

**ORDINANCE NO. 2017-15**

**CITY OF BELLA VISTA, ARKANSAS**

**LEVYING A TAX IN THE AMOUNT OF TWO PERCENT (2%) UPON THE GROSS RECEIPTS OR GROSS PROCEEDS FROM RENTING, LEASING, OR OTHERWISE FURNISHING HOTEL, MOTEL, HOUSE, CABIN, BED AND BREAKFAST, CAMPGROUND, CONDOMINIUM OR OTHER SIMILAR RENTAL ACCOMODATIONS FOR SLEEPING, MEETING, OR PARTY ROOM FACILITIES FOR PROFIT IN THE CITY OF BELLA VISTA FOR PERIODS OF LESS THAN THIRTY (30) DAYS; LEVYING A TAX IN THE AMOUNT OF ONE PERCENT (1%) UPON THE PORTION OF THE GROSS RECEIPTS OR GROSS PROCEEDS RECEIVED BY RESTAURANTS, CAFES, CAFETERIAS, DELICATESSENS, DRIVE-IN RESTAURANTS, CARRY-OUT RESTAURANTS, CONCESSION STANDS, CONVENIENCE STORES, GROCERY STORE-RESTAURANTS, OR SIMILAR BUSINESSES AS DEFINED HEREIN FROM THE SALE OF PREPARED FOOD AND BEVERAGES FOR ON-PREMISES OR OFF-PREMISES CONSUMPTION; CREATING A BELLA VISTA ADVERTISING AND PROMOTION COMMISSION; CREATING AN ADVERTISING AND PROMOTION FUND; PROVIDING FOR COLLECTION AND ENFORCEMENT OF THE TAXES; PROVIDING PENALTIES FOR NON-PAYMENT OF THE TAXES; AND FOR OTHER PURPOSES**

**WHEREAS**, Ark. Code Ann. § 26-75-601 *et seq.*, commonly known as the Advertising and Promotion Commission Act (the "Act"), authorizes a city of the first class, acting through an ordinance of its governing body, to levy a tax not to exceed three percent (3%) upon the gross receipts or gross proceeds of certain goods and services as provided in the Act; and

**WHEREAS**, the Act further provides that any municipality levying such a tax or taxes create, by ordinance, a municipal advertising and promotion commission, to use the funds collected for the purposes permitted in the Act; and

**WHEREAS**, the City Council desires to facilitate tourism and promotion of the City of Bella Vista to further the economic vitality, tourism, and quality of life experienced in the City by the enactment of such taxes and the creation of a Bella Vista Advertising and Promotion Commission;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLA VISTA, ARKANSAS:**

**SECTION 1: DEFINITIONS.** As used in this Ordinance, the following terms shall have the following meaning:

*Bakeries, donut shops and ice cream shops.* These are included within the definition of "similar businesses" in Section 3 of this Ordinance.

*Beverage shops.* Businesses that sell beverages prepared or dispensed at their business are included within the definition of "similar businesses" in Section 3 of this Ordinance.

*Caterers.* Caterers are for profit businesses or persons who deliver or serve catered food or beverages at a location within the city limits of Bella Vista.

*Delis.* Delis shall include establishments selling prepared food and beverage, however the tax levied in Section 3 of this Ordinance shall not apply to sliced meat and/or cheese sold by the pound.

*Food trucks and food trailers.* These are included within the definition of "similar businesses" in Section 3 of this Ordinance.

*Prepared food and beverages.* Any food or beverage product prepared or altered in a food/beverage establishment and offered for sale.

**SECTION 2: LEVY OF HOTEL, MOTEL, LODGING TAX.** Pursuant to Arkansas Code Annotated § 26-75-602(c)(1), effective September 1, 2017, there is hereby levied a tax in the amount of two percent (2%) on the gross receipts or gross proceeds from renting, leasing, or otherwise furnishing hotel, motel, house, cabin, bed and breakfast, campground, condominium, or other similar rental accommodations for sleeping, meeting, or party room facilities for profit in the City of Bella Vista, Arkansas, not including rental or lease of such accommodations for periods of thirty (30) days or more.

