency who: 1) is responsible for the prevention and detection of crime and the enforcement of the criminal, traffic, or highway laws of this state; 2) has met the selection and training requirements for certification set by the Arkansas Commission on Law Enforcement Standards and Training; and 3) vested by law with a duty to maintain order or to make arrests for offenses.
- 7.8** “*Minor*” means any unemancipated or unmarried person under the age of eighteen (18) years of age.
- 7.9** “*Motor vehicle*” means a self-propelled device or vehicle in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks
- 7.10** “*Parent*” means any person having legal custody of a juvenile: i) as a natural parent; ii) as an adoptive parent; iii) as a legal guardian; or, iv) as a person to whom legal custody has been given by order of a court.
- 7.11** “*Permit*” or “*License*” means a written document given by the City that grants a person or business the authority to perform certain activities within the city limits in return for a fee that ensures that laws and regulations are followed with while the business operates within the territorial jurisdiction of the City.
- 7.12** “*Person*” means any individual person or a corporation, association, partnership, limited liability company, business trust, legal representative, organized group of individuals, or other entity, institution or organization, natural, business or legal, and commonly recognized by law as a unit.
- 7.13** “*Police Chief*” means the Police Chief of the Russellville Police Department, Russellville, Arkansas, or his representative or designee.
- 7.14** “*Responsible adult*” means a person at least twenty-one (21) years of age to whom a parent has expressly given permission to accompany a juvenile.
- 7.15** “*State*” means the State of Arkansas.

7.16 “*Title*” means all of the Articles, Chapters, Subchapters, Sections and Subsections within this document.

SECTION 8: INTENT AND PURPOSE OF ARTICLE I AND CHAPTER 1

8.1 It is the specific intent and purpose of the City that all of the Sections and terms found in Article I and Chapter 1 are to be applied throughout this Title and Code to each Article, Chapter, Subchapter, Section, Subsection and every provision contained within this Title and Code.

SECTION 9: PROVISIONS CONSIDERED CONTINUATION OF EXISTING ORDINANCES

9.1 The provisions of this Title and Code, so far as they are the same as ordinances existing at the time of adoption of this Title and Code, shall be considered as a continuation of such ordinances and not as new enactments.

SECTION 10: INTERPRETATION

10.1 Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this Title and Code as those governing the interpretation of state law.

SECTION 11: REFERENCE TO OFFICES, ETC.

11.1 Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this municipality exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

SECTION 12: ERRORS AND OMISSIONS

12.1 If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express such intent, such spelling shall be corrected and such word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

SECTION 13: ORDINANCES UNAFFECTED

13.1 All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this Title and Code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

SECTION 14: RULES OF CONSTRUCTION

14.1 In the construction of this Title and Code, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the City.

- 14.1.1** *Acts by assistants.* When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, such requisition shall be satisfied by the performance of such act by an authorized agent or deputy.
- 14.1.2** *Conjunctions.* In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "*and*," "*or*" or "*either...or*," the conjunction shall be interpreted as follows, except that the terms "*and*" and "*or*" may be interchangeable when the context so requires:
- 14.1.2.1** "*And*" indicates that all the connected terms, conditions, provisions or events apply.
- 14.1.2.2** "*Or*" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.
- 14.1.2.3** "*Or, And.*" "*Or*" may be read "*and*", and "*and*" may be read "*or*" if the sense requires it.
- 14.1.2.4** "*Either...or*" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.
- 14.1.3** *Delegation of authority.* A provision that authorizes or requires a city officer or city employee to perform an act or make a decision authorizes such officer or employee to act or make a decision through subordinates.
- 14.1.4** *Gender.* Words of one gender include all other genders and to firms, partnerships, and corporations.
- 14.1.5** *Generally.*
- 14.1.5.1** When provisions conflict, the specific prevails over the general. All provisions shall be liberally construed so that the intent of the city council may be effectuated.
- 14.1.5.2** Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings shall be construed according to such meanings.
- 14.1.5.3** Provisions shall be interpreted and applied so as to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare.
- 14.1.5.4** Grammatical errors shall not vitiate, and a transposition of words and clauses may be resorted to when the sentence or clause is without meaning as it stands.
- 14.1.6** *Include, including.* The term "*include*," "*including*" or any other similar term of inclusion means without limitation or restriction.

- 14.1.7** *May*. The term "may" is to be construed as being permissive and not as being mandatory.
- 14.1.8** *May not*. The term "may not" has a prohibitory effect and states a prohibition.
- 14.1.9** *Must*. The term "must" is to be construed as being mandatory and not as being permissive.
- 14.1.10** *Number*. Words used in the singular include the plural, and the plural includes the singular number.
- 14.1.11** *Oath*. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed".
- 14.1.11** *Other City Officials or Officers*. Whenever reference is made to officials, boards, commissions, departments, etc., by title only, i.e., "clerk-treasurer", "police chief", etc., they shall be deemed to refer to the officials, boards, commissions and departments of the City.
- 14.1.12** *Shall*. The term "shall" is to be construed as being mandatory.
- 14.1.13** *Tenses*. The present tense of a verb includes the past and future tenses. The future tense includes the present tense, if applicable.

SECTION 15: ALTERING CODE

- 15.1** It shall be unlawful for any person to purposefully change or amend by additions or deletions, any part or portion of this Title and Code, or to insert or delete pages, or portions thereof, or to alter or tamper with said Title and Code in any manner whatsoever except by ordinance of the city council, which shall cause the law of the City to be misrepresented thereby.

SECTION 16: REFERENCE TO OTHER SECTIONS

- 16.1** Whenever in one section reference is made to another section hereof, such reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

SECTION 17: AUTHORITY

- 17.1** The provisions contained within this Title and Code formerly, currently or hereinafter enacted are based upon, derive authority from and are enacted pursuant to any and all of the power and authority conferred upon cities by the Arkansas Constitution and by the Arkansas General Assembly through its statutes, including, but not limited to, all of Title 14 Local Government of the Arkansas Code specifically including but not limited to Subchapter 6, Power Over Municipal Affairs of Chapter 43 Government of Cities of the First Class, Chapter 54 Powers of Municipalities, Chapter 55 Ordinances of Municipalities, Title 3, Alcoholic Beverages, Title 26 – Taxation, Subtitle 6 - Local Taxes, Chapter 77 - Municipal Occupational Taxes and Licenses and any and all other state statutes or

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constitutional provisions that provide any authority to the City to enact ordinances, codes, or regulations within or referenced by the Title and Code. No specific reference to authority within any Title and Code Chapters or Section excludes the general authority of all state law and this Section.

ARTICLE II – BUSINESS PERMITS AND REGULATIONS

CHAPTER 1 – RESERVED

CHAPTER 2 – OCCUPATIONAL TAX

SECTION 1: TITLE OF CHAPTER

- 1.1 Title.** The title of this Chapter shall be known as, referred to and cited as “The City of Russellville, Arkansas Business Permit Code (“Business Permit Code”).”

SECTION 2: FINDINGS, PURPOSE AND INTENT

- 2.1** Whereas, previous ordinances adopted by the City established a “Business Permit” which was required for all persons, partnerships, associations, companies and corporations engaging in operating a business within the city limits of Russellville.
- 2.2** Whereas, subsequent ordinances revised the certain requirements and repealed other parts of the ordinances originally establishing the business permit requirement for businesses that operate within the city limits.
- 2.3** Whereas, the City Council has determined it is the best interest of the City that the previous ordinances establishing and revising the business permit requirement for businesses operating within the city limits of the City be repealed and replaced with a modern Code requiring a business permit for all businesses operating within the city limits of the City.
- 2.4** Pursuant to the authority vested in the City of Russellville by the State of Arkansas, it is the purpose and intent of this Code to declare that the carrying on of any trade, business, vocation, or occupation of whatever kind or nature within the corporate limits of the city is hereby declared to be a special privilege. It is also the purpose and intent of the City to require any person who maintains a business location or presence within the city or engages in any trade, business, vocation, calling or occupation of whatever kind or nature within the corporate limits of the city, regardless of whether or not all functions peculiar to the business are affected within the city, to obtain an annual permit. The purposes of the business permit requirements are to register all businesses; to ascertain the owner or person responsible for the business in case of an emergency; to enhance zoning and code enforcement in all commercial and residential areas of the City; and to aid City officers in enforcing other State and local laws.
- 2.5** The City Council of the City of Russellville has determined that, to ensure proper oversight and regulation of temporary vendors at special events within city limits, all individuals or entities wishing to sell goods or services at events such as parades, festivals, or other temporary gatherings shall obtain a Temporary Vendor Permit prior to engaging in business activities as required by this Code. The issuance of a Temporary Vendor Permit does not imply any waiver or exemption from other applicable local, state, or federal laws and regulations. Vendors are required to comply with all safety, health, and zoning regulations as established by the City of Russellville.

