

ORDINANCE No. 2019 - 08

AN ORDINANCE LEVYING AN ADVERTISING AND TOURISM PROMOTIONS TAX ON THE GROSS RECEIPTS OF CERTAIN INDUSTRIES RELATED TO THE ADVERTISING AND TOURISM PROMOTION OF THE CITY OF SEARCY, CREATING THE CITY OF SEARCY, ARKANSAS, ADVERTISING AND TOURISM PROMOTION FUND, AND THE CITY OF SEARCY, ARKANSAS, ADVERTISING AND TOURISM PROMOTION COMMISSION, AND FOR OTHER PURPOSES; PRESCRIBING OTHER MATTERS PERTAINING THERETO; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, pursuant to Arkansas Code Annotated §§ 26-75-601, et seq., a City of the First Class may, by ordinance of the City Council, levy a tax not to exceed three percent (3%) upon the gross receipts or gross proceeds derived from: (a) renting, leasing, or otherwise furnishing hotel, motel, or short-term rental accommodations for sleeping, meeting, or party room facilities for profit but excluding accommodations of thirty (30) days or more; and (b) 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 excluding the gross receipts or gross proceeds of organizations qualified under 26 U.S.C. § 501(c)(3), as may be amended from time to time; and

WHEREAS, the City of Searcy recognizes the need to create an Advertising and Tourism Promotion Fund to be known as the Searcy Advertising and Tourism Promotion Fund to be used for advertising and tourism promotion for promoting the City of Searcy, Arkansas, and its environs and for the extension, equipment, improvement, maintenance, repair and operation of a convention center or centers in the City of Searcy, Arkansas, and facilities necessary for, supporting or otherwise pertaining to, a convention center or centers in the manner as may be determined by a Searcy Advertising and Tourism Promotion Commission, and the creation of said Commission; and

WHEREAS, the City of Searcy, Arkansas, recognizes that it is in the best interests of the City of Searcy, Arkansas, and its citizens to enact an Ordinance implementing the levies set forth herein and that the need to provide revenue for parks, recreation, advertising and tourism promotion is an emergency.

NOW THEREFORE, be it ordained by the City Council of the City of Searcy, Arkansas, to-wit:

Section 1. The Code of Ordinances of the City of Searcy, Arkansas, is hereby amended by adding a Chapter to the number Article 17, which said Chapter reads as follows:

“17-16. Advertising and Tourism Promotion.

17-16-1. Definitions.

17-16-1.1. Gross Receipts Tax – Restaurants. A tax of one percent (1.00%) upon the activities defined in Ark. Code Ann. § 26-75-602(c)(2) as may be amended from time to time and including, but not limited to, the gross receipts or gross proceeds from by restaurants, cafes, cafeterias, delicatessens, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store-restaurants, or any other, similar, business for the sale of prepared food and beverages for on-premises or off-premises consumption, but excluding the gross receipts or gross proceeds of organizations qualified under 26 U.S.C. § 501(c)(3), as may be amended from time to time.

17-16-1.2. Gross Receipts Tax – Lodging. A tax of three percent (3.00%) upon the activities defined in Ark. Code Ann § 26-75-602(c)(1) as may be amended from time to time and including, but not limited to, the gross receipts or gross proceeds from renting, leasing, or otherwise furnishing hotel, motel, or short-term rental accommodations for sleeping, meeting, or party room facilities, cabins, cottages, bed and breakfasts, camp grounds, for profit but excluding any rental or lease of any such accommodation for periods of thirty (30) days or more.

17-16-2. Levy of Gross Receipts Tax.

17-16-2.1. From and after June 1, 2019, the Gross Receipts Tax – Restaurant, shall be levied within the corporate limits of the City of Searcy, Arkansas. The tax herein levied shall be paid by the persons, firms, corporations or entities liable therefore, and shall be collected by the Searcy Advertising and Tourism Promotion Commission in the same manner and at the same time as the gross receipt tax levied by the Arkansas Gross Receipts Act of 1941, Ark. Code Ann. § 26-52-101, et seq., as may be amended from time to time, and pursuant to other ordinances of the City of Searcy or rules adopted by the Searcy Advertising and Tourism Promotion Commission.

