

**ORDINANCE NO. 2024-004**

**AN ORDINANCE CALLING FOR AN ELECTION IN THE CITY OF HOLIDAY ISLAND, ARKANSAS ON THE ISSUE OF A THREE PERCENT (3%) TAX UPON THE GROSS RECEIPTS OF HOTEL, MOTEL AND OTHER ACCOMODATIONS TO BE USED EXCLUSIVELY FOR ADVERTISING AND PROMOTION OF TOURISM FOR THE CITY OF HOLIDAY ISLAND, ARKANSAS AND DECLARING AN EMERGENCY.**

**WHEREAS**, The City Council of the City of Holiday Island, Arkansas (The City Council) has determined that tourism is a major economic driver for the city; and

**WHEREAS**, The City Council has determined that advertising and promotion of Holiday Island is critical to the orderly development of tourism in the city; and

**WHEREAS**, The City Council has determined that the City of Holiday Island should establish an Advertising and Promotion Commission; and

**WHEREAS**, The City Council has determined that the City should levy a gross receipts tax, pursuant to the authority of the Arkansas "Advertising and Promotion Commission Act", codified under Ark. Code Ann. § 26-75-601 et seq.; and

**WHEREAS**, Title 26, Chapter 75, Subchapter 6 of the Arkansas Code of 1987 Annotated (the "Authorizing Legislation") authorizes the City to levy a gross receipts tax of up to three percent (3%) upon the gross receipts of hotels, motels, and certain accommodations within the city limits of Holiday Island; and

**WHEREAS**, The City Council finds it is in the best interest for the development of the City to levy a three percent (3%) tax upon the gross receipts of hotels, motels, and certain accommodations within the city limits for advertising and promotion; and

**WHEREAS**, Under Ark. Code. Ann § 26-75-602 the City of Holiday Island is permitted to call an election to determine if the electors of the City of Holiday Island wish to dedicate the three percent (3%) tax as described in this Ordinance to advertising and promotion; and

**WHEREAS**, if these taxes are approved, the proceeds shall be deposited into a fund for advertising and promotion and shall be distributed by an Advertising and Promotion Commission; and

**WHEREAS**, under Ark. Code. Ann. § 26-75-605 the City must create an Advertising and Promotion Commission to collect, determine the use of, and distribute the tax funds collected.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOLIDAY ISLAND THAT;**

Section 1: That there be, and there is hereby called, an election to be held, at which election there shall be submitted to the electors of the City of Holiday Island the question of the levy of a tax.

Section 2: That the question of the levy shall be placed on the ballot for the election in substantially the following form:

**THE LEVY OF A THREE PERCENT (3%) TAX UPON THE GROSS RECEIPTS OF HOTEL, MOTEL, SHORT TERM RENTALS, AND OTHER ACCOMODATIONS TO BE USED EXCLUSIVELY FOR ADVERTISING AND PROMOTION FOR THE CITY OF HOLIDAY ISLAND PURSUANT TO THE AUTHORITY OF THE ARKANSAS ADVERTISING AND PROMOTION ACT CODIFIED UNDER ARK. CODE ANN. § 26-75-601 et seq.**

FOR.....

AGAINST.....

Section 3: Tax Levied

A. A tax in the sum of three percent (3%) shall be, and is hereby, levied upon the gross receipts or gross proceeds from renting, leasing, or otherwise furnishing a hotel, motel, house, cabin, bed and breakfast, campground, short-term rental, or other similar rental accommodations for sleeping, meeting, or part room facilities for profit in such city, but such accommodations shall not include the rental or lease of such accommodations for periods of thirty (30) days or more.

B. The tax levied herein shall not take effect until an election is held on the question of levying the Advertising and Promotion Sales and Use Tax (A&P Tax), at which a majority of the electors voting on the question shall have approved the levy of the Advertising and Promotion Sales and Use Tax.

C. The three percent (3%) tax described in this Ordinance hereof shall be paid by the persons, firms, and corporations liable therefor and shall be collected by the Advertising and Promotions Commission of the City of Holiday Island (herein after called the ("Commission")), or by a designated agent of the Commission, in the same manner and at the time as the tax is levied by the Arkansas Gross Receipts Act, Ark. Code Ann. § 26-52-101, et seq. (Ark. Code Ann. § 26-75-603(a)(1).

D. The person paying the tax shall report and remit said tax on forms provided by the Commission and as directed by the Commission. The rules, regulations, forms of notice, assessment procedures, and the enforcement and collection of the tax under the Arkansas Gross Receipts Act shall, so far as practicable, be applicable with respect to the enforcement and collection of the tax levied pursuant to the authority of Ark. Code Ann. § 26-75-603. The

administration and enforcement, and all actions shall be by and through the proper Commission officials or agents.

Section 4: Collection of Tax

(1) From the effective date indicated in this Ordinance, the tax shall be paid by the Taxpayer and shall be collected by the Commission or by a designated agent of the Commission in the same manner and at the same time as the tax levied by the Arkansas Gross Receipts Act of 1941, as amended.