SECTION 3: AUTHORITY

- 3.1** This Business Permit Code is approved, passed and established pursuant to the authority granted to the City of Russellville by the State of Arkansas under Ark. Code Ann. §§14-43-601, 14-43-602, 14-54-103, 14-55-101, 14-55-102, and 26-77-102 *et seq.*

SECTION 4: DEFINITIONS

- 4.1** “*Full-time employees*” means all owners or managers receiving compensation of any kind and all salaried employees and hourly wage employees working over 32 hours per week or working over 1,000 hours per year, and employees compensated by commission, piecework or other manner based upon productivity. Self-employed persons that fall into the criteria mentioned in the preceding line shall also count as full-time employees.
- 4.2** “*Mobile, Transient*” or “*Temporary Vendor*” means any vendor who can has the ability to roll, tow or drive the business off of the site at the close of business each day.
- 4.3** “*Part-time employees*” means all employees who do not qualify as full-time employees. For the purpose of the counting part-time employees in determining the permit fee, two (2) part-time employees shall count as one (1) full-time employee.
- 4.4** “*Permanent business*” means any business that does not meet the criteria in the definition of “*mobile, transient or temporary vendor*” above.

SECTION 5: PERMIT REQUIRED.

- 4.1** The City Council of the City of Russellville has determined that it is in the best interest of the City to require that all persons engaging in or operating a business within the city limits of the City of Russellville shall obtain an annual business permit prior to engaging in business.
- 4.2** No person shall be permitted to operate nor shall a permit be issued to any business, trade, vocation, calling or occupation of whatever kind or nature within the city if said person, firm or corporation is in any way indebted to the city of Russellville. Upon application for business permit, all businesses required to collect sales and use taxes under the Arkansas Gross Receipts Act and/or advertising and promotion sales taxes shall provide proof of registration with the applicable authority for the collection of said taxes.
- 4.3** Any person who conducts business at multiple locations such that each location or outlet is a separate business operation, even if a single business name or ownership, shall obtain a business permit for each location.
- 4.4** No person shall be permitted to operate nor shall a business permit be issued to any business, person, profession calling or occupation of whatever kind or nature within the City if said person is in any way indebted to the City or any of its political subdivisions. Upon application for a business permit, all businesses

required to collect sales and use taxes under the state gross receipts act or advertising and promotion sales taxes, if applicable, shall provide proof of registration with the applicable authority for the collection of said taxes.

- 4.5** No business permit shall be issued to any person engaging in a business if said business is required to be operated in an area of the city zoned for that particular business and said business is not being operated in an area of the city properly zoned for that particular business.
- 4.6** Each location of the principal business shall constitute a separate unit of such principal business. The City shall collect a separate fee for each location of the principal business within the City. The fee charged shall be determined according to the classification schedule, with the appropriate charge applying to each location and not only the principal location. The City shall issue separate business permits for the principal location and each additional location.
- 4.7** Any person engaging in more than one (1) business and for which a business permit is required of each, shall pay for and take out license for each such business. There will be no exception for more than one (1) business operated on the same premises.
- 4.8** No city business permit shall be issued upon any machine, device, game or mechanical vendor until a state license has been issued thereon where a state license is required by law.

SECTION 5: REPORTING.

- 5.1** It shall be unlawful for any person to willfully make a false report to the City relative to any provision or requirement of any article as affects the obligation for paying a business permit or the amount thereof.

SECTION 6: EXEMPTIONS

- 6.1** The following shall be exempt from the provisions of this Business Permit Code:
 - 6.1.1** Fall Fest;
 - 6.1.2** Taste of the Valley;
 - 6.1.3** Farmers Market; or,
 - 6.1.4** Any other City sponsored event where vendors are regulated through the event.

SECTION 7: PERMIT PROCEDURES.

- 7.1** This are the permitting procedural requirements for the City business permit.
 - 7.1.1 Application.** All permits required by this Ordinance shall be obtained from and issued by the Permitting Office designated by the City of Russellville.
 - 7.1.2 Term of Permit.** Permits shall be issued by the calendar year.
 - 7.1.3 Other Documents Required.** If a county, state or federal license or permit is required to carry on a type of business activity, the license or

permit must be presented when applying for a business license. A valid copy of the license or permit must be kept on file in the Permitting Office.

- 7.1.4 Valid Location Required.** If mobile, contractor physical location of the office will be sufficient.
- 7.1.5 Written permission for Vendor to be Present.** Written permission from the property owner allowing the vendor to conduct business for all Roadside vendors such as Food Trucks or any other mobile business requiring a physical location to offer their services will be required.
- 7.1.6 Hard Surface Operations.** Roadside Vendors requiring physical location must show proof of sufficient hard surface parking.
- 7.1.7 Acquisition Time.** Any person carrying on of any business, trade, vocation, occupation, or calling of whatever kind or nature within the corporate limits of the City of Russellville, Arkansas, shall obtain a permit annually prior to January 31.
- 7.1.8 Proration.** Any new person carrying on of any business, trade, vocation, occupation, or calling of whatever kind or nature within the corporate limits of the City of Russellville, Arkansas, after January 31, shall pay a monthly prorated permit fee.
- 7.2 Annual Renewal Process and Delinquency.** Applications for business permit renewal will be distributed in December or must be obtained from the Permitting Office. Each application shall be completed by the owner, manager, or person responsible for the operation of the business and returned to the Permitting office no later than January 31 with the calculated fee. Any business permit not received prior to January 31 shall be delinquent.
- 7.3 Temporary Vendor Permit Requirements.** Any person intending to operate as a vendor at a designated event within the City must apply for and obtain a Temporary Vendor Permit for the specific event. Permits will be valid only for the duration of the event and will not extend to any future or ongoing business activities.
- 7.4 Eligibility.** The following conditions apply for a Temporary Vendor Permit.
 - 7.4.1** Only event-related merchandise may be sold under the vendor permit.
 - 7.4.2** No Temporary Vendor Permit shall be issued if the applicant is indebted to the City of Russellville or is not in compliance with other applicable city regulations.
- 7.5 Multiple Locations or Booths.** Vendors operating multiple booths or stations at the event shall obtain a separate permit for each location, even if under the same ownership or business name.
- 7.6 Placement of Permit.** Each permit shall be displayed in a conspicuous location for the duration of the event.

7.7 Application Deadline. All applications for a Temporary Vendor Permit must be submitted no later than ten (10) business days prior to the event to allow for proper processing and approval.

SECTION 8: FEE DETERMINATION.

8.1 Any person carrying on of any trade, business, vocation, or occupation of whatever kind or nature within the corporate limits of the city shall pay the associated fee for the permit required by this Code. The fee is calculated based on the number of employees employed within the corporate limits of the city based upon the following schedule.

8.1.1 0-3 employees	\$25.00
4-10 employees	\$50.00
11-25 employees	\$100.00
26-99 employees	\$200.00
100 or more employees	\$400.00
Temporary Vendor Permit	\$25.00

8.2 If any trade, business, vocation, calling or occupation of whatever kind or nature within the corporate limits of the city engages in the business of selling or serving alcohol for retail sales shall pay based on the table above and also an additional \$500.00 for its permit fee.

SECTION 9: DELINQUENT PENALTY.

9.1 If the business permit fee required by this Code is not received prior to January 31 then it shall be delinquent and ten percent (10%) of the unpaid fee shall be added as a penalty for nonpayment. If the business permit fee required by this Code is not received prior to sixty (60) days after such becomes due, it shall be delinquent and a penalty of thirty percent (30%) shall be added to the business permit fee.

SECTION 10: GARAGE/YARD SALES.

10.1 Property owners shall be allowed to, on a limited basis, carry on the sale of merchandise in the form of garage sales, porch sales, rummage sales or any similar type sales as long as the provisions of this ordinance are followed.

10.2 The property sold at the sale must be personal property owned by the person or persons conducting said sale, and shall not be property that was purchased for the purpose of resale. No permit shall be required for a garage sale or other similar sale. Said sales shall be for a maximum of three (3) days and no person shall engage in garage sales of this nature more than three (3) times per year.

10.3 No signs advertising said sale will be placed on utility poles, trees or street right-of-way and no such signs will be placed on private property without written authorization by the owner of said private property. Any signs put up shall be removed within twenty-four (24) hours after termination of sale.

SECTION 11: PERMIT REVOCATION.

- 11.1** The City, thought the appropriate or designated official or officer, may suspend or revoke a business or permit when the licensee, officer or partner thereof, or another person with a legal interest in the business permit:
 - 11.1.1** Knowingly causes, aids, abets, or conspires with another to cause any person to violate any of the laws of this state or the City which may affect or relate to the permitted business;
 - 11.1.2** Has obtained a business permit by fraud; misrepresentation, concealment, or though inadvertence or mistake;
 - 11.1.3** Is convicted of, forfeits bond upon, or pleads guilty to any offenses related to the operation of the permitted business;
 - 11.1.4** Makes a misrepresentation or fails to disclose a material fact to the city related to any of the obligations set forth in this Business Permit Code;
 - 11.1.5** Violates any building, safety, fire or health regulation on the premises in which the business is located after receiving warning from the City to refrain from such violation;
 - 11.1.6** Is in violation of a zoning or land subdivision or development regulation of the City;
 - 11.1.7** Is indebted or obligated to the City for past due fees or taxes
 - 11.1.8** Maintaining a nuisance or unsanitary premises; or
 - 11.1.9** Engaging in or permitting disorderly conduct on the premises where the business is permitted.
- 11.2** No new business permit shall be issued to the former permittee, and, the former permittee, their heirs, successors and assigns, shall not operate the same or similar business within the City until such condition which led to the revocation is corrected.

SECTION 12: ENFORCEMENT.

- 12.1** The City's Code Enforcement officers, Building Official or Deputy Building Official, and Police Officers are hereby authorized to enforce the provisions of this Code.

SECTION 13: NON-TRANSFERABLE.

