

ORDINANCE NO. 2247

AN ORDINANCE AMENDING ORDINANCE 1909 REGARDING THE RULES AND PROCEDURES FOR BUSINESSES SUBJECT TO THE SHERWOOD ARKANSAS ADVERTISING AND PROMOTIONS GROSS RECEIPTS TAX AS WELL AS COLLECTION AND ENFORCEMENT.

WHEREAS; The City of Sherwood Arkansas adopted rules for the collection and enforcement of the Advertising and Promotion Gross Receipts tax in November of 2011, and,

WHEREAS; The experience of collection and enforcement since the adoption of the rules indicates that an expansion of the rules is needed as well as to broaden definitions of businesses that are subject to the tax, and

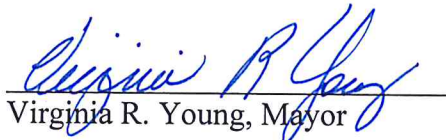
WHEREAS; Certain types of businesses have been created as a result of technology that would otherwise be subject to the tax, but were not specifically delineated in the original rules.

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

Section 1. Based upon the recommendation of the Sherwood Advertising and Promotion Commission, the Sherwood City Council believes amendments and modifications are needed and appropriate to the existing rules for better understanding and clarification.

Section 2. The attached rules, that amend the rules established by Ordinance 1909, are attached to this Ordinance as Exhibit A and are incorporated herein by reference. Said rules are approved and adopted by the Sherwood City Council.

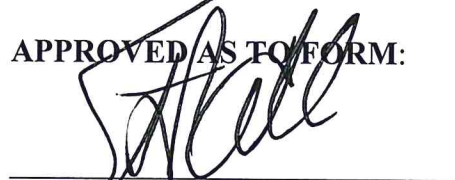
ADOPTED on this 22nd day of April, 2019.


Virginia R. Young, Mayor

ATTEST:


Angela Nicholson, City Clerk

APPROVED AS TO FORM:


Stephen Cobb, City Attorney

**RULES FOR THE SHERWOOD ADVERTISING AND PROMOTION
COMMISSION
GROSS
RECEIPT TAX COLLECTION AND ENFORCEMENT**

SECTION 1: TITLE, PURPOSE

SECTION A: This Ordinance shall be known and may be cited as the Sherwood Advertising and Promotions Gross Receipt Tax Collection and Enforcement Ordinance. The City of Sherwood, based upon prior ordinances, now levies and collects a 2% Advertising and Promotion Tax on lodging and prepared food gross receipts as authorized by law. The tax is levied on the gross receipts or gross proceeds received by

restaurants
cafes
cafeterias
delicatessans
drive in restaurants
caterers
carry out or delivery restaurants
concession stands
convenience stores
grocery-store restaurants
mobile retail food establishments
bars
taverns
private clubs
private chefs
private residences
home baking/food decorating businesses
any platform, online or offline, which advertises or offers to a purchaser prepared food and beverage and accepts payment from the purchaser for such prepared food and beverage to be furnished to the purchaser or the purchaser's designated recipient engaged in the selling of prepared foods and beverages for on-premises or off-premises consumption, provided that such levy shall not apply to such gross receipts or gross proceeds of organizations qualified under 26 U.S.C. Sec. 501(c)(3).
hotels
motels
lodges
vacation rental houses/rooms
cabins
campgrounds
condominiums
or other similar accommodations for sleeping, if in approved zoning.

SECTION B: The purpose of this Ordinance is to provide the procedures for the enforcement and collection of taxes levied and administered by the City with the adoption of Ordinance 905 and following Ordinances as subsequently amended.

SECTION 2: APPLICATION OF ORDINANCES AND CONSTRUCTION WITH OTHER LAWS.

The provisions of this Ordinance shall be cumulative to the Arkansas Gross Receipt Tax of 1941, Arkansas Code Section 26-52-101 and following and the Arkansas Tax Procedure Act Section 26-18-101 and following. The provisions of which so far as is practicable, shall be deemed incorporated herein as applicable with respect to the enforcement and collection of the A&P tax. The tax levied shall be paid by the person, firm, corporation, partnership, limited liability company, venture, association, trust or estate or other such business entity of whatever nature liable therefore.