(2) Taxpayers shall collect the applicable tax levied by this Ordinance from the purchaser or user of the accommodations. Taxpayers paying the tax shall report and remit the tax collected upon forms provided by the Commission, and as directed by the Commission, but in no event later than the 20th day of the month following collection of the previous month's taxes.

(3) The rules, regulations, forms of notice, assessment procedures, and the enforcement and collection of the tax under the Arkansas Gross Receipts Act of 1941, as amended, and the Arkansas Tax Procedure Act, as amended, shall, so far as practicable, be applicable with respect to the enforcement and collection of the tax 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. The Commission shall have the authority to sue and be sued in its name. The Commission shall for the purposes of collecting the tax levied by this Ordinance, have all the power and authority stated in Arkansas Code Annotated Section 26-75-603 and as hereafter amended from time to time.

(4) This Ordinance specifically authorizes the Commission to pursue all remedies for tax collection and enforcement as identified in Arkansas Code Annotated Section 26-75-603 (c)-(f) and specifically meets the requirements of subsection (f) as may be amended from time to time by the Arkansas General Assembly.

(5) It shall be unlawful for any person, business, or entity subject to the A&P tax to transact business within the City of Holiday Island prior to the issuance and receipt of an Advertising and Promotion (A&P) tax permit from the City of Holiday Island.

(a). A separate A&P tax permit must be obtained for each location whereat the person, business, or entity conducts a business that is subject to the A&P Tax.

(b). An A&P tax permit shall have no stated term.

(c). The A&P Tax Permit will be issued at the time of obtaining or renewing the business license required by the City of Holiday Island

(d). The A&P tax permit shall not be assignable and shall be valid only for the person, business, or entity in whose name it is issued and for the location thereon designated. The A&P tax permit shall at all times be conspicuously displayed at the location thereon designated. The A&P tax permit shall expire at the time of cessation of the business of the person, business, or entity designated thereon.

(e). The city will provide the Commission with a list of all permits issued.

(6) The Commission shall promulgate rules and regulations to fulfill the purposes of enforcement and collection of the tax levied herein as it deems necessary and as allowed by Arkansas Code as may be amended from time to time by the General assembly within 120 days of formation of the commission. The grant of authority in this Ordinance is to authorize the Commission to exercise all rights and privileges in the collection and enforcement of the tax levied herein including the imposition of penalties to the greatest extent permitted by Arkansas law.

Section 5: Administration of Funds.

(1) There is hereby created the City of Holiday Island Advertising and Promotion Fund, to which fund there shall be credited all collections of the three percent (3%) tax levied by this Ordinance.

(2) The Commission is the body that determines the use of the City of Holiday Island Advertising and Promotion Fund.

(3) The Funds collected pursuant to the taxes levied by this Ordinance and allocated to the City of Holiday Island Advertising and Promotions Fund shall be used for any and only purposes identified and authorized in Arkansas Code Annotated Section 26- 75-606, as may be amended from time to time by the General Assembly of the State of Arkansas.

(4) Pursuant to this Ordinance and Arkansas Code Annotated Section 26-75-606(a)(2) as may be amended from time to time, if the Commission determines that funding of the arts is necessary for or supporting of its city's advertising and promotion endeavors, it can use its funds derived from the A&P tax.

(5) The Commission may not use proceeds from the Tax for:

a. general capital improvements within the city;

b. the costs associated with the general operation of the city or Holiday Island Suburban Improvement District;

c. general subsidy of any civic groups or chamber of commerce.

(6) The Commission may contract with groups to provide the commission actual services that are connected with tourism events or conventions; and the authorization and limitations contained in this subsection shall be reasonably construed so as to provide funds for promoting and encouraging tourism and conventions while not allowing such special revenues to be utilized for expenditures that are normally paid from general revenues of the City.

Section 6: Severability.

If any provisions of this Ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole other than the part declared to be invalid or unconstitutional, and the remaining part of the Ordinance shall be construed as if such invalid or unconstitutional provision or provisions had never been contained herein.

Section 7 REPEAL: All ordinances and resolutions or parts of thereof in conflict herewith in whole or in part, are hereby repealed to the extent of such conflict.

Section 8 EFFECTIVITY DATE: Subject to passage of the election on the subject of the Advertising and Promotion Tax herein, the effective date for the imposition of the tax is March 1<sup>st</sup>, 2025.

