

TITLE 2

CLASSIFICATION, ADMINISTRATION

AND PERSONNEL

Chapters:

- 2.04 City Classification
- 2.08 City and Ward Boundaries
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CHAPTER 2.04

CITY CLASSIFICATION

Sections:

- 2.04.01 Operation as second-class city

2.04.01 Operation as second-class city The city of Mayflower, Arkansas, shall operate as a city of the second class under the laws of the State of Arkansas. (Ord. No. 117, Sec. 3.)

STATE LAW REFERENCE- See A.C.A. 14-37-105

CHAPTER 2.08

CITY AND WARD BOUNDARIES

Sections:

- 2.08.01 Division of Wards
- 2.08.02 Aldermen
- 2.08.03 Assigning of ward and representation

2.08.01 Division of Wards

- A. On the effective date of this ordinance the City of Mayflower shall be divided into three (3) wards as indicated below and graphically portrayed on the attached diagram:

Ward 1- Beginning at the intersection of the centerline of the Union Pacific Railroad (UPRR) and the intersection with centerline of an unnamed creek in the northeast quarter of Section 30, Township 4 North, Range 13 West, thence south along the centerline of UPRR to the intersection with the centerline of State Highway 89, thence west along the centerline of State Highway 89 to the intersection with the centerline of Snuggs Circle, thence north along the centerline of Snuggs Circle to the intersection with the city limits of Mayflower as of June 10, 2015, thence beginning in a westerly direction and then following along the city limit line to its intersection with the west Right of Way of Interstate 40 in the southeast quarter of Section 30, Township 4 North, Range 13 West, thence north along the west Right of Way of Interstate 40 to the intersection with the centerline of the unnamed creek in the southwest quarter of Section 20, Township 4 North, Range 13 West, thence in a southwesterly direction along the centerline of the unnamed creek to the point of beginning.

Ward 2 - Beginning at the intersection of the city limits of Mayflower as of June 10, 2015, and the west Right of Way of Interstate 40 on the east line of Section 30, Township 4 North, Range 13 West, thence north along the west Right of Way of Interstate 40 to the intersection with the centerline of the unnamed creek in the southwest quarter of Section 20, Township 4 North, Range 13 West, thence in a southwesterly direction along the centerline of the unnamed creek to its Intersection with the centerline of the Union Pacific Railroad (UPRR) in the northeast quarter of Section 30, Township 4 North, Range 13 West, thence south along the centerline of UPRR to the intersection with the centerline of State Highway 89, thence west along the centerline of State Highway 89 to the

intersection with the centerline of Snuggs Circle, thence north along centerline of Snuggs Circle to the intersection with the city limits of Mayflower as of June 10, 2015, thence north along the said city limits to the intersection with the west Right of Way of Interstate 40 on the south line of Section 8, Township 4 North Range 13 West, thence south along the west Right of Way of Interstate 40 to the intersection with the centerline of State Highway 89, thence east along the centerline of State Highway 89 to the intersection with the city limits of Mayflower as of June 10, 2015, in the northwest quarter of Section 21, Township 4 North, Range 13 West, thence in a southerly direction and then along the said city limits to the point of beginning.

Ward 3 - Beginning at the intersection of the city limits of Mayflower as of June 10, 2015, and the west Right of Way of Interstate 40 in the southwest quarter of Section 8, Township 4 North, Range 13 West, thence south along the Right of Way of Interstate 40 to the intersection with the centerline of State Highway 89, thence east along the centerline of State Highway 89 to the intersection with the city limits of Mayflower as of June 10, 2015, in the northwest quarter of Section 21, Township 4 North, Range 13 West, thence in a northerly direction and then along the said city limits to the point of beginning.