- 13.1** No permit issued under this Code shall be transferred or assigned, except from one location to another location, and no permit shall be transferred in any event from one business to another. The permits issued shall so state on the face of the permit.
- 13.2** Upon the sale, merger, or transfer of ownership of a business, a new owner must register and apply for a new business permit within thirty (30) days of the date of transfer and/or re-opening of the business.

SECTION 14: DISPLAY.

- 14.1** Each permit shall be posted in a conspicuous place where such business is carried on and the holder of such permit shall immediately show the same to any officer of the city upon being requested to do so.

SECTION 15: PERMIT NOT CONSTRUED TO PERMIT PROHIBITED USES OR ACTIVITIES.

- 15.1** Notwithstanding any provision to the contrary, a business permit hereunder shall not be issued to any person who uses or occupies or proposes to use or occupy any real property or otherwise conducts or proposes to conduct any business in violation of the provisions of any ordinance or code of the City or the statutes of the state. The granting of a business permit shall in no way be construed as permission or acquiescence in a prohibited activity or other violation of the law.

SECTION 16: PENALTIES.

- 16.1** It is hereby declared a misdemeanor for any person carrying on a business, profession or occupation within the City to fail or refuse to comply with any of the provisions of this Code. Any person violating the provisions of this Code or any person who makes a false affidavit or statement or report or application to the City as part of the procedures of this Code shall be deemed guilty of a misdemeanor and fined in accords with the provisions of this Title, specifically, Article I, Chapter 1, Section 6.

SECTION 17: CUMULATIVE TO OTHER CITY TAXES AND FEES.

- 17.1** The fees and taxes assessed by this Business Permit Code shall in no way bar collection for any other federal, state or city taxes or fees.

CHAPTER 3 – CITY PRIVATE CLUB PERMIT CODE

SECTION 1: TITLE

- 1.1 The title of this Chapter shall be known as, referred to and cited as “The Private Club Permit Code for the City of Russellville, Arkansas (“Private Club Permit Code”).”

SECTION 2: FINDINGS, PURPOSE AND INTENT

- 2.1 The legislature for the State of Arkansas passed Act 1112 of 2017 which now requires under A.C.A. §3-9-222 local city council approval of all applications for a private club permit prior to them being submitted to the Alcoholic Beverage Control Division.
- 2.2 The City Council of the City of Russellville, Arkansas (“City”), hereby establishes a procedure for this approval process to be in compliance with Act 1112 of 2017.
- 2.3 Title 3 of Arkansas Code relating to Alcoholic Beverages recognizes the power of local governmental bodies to regulate the operation of establishments under that Title as may be necessary for the protection of the public health, safety and welfare.
- 2.4 Chapter 9 of Title 3 of the Arkansas Code authorizes cities to charge a private club permit fee and levy a tax and supplemental tax on the sales of alcoholic beverages at the permitted premise.

SECTION 3: AUTHORITY

- 3.1 This Chapter and Private Club Permit Code is passed pursuant to the authority granted to the City of Russellville by the State of Arkansas under A.C.A. §3-9-201 *et. seq.*, and specifically Act 1112 of 2017.

SECTION 4: DEFINITIONS

These terms shall have the following meanings for the purpose of this Chapter and Private Club Permit Code:

- 4.1 “*Alcoholic Beverages*” means all intoxicating liquors of any sort, including beer and wine.
- 4.2 “*Controlled Beverages*” means all beverages of any kind subject to regulation under any alcoholic beverage control law of the State of Arkansas and this Ordinance.
- 4.3 “*On-premises Consumption*” means the sale or dispensing of alcoholic beverages by the drink or in opened or unsealed containers for consumption on the premises where sold or dispensed.
- 4.4 “*Permit*” means any authorization issued by any law passed by the General Assembly of the State of Arkansas; the Alcoholic Beverage Control Division of the State of Arkansas or by the city pursuant to any Arkansas Alcoholic Beverage Control Division regulation or this Ordinance whether described as a permit, license or otherwise.

- 4.5** “*Permittee*” means the person to whom a permit or license to sell, dispense, or distribute alcohol has been granted.
- 4.6** “*Private Club*” means a nonprofit corporation organized and existing under the laws of this state authorized to serve alcohol by the State of Arkansas and the Alcoholic Beverage Control Division.

SECTION 5: PERMITS REQUIRED

- 5.1** It shall be unlawful for any person to engage in the business of distributing, selling, or dispensing within any private club for on-premises consumption, any controlled beverage, within the City without a permit issued by the City, or with an expired permit.
- 5.2** The provisions of this Chapter and Private Club Permit Code shall not apply to the manufacture, sale, and distribution of wines or vinous liquors manufactured, sold, and distributed by residents of Arkansas.

SECTION 6: APPLICATION FOR PRIVATE CLUB PERMITS

- 6.1** An application for a private club permit required by this Chapter and Private Club Permit Code shall be in writing on a form prescribed by the City and shall be accompanied by the required fee and a copy of the applicant’s state private club permit application. A copy of the private club permit application will be available at the Finance Department and on the City’s website.
- 6.2** Only one location per application.
- 6.3** The application shall be submitted to the City with a one time, non-refundable application fee in the amount of \$750.00. This fee is completely separate from any licensing fees which may later be due to the City of Russellville to operate a business in the City of Russellville.
- 6.4** No City permit will be issued until approved by the City Council by ordinance.
- 6.5** It shall be unlawful for any person to make any false statement or representation in any application required by this section or to give any false answer to any question contained therein.
- 6.6** It shall be unlawful to operate a private club or sell alcoholic beverages for on-premises consumption in Russellville before being permitted by the appropriate State agency.
- 6.7** Permits required by this Chapter and Private Club Permit Code shall run for one (1) calendar year. Annual permit renewal fees of \$750.00 shall be due and payable starting December 1st thru December 31st of each year for the succeeding year beginning January 1st.
- 6.8** The City will not issue or renew any permits pursuant to this Section until all outstanding supplemental beverage taxes, if applicable, are paid.
- 6.9** All permits issued by the City pursuant to this Chapter and Private Club Permit Code shall be prominently displayed on the permitted premises by the permittee in the same manner as required by the state for state permits.

- 6.10** When any State permit is revoked by the state or required to be returned to the State for any reason, the City permit shall be returned to the City. The City will restore the permit upon proof that the State permit has been restored to the applicant, provided that no reclaimed permit will be restored to an applicant until all outstanding advertising and promotion taxes and/or supplemental beverages taxes, if applicable, are paid.
- 6.11** All fees taxes and penalties received by the City pursuant to this chapter shall be used for general purposes within the City of Russellville pursuant to A.C.A § 3-9-223(f).
- 6.12** Permits shall not be transferable or assignable unless and until approval is granted by the Alcoholic Beverage Control Division and notice is provided to the City of Russellville and all other requirements of this ordinance are met.
- 6.13** A City permit, if granted, shall be specific to the proposed location and to the applicant listed in the application.

SECTION 7: RIGHT OF CITY TO INSPECT RECORDS

- 7.1** The Finance Director or their designee of the City shall have the right to inspect and examine the records of any permittee subject to any tax or permit fee based on the gross sales or receipts pursuant to A.C.A. §3-2-211 and any other employee information required pursuant to the regulations of the Alcoholic Beverage Control Division, Title 1, Subtitle G, Section 1.70(37).

SECTION 8: FRAUD AND MISREPRESENTATION BY APPLICANT

- 8.1** Any person who acquires a permit or a renewal of same in violation of this Chapter and Private Club Permit Code by any misrepresentation or fraudulent statement shall be deemed guilty of an offense and upon conviction thereof shall be punished in accordance with the penalties outlined in this Title and Code.
- 8.2** Any untrue or misleading information contained in, or material omission left out of, an original, renewal or transfer Application for a permit shall be cause for the denial thereof and, if any Permit has been granted under these circumstances, there shall be cause for the revocation of the same.

CHAPTER 9: PAYMENT OF FEE

- 9.1** The Permit fee paid must be paid of the date of the delivery of the Application to the City.
- 9.2** The Permit fee shall be paid to the Finance Department.

**SECTION 10: BUSINESS OPENING WITHIN SIX MONTHS FROM PERMIT;
ISSUANCE REQUIRED**

- 10.1** All holders of Permits shall, within six (6) months after the issuance of the Permit, open for business the establishment referred to in the Permit and begin dispensing the products authorized by the Permit. Failure to open the establishment and begin business as referred to above within the six (6) month period shall serve as automatic forfeiture and cancellation of the unused Permit, and no refund of Permit fee shall be made to the Permit holder.

SECTION 11: EFFECT OF FAILURE TO OPERATE BUSINESS FOR SIX (6) CONSECUTIVE MONTHS

- 11.1** Any holder of a Permit who shall begin the operation of the business and dispensing the products as authorized in the Permit, but who shall, for a period of six (6) consecutive months thereafter, cease to operate the business or dispensing the products authorized in the Permit, shall upon completion of the six (6) month period automatically forfeit the Permit, which Permit shall, by virtue of that failure to operate, be canceled without the necessity of any further action of the City.

SECTION 12: DISPENSING ALCOHOLIC BEVERAGES OUTSIDE OF PERMITTED PREMISES

- 12.1** It shall be unlawful for any alcoholic beverage to be dispensed, or otherwise provided outside of the enclosed building, premise or place of business permitted for such unless such place permitted is located within the City's Downtown Entertainment District.