SECTION 3: DEFINITIONS

The following word and phrases, except where the context clearly indicates the application of a different meaning when used in these rules shall have the following meaning.

SECTION A: A&P tax means the gross receipt tax levied by the City pursuant to Act 185 of 1965 and as subsequent amended.

SECTION B: Assessment means a tax is assessed when it is recorded as a liability of a taxpayer on the Commission record. The assessment becomes a first assessment following the decision of the Commission or a hearing officer if the assessment is protested.

SECTION C: Business Entity means a corporation, association, partnership, joint venture, limited liability company, limited partnership, trust, or other legal business entity.

SECTION D: Commission means the City of Sherwood Advertising and Promotion Commission and any represented designated by the Commission to perform the functions hereunder.

SECTION E: City means the City of Sherwood, Arkansas

SECTION 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.

SECTION G: Due Date means the A&P tax is due no later than the 20th calendar day of the month following the month the tax is imposed on gross receipts.

SECTION H: Person means any natural person, firm, corporation or other Business Entity.

SECTION I: Taxpayer means any person liable to remit the A&P tax.

SECTION J: "Prepared foods and beverages" means

1. Food sold in a heated state or heated by or on behalf of the Seller.
2. Two (2) or more food ingredients mixed or combined by or on behalf of the Seller for sale as a single item; or
3. Food sold with an eating utensil provided by or on behalf of the Seller, including a plate, knife, fork, spoon, glass, cup, napkin or straw. However a "plate" does not include a container or packaging used to transport food. "Food" and "Food ingredients" shall mean as defined in the Arkansas Gross Receipts Act, Arkansas Code Sec. 26-52-101 et seq.

SECTION FOUR: ADMINISTRATION AND REGULATION

The administration of this Ordinance is vested in the Advertising and Promotion Commission hereafter "Commission" and the "Commission" shall promulgate rules and regulations and prescribe all forms as are necessary or required for enforcement and collections of the A&P tax.

SECTION FIVE: PERMIT

SECTION A: It shall be unlawful for any person to transact in the City a business which is subject to the A&P tax prior to the issuance and receipt of a A&P tax permit from the City.

SECTION B: A separate A&P tax permit must be obtained from the City for each location that a person conducts business that is subject to the A&P tax.

SECTION SIX: APPLICATION FOR PERMIT

Any person transacting business in the City that is subject to the A&P tax shall file with the City an application for an A&P permit to conduct that business. The form and content of the application shall be as prescribed by the Commission from time to time. The City of Sherwood City Clerk shall maintain a list of all applicants for the A&P tax permits and provide that information to the Commission.

SECTION SEVEN: PERMITS NOT ASSIGNABLE DISPLAYED REQUIRED AND EXPIRATION

SECTION A: The A&P tax permit shall not be an assignable and shall be valid only for the person in its name is issued for the location thereon designated.

SECTION B: The A&P tax permit shall, at all times, be conspicuously displayed at the location thereon designated.

SECTION C: The A&P permit shall expire at the time of cessation of the business of the taxpayer at the location designated thereon.

SECTION D: It shall be unlawful for any person subject to the A&P tax to transact business within the City when their A&P permit is expired.

SECTION 8: DISCONTINUANCE OF BUSINESS-UNPAID TAXES

SECTION A: Any taxpayer operating under the A&P permit upon discontinuance of the business at the location designated thereon shall return the A&P permit to the City for cancellation together with any remittance of any unpaid and accrued A&P taxes.

SECTION B: Failure to surrender the A&P permit and pay any and all A&P taxes shall be sufficient to cause from the Commission to refuse the issuance of any A&P permit in the future to the taxpayer.

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

SECTION D: Any permit holder that has paid taxes due with insufficient checks on two occasions will be required to pay all future taxes in cash, cashiers check, or credit card paid in person.

SECTION 9: REVOCATION OR SUSPENSION-RENEWAL

SECTION A: When a person whom the A&P tax permit has been issued fails to comply with any provision of this Ordinance, including any rule or regulation prescribed by the Commission from time to time, the Commission shall give notice to the person of an intention to revoke the A&P permit.

SECTION B: The person may, within ten (10) consecutive days after receipt of the notice of intent to revoke the A&P tax permit apply to the Commission for a hearing.