**EMERGENCY CLAUSE: Since this Ordinance must be approved in time to be included on the November 5<sup>th</sup>, 2024 general election ballot, an emergency is declared to exist and this Ordinance will become effective upon passage.**

**PASSED AND APPROVED BY THE CITY COUNCIL OF HOLIDAY ISLAND, ARKANSAS ON THIS**

**DATE OF 4-16-2024.**

**APPROVED:**

**ATTEST:**

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**Daniel Kees, Mayor**

**Wesley Stille, Recorder/Treasurer**

# Ballot Language

**Referendum proposed by the petition to the people**

Local Issue No 1

**Popular Name**

Sunday Sales

**Ballot Title**

"To authorize the sale of alcoholic beverages for off-premises consumption between the hours of 12:00 Noon and 12:00 Midnight on Sundays by those businesses in the Town of Alpena (Boone and Carroll Counties) that hold a current and valid license for the sale of alcoholic beverages issued by the Arkansas Alcoholic Beverage Control Division."

\_\_\_\_\_ FOR

\_\_\_\_\_ AGAINST

## INITIATIVE PETITION

To: The Honorable Ida Meyer, City Clerk of the City of Eureka Springs, Arkansas

We the undersigned legal, registered voters of the City of Eureka Springs, Arkansas respectfully propose the following ordinance, and by this, our petition, order that the same be submitted to the people of our municipality, to the end that same may be adopted, enacted or rejected by the vote of the registered voters of said municipality at the regular general election to be held on November 5, 2024:

### Popular Name of Proposed Ordinance

**An Ordinance Repealing the Eureka Springs City Advertising and Promotion Tax And Abolishing the Eureka Springs City Advertising and Promotion Commission**

### Ballot Title of Proposed Ordinance

**Ordinance Repealing Ordinances 936 of 1972; Ordinance 1813A of 1999; Ordinances 1974 and 1983 of 2004; Ordinance 2001 of 2005; Ordinance 2060 of 2007 and Ordinance 2220 of 2015; Chapters 2.56 and 2.60 of the Eureka Springs Municipal Code and all other Ordinances authorizing the collection of a City Advertising and Promotion Tax authorized by A.C.A. § 26-75-601 and Abolishing the Eureka Springs City Advertising and Promotion Commission**

BE IT ENACTED BY THE PEOPLE OF THE CITY OF EUREKA SPRINGS, ARKANSAS:

WHEREAS, The City of Eureka Springs in 1972 enacted Ordinance 936, in 1999 enacted Ordinance No. 1813A, in 2004 enacted Ordinances 1974 and 1983; in 2005 enacted Ordinance 2001, in 2007 enacted Ordinance 2060 and in 2015 enacted Ordinance No. 2220, all of which are currently codified at Chapters 2.56 and 2060 of the Eureka Springs Municipal Code. These ordinances enacted the Eureka Springs City Advertising and Promotion Tax ("CAPC Tax") and created the Eureka Springs City Advertising and Promotion Commission ("CAPC"), which has a primary function of collecting the CAPC Tax authorized by Arkansas law, including A.C.A. § 26-75-601, regulating on how the funds generated by this tax are used to promote the city and selecting and supervising the managers and staff of the Eureka Springs CAPC to carry on the daily work and operations of that commission; and

WHEREAS, It is and was the duty and responsibility of the Commissioners of the Eureka Springs City Advertising and Promotion Commission to act ethically, lawfully and proficiently in collecting this tax, in making informed and wise decisions spending the funds generated by this tax for the unbiased promotion of the city; in legally and ethically managing and dealing with the staff employed by the CAPC and impartially and ethically enforcing the guidelines, rules and regulations of the Eureka Springs CAPC and the applicable laws governing the CAPC, and

WHEREAS, events in recent years have called into serious question the actions of several commissioners of the CAPC, the judgment, ethical considerations and legality of many of their actions and lack of accountability for these questionable actions;

NOW THEREFORE, be it enacted by the people of the City of Eureka Springs, Arkansas:

Section 1: The CAPC Tax that the City of Eureka Springs and/or the CAPC was authorized to collect by Arkansas law including A.C.A. § 26-75-601, *et seq.* as well as the Eureka Springs City Advertising and Promotion Commission are hereby repealed and abolished effective midnight, December 31, 2024.

Section 2: Ordinances Numbers 936, 1974, 1813A, 1983, 2001, 2060, 2220 all other Ordinances authorizing and creating the CAPC and the CAPC Tax as well as Chapters 2.56 and 2.60 and of the Eureka Springs Municipal Code are hereby repealed to reflect the abolition of the Eureka Springs City Advertising and Promotion Commission and the repeal of the CAPC tax that the City and/or the CAPC was authorized to collect.

Section 3: Any provision of this ordinance found to be unlawful or invalid shall not affect the legality of the remaining provisions of this enactment.

I have personally signed this petition; I am a registered voter of the Incorporated City of Eureka Springs, Arkansas, and my printed name, date of birth, residence, city of town of residence and date of signing this petition are correctly written after my signature.

RESOLUTION FOR INITIATIVE PETITION

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2060 of 2007 and Ordinance 2220 of 2015; Chapters 2.56 and 2.60 of the Eureka  
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Any Eureka Springs citizens interested in supporting this Initiative is invited to contact Pat Matsukis, Phone 479-363-4740 or email: [patmatsukis@yahoo.com](mailto:patmatsukis@yahoo.com)