**SECTION 3: LEVY OF PREPARED FOOD AND BEVERAGE TAX.** Pursuant to Arkansas Code Annotated § 26-75-602(c)(2), effective September 1, 2017, there is hereby levied a tax in the amount of one percent (1%) on the portion of the gross receipts or gross proceeds received by restaurants, cafes, cafeterias, delicatessens, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store-restaurants, or similar businesses from the sale of prepared food and beverages for on-premises or off-premises consumption, but such tax shall not apply to such gross receipts or gross proceeds of organizations qualified under 26 U.S.C. § 501(c)(3).

**SECTION 4: CREATION OF A&P COMMISSION; MEMBERSHIP.** There is hereby created a Bella Vista Advertising and Promotion Commission.

(a) The Commission shall be composed of seven (7) members as follows:

(1) Four (4) members shall be owners or managers of businesses in the tourism industry located in the City of Bella Vista, however the owner or manager may reside anywhere in Benton County, Arkansas. At least three (3) of these members shall be owners or managers of hotels, motels, or restaurants. Each of these four (4) members shall serve for staggered terms of four (4) years.

(2) Two (2) members shall be members of the City Council, selected by the City Council, and shall serve at the will of the City Council. As permitted by state law, a City Council member position may be filled by the Mayor.

(3) One (1) member shall be from the public at large who shall reside in the City of Bella Vista and shall serve for a term of four (4) years.

(b) The initial members of the Commission shall be selected as follows:

(1) The four (4) tourism industry positions provided for in subsection (a)(1) of this section shall be filled by appointment made by the City Council for staggered terms so that one (1) member will serve for a term of one (1) year, one (1) for a term of two (2) years, one (1) for a term of three (3) years, and one (1) for a term of four (4) years.

(2) The at-large position provided for in subsection (a)(3) of this section shall be filled by nomination of the Mayor, with approval of the City Council.

**SECTION 5: POWER AND AUTHORITY.** The Bella Vista Advertising and Promotion Commission shall have all power and authority as provided for advertising and promotion commissions in the state Advertising and Promotion Commission Act, Ark. Code Ann. § 26-75-601 *et seq.*

**SECTION 6: ADVERTISING AND PROMOTION FUND CREATED.** There is hereby created an Advertising and Promotion Fund, to which fund there shall be credited all collections of the taxes levied by this Ordinance. The Advertising and Promotion Fund shall be used in the manner determined by the Bella Vista Advertising and Promotion Commission exclusively for the advertising and promoting of the City of Bella Vista and its environs and/or for the construction, maintenance, repair, and operation of a convention center, including the pledge of revenues therein to the payment of bonds issued under Ark. Code Ann. § 26-75-607. The Advertising and Promotion Fund may be used for any permissible purpose authorized by Ark. Code Ann. § 26-75-606 as may be amended from time to time.

**SECTION 7: COLLECTION OF TAXES; WHEN PAYMENTS DUE.** The taxes levied by this Ordinance shall be collected from the user of the accommodations or purchaser of food by the person, firm, corporation, partnership, limited partnership, limited-liability company, limited-liability partnership, association, trust, or estate (or any other entity of whatever nature) furnishing such accommodations or selling such food (the taxpayer), and the taxpayer shall remit to the City by the 20<sup>th</sup> day of each month all collections of the taxes levied by this Ordinance for the preceding month, accompanied by a report on a form prescribed by the Commission.

**SECTION 8: APPLICATION OF RULES AND REGULATIONS.** The rules, regulations, forms of notice, assessment procedures, and the enforcement and collection of the tax under the Arkansas Gross Receipts Act of 1941, Ark. Code Ann. § 26-52-101 *et seq.* and the Arkansas Tax Procedure Act, Ark. Code Ann. § 26-18-101 *et seq.*, so far as practicable shall be applicable with respect to the enforcement and collection of the taxes levied pursuant to this

Ordinance. However, the administration and enforcement and all actions shall be by and in the name of the Commission through the proper Commission officials or agents.

**SECTION 9: PENALTIES AND ENFORCEMENT.** Penalties and interest may be assessed against taxpayers who fail to timely report or pay the taxes levied by this Ordinance. The penalty shall be equal to five percent (5%) of the unpaid taxes amount per month not to exceed a total assessment of thirty-five percent (35%) of the unpaid taxes. Simple interest on unpaid taxes shall be assessed at the rate of ten percent (10%) per annum. In addition, all powers listed under Ark. Code Ann. § 26-75-603(c) as may be amended from time to time and the provision of Ark. Code Ann. §§ 26-75-603(d) and 26-75-603(e) as may be amended form time to time may be exercised in enforcing the taxes levied by this Ordinance.