SECTION C: The hearing shall be conducted at a time and place to be designated by the Commission before such person as designated by the Commission to conduct such hearing and the taxpayer shall be entitled to introduce testimony and be represented by counsel and the designated representative of the Commission shall determine at the hearing whether the taxpayer's A&P tax permit should be revoked.

SECTION D: Failure of a person to appear at the hearing shall be grounds for the Commission, or acting through its designated representative, to revoke the taxpayers A&P tax permit.

SECTION E: The person shall be entitled within thirty (30) consecutive days from the day of the revocation of the taxpayer's permit to appeal to the Circuit Court of Pulaski County, Arkansas where the action shall be tried de novo.

SECTION F: It shall be unlawful for any person subject to the A&P tax to transact business within the City when their A&P tax permit is revoked or suspended.

SECTION G: Any revoked or suspended permit may be removed upon the filing of proper returns and payment of all A&P taxes due or removal of any other causes of revocation or suspension and the payment of fifty (\$50) dollars for reinstatement of the permit, or if a second reinstatement within twelve months of a previous revocation, the payment of one hundred (\$100.00) dollars.

SECTION 10: PREPARATION OF RETURNS-PAYMENT OF A&P TAX

SECTION A: The A&P tax shall be due and payable as of the 1st day of each calendar month by the person liable for the payment of the A&P tax (taxpayer) and shall be deemed delinquent if not paid on or before the 1st day of the next calendar month.

SECTION B: It shall be the duty of the taxpayer on or before the 20th of each calendar month to deliver to the City, upon forms prescribed and furnished by the Commission, returns under oath showing the total combined gross receipts or gross proceeds which are subject to the A&P tax for the preceding calendar month and the amount of the tax due. The tax due shall be remitted with the return.

SECTION C: The returns shall contain such further information as the Commission may require and, once the a taxpayer has become liable for the payment of the A&P tax the taxpayer must continue to file a return even though no tax may be due until such time as the taxpayer surrenders the A&P tax permit.

SECTION D: If not paid on or before the 20th day of each calendar month, the full amount of the A&P tax shall be due from that date; provided, however, no penalty for delinquency shall be assessed if payment thereof is made on or before the 1st day of the calendar month next following.

SECTION ELEVEN: DISCOUNT FOR PROMPT PAYMENT

SECTION A: If the return is delivered on or before the 20th day of the calendar month following the month the tax is imposed on gross receipts the tax payer may remit therewith to the Commission by payment to the City ninety eight percent (98%) of the A&P tax due or before the 20th of the calendar month. A return is "delivered" on the date

it is postmarked if it delivered by the U.S. Postal Service or that they hand deliver to the City Clerk's office.

SECTION B: Failure of the taxpayer to remit the A&P tax on or before the 20th of each calendar month shall cause the taxpayer to forfeit his claim to the discount and the taxpayer must remit to the Commission one hundred percent (100%) of the amount of the A&P tax due plus any penalty and interest accrued thereon.

SECTION TWELVE: ADDITIONAL PENALTIES AND TAX

If the taxpayer shall fail to comply with certain provisions of this Ordinance then the following penalties and additions to the tax shall be applicable.

SECTION A: In the case the taxpayer's failure to file the A&P tax return and pay the tax due on or before the delinquency date, determined with regard to any extension of time of filing thereof, unless it is shown that the failure is due to reasonable cause and not to willful neglect, there shall be added to the amount required to shown as tax on the A&P tax return five percent (5%) of the A&P tax if the failure is not more than one (1) month past the delinquency date, with an additional five percent (5%) for each additional month or fraction thereof during which the failure continues, not to exceed thirty five percent (35%) in the aggregate.

SECTION B: In addition to any penalty assessed hereunder, simple interest on any paid A&P tax shall be assessed at the rate of ten percent (10%) per annum from the delinquency date.

SECTION THIRTEEN: EXAMINATIONS AND INVESTIGATIONS

SECTION A: In the administrations of this Ordinance, the Commission or its designated representative for the purpose of determining the accuracy of a return or fixing any liability hereunder may make an examination or investigation of the place of business, the tangible personal property, equipment and facilities and the books, records, and papers, vouchers, accounts, and documents of any taxpayer or other person. Every taxpayer or other person and his agents and employees shall exhibit to the Commission or its designated representative these places and items and facilitate any examination or investigation.