SECTION 13: SAME PAYMENT DATES; PRORATION

- 13.1** All Permit fees shall be paid between December 1st and December 31st of each year. Permits obtained after July 1st of each year shall pay one half of the annual fee. Delinquent Permit fees shall be subject to a delinquent penalty of twenty-five (25%) percent of the Permit fee for each thirty (30) day period the fee remains unpaid.

SECTION 14: TERM OF PERMIT

- 14.1** No Permit shall Issue for more than the remainder of the calendar year, and all shall expire at midnight, December 31 of each year. In case of the revocation or surrender of such Permit before the expiration of such calendar year period, the holder thereof shall not be entitled to receive any refund whatsoever.

SECTION 15: TRANSFERABILITY OF PERMITS

- 15.1** Permits shall not be transferable, except as otherwise provided herein.
- 15.2** All Applications for transfer of locations shall comply with the provisions herein set forth governing new Permits.

SECTION 16: NOTICE OF TRANSFER OF BUSINESS

- 16.1** Should any Permit holder make a request to the Alcoholic Beverage Control Division to transfer their permit to another location, individual or organization, the Police Chief shall be notified in writing of such request within seven (7) days.

SECTION 17: DISPLAY OF PERMIT

- 17.1** Every person or organization issued a Permit pursuant to this section shall be required to display this Permit in the same location as is displayed the State Controlled Beverage Permit.

SECTION 18: SUSPENSION OR REVOCATION OF PERMIT

- 18.1** Whenever the State shall revoke any Permit, the City Permit to deal in such products shall thereupon be automatically revoked without any action by the City or any municipal officer.
- 18.2** Should any person, firm or corporation that operates a business which is subject to the requirements of the Advertising & Promotions tax found in the City Administration Code, Title I, Article II, Chapter 2, adopted by Ordinance No. 2460, and its enabling statutes, failed to obtain any permits required for that type of business, then the City Alcohol Beverage Permit shall thereupon be automatically revoked.
- 18.3** Should any person, firm or corporation that operates a business which is subject to the requirements of the Advertising & Promotions tax found in the City Administration Code, Title I, Article II, Chapter 2, adopted by Ordinance No. 2460, and its enabling statutes, become subject to unsatisfied Certificates of Indebtedness filed pursuant to the Advertising & Promotions ordinance and statutes, then the City Alcohol Beverage Permit shall thereupon be automatically revoked.

SECTION 19: TYPE OF PERMIT COVERED BY ORDINANCE AND HOURS OF OPERATION

- 19.1** *Private club permit.* Authorizes the purchase of any controlled beverages from persons holding an off-premises retail liquor or beer permit who have been designated by the director of the State Alcoholic Beverage Control Board as a private club distributor, and authorizes the dispensing of such beverages for consumption on the premises of the private club to members and guests only of the private club.
- 19.2** *Hours of operation.* Hours of operation shall be in conformance with state statute, including Title 3 of the Arkansas Code relating to Alcoholic Beverages.

SECTION 20: LEVY OF ALCOHOLIC BEVERAGE SUPPLEMENTAL TAX UNDER THE AUTHORITY OF A.C.A. §3-9-223(b)(1).

- 20.1** There is hereby imposed and levied under the authority of A.C.A. §3-9-223(b)(1) a City tax of five percent (5%) upon the annual gross proceeds or annual gross receipts which are derived by such private club from charges to the members or their guests for the following services drawn from the private stocks of the members as provided for in A.C.A. §3-9-221, for consumption only on the premises where served:
- 20.1.1** For the preparation and serving of mixed drinks, and
- 20.1.2** For the cooling and serving of beer, light wine, and wine.
- 20.2** The City's supplemental tax in this Section is in addition to the state supplemental tax on private clubs and shall be paid to the Finance Department of the City, shall be due monthly at the same time that the state supplemental tax is due, and shall be accompanied by one (1) copy of the state supplemental tax return. If any

permittee shall fail to remit the City supplemental tax within the time period that the state supplemental tax is due, a penalty of ten percent (10%) of the supplemental tax due shall be due and payable in addition to the supplemental tax.

SECTION 21: LEVY OF ALCOHOLIC BEVERAGE SUPPLEMENTAL TAX UNDER THE AUTHORITY OF A.C.A. §3-9-223(b)(2).

21.1 In addition to Section 20, there is hereby imposed and levied under the authority of A.C.A. §3-9-223(b)(2) a City supplemental tax of two percent (2%) upon the annual gross receipts which are derived by such private club from charges to the members or their guests for the following drawn from the private stocks of the members as provided for in A.C.A. §3-9-221, for consumption only on the premises where served:

21.1.1 For the preparation and serving of mixed drinks

21.2 The City's supplemental tax in this Section is in addition to the state supplemental tax on private clubs and shall be paid to the Finance Department of the City, shall be due monthly at the same time that the state supplemental tax is due, and shall be accompanied by one (1) copy of the state supplemental tax return. If any permittee shall fail to remit the City supplemental tax within the time period that the state supplemental tax is due, a penalty of ten percent (10%) of the supplemental tax due shall be due and payable in addition to the supplemental tax.

SECTION 22: PENALTY

22.1 Any person violating the provisions of this Chapter and Private Club Permit Code or any person who makes a false affidavit or statement or report or application to the City as part of the procedures of this Chapter and Private Club Permit Code shall be deemed guilty of a misdemeanor and upon conviction be fined in according with the provisions of this Title and Code.

SECTION 23: CUMULATIVE TO OTHER CITY TAXES AND FEES.

23.1 The fees and taxes assessed by this Chapter and Private Club Permit Code shall in no way bar collection for any other federal, state or city taxes or fees.

CHAPTER 4 – CITY DESIGNATED ENTERTAINMENT DISTRICT CODE

SECTION 1: TITLE

- 1.1** This Chapter shall be titled, known as, referred to and cited as the “City of Russellville Downtown Designated Entertainment District Code (“Entertainment District Code”).”

SECTION 2: FINDINGS, PURPOSE AND INTENT

The City Council of the City of Russellville hereby finds and declares that:

- 2.1** The State of Arkansas passed into law Act 812 of 2019, hereinafter referred to as "Act 812," to promote hospitality and tourism; to establish areas of a city or town that highlight restaurant, entertainment, and hospitality options; to establish temporary or permanent designated entertainment districts; and for other purposes.
- 2.2** The State of Arkansas passed into law Act 874 of 2021, hereinafter referred to as "Act 874," which amended the definition concerning the creation of a designated entertainment district to read "contains any number and any combination of restaurants, taprooms, taverns, entertainment establishments, hospitality establishments, music venues, theaters, bars, private clubs, art galleries, art studios, tourist destinations, distilleries, dance clubs, cinemas, or concert halls.
- 2.3** "Act 874" also amended the definition concerning the creation of a designated entertainment district by a city, municipality, or incorporated town to read "A city, a municipality, or an incorporated town collecting a gross receipts tax on prepared food or hotel and motel accommodations under A.C.A. §§ 26-75-602 to 26-75-613 and located in a county with established entities authorized by the Alcoholic Beverage Control Division to sell alcoholic beverages.”
- 2.4** The City of Russellville has previously established the Russellville Advertising & Promotion Commission and currently collects a gross receipts tax on hotel and motel accommodations.
- 2.5** There currently exists within the proposed entertainment district the Fat Daddy’s Bar-B-Que Restaurant at 104 North Denver Avenue, Russellville, Arkansas, which holds an active on premise alcoholic consumption permit to sell alcoholic beverages; The Old Bank Restaurant at 218 West Main Street, Russellville, Arkansas, which holds an active on premise alcoholic consumption permit to sell alcoholic beverages; B Street Bakery and Deli at 311 West B Street, Russellville, Arkansas, which holds an active on premise alcoholic consumption permit to sell alcoholic beverages; and Pasta Grill Restaurant at 319 West Main Street which holds an active on premise alcoholic consumption permit to sell alcoholic beverages.
- 2.6** "Act 812" together with "Act 874" allows the Council to establish an entertainment district within the corporate limits of the City of Russellville, Arkansas.

- 2.7 The City Council has considered the merits of establishing such a district and believes that it will benefit the downtown area.
- 2.8 The City Council believes that the creation of an entertainment district will help promote an atmosphere aimed at facilitating business and promoting tourism.
- 2.9 The City Council finds that other cities, have had success with such districts, and believes that it is in the best interest of the City of Russellville, Arkansas, to provide for the creation of such a district as provided in this Chapter and Entertainment District Code.
- 2.10 Nothing herein is intended to confer any rights or entitlement. Selling alcohol within an area designated as an entertainment district is a privilege, not a right, and is subject at all times to reasonable regulation by local, state, and federal authorities; and,
- 2.11 Subject to the terms and limitations of state laws and this Chapter and Entertainment District Code, the City of Russellville, Arkansas, wishes to establish an entertainment district in the downtown area.

SECTION 3: AUTHORITY

- 3.1 This Chapter and Entertainment District Code is enacted pursuant to the authority granted to the City by the State of Arkansas by way of Act 812 of 2019, Act 874 of 2021, A.C.A §§3-2-206(f), 5-71-212(e) and 14-54-1412.

SECTION 4: DEFINITIONS

For the purpose of interpreting this Chapter and Entertainment District Code, certain words or terms are herein defined. Except as defined herein, all other words used in this Chapter and Entertainment District Code shall have their customary dictionary definition.