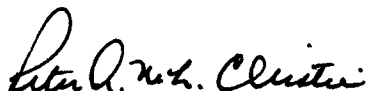
**SECTION 10: EXAMINATIONS AND INVESTIGATIONS.** The collector of the taxes, in order to enforce the taxes by determining the accuracy of taxpayer reports and remittances or fixing any liability under this Ordinance, may make an examination or investigation of the place of business, the tangible personal property, equipment, facilities, books, records, papers, vouchers, accounts, and documents of any taxpayer or other person. Every taxpayer or other person and any of their agents and employees shall exhibit to the collector of the taxes these places and items and facilitate any examination or investigation.

**SECTION 11: NON-APPLICABILITY TO ALCOHOLIC BEVERAGES.** The tax levied by Section 3 herein shall not apply to alcoholic beverages.

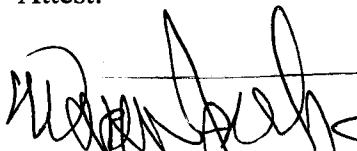
Motion to adopt: Alderman Wozniak, second by Alderman Fowler. Ayes: 5, Nays: 0

ADOPTED THIS 24<sup>TH</sup> DAY OF APRIL, 2017.

APPROVED:

  
\_\_\_\_\_  
Peter Christie, Mayor

Attest:

  
\_\_\_\_\_  
Wayne Jertson, City Clerk



Requested by: Mayor  
Prepared by: Jason B. Kelley, Staff Attorney

# AFFIDAVIT OF PUBLICATION

I, Karen Caler, solemnly swear that I am the Legal Advertising Clerk for the Northwest Arkansas Newspapers, LLC, and I do solemnly swear that the attached advertisement

CITY OF BELLA VISTA

Ord. No. 2017-15

was published in the following weekly paper(s):

- Bella Vista Weekly Vista  
 The Times of NE Benton County (Pea Ridge)  
 Siloam Springs Herald Leader  
 Siloam Sunday (Section of Arkansas Democrat Gazette)  
 Westside Eagle Observer

Of general and bona fide circulation in Benton County, Arkansas

Date(s) of Publication: May 3, 2017

Publication Charges: \$ 568.08

Karen Caler  
Karen Caler

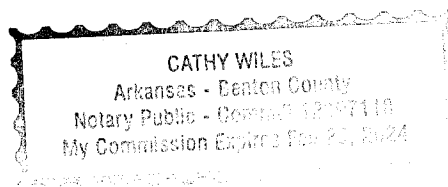
Subscribed and sworn to before me  
This 15 day of May, 2017.

Cathy Wiles  
Notary Public  
My Commission Expires: 2/28/2024

**\*\*NOTE\*\***

Please do not pay from Affidavit.

Invoice will be sent.



ORDINANCE NO. 2017-15  
CITY OF BELLA VISTA,  
ARKANSAS  
LEVYING A TAX IN THE AMOUNT  
OF TWO PERCENT (2%) UPON  
THE GROSS RECEIPTS OR  
GROSS PROCEEDS FROM  
RENTING, LEASING, OR  
OTHERWISE FURNISHING HOTEL,  
MOTEL, HOUSE, CABIN, BED AND  
BREAKFAST, CAMPGROUND,  
CONDOMINIUM OR OTHER  
SIMILAR RENTAL  
ACCOMODATIONS FOR  
SLEEPING, MEETING, OR PARTY  
ROOM FACILITIES FOR PROFIT IN  
THE CITY OF BELLA VISTA FOR  
PERIODS OF LESS THAN THIRTY  
(30) DAYS; LEVYING A TAX IN THE  
AMOUNT OF ONE PERCENT (1%)  
UPON THE PORTION OF THE  
GROSS RECEIPTS OR GROSS  
PROCEEDS RECEIVED BY  
RESTAURANTS, CAFES,  
CAFETERIAS, DELICATESSENS,  
DRIVE-IN RESTAURANTS,  
CARRY-OUT RESTAURANTS,  
CONCESSION STANDS,  
CONVENIENCE STORES,  
GROCERY STORE-  
RESTAURANTS, OR SIMILAR  
BUSINESSES AS DEFINED  
HEREIN FROM THE SALE OF  
PREPARED FOOD AND  
BEVERAGES FOR ON-PREMISES  
OR OFF-PREMISES  
CONSUMPTION; CREATING A  
BELLA VISTA ADVERTISING AND  
PROMOTION COMMISSION;  
CREATING AN ADVERTISING AND  
PROMOTION FUND; PROVIDING  
FOR COLLECTION AND  
ENFORCEMENT OF THE TAXES;  
PROVIDING PENALTIES FOR  
NON-PAYMENT OF THE TAXES;  
AND FOR OTHER PURPOSES