SECTION B: No taxpayer shall be subjected to unnecessary examination or investigation and only one (1) inspection of a taxpayer's books or accounts shall be made for each taxable year unless the taxpayer requests otherwise or unless the Commission, after investigation, notifies the taxpayer in writing additional inspection is necessary.

SECTION C: When conducting an investigation or an audit of any taxpayer, the Commission or its designated representative may, in its discretion, examine the records and files of any person except where privileged, by law, any other businesses, institution, financial institution, the records of any state agencies, agency of the United States

Government or other agency of any other state where permitted by agreement or reciprocity.

SECTION D: The Commission or its designated representative may compel production of these records by summons; a summons may be served directly by the Commission or its designated representatives.

SECTION E: In the administration of this Ordinance, the Commission or its designated representative may

1. Administer oaths, conduct hearings and compel by summons the attendance of witnesses, testimony and the production of any books, papers or other data of the taxpayer or
2. Examine under oath any person regarding the business of any taxpayer concerning any matter any matter incident to the administration of this Ordinance.
3. The fees of witnesses required by the Commission or its designated representative to attend any hearing and shall be the same as those allowed to a witness appearing before Circuit Courts of this state. The fees shall be paid in the manner provided for the payment of other expenses incident of the administration thereof under the Arkansas Rules of Civil Procedure.

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

SECTION G: When any subpoena requiring the production of records as described herein, of a third party record keeper, written notice of the summons shall be mailed to the taxpayer that his records are being summoned, at least fourteen (14) days prior to the date fixed in the summons as the day for the examination of the records.

SECTION H: Notice to the taxpayer required by this section is sufficient if it is mailed by certified mail to the last address on record with the Commission or City.

SECTION I: When the Commission or its designated representatives have the power to issue summons for its own investigation or auditing purposes, then the Commission shall honor any reasonable request by any taxpayer to issue a summons on the taxpayer's behalf.

SECTION J: The Commission or the taxpayer may apply to the Court of competent jurisdiction in Pulaski County for an Order compelling the production of the summoned records.

SECTION K: Failure to comply with the Order of the Court for the production of records may be punished by the Court as for contempt.

SECTION L: The cost of producing records of a third party required by a summons shall be borne by the taxpayer if he requests the summons to be issued.

SECTION M: If the Commission or its designated representatives initiate it's summons for third party records, the Commission shall bear the reasonable cost of producing the records, The Commission or its designated representative may later assess the cost against any delinquent or deficient taxpayer as determined by the records.

SECTION FOURTEEN: TIME LIMITATIONS FOR ASSESSMENTS, COLLECTION, REFUNDS, AND PROSECUTION.

SECTION A: Except as otherwise provided in this Ordinance, no assessment of the A&P tax shall be made after the expiration of three (3) from the date the return was required to be filed or the date the return was filed, whichever period expires later. The Commission shall not begin Court proceedings after the expiration of the three (3) year period unless there has been a previous assessment for the collection of the tax.

SECTION B: Upon written agreement of the Commission and the taxpayer, the time within the Commission may make a final assessment as provided herein may be extended to a date mutually agreed upon in the written agreement.

SECTION C: Where, before the expiration of the time prescribed for the assessment of the tax or extension thereof, both the Commission and the taxpayer have consented in writing to an assessment after that time, and then the A&P tax may be assessed at any time prior to the expiration of the time agreed.

SECTION D: In the case of a fraudulent return or failure to file a report or return required hereunder, the Commission may compute, determine, and assess the estimated amount of A&P tax due from any information in its possession or may begin an action in Court for the collection of the tax without assessment at any time.

SECTION E: Whenever a taxpayer requests an extension of time for filing any return required hereunder, the limitation of time for assessing any tax shall be extended for a like period.

SECTION F: Where the assessment of the A&P tax has been made within the period for limitation properly applicable thereof, the A&P tax may be collected by levy or proceeding in Court, but only if the levy is made or the proceeding is begun within ten (10) years after the date of the assessment of the tax.

SECTION G: No person shall be prosecuted, tried, or punished for any of the various criminal offenses arising under the provisions of this Ordinance unless the indictment of the taxpayer is instituted within six (6) years after the Commission of the offense.