(Ord. No. 2015-02, Sec. 1)

2.08.02 Aldermen Each ward will be represented by two (2) aldermen who must live in their respective ward and will be elected by a citywide vote, in accordance with the laws of the State of Arkansas. The Aldermen will serve for a two (2) year term and will represent their respective ward. Aldermen will be elected during the general election and will take office the following January 1st. (Ord. No. 2015-02, Sec. 2)

2.08.03 Assigning of ward and representation

- A. The individuals living in the area annexed into the city as identified above and reflected on the attached map, and on the effective date of this ordinance shall be assigned to Wards 2, which currently consist of all that area of the city of Mayflower lying east of State Highway 365 and north of the Paradise Road overpass, *all* the area east of East Ridge Road, and extending as far north as the

current city limits. (Land contained in the west half Section 29, Township 4 North, and Range 13 West; Land contained in the west half Section 29, Township 4 North, and Range 13 West)

- B. The area identified above and reflected on the attached vicinity map will be incorporated into Ward 2 and shall remain in Ward 2 until the next ward realignment.
- C. The newly annexed individuals will be represented by two (2) Aldermen who must live in their respective ward and will be elected by a citywide vote, in accordance with the laws of the state of Arkansas. The Aldermen will serve for a two (2) year term and will represent their respective ward. Aldermen will be elected during the general election and will take office the following January 1st. (Ord. No. 2002-11, Secs. 1-2.)

CHAPTER 2.12

SOCIAL SECURITY COVERAGE

Sections:

- 2.12.01 Contract
- 2.12.02 Withholding taxes from wages
- 2.12.03 City to match withholding

2.12.01 Contract. The Mayor and the Bookkeeper are hereby authorized and directed to enter into an agreement with the state for the purpose of obtaining insurance coverage for the employees of the city of Mayflower, Arkansas under the terms and provisions of the Federal Social Security Act.

2.12.02 Withholding taxes from wages. Each employee's insurance contribution shall be deducted from his salary check in accordance with the terms and provisions of the Social Security Act.

2.12.03 City to match withholding. There is hereby appropriated from the general fund of the city the sums of money necessary to pay the city's share of the insurance tax in accordance with the terms and provisions of the Social Security Act.

CHAPTER 2.16

UNCLAIMED PROPERTY

Sections:

- 2.16.01 Disposal
- 2.16.02 Sale
- 2.16.03 Proceeds of sale to owner
- 2.16.04 Proceeds remaining after six months

2.16.01 Disposal. The Mayor, under the direction hereinafter set out, is hereby authorized and directed to dispose of at public auction all unclaimed personal property rightfully coming into the hands of his office and to dispose of other confiscated property confiscated under the orders of the City Court with the exception of confiscated liquor.

STATE LAW REFERENCE - For procedure relating to liquor, See A.C.A. 3-3-312

2.16.02 Sale. All unclaimed personal property coming into the hands of the Mayor will be held by him for a period of six (6) weeks or longer. If property remains unclaimed he shall periodically advertise such property in some newspaper of general circulation in the City of Mayflower once each week for three (3) consecutive weeks setting forth in the notice the time for the sale which shall not be earlier than five (5) days after the last publishing of the notice and no later than ten (10) days thereafter, designating an easily accessible place for the sale thereof, and giving a complete list and description of unclaimed articles to be sold. The Mayor shall have the right to refuse any and all bids not satisfactory and will then proceed to advertise these items for sale at a later date. Terms of such sale shall be for cash only. Nothing in this chapter shall prohibit any person who properly identifies any of the property as being their own before the sale from claiming and having property restored to them.

2.16.03 Proceeds of sale to owner. The Mayor shall deposit the receipt from the S-8 aforesaid sale of unclaimed property in the treasury and the Bookkeeper/Treasurer is to keep these funds in a special account for a period of six (6) months and any person identifying as his own any of such property within the six (6) month period shall upon the presentation of satisfactory proof be paid by the city out of the special account the amount for which the property was sold. The Recorder/Treasurer or some person designated by him shall keep in a well bound book an accurate record and description of each piece of unclaimed property passing through his office and the price for which it was sold and the date, the name and address of those who purchased same, as well as a complete record of those who identified and claimed any of the property before it was sold.