WHEREAS, Ark. Code  
Ann. § 26-75-601 et seq.,  
commonly known as the  
Advertising and Promotion  
Commission Act (the "Act"),  
authorizes a city of the first class,  
acting through an ordinance of its  
governing body, to levy a tax not to  
exceed three percent (3%) upon  
the gross receipts or gross  
proceeds of certain goods and  
services as provided in the Act; and  
WHEREAS, the Act  
further provides that any  
municipality levying such a tax or  
taxes create, by ordinance, a  
municipal advertising and  
promotion commission, to use the  
funds collected for the purposes  
permitted in the Act; and  
WHEREAS, the City  
Council desires to facilitate tourism  
and promotion of the City of Bella  
Vista to further the economic  
vitality, tourism, and quality of life  
experienced in the City by the  
enactment of such taxes and the  
creation of a Bella Vista Advertising  
and Promotion Commission;  
NOW, THEREFORE,  
BE IT ORDAINED BY THE CITY

COUNCIL OF THE CITY OF  
BELLA VISTA, ARKANSAS:

## SECTION 1:

DEFINITIONS. As used in this  
Ordinance, the following terms  
shall have the following meaning:  
Bakeries, donut shops and ice  
cream shops. These are  
included within the definition of  
"similar businesses" in Section 3  
of this Ordinance.

Beverage shops. Businesses  
that sell beverages prepared or  
dispensed at their business are  
included within the definition of  
"similar businesses" in Section 3  
of this Ordinance.

Caterers. Caterers are for profit  
businesses or persons who  
deliver or serve catered food or  
beverages at a location within the  
city limits of Bella Vista.

Delis. Delis shall include  
establishments selling prepared  
food and beverage, however the  
tax levied in Section 3 of this  
Ordinance shall not apply to  
sliced meat and/or cheese sold  
by the pound.

Food trucks and food trailers.  
These are included within the  
definition of "similar businesses"  
in Section 3 of this Ordinance.  
Prepared food and beverages.  
Any food or beverage product  
prepared or altered in a  
food/beverage establishment and  
offered for sale.

SECTION 2: LEVY OF HOTEL,  
MOTEL, LODGING TAX.  
Pursuant to Arkansas Code  
Annotated § 26-75-602(c)(1),  
effective September 1, 2017,  
there is hereby levied a tax in the  
amount of two percent (2%) on  
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proceeds from renting, leasing,  
or otherwise furnishing hotel,  
motel, house, cabin, bed and  
breakfast, campground,  
condominium, or other similar  
rental accommodations for  
sleeping, meeting, or party room  
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SECTION 3: LEVY  
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BEVERAGE TAX. Pursuant to  
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75-602(c)(2), effective September  
1, 2017, there is hereby levied a  
tax in the amount of one percent  
(1%) on the portion of the gross  
receipts or gross proceeds  
received by restaurants, cafes,  
cafeterias, delicatessens, drive-in  
restaurants, carry-out  
restaurants, concession stands,  
convenience stores, grocery  
store-restaurants, or similar  
businesses from the sale of  
prepared food and beverages for  
on-premises or off-premises  
consumption, but such tax shall  
not apply to such gross receipts  
or gross proceeds of  
organizations qualified under 26  
U.S.C. § 501(c)(3).

## SECTION 4:

CREATION OF A&P  
COMMISSION; MEMBERSHIP.  
There is hereby created a Bella

Vista Advertising and Promotion Commission.