SECTION FIFTEEN: NOTICE REQUIREMENTS

SECTION A: The Commission shall give a taxpayer notice of any assessment, demand, decision, or hearing before the Commission or its designated representative, which directly involves the taxpayer.

SECTION B: All notices required to be given by the Commission to a taxpayer shall either served by personal service or sent by mail to the taxpayer's last address of record with the Commission. If the mail is returned unclaimed or refused, then proper notice shall have been served and given and the Commission may take any action permitted by this Ordinance or otherwise by law.

SECTION C: All notices of final assessment hereunder shall be sent by certified mail, return receipt requested.

SECTION D: The taxpayer when giving notice tot the Commission shall give notice either may mail or by personal service on the Commission through the City Clerk's office. The notice the taxpayer gives shall be effective when postmarked or in any case of personal service when so served.

SECTION E: The Commission and taxpayer may, by written agreement, provide for any other reasonable means of giving notice.

SECTION F: All notices shall be in writing.

**SECTION SIXTEEN: ASSESSMMENT AND COLLECTION OF TAXES
GENERALLY**

SECTION A: The Commission or its designated representative are authorized and required to make the inquiries, determinations, and assessments of the A&P tax including interest, additions to taxes and assessable penalties imposed hereby.

SECTION B: The assessment shall be made by recording the liability of the taxpayer in the office of the City Clerk's office in accordance with rules and regulations prescribed by the Commission.

SECTION C: Upon request by the taxpayer, the Commission shall furnish the taxpayer a copy of the record of the assessment.

SECTION D: The Commission shall collect all A&P taxes imposed by law.

SECTION E: As soon as practicable after making the assessment of the A&P tax, the Commission shall give notice to each person liable for the unpaid tax stating the amount and demanding payment within ten (10) days.

SECTION F: Upon receipt of notification and demand from the Commission, the person liable for the tax penalty shall pay the stated amount including any interest, additions to tax and assessable penalties at the place and time as stated in the notice and demand.

SECTION SEVENTEEN: PROPOSED ASSESSMENTS

SECTION A: If any taxpayer fails to file any return as required hereunder, the Commission, from any information in its possession or obtainable by it, may determine the correct amount of tax for the taxable period. If a return has been filed, the Commission or its designated representatives shall examine the return and make any audit or investigation that is considered necessary.

SECTION B: When no return has been filed and the Commission determines that there is an A&P tax due for the taxable period or when a return has been filed and the Commission determines that the A&P tax disclosed by the return is less than the tax disclosed by its examination, the Commission shall propose the assessment of additional tax plus penalties as the case may be and shall give notice of the proposed assessment to the taxpayer. The notice shall explain the basis for the proposed assessment of the and shall state that a final assessment, as provided for herein, will be made if the taxpayer does not protest such proposed assessment as provided hereby. The taxpayer does not have to protest the proposed assessment to later be entitled to exercise the right to seek judicial review of the assessment.

SECTION C: Any demand for additional payment of the A&P tax which is made as the result of verification of a mathematical error on a return shall not be deemed to be a proposed assessment under the provisions of this section and shall not be subject to the hearing or appeal provisions of this Section.

SECTION EIGHTEEN: TAXPAYER RELIEF

SECTION A: Any taxpayer who wishes to seek administrative relief from any proposed assessment of taxes or proposed notice of disallowance of a claim for refund by the Commission shall follow the procedures provided by this section.

SECTION B: A taxpayer may at his option either request the Commission to consider his request for relief solely upon written documents furnished by the taxpayer or upon the written documents and any evidence presented by the taxpayer at the hearing.

SECTION C: A taxpayer who requests the Commission to render its decision based on written documents is not entitled by law to any other administrative hearing prior to the Commission's rendering of its decision and, if necessary, the issuing of a final assessment and demand for payment or issuing of a certificate of indebtedness.

SECTION D: Within thirty (30) days after the service of notice of the proposed assessment the taxpayer may file with the Commission a protest under oath signed by himself or his authorized agent setting forth the taxpayer's reasons for opposing the assessment.

SECTION E: The Commission may, at its discretion, extend the time for filing a protest for any period of time not to exceed an additional ninety-day period.