2.16.04 Proceeds remaining after six months. All proceeds from the sale remaining in the special fund for a period of six (6) months shall by the Treasurer be transferred to the city's general fund and no further payment shall be made therefrom to anyone who thereafter claims ownership.

CHAPTER 2.20

CITY COUNCIL

Sections:

- 2.20.01 Meeting Schedule & Agenda
- 2.20.02 Freedom of information procedure
- 2.20.03 Recently Elected Officials

2.20.01 Meeting Schedule & Agenda

- A. CALENDAR:** For the year 2023, the scheduled meeting dates are attached herein as **Appendix A**, and incorporated herein by reference. The City Council shall meet at one (1) meeting per month unless good cause exists to meet on more or fewer occasions. Meetings shall customarily be held on the Fourth Tuesday of each month unless said date falls on public holiday, or whenever good cause exists to re-schedule. See Appendix A. (Ord. No. 2023-01, Sec. 2)
- B. WRITTEN AGENDA:** A written agenda shall be prepared and published by the Mayor or his designee no later than the end of the business day, seven (7) days prior to each monthly meeting of the City Council. In the event that the agenda deadline falls on a state or federal holiday, then said agenda shall be prepared and published on the next business day following said holiday. terms of new business to be discussed shall be submitted to the Mayor's office in writing in the time and manner described herein. At the discretion of the Mayor, business items may be

added outside of this schedule where good cause exists. The Mayor may exercise discretion to exclude matters from the agenda when submitted by members of the general public. The Mayor may not exercise such discretion regarding matters submitted by City Council members. In the event that a special or emergency City Council meeting is held, a written agenda shall be prepared and made publicly available as soon as reasonably possible prior to the date and time of said meeting. (Ord. No. 2023-01, Sec. 2)

C. ATTENDANCE AND MEETING FORMAT: The Mayor or designated presiding officer shall officiate each meeting using procedures of state law and Roberts' Rules of Order. If the Mayor is absent, another designated publicly elected official may preside in his or her place. The Recorder/ Treasurer and City Attorney shall be present unless good cause exists for their absence and said officials may be substituted by suitably qualified individuals of their choosing on a temporary basis. The meeting agenda shall follow the format of 1) Roll-Call, 2) Pledge of Allegiance, 3) Approval of Previous Minutes, 4) Discussion of Old Business Items, 5) Discussion of New Business Items, and 6) Public Commentary / Special Presentations. Issues of public commentary shall be limited to two (2) minutes per speaker unless extended by the Mayor or presiding officer, and issues of public commentary are not required to be specifically described in the prepared agenda. (Ord. No. 2023-01, Sec. 2)

D. MEETING CANCELLATIONS, SPECIAL MEETINGS, AND ALTERNATIVE MEETINGS: The Calendar of meetings affixed herein shall be generally followed, unless the Mayor finds good cause to alter, cancel, re-schedule, or otherwise modify the published meeting schedule. As limited examples, meetings may be canceled or re-scheduled in the event of inclement weather, national or local emergency, lack of pending business items, or anticipated lack of quorum among Council members. Modifications should be announced with as much advance notice as possible under all circumstances. If regularly scheduled meeting(s) are modified, re-scheduled, or cancelled, the Recorder/ Treasurer shall prepare a written entry of meeting minutes describing the nature of the modification and the reason thereof. Meetings may also be modified and conducted as "virtual meetings" employing the use of publicly-accessible live video communication services, and where said meetings are freely accessible for live public viewing. (Ord. No. 2023-01, Sec. 2)

2.20.02 Freedom of information procedure. All meetings of the City Council of the city of Mayflower, Arkansas, shall be public meetings. Notice of the time, place and date of all special meetings shall be given to representatives of the newspapers and radio stations located in Faulkner County, Arkansas, which have requested to be notified at least two (2) hours before the special meeting takes place.