- 4.1 “*Alcoholic beverages*” means beer, controlled beverages, hard cider, wine, light wine, malt liquor, native beverage or spirituous or vinous beverages as defined by the Alcoholic Beverage Control Division Rules.
- 4.2 “*Alcoholic Beverage Control Division*” means a government section within the Arkansas Department of Finance and Administration with the powers and duties of regulation, supervision and control of the manufacture, distribution and sale of all alcoholic beverages and the issuance of permits, and the regulation thereof, in pursuit of those duties and powers, within the State of Arkansas.
- 4.3 “*Customer*” means patron, guest or member of a permittee authorized by the Alcoholic Beverage Control Division by permit to serve for retail sale to the public alcoholic beverages for on premise consumption.
- 4.4 “*Entertainment district*” means a physical area within the City of Russellville, Arkansas, designated by ordinance to allow for the consumption of alcoholic beverages within the designated district parameters subject to City regulations as allowed by Act 812 of 2019, Act 874 of 2021, A.C.A §§3-2-206(f), 5-71-212(e) and 14-54-1412.

- 4.5** “Permittee” or “permitted premises” means a business establishment which holds or has been issued a permit from the Alcoholic Beverage Control Division that allows the establishment to sell alcoholic beverages to the public.

SECTION 5: CREATION AND ESTABLISHMENT OF AN ENTERTAINMENT DISTRICT.

- 5.1** The City Council does hereby create and establish a permanent entertainment district in downtown City of Russellville, Arkansas, with the area within the described exterior boundaries as set forth as follows:

“Starting at the intersection of North El Paso Avenue and West Parkway Drive; thence south on North El Paso Avenue to the intersection of North El Paso and West “B” Street; thence west along West “B” Street to the intersection of West “B” Street and North Fargo; thence south to the intersection of Fargo Avenue and West Main Street; thence east on West Main Street to the intersection of West Main Street and Denver Avenue; thence south on South Denver Avenue to the intersection of South Denver Avenue and West 2nd Street; thence east on West 2nd Street to the intersection of South Commerce Avenue and West 2nd Street; thence south along South Commerce Avenue to the intersection of South Commerce Avenue and West 3rd Street; thence east along West 3rd Street to the intersection of West 3rd Street and State Highway 7; thence north on State Highway 7 to the intersection of State Highway 7 and Parkway Drive; thence west on West Parkway Drive to the intersection of West Parkway Drive and North El Paso Avenue; to the point of beginning. All avenues, streets and highways mentioned in the preceding sentence as the exterior boundaries of the designated entertainment district shall not be considered as part of the designated entertainment district.

LESS AND EXCEPT the Pope County Courthouse and its parking lot immediately north of and adjacent with the Pope County Courthouse

As illustrated and designated on the map labeled Exhibit A, with the boundaries marked in white and the enclosed area within the white boundaries as the designated entertainment district; also illustrated and designated on the map labeled Exhibit B, with the boundaries marked in red and the enclosed area in red within the red boundaries as the designated entertainment district; and lastly illustrated and designated on the map labeled Exhibit C, with the boundaries marked in red and the enclosed area within the red boundaries as the designated entertainment district; all

of Exhibits A, B and C are incorporated herein by reference.” [Amended by Ordinance No. 2490]

- 5.2** The physical boundaries of the permanent entertainment district shall be clearly marked with pavement markings or signage, or both.
- 5.3** Trash and recycling receptacles shall be placed at the boundaries of the entertainment district as needed.

SECTION 6: CONSTRUCTION OF CHAPTER AND ENTERTAINMENT DISTRICT CODE

The described boundaries in Section 5, Exhibits A, B and C and the rest of this Chapter and Entertainment District Code shall be liberally construed and applied:

- 6.1** To establish a defined uniform designated entertainment district pursuant to A.C.A. §14-54-1412 and its underlying purposes and policy,
- 6.2** To fulfill the true intent and meaning of this Chapter and Entertainment District Code in establishing a designated entertainment district so that the Chapter and Entertainment District Code may be fully carried out; and
- 6.3** In a cumulative and harmonious way when interpreting and identifying the designated entertainment district in described in Section 5 and Exhibits A, B and C of this Chapter and Entertainment District Code.

SECTION 7: OUTSIDE CONSUMPTION OF ALCOHOLIC BEVERAGES PERMITTED; CONDITIONS

- 7.1** All permittees shall comply with all laws, rules, and regulations which govern its permit type, except that a customer of that permittee may exit the permitted premises into the entertainment district with one (1) alcoholic beverage in their possession between the hours of 10:00 a.m. and 12:00 midnight on Sundays through Saturdays, subject to the regulations contained in Subsection 4.2.
- 7.2** All establishments within the entertainment district, all on premise retail alcohol beverage permittees and all patrons, guests or members of that permittee being subject to the following regulations:
 - 7.2.1** A person may enter a premise with an open container of alcoholic beverages acquired elsewhere only if allowed by that premises.
 - 7.2.2** A permittee shall allow alcoholic beverages to be removed from the permitted premises only in a paper, styrofoam or plastic cup imprinted with the entertainment district logo, no less than 2.0" wide by 1.5" tall in size, as designated by the City, (logo attached hereto and incorporated herein as "Exhibit D") and no such alcoholic beverage shall be removed from the permitted premises in a can, bottle, or glass container. Cups may or may not contain lids and straws and may contain other promotional information.
 - 7.2.3** No permittee shall allow a patron, guest or member to exit its permitted premises with more than two (2) open containers of alcoholic beverages,

and it shall be unlawful for any person to exit such permitted premises with more than two (2) such open containers.

- 7.2.4** It shall be unlawful for any person to drink or attempt to drink any alcoholic beverage from a can, bottle, or glass container, or to possess any open can, bottle, or glass container of alcoholic beverages on the streets, sidewalks, rights-of-way, and parking lots located within the entertainment district.
- 7.2.5** No container in which an alcoholic beverage is dispensed and removed from the permitted premises shall exceed sixteen (16) fluid ounces in size.
- 7.2.6** No person shall possess on the streets, sidewalks, rights-of-way, parking lots, or outdoor public areas located within the entertainment district any open alcoholic beverage container which exceeds sixteen (16) fluid ounces in size.
- 7.2.7** All permittees within the entertainment district shall display at all public exits the rules of the entertainment district and a map of the entertainment district boundaries.
- 7.2.8** Permittees and organizations with special events within the designated entertainment district may apply in writing to the Mayor's office to temporarily extend the entertainment district hours of operation for special events from midnight to up to 2:00 a.m. The Mayor shall respond promptly in writing on whether such a time extension request was approved or denied.
- 7.2.9** No person shall remove any alcoholic beverage or any entertainment district logo designed containers outside of the designated entertainment district.
- 7.2.10** Any person with an unfinished quantity of alcoholic beverage or an entertainment district logo designed container must properly dispose of them prior to leaving the entertainment district.
- 7.2.11** Drinking in the public streets and roads is prohibited.
- 7.2.12** No person shall transfer any alcoholic beverage or any entertainment district logo designed containers to another person.
- 7.2.13** Establishments within the boundaries of the entertainment district, including those that do not serve alcoholic beverages, shall clearly indicate the participation in the entertainment district with prominently displayed window signage. No person in possession an alcoholic beverage shall enter an establishment that does not indicate its participation in the entertainment district. By failing to display window signage indicating participation, a business within the boundaries of the entertainment district is acknowledging to all persons within the entertainment district that it does not allow entertainment district beverages within its premises.

7.2.14 No person shall be in possession of more than two (2) alcoholic beverage at any time while inside in the entertainment district.

SECTION 8: CONSUMPTION OR POSSESSION OF ALCOHOLIC BEVERAGES IN A MOTOR VEHICLE PROHIBITED.

8.1 It shall be unlawful for any person to consume alcoholic beverages or possess an open container of any alcoholic beverages while in the confines of a motor vehicle while the motor vehicle is located upon any public street, parking lot or other place to which the public has or is permitted to have access within an entertainment district.

SECTION 9: ALCOHOLIC BEVERAGES PURCHASED OUTSIDE THE ENTERTAINMENT DISTRICT NOT ALLOWED IN OPEN CONTAINERS IN DISTRICT.

9.1 No alcoholic beverages purchased outside of the entertainment district shall be allowed in any open containers in the entertainment district.

SECTION 10: NO CONFLICT WITH STATE REGULATIONS.

10.1 Nothing contained in this Chapter and Entertainment District Code shall diminish the requirements of the Alcohol Beverage Control Division concerning permits issued within the designated entertainment district.

SECTION 11: PENALTIES

11.1 It shall be unlawful to violate any provision contained in Sections 7, 8 and 9 of this Chapter and Entertainment District Code. Any person or entity violating Sections 7, 8 or 9 of this Chapter and Entertainment District Code is guilty of a misdemeanor, and upon conviction therefor, shall be subject to a fine or penalty of as set out in this Title and Code.