SECTION NINETEEN: HEARING ON PROPOSED ASSESSMENT

SECTION A: The Commission or the Commission's designated representative shall serve as the hearing officer to review all written protests submitted by taxpayers, hold all hearings, and make written findings as to the applicability of the proposed assessment.

SECTION B: Decisions of the hearing officer shall be final unless revised by the Commission.

SECTION C: The hearing on written and oral protests and determinations made by the hearing officer shall not be subject to the provisions of the Arkansas Administrative Procedure Act 25-15-201 et. seq.

SECTION D: The actual hearing on the written protest shall be held at a location to be determined by the Commission.

SECTION E: The Commission or the hearing officer shall set the time and place for the hearing on the written protest and shall give the taxpayer reasonable notice thereof.

SECTION F: At the hearing, the taxpayer may be represented by an authorized representative and may present evidence in support of his position.

SECTION G: After the hearing, the hearing officer shall render his or her decision or the Commission shall render his or her decision in writing and shall serve copies upon both the taxpayer and the Commission.

SECTION H: If the proposed assessment is sustained, in whole or part, the taxpayer may request in writing, within twenty (20) days of the mailing of the decision, that the Commission revise the decision of the designated hearing officer if not heard by the Commission.

SECTION I: If the Commission refuses to make a revision or if the taxpayer does not make a request for revision, then the final assessment shall be made upon final determination of the designated representative hearing officer by the Commission.

SECTION J: A taxpayer may seek relief from the final decision of the designated hearing officer or the Commission on a final assessment of a tax deficiency by following the procedure set forth in Section 20.

SECTION K: In addition to the hearing procedures set out in subsections (a)-(c) of this section, the Commission may hold a administrative hearings by telephone, video conference, or other electronic means if the Commission or designated hearing officer determines that the conducting in such a manner:

1. is in the best interest of the taxpayer and the Commission;
2. is agreed to by the parties;
3. is not fiscally unsound or administratively burdensome; and
4. is in compliance with state law;

SECTION J: The Commission is authorized to contract with third parties for all services necessary to conduct hearings by telephone, video, or other electronic means.

SECTION K: Any person who enters into a contract with the Commission to provide services necessary to conduct hearings by telephone, video, or other electronic means shall be subject to the laws of the State of Arkansas.

SECTION TWENTY: JUDICIAL RELIEF

SECTION A: Within thirty (30) days after the issuance and services on the taxpayer of the notice and demand for payment of a deficiency in tax established by (1) an audit determination that is not protested by the taxpayer, or (2) a final determination of the hearing officer or the Commission, a taxpayer may seek judicial relief from the final determination by either.

SECTION B: Within one (1) year of the date of the final assessment, paying the entire amount of the A&P tax due, including any interest or penalties, for any taxable period or periods covered by the assessment and filing suit to recover that amount within one (1) year of the date of payment. The Commission may proceed with collection activities including the filing of a certificate of indebtedness as authorized hereunder, within thirty (3) days of the issuance of the final assessment for any assessed but unpaid A&P taxes, penalties, or interest owed by the taxpayer for other taxable periods covered by the final assessment, while the suit for refund is being pursued by the taxpayer for the other taxable periods covered by the final assessment; or

SECTION C: Within thirty (3) days of the issuance and service on the taxpayer of the notice and demand for payment, filing with the Commission a bond in double the amount of the tax deficiency due and by filing suit within thirty (30) days thereafter to stay the effect of the Commission's determination.

SECTION D: The bond shall be subject to the condition that the taxpayer shall file suit within thirty (32) days after filing the bond shall faithfully and diligently prosecute the suit to a final determination and shall pay any deficiency found by the Court to be due and Court cost assessed against that entity.

SECTION E: A taxpayer failure to file suit, diligently prosecute the suit, or pay any tax deficiency and Court costs, as required by subsection (a) of this section, shall result in the forfeiture of the bond in the amount of the assessment and assessed Court costs.

SECTION F: Jurisdiction for a suit to contest a determination of the Commission under this section shall be in the Circuit Court of Pulaski County, where the matter shall be tried de novo.

SECTION G: The methods provided in this section shall be the sole alternative methods for seeking relief from a written decision of the Commission or hearing officer establishing a deficiency in the A&P tax. No injunction shall issue to stay proceedings or collection of the A&P collection.