(a) The Commission shall be composed of seven (7) members as follows:

(1) Four (4) members shall be owners or managers of businesses in the tourism industry located in the City of Bella Vista, however the owner or manager may reside anywhere in Benton County, Arkansas. At least three (3) of these members shall be owners or managers of hotels, motels, or restaurants. Each of these four (4) members shall serve for staggered terms of four (4) years.

(2) Two (2) members shall be members of the City Council, selected by the City Council, and shall serve at the will of the City Council. As permitted by state law, a City Council member position may be filled by the Mayor.

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(2) The at-large position provided for in subsection (a)(3) of this section shall be filled by nomination of the Mayor, with approval of the City Council.

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**SECTION 6: ADVERTISING AND PROMOTION FUND CREATED.** There is hereby created an Advertising and Promotion Fund, to which fund there shall be credited all collections of the taxes levied by this Ordinance. The Advertising and Promotion Fund shall be used in the manner determined by the Bella Vista Advertising and Promotion Commission exclusively for the advertising and promoting of the City of Bella Vista and its environs and/or for the construction, maintenance, repair, and operation of a convention center, including the pledge of revenues therein to the payment of bonds issued under Ark. Code Ann. § 26-75-607. The Advertising and Promotion Fund may be used for any permissible purpose authorized by Ark. Code Ann. § 26-75-606 as may be amended from time to time.

**SECTION 7: COLLECTION OF TAXES; WHEN PAYMENTS DUE.** The taxes levied by this Ordinance shall be collected from the user of the accommodations or purchaser of food by the person, firm, corporation, partnership, limited partnership, limited-liability company, limited-liability

partnership, association, trust, or estate (or any other entity of whatever nature) furnishing such accommodations or selling such food (the taxpayer), and the taxpayer shall remit to the City by the 20th day of each month all collections of the taxes levied by this Ordinance for the preceding month, accompanied by a report on a form prescribed by the Commission.

**SECTION 8: APPLICATION OF RULES AND REGULATIONS.** The rules, regulations, forms of notice, assessment procedures, and the enforcement and collection of the tax under the Arkansas Gross Receipts Act of 1941, Ark. Code Ann. § 26-52-101 et seq. and the Arkansas Tax Procedure Act, Ark. Code Ann. § 26-18-101 et seq. so far as practicable shall be applicable with respect to the enforcement and collection of the taxes levied pursuant to this Ordinance. However, the administration and enforcement and all actions shall be by and in the name of the Commission through the proper Commission officials or agents.

**SECTION 9: PENALTIES AND ENFORCEMENT.** Penalties and interest may be assessed against taxpayers who fail to timely report or pay the taxes levied by this Ordinance. The penalty shall be equal to five percent (5%) of the unpaid taxes amount per month not to exceed a total assessment of thirty-five percent (35%) of the unpaid taxes. Simple interest on unpaid taxes shall be assessed at the rate of ten percent (10%) per annum. In addition, all powers listed under Ark. Code Ann. § 26-75-603(c) as may be amended from time to time and the provision of Ark. Code Ann. §§ 26-75-603(d) and 26-75-603(e) as may be amended from time to time may be exercised in enforcing the taxes levied by this Ordinance.

**SECTION 10: EXAMINATIONS AND INVESTIGATIONS.** The collector of the taxes, in order to enforce the taxes by determining the accuracy of taxpayer reports and remittances or fixing any liability under this Ordinance, may make an examination or investigation of the place of business, the tangible personal property, equipment, facilities, books, records, papers, vouchers, accounts, and documents of any taxpayer or other person. Every taxpayer or other person and any of their agents and employees shall exhibit to the collector of the taxes these places and items and facilitate any examination or investigation.

**SECTION 11: NON-APPLICABILITY TO ALCOHOLIC BEVERAGES.** The tax levied by Section 3 herein shall not apply to alcoholic beverages. Motion to adopt: Alderman Wozniak, second by Alderman Fowler. Ayes: 5, Nays: 0

ADOPTED THIS 24TH DAY OF APRIL, 2017.

APPROVED:  
Peter Christie, Mayor  
Attest:  
Wayne Jertson, City Clerk  
Requested by: Mayor  
Prepared by: Jason B. Kelley, Staff Attorney  
74117057 May 3, 2017