EXHIBIT A
[Amended by Ordinance No. 2490]

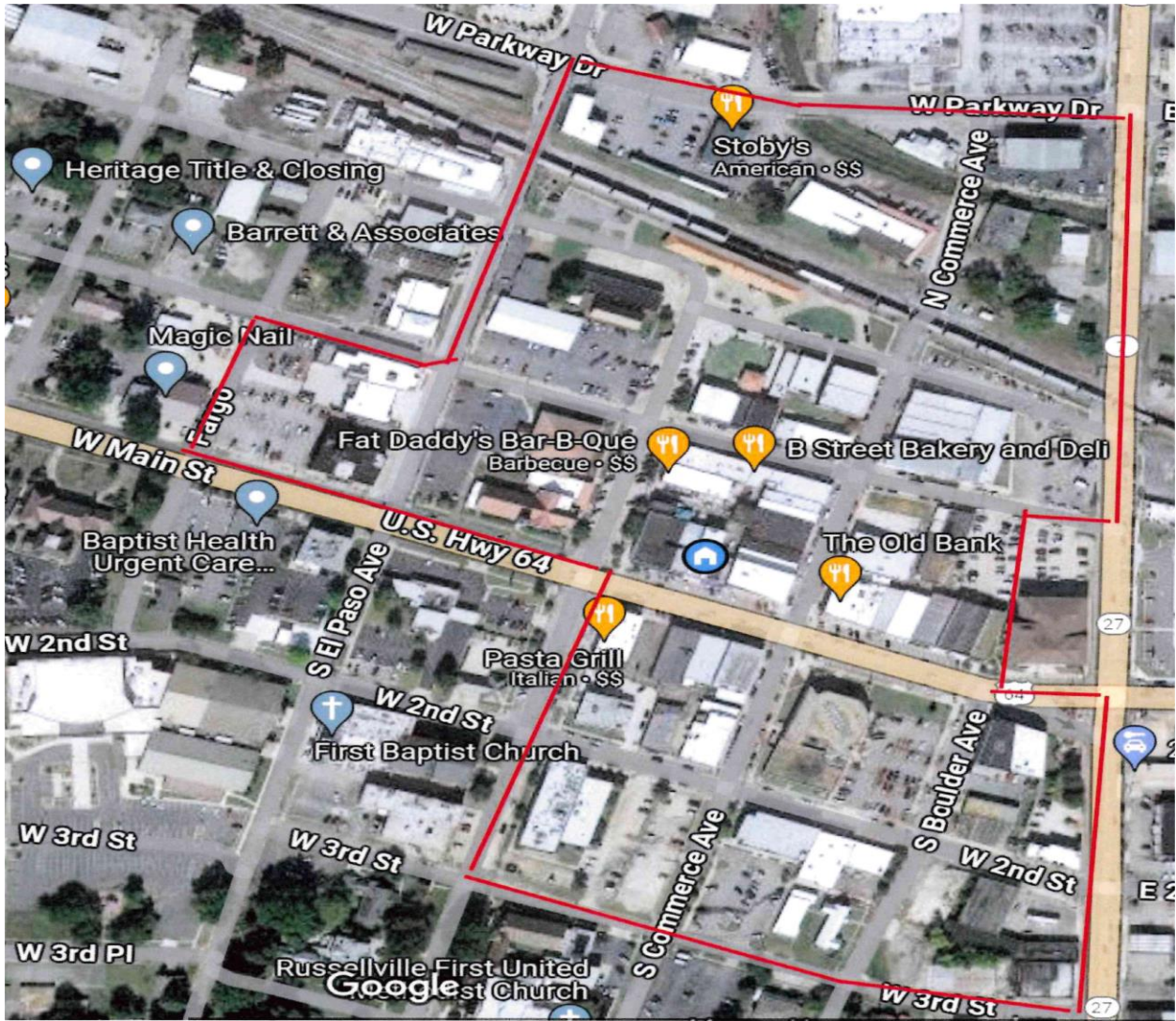


EXHIBIT B
[Amended by Ordinance No. 2490]

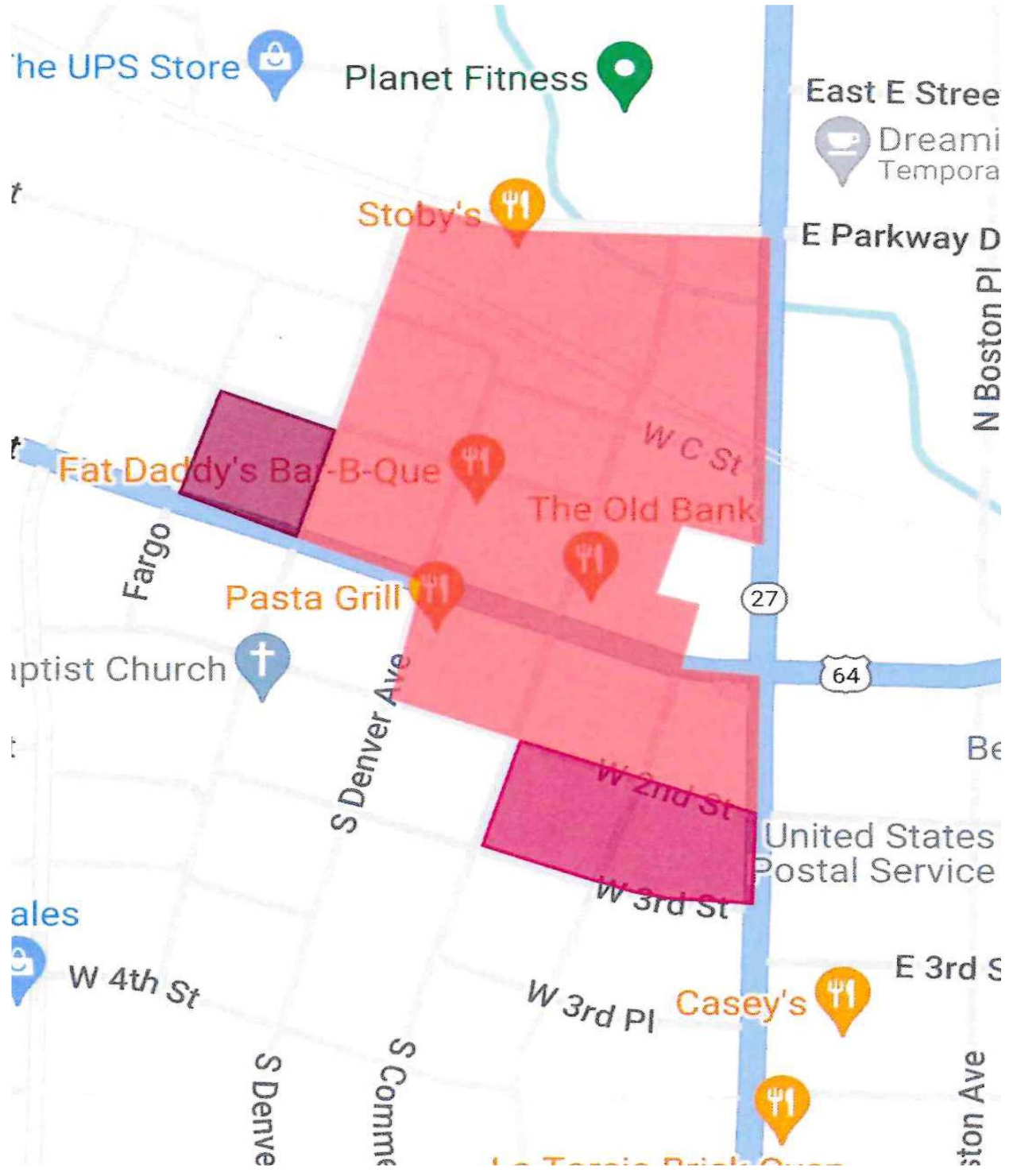


EXHIBIT C
[Amended by Ordinance No. 2490]



EXHIBIT D
[Amended by Ordinance No. 2490]



CHAPTER 5 – CITY SPECIAL EVENTS CODE

SECTION 1: TITLE

- 1.1** This Chapter shall be titled, known as, referred to and cited as "The City of Russellville Special Events Code ("Special Events Code").

SECTION 2: FINDINGS, PURPOSE AND INTENT

- 2.1** The City Council finds that some special events, gatherings and organized activities, due to their size and special requirements, may place unique demands on public resources or pose a danger to public health, safety and welfare. The City Council also finds this Chapter and Special Events Code necessary to ensure that such events are conducted with sufficient consideration given to public safety issues including, among other things, the impact of these events on parking, vehicular and pedestrian traffic.
- 2.2** The City of Russellville, Arkansas ("City"), recognizes that this Chapter and Special Events Code is needed to protect the health, safety and welfare of the citizens, inhabitants, residences and visitors of this City by regulating the time, place and manner of Special Events as defined herein, and by establishing permit requirements and other regulations for conducting special events.
- 2.3** The City is always mindful of rights of citizens to assemble and participate in free speech, and intends to ensure that any regulation or the use of public property is narrowly tailored to serve a legitimate public interest to balance the same with the peace, tranquility, health, safety, and welfare of its citizens, and the conservation of City resources.
- 2.4** The City believes in conservation of City resources both manpower and facility use-wise.
- 2.5** It is anticipated that some special events may grow, or diminish, in number of attendees from year to year and may need to be located at various venues to accommodate the special event while also protecting the peace, tranquility, health, safety and welfare of citizens and code-compliant businesses, and conservation of City resources.
- 2.6** The City Council grants authority to the Mayor and the Special Events Planning Committee to develop rules to regulate the process, procedures, and coordination of special events within the City of Russellville.

SECTION 3: AUTHORITY

- 3.1** This Chapter and Special Events Code is passed by the City pursuant to the authority granted to it by the State of Arkansas under A.C.A. §§14-43-602, 14-54-103(8), 14-54-104(1) and (4), 14-54-1502, 14-55-101, 14-55-102 and 27-49-106(b)(3).