SECTION H: If any Court proceedings under this section, the prevailing party may be awarded a judgment and Court costs.

SECTION TWENTY-ONE: ISSUANCE OF CERTIFICATES OF INDEBTEDNESS AND EXECUTION

SECTION A: If a taxpayer does not timely and properly pursue his remedies seeking relief from the decision of the Commission or its designated hearing officer and a final assessment against the taxpayer or if the taxpayer fails to pay the deficiency assessed upon notice and demand then the Commission through its authorized representative shall as soon as practicable thereafter, issue to the Circuit Clerk of any County of the State in which the taxpayer's business is located a certificate of indebtedness certifying that the person or entity named therein is indebted to the Commission for the amount of tax established by the Commission as due.

SECTION B: If a taxpayer has a delinquent A&P tax liability to the Commission of less than one thousand dollars (\$1,000.00), the Commission or its designated hearing officer may enter into an agreement with the taxpayer to allow the taxpayer to pay the delinquency in installments. The Commission or its designated hearing officer may choose not to issue a certificate of indebtedness during the period of the installment agreement if he determines that it is in the best interest of the Commission.

SECTION C: The Circuit Clerk shall enter immediately upon the Circuit Court judgment docket:

1. The name of the delinquent taxpayer;
2. The amount certified as being due;
3. The name of the tax; and
4. The date of entry upon the judgment docket.

SECTION D: The entry of the certificate of indebtedness shall have the same force and effect as the entry of a judgment rendered by the Circuit Court. This entry shall constitute the Commission's lien upon the title of any real and personal property of the taxpayer in the County where the certificate of indebtedness is recorded.

SECTION E: This lien is in addition to any other lien existing in favor of the Commission to secure payment of taxes, applicable penalties and costs. The lien is superior to other liens of any type or character attaching to the property after the date of entry of the certificate of indebtedness on the judgment docket. This lien is superior to all claims of unsecured creditors.

SECTION F: The certificate of indebtedness authorized by this subsection shall continue in force for ten (10) years from the day of recording and shall automatically expire after the ten (10) year period has run. Actions on the lien on the certificate of indebtedness shall be commenced within ten (10) years after the date of recording of the certificate and not afterwards.

SECTION G: After the entry of the certificate, the Circuit Clerk shall execute a Writ of Execution directed to the Commission authorizing the Commission to levy upon and against all real and personal property of the taxpayer.

SECTION H: The Commission shall have all remedies and may take all proceedings for the collection of the tax, which may be taken for the recovering of a judgment law.

SECTION I: The Writ shall be issued, served, and executed in the same manner as provided for the issuance and services of executions rendered by the Circuit Courts in this State except the Commission may act in the place of the County Sheriffs. Alternatively the Commission may utilize the services of the County Sheriff for this execution.

SECTION J: The Commission shall have the authority for all liens either presently filed or filed after the after the passage of this Ordinance.

SECTION K: Nothing in this chapter shall preclude the Commission from resorting to any other means provided by law for collecting delinquent taxes.

SECTION J: The issuance of a certificate of indebtedness, entry by Clerk, and levy of execution as provided in this section shall not constitute an election with respect to the collection of the tax.

SECTION K: The taxes, fees, interest, and penalties imposed or levied hereby may be collected in the same way as a personal debt of the taxpayer.

SECTION L: The Commission may sue to the same effect and extent as for the enforcement of a right of action for debt.

SECTION M: All provisional remedies available in these actions are available to the Commission in the enforcement of the A&P tax.

SECTION N: In addition to the remedies provided in subsections (b) and (c) of this section, the Commission may direct the Circuit Clerk to issue a writ of execution directed

to the Sheriff of any County authorizing the Sheriff to levy upon and against all real and personal property of the taxpayer. The writ shall be issued, served, and executed in the same manner as provided in the issuance and service of executions rendered by the Circuit Courts of this State. The Circuit Clerks and Sheriffs shall be entitled to receive the same fees provided by law in these matters. These fees shall be collected from the taxpayer by either the Commission or the Sheriff in addition to the tax, penalties and interest included in the certificate of indebtedness. If the Sheriff is unable, after diligent effort, to collect the tax, interest, penalties, and costs, the Commission may pay such fees as are properly shown to be due to the Clerk and Sheriff.