17-16-2.2 From and after June 1, 2019, the Gross Receipts Tax – Lodging, shall be levied within the corporate limits of the City of Searcy, Arkansas. The tax herein levied shall be paid by the persons, firms, corporations or entities liable therefore, and shall be collected by the Searcy Advertising and Tourism Promotion Commission in the same manner and at the same time as the gross receipt tax levied by the Arkansas Gross Receipts Act of 1941, Ark. Code Ann. § 26-52-101, et seq., as may be amended from time to time, and pursuant to other ordinances of the City of Searcy or rules adopted by the Searcy Advertising and Tourism Promotion Commission.

17-16-2.3 The purpose of the use of the funds generated by levy of the Gross Receipts Tax – Lodging and Gross Receipts Tax – Restaurants shall include all purposes authorized by Ark. Code Ann. § 26-75-606, as may be amended from time to time, and, to the extent permitted by law, for the issuance of bonds pursuant to Ark. Code Ann. § 26-75-608.

17-16-3. Creation of Searcy Advertising and Tourism Promotion Commission.

17-16-3.1 The City of Searcy, Arkansas, Advertising and Tourism Promotion Commission (the “Commission”) is created.

17-16-3.2 The Commission shall be composed of seven (7) members who are electors of the City of Searcy, Arkansas, and whose selection and term shall be approved by the Searcy City Council.

17-16-3.3 Four (4) members of the Commission shall be owners or managers of businesses in the tourism industry, with at least three (3) of these members shall be owners or managers of hotels, motels, or restaurants located within the corporate limits of the City of Searcy, Arkansas.

17-16-3.4 Two (2) members of the Commission shall be members of the Searcy City Council selected by the said Searcy City Council to so serve; provided,

however, that in the event that any such person shall cease to be a member of the Searcy City Council, such person shall no longer serve on the Commission and that seal shall be deemed to be vacant and replaced pursuant to the terms of this Section.

17-16-3.5 One (1) Member of the Commission shall be from the general public at large and shall be an elector in the City of Searcy, Arkansas.

17-16-3.6 Selection of the Initial Members of the Commission shall be made pursuant to Ark Code Ann. § 26-75-605.

A. The four (4) tourism industry positions shall be filled by appointment made by the Searcy City Council for staggered terms so that: (i) one (1) member shall serve for an initial term of one (1) year; (ii) one (1) member shall serve for an initial term of two (2) years; (iii) one (1) member shall serve for an initial term of three (3) years; and (iv) one (1) member shall serve for a term of four (4) years.

B. The at-large position shall be filled by nomination of the Mayor of the City of Searcy and shall be approved by the Searcy City Council. This position shall serve a term of two (2) years.

C. The City Council Members shall serve annual terms.

17-16-3-7 A vacancy will be deemed to exist when a member of the Commission dies or resigns or ceases to possess any of the qualifications for membership, or when a member is removed from the Commission by a vote of a majority of the members of the City Council at a regular meeting of the City Council upon a finding by such majority that such removal is in the best interest of the City Council of the City of Searcy; provided, however, that no City Council member may be removed by the Commission. In

the event of a vacancy occurring on the Commission of any of the four (4) tourism industry positions or the at-large position, that vacancy shall be filled by an appointment of the remaining members of the Commission, subject to the approval of the City Council., it shall be filled in the manner heretofore provided, with the member filling the vacancy serving the balance of the term of the former member who created the vacancy.

17-16-4. Creation of Searcy Advertising and Tourism Promotion

Fund.

17-16-4.1 The funds received by the Searcy Advertising and Tourism Promotion Commission, under the provisions of this Ordinance shall be paid into a fund to be known as the Searcy Advertising and Tourism Promotion Fund to be used in the manner set forth herein or as may be permitted by law.

17-16-4-2 All revenues received by the Commission pursuant to this levy shall be deposited by the Commission in such account or accounts as may be designated by the Commission.”

Section 2. All ordinances and parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. Emergency Clause. The City Council has determined that an emergency exists and that the immediate adoption and enforcement of this ordinance being necessary for the public peace, health, safety and welfare, the provision hereof shall be in full force and effect from and after its passage.

**PASSED AND ADOPTED this 12<sup>th</sup> day of March, 2019.**

/s/ Kyle Osborne  
Mayor of Searcy

ATTEST:

/s/ Jerry Morris  
City Clerk