SECTION 4: DEFINITIONS

For the purposes of this Chapter and Special Events Code the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- 4.1** “*Applicant*” means a person acting as a responsible party to the City in terms of authority to sponsor or organize a Special Event and sign all necessary Special Event Permit application documents and who has filed a written application for a Special Event Permit.
- 4.2** “*Athletic Competition*” means an event involving sports, games or exercises which is reasonably anticipated to obstruct the normal flow of traffic on a street or on public property or otherwise limit public access to public property.
- 4.3** “*Block party*” means a one (1) day outdoor public event held upon a city right-of-way for social and entertainment purposes.
- 4.4** “*Certificate of Insurance*” means a document issued by a liability insurance carrier certifying that an insurance policy has been purchased showing an abstract of the provisions of the insurance contract.
- 4.5** “*City Events Coordinator*” means the person appointed by the Special Events Planning Committee to handle the administrative duties required by the Special Event permitting process and to coordinate with the Department Heads of the Departments of the City affected by Special Event application and permit as well as with the Special Event Planning Committee.
- 4.6** “*City Park*” means any real property owned, leased, or operated by the City of Russellville, which by reason of location, natural features, scenic beauty, or historical interest possesses distinctive physical, aesthetic, intellectual, creative, or social values, and are used for athletics, recreation, relaxation, entertainment, cultural development, and other recreational activities.
- 4.7** “*City-Promoted Event*” means a sanctioned event financially supported and promoted by a city department or departments. Any persons contracted for general services with the City who hold a Special Event, such Special Event shall not be considered a City-Promoted Event unless sanctioned by the Special Event Planning Committee. When Persons are contracted with the City for specific services for Special Events, those Special Events shall be considered to be a City-Promoted Event.
- 4.8** “*Community Event*” means an annual one (1) day community or neighborhood event organized for the purpose of celebrating community arts, recreation or culture to commemorate a holiday, seasonal or special day to the community.
- 4.9** “*Cost Recovery*” means the administrative and departmental costs charged by the City to an Applicant/Event Producer in conjunction with a Special Event permitted under this Chapter and Special Events Code.
- 4.10** “*Days*” means business days (Monday through Friday) excluding Saturday and Sunday and legally recognized holidays.
- 4.11** “*Event Producer*” means the individual, organization, corporation, neighborhood group, etc. that is producing the Special Event. If the individual, organization, corporation, or group contracts with a firm or agency to produce the event, the event producer is the firm or agency contracted. The Event Producer shall be a

responsible party to the City in terms of authority to sponsor or organize a Special Event and sign all necessary Special Event Permit application documents.

- 4.12** “*First Amendment Activity*” means all expressive and associative activity that is protected by the United States and Arkansas Constitutions, including speech, press, assembly, petition or religion. For the purpose of this Chapter and Special Events Code, commercial advertising that is regulated by the Zoning Code or other City ordinances is excluded from this definition.
- 4.13** “*Liability Insurance*” means insurance covering the insured against loss arising from injury or damage to another person or property.
- 4.14** “*Parade*” means any march, demonstration, assembly, ceremony, show, review, exhibition, pageant, motorcade or procession on the public streets or other public ways or property owned or under the control of the City that requires or necessitates special traffic control, a road closing or crowd control measures.
- 4.15** “*Participant*” means individuals who take part in the activities of the Special Event.
- 4.16** “*Sidewalk*” means a public owned paved area or way set aside or open to the general public for the purpose of pedestrian traffic.
- 4.17** “*Special Event*” means a temporary event, gathering or organized activity, including but not limited to, bicycle events, marathons, walk-a-thons, fireworks displays, concerts, carnivals, other types of races, celebrations and festivals, which involves, but is not limited to, one or more of the following:
- 4.17.1** Interferes with the normal flow of vehicular or pedestrian traffic;
 - 4.17.2** Blocks or restricts normal use of City-owned property;
 - 4.17.3** Blocks or restricts access to or use of City Parks unless otherwise authorized by the City Recreation and Parks Department;
 - 4.17.4** Any activity on public property that involves the placement of temporary structures (e.g. stages, bleachers, tents, etc.), if that placement requires additional permitting from other applicable city departments.
 - 4.17.5** Sale of merchandise, food or beverages on City-owned property;
- 4.18** “*Special Event Permit*” means written authorization from the Special Event Planning Committee to hold a Special Event on a City street or City property.
- 4.19** “*Special Event Planning Committee*” means a committee comprised of City staff that represents the heads of various departments or their designee that may provide a service during a special event who is responsible for development of guidelines, rules, regulations, and procedures pertaining to special events.
- 4.20** “*Special Event Rules and Regulations*” means the guidelines, rules, regulations, policies and procedures developed and adopted administratively by the Mayor and Special Event Planning Committee for the health, safety and welfare of citizens, and Special Event participants. Special Event Rules and Regulations may include, but are not limited to the following: processes; procedures; cost recovery for public safety, sanitation and transportation personnel; safety regulations; resource

requirements; and surety and insurance requirements. Once the initial Special Event Rules and Regulations receive final approval by the City Council, the Mayor and Special Events Planning Committee may administratively adopt by majority vote, any amendments to the Special Events Rules and Regulations without approval by the City Council.

- 4.21** “*Street*” means any paved or unpaved road, thoroughfare, avenue, boulevard, parkway, drive, alley, easement, right-of-way or other public way set aside or open for purposes of vehicular traffic, including any berm, shoulder or median strip thereof within the corporate city limits of the City that is owned, leased, held by the City by easement, licensed to the City, granted possession or otherwise possessed by the City.

SECTION 5: SPECIAL EVENTS PERMIT RULES AND REGULATIONS.

- 5.1** The City Council hereby grants the authority to the Special Events Planning Committee to promulgate the City’s Special Event Rules and Regulations. Upon completion of the Special Event Rules and Regulations, the Special Events Rules and Regulations shall be presented to the City Council for final approval. Upon final approval, all persons or entities desiring to hold events which meet the definition of Special Events as defined in this Chapter and Special Events Code, shall comply with the Special Events Rules and Regulations in order to be eligible to be issued a Special Events Permit. Once the Special Events Rules and Regulations are approved by the City Council, any amendments to the Special Events Rules and Regulations shall be made by the Special Events Planning Committee; shall be effective upon adoption by the Special Events Planning Committee and shall not need approval by the City Council.

SECTION 6: UNLAWFUL ACTIVITIES DECLARED

- 6.1** It shall be unlawful for an Applicant/Event Producer or any person to hold a Special Event, sponsor a Special Event or cause a Special Event to be held without first having obtained a Special Event Permit from the City.
- 6.2** It shall be unlawful for an Applicant/Event Producer or any person to violate the terms and conditions of the Special Event Permit.
- 6.3** It is a violation for any person to commit the acts in either Subsection 6.1 or 6.2. An Applicant/Event Producer or any person found to be in violation of Subsection 6.1 or 6.2 shall be subject to punishment as defined in the Penalties and Enforcement Section of this Chapter and Special Events Code.

SECTION 7: EXCEPTIONS

This Chapter and Special Events Code shall not apply to:

- 7.1** A City-Promoted Event as defined by this Chapter and Special Events Code.
- 7.2** Any event held entirely within a city park or recreation field, and where all necessary facilities use permits and approvals have been requested and approved by the Recreation and Parks Department.

- 7.3** An event conducted entirely on the property of a religious institution, educational institution, college, or university campus.
- 7.4** Processions of vehicles operated in compliance with ordinary traffic laws or a procession of pedestrians along or upon public sidewalks, public parks, or private property.
- 7.5** Events conducted under the supervision of or with the permission of a governmental entity on property owned, leased, or operated by a governmental entity other than the City, and if the event does not require the closing or rerouting of a public street.
- 7.6** Funeral processions supervised by a licensed mortuary.
- 7.7** First Amendment Activity on City streets or sidewalks (including those in parks) that will not likely result in the obstruction of City streets or sidewalks nor compromise the ability of the City to respond to a public safety emergency such as demonstrations conducted for the purpose of indicating approval or disapproval of governmental policies or practices, expressing a view on public issues, or bringing into public notice any issue or other matter; or spontaneous events which are occasioned by news or affairs coming into public knowledge.
- 7.8** Temporary closing of streets by a department of the City for activities related to maintenance, repair, construction, alteration or other official duties of such department.
- 7.9** This Chapter and Special Events Code does not apply to temporary activities occurring on property appropriately zoned to permit the activity. In the event that provisions contained in this Chapter and Special Events Code conflict with other provisions regulating temporary activities, the provisions contained in this Chapter and Special Events Code shall govern.

SECTION 8: REQUIREMENT TO ACQUIRE SPECIAL EVENTS PERMIT

- 8.1** An Applicant/Event Producer must file the Special Event Permit Application with the City as determined by the Special Event Rules and Regulations. A Special Event Permit shall not be issued until a completed Special Event Permit Application, together with any additional information requested, and payments of all applicable fees are received by the City. The Special Event Permit Application must comply with this Chapter and Special Events Code, the Special Event Rules and Regulations, and other applicable law.

SECTION 9: RESPONSIBILITY OF PARTICIPANTS AND PERSON IN CHARGE

- 9.1** Participants in a Special Event are required to abide by this Chapter and Special Events Code, the Special Event Rules and Regulations and the terms of the Special Event Permit issued pursuant to this Chapter and Special Events Code by the Special Event Planning Committee. Willful violation thereof shall constitute a violation of this Chapter and Special Events Code and is punishable as provided by this Chapter and Special Events Code.