SECTION O: The Commission may contract with persons inside or outside the State to help the Commission collect delinquencies of resident or nonresident taxpayers.

SECTION TWENTY TWO: INJUNCTION PROCEEDINGS

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

SECTION TWENTY-THREE: SETTLEMENT OR COMPROMISE OF LIABILITY CONTROVERSIES

SECTION A: The Commission may enter into an agreement to compound, settle, or compromise any controversy relating to the A&P tax when:

1. The controversy is over the amount of tax due or;
2. The inability to pay results from the insolvency of the taxpayer;

SECTION B: The Commission may waive or remit the interest of penalty, or portion thereof, ordinarily accruing because of a taxpayer's failure to pay A&P tax within the statutory period allowed for its payment:

1. If the taxpayer's failure to pay the tax is satisfactorily explained to the Commission or;
2. If the failure results from a mistake by the taxpayer of either law or the facts subjecting them to such tax or;
3. If the inability to pay the interest or penalty results from the insolvency or bankruptcy of the taxpayer.

SECTION C: In settling or compromising any controversy relating to the liability of a person from the A&P tax for any taxable period, the Commission is authorized to enter into a written closing agreement concerning liability. When the closing agreement is signed by the Commission, it shall be final and conclusive, and except upon a showing of

fraud or misrepresentation of a material fact, not additional assessment or collection shall be made by the Commission and the taxpayer shall not institute any judicial proceedings to recover such liabilities as agreed to in the closing agreement.

SECTION D: The Commission shall promulgate rules and regulations establishing guidelines for determining whether a proposed offer of compromise is adequate and is acceptable to resolve a tax dispute.

SECTION TWENTY-FOUR: RELEASE OF PROPERTY FROM LIEN

SECTION A: Upon written application by any person, the Commission may release any property from the lien imposed by any assessment, order, judgment, or certificate of indebtedness obtained by or from any levy made by it if:

1. Either full payment is made to the Commission of the sum it considers adequate consideration for the release; or
2. Adequate security deposit is made with the Commission to secure the payment of the debt evidenced by the lien.

SECTION B: When the Commission determines that its assessment, certificate of indebtedness, or judgment is clouding the title of property because of an error in the description of properties or similarity in names, the Commission may issue a release without the payment of consideration.

SECTION C: The Commission's release shall be given under its seal and filed in the office of the Circuit Clerk in the County in which the lien is filed; or it shall be recorded in any office in which conveyances of real estate shall be recorded.

SECTION TWENTY FIVE: VIOLATIONS

Any person subject to the A&P tax who is transacting business with the City without a valid A&P Tax Permit shall be guilty of a violation, which shall be punishable up to a five hundred dollar (\$500.00) fine. Each day a person transacts business within the City without a valid A&P permit shall constitute a separate offense.

SECTION TWENTY SIX: CRIMINAL PENALTIES

Sanctions for any taxpayer who willfully attempts to evade or defeat the payment of the A&P tax, or who assists any taxpayer to make a false or fraudulent report, return, statement, claim, application, or other instrument required by the Commission in connection with the A&P tax, or makes a false answer to any question from the Commission or its designated representative concerning the A&P tax, neglects to answer a subpoena to appear and answer questions about records for the A&P tax or, who acts, or fails to act in conformance with the provisions of the Arkansas Tax Procedure Act, as that Act applies to the A&P tax, shall be subject to penalties set forth in the Ark. Code

Section 26-18-101 through 105, 26-10-201 to 212 as they exist on the date of the passage of this Ordinance or as they may be amended by the General Assembly and are in effect on the date of any such violation.

SECTION TWENTY SEVEN: SEVERABILITY

The provisions of this Ordinance are hereby declared to severable. If any provision shall be held to be invalid or to be inapplicable to any persons or circumstances, such invalidity or inapplicability shall not affect the remainder of the provisions of this Ordinance.

SECTION TWENTY EIGHT: COMMENCEMENT OF ENFORCEMENT

The effective date of this Ordinance shall be January 1, 2011.

SECTION TWENTY NINE: REPEALER

All laws and parts of laws are hereby repealed to the extent of such inconsistency with this Ordinance.