- 9.2** The Applicant or Event Promoter designated in the Special Event application as responsible for the physical conduct of the participants of the Special Event shall be responsible for monitoring the conduct of the participants in the Special Event. Failure to monitor the physical conduct of the participants of the Special Event by the Applicant or Event Promoter shall constitute a violation of the Chapter and Special Events Code and is punishable as provided by this Chapter and Special Events Code.

SECTION 10: FEES AND COSTS

- 10.1** The City Council authorizes the Mayor and Special Events Planning Committee to establish Special Event Permit Fees, cost recovery fees, and any other applicable fees resulting from the Special Event based on the time length, location and size of the Special Event.
- 10.2** Applicant/Event Producer shall pay all required fees with the Special Event Permit Application. Applicant/Event Producer shall also be required to pay all fees and costs required by other City ordinances to conduct specific activities in conjunction with or as part of a Special Event.
- 10.3** All special event costs including, but not limited to, costs for cleanup, repair, fire, police or other City services, shall be the responsibility of the Applicant/Event Producer.

SECTION 11: TIMEFRAMES AND DEADLINES

- 11.1** A Special Event Permit Application shall be filed **no less than 45 days, nor more than 365 days**, before the commencement of the proposed Special Event. The Special Events Planning Committee may consider a Special Event Application that is filed less than 45 days before the commencement of the proposed Special Event where good and compelling cause is shown and applicable late fees are paid with the application.

SECTION 12: APPLICATION PROCESS AND REVIEW

- 12.1** The Special Event Permit Application will be processed and reviewed pursuant to the Special Events Rules and Regulations. The Special Events Planning Committee shall appoint an individual designated as the City Event Coordinator, responsible for the processing of the application, approval, coordination, or denial of the Special Event Permit.

SECTION 13: STANDARDS FOR ISSUANCE OF SPECIAL EVENT PERMIT

A Special Event Permit will be issued only if the Special Events Planning Committee finds that the following standards for issuance of Special Event Permit are met:

- 13.1** The conduct of the special event will not substantially interrupt the safe and Orderly movement of other traffic contiguous to its route.
- 13.2** The conduct of the event will not require the diversion of so great a number of other City employees, such as Police, Fire, Recreation and Parks, and Public Works staff, so that adequate staff is not available to complete City assignments.

- 13.3** The concentration of persons, equipment, vehicles, or animals at the event or assembly sites will not substantially interfere with adequate police and fire protection of, or emergency medical services to, areas near such sites.
- 13.4** A parade is scheduled to move from its point of origin to its point of termination without unreasonable delays in route.
- 13.5** Other licenses and permits, restrictions, regulations, fees for the City services, safeguards or other conditions deemed necessary by individual City departments for the safe and orderly conduct of a Special Event are requested, submitted, and approved (i.e. health permit applications, agreement with police department for police coverage, agreement with public works department regarding cost associated with street closure, etc.).

SECTION 14: DENIAL OF A PERMIT

- 14.1** If the Special Events Planning Committee denies the issuance of a Special Event Permit, the Applicant/Event Producer shall promptly be notified in writing, including electronic transmission of notice. Such written notice shall include the reasons for the decision to deny the Special Event Permit.
- 14.2** If the Special Events Planning Committee determines that the Special Event Permit shall be denied, the Special Events Planning Committee shall consider alternatives to the time, place or manner of the Special Event that would allow the Special Event to occur. An Applicant/Event Producer desiring to accept an alternate permit shall, within five (5) days after notice of the alternatives by the City Events Coordinator, submit a written notice of acceptance, including electronic transmission of notice, with the Special Events Planning Committee.
- 14.3** Any denial of a Special Events Permit may be appealed pursuant to the section covering appeals in this Chapter and Special Events Code.

SECTION 15: REVOCATION OF A PERMIT

- 15.1** If the City revokes an issued Special Event Permit, the Applicant/Event Producer shall promptly be notified in writing. Such written notice shall include the reasons for the decision to revoke the Special Event Permit. A Special Event Permit shall be revoked upon the following conditions:
 - 15.1.1** If any member of the Special Events Planning Committee, or their designated representatives, find that any of the provisions of this Ordinance, another City ordinance, Special Event Rule or Regulation, or other applicable law is being violated, they shall immediately notify the City Events Coordinator, and based on that information, the Special Events Planning Committee, or their designee, shall determine whether the Special Event Permit shall be revoked.
 - 15.1.2** When, in the judgment of any member of the Special Events Planning Committee, a violation exists which creates a substantial risk to the safety and health of the public, requiring immediate abatement, the member of the Special Events Planning Committee shall have authority to revoke a Special Event Permit.

15.1.3 The Applicant/Event Producer made or allowed to be made a false or misleading statement or omission of material fact on a Special Event Application that was not discovered until after the Special Event Permit was issued.

15.2 Any revocation of a Special Events Permit may be appealed pursuant to the section covering appeals in this Chapter and Special Events Code.

SECTION 16: APPEAL

16.1 If the Special Events Planning Committee denies the issuance of a Special Event Permit, or if the City revokes an issued Special Event Permit, the Applicant/Event Producer may appeal the denial or revocation to the Mayor who shall promptly make a ruling on the appeal. Appeals from a denial or revocation of a Special Event Permit must be submitted to the Mayor within five (5) days from date of the written notice of the denial or revocation. All appeals shall be submitted in writing, including electronic transmission.

SECTION 17: INDEMNIFICATION AGREEMENT

17.1 Prior to the issuance of a Special Event Permit, the Applicant/Event Producer, must sign an Agreement to reimburse the City for any costs incurred in repairing damage to City property proximately caused by the actions of the Applicant/Event Producer, its officers, employees, or agents, or any person who was part of the Special Event.

17.2 The Agreement shall also provide that the Applicant/Event Producer shall hold harmless, indemnify and defend the City, its officials, agents and employees against any claims, costs, damages, demands, liability and notices, or any of these, arising or resulting from any damage or injury proximately caused by actions of the Applicant/Event Producer, its officers, employees, or agents, or any person in connection with the permitted Special Event, regardless of whether the City is actively negligent or passively negligent.

17.3 The indemnification agreement is to be used only to defray any costs associated with liability and is not intended nor will it be used by the City in any way to profit from the Applicant/Event Producer.

SECTION 18: INSURANCE

18.1 The Applicant/Event Producer of a Special Event must possess or obtain public liability insurance to protect against loss from liability for damages on account of bodily injury and property damage arising from the event. Such insurance shall name on the policy or by endorsement as additional insured the City. Insurance coverage must be maintained for the duration of the event. The amount of said insurance shall be set by the Special Events Planning Commission in the Special Events Rules and Regulations. The required coverage shall be tiered by the Special Events Planning Commission based on the one of the three categories the type of Special Event falls under: Parade, Athletic Competition or Block Party. A copy of the Certificate of Insurance shall be provided to the City Event Coordinator or the Special Event Planning Committee.

- 18.2** The insurance requirements of subsection (a) above shall be waived by the City Event Coordinator for Parades if the following condition is satisfied. The Applicant/Event Producer of the sponsoring organization signs a verified statement that the event's purpose is First Amendment activity, and that he has determined that the cost of obtaining insurance is so expensive that it would constitute an unreasonable burden on the right of First Amendment activity, or that it is impossible to obtain insurance coverage. The statement shall include the name and address of at least one (1) insurance agent or other source of insurance coverage contacted to determine insurance premium rates for insurance coverage.
- 18.3** The requirement of insurance is to be used only to defray any costs associated with liability and is not intended or will be used by the City in any way to profit from the Applicant/Event Producer.

SECTION 19: PENALTIES AND ENFORCEMENT

- 19.1** The City shall have the authority to administer and enforce provisions of this Chapter and Special Events Code as may be required by governing law. An Applicant/Event Producer or any person violating any provision of this Chapter and Special Events Code is subject to suit for injunctive relief as well as prosecution for a violation of this Chapter and Special Events Code in accordance with this Title and Code.
- 19.2** Nothing in this Chapter and Special Events Code shall be construed as a waiver of the City's right to file a civil action to enforce the provisions of this Chapter and Special Events Code and to seek remedies as allowed by law, including but not limited to the following:
- 19.2.1** Injunctive relief to prevent specific conduct that violates the Chapter and Special Events Code or to require specific conduct that is necessary for compliance with this Chapter and Special Events Code;
- 19.2.2** Other available relief.
- 19.3** The institution of any fine or penalty shall not relieve any applicant of the obligation to pay any municipal costs related to the Special Event Permit.
- 19.4** All law enforcement officers, code enforcement officers and fire marshals of the City of Russellville are hereby granted the authority to enforce this Chapter and Special Events Code by issuing a citation to the Applicant/Event Producer or any person who violates the provisions of this Chapter and Special Events Code.
- 19.5** Citations issued by law enforcement officers, code enforcement officers or fire marshals shall be filed with and heard in Pope County District Court, City of Russellville Criminal Division.

SECTION 20: NON-TRANSFERABILITY

- 20.1** A Special Events Permit is not transferable. A Special Event Permit is required for each and every separate special event. A permit issued for one event may not be used for a different, separate event. A Special Events Permit is temporary in

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nature and is valid only for the times stated on the permit. A Special Events Permit shall expire upon the expiration of the stated times on the permit.