2.20.03 Recently Elected Officials The following elected officers were elected at the General Election held on November 8, 2022, for the terms listed below:

1. Danny Hester - Mayor (2023-2026)
2. Mark Hickman-Alderman, Ward 1, Position 1 (2023-2024)
3. Jennifer Massey-Alderman, Ward 1, Position 2 (2023-2024)
4. Zachery Jeffery - Alderman, Ward 2, Position 1 (2023-2024)
5. Jack J. Paul-Alderman, Ward 2, Position 2 (2023-2024)
6. Kyle Marks - Alderman, Ward 3, Position 1 (2023-2024)
7. Brian Williams -Alderman, Ward 3, Position 2 (2023-2024)

(Ord. No. 2023-01, Sec. 1)

CHAPTER 2.24

MAYOR

Sections:

- 2.24.01 Office created
- 2.24.02 Election
- 2.24.03 Duties
- 2.24.04 Appointment of officers
- 2.24.05 Salary
- 2.24.06 Retirement Plan

2.24.01 Office created. The office of Mayor is hereby created for the city of Mayflower, Arkansas.

2.24.02 Election. On the Tuesday following the first Monday in November, 1978 and every four (4) years thereafter, the qualified voters of the city of Mayflower, Arkansas, shall elect a Mayor for four (4) years.

2.24.03 Duties. As chief executive of the city, the Mayor shall preside over all meetings of the City Council of the city of Mayflower, Arkansas, and shall perform such duties as may be authorized or required of him by state statute or city ordinance.

2.24.04 Appointment of officers. The Mayor shall appoint, with the approval of the City Council of the city of Mayflower, Arkansas, (where such approval or confirmation is required) all officers of the city whose election or appointment is not provided for by state statute or city ordinance.

2.24.05 Salary. The rate of pay of the Mayor shall be determined by ordinance of the City Council of the city of Mayflower, Arkansas from time to time in a manner that will comply with the Arkansas Constitution. The compensation of the mayor of the city of Mayflower, Arkansas, shall include reimbursement for any and all travel expenses relative to city business including but not limited to motel and mileage expenses, and shall include the entire year of 1988. (Ord. No. 90-2, Sec. 3.)

2.24.06 Retirement Plan The Mayor of the City of Mayflower, commencing on the first day of the fifth year of consecutive service, or the first day of a second term of office, shall be allowed to participate in the same retirement program established by the Mayflower City Council for full time employees and contributions equivalent to that which are provided to full time employees be deposited into an established fund currently being controlled by Arkansas Diamond. (Ord. No. 2012-04, Sec. 1)

That retirement benefits for the current Mayor be retroactive to the beginning of his fifth year of service that commenced on the 14th day of June 2010. (Ord. No. 2012-04, Sec. 2)

CHAPTER 2.28

RECORDER

Sections:

- 2.28.01 Elected office
- 2.28.02 Duties

2.28.01 Elected office In accordance with A.C.A. 14-44-115 the office of the Recorder shall be an elected office. The position of City Treasurer will not be totally or partially connected with the office of Recorder. (Ord. No. 95-5, Sec. 1.)

2.28.02 Duties Duties of the office of Recorder will be:

1. As designated by A.C.A. 14-44-109
2. As summarized in specific sections of the "Handbook for Arkansas Municipal Officials"
3. The Recorder will submit, monthly, in open meeting, a full report and detailed statement of the financial condition of the city to the Mayor and members of the Council. (Ord. No. 95-5, Sec. 2.)

CHAPTER 2.32

BOOKKEEPER/TREASURER

Sections:

| | |
|---------|---------------------|
| 2.32.01 | Position |
| 2.32.02 | Duties |
| 2.32.03 | Employment |
| 2.32.04 | Confusion of titles |
| 2.32.05 | Relation |

2.32.01 Position The position of city bookkeeper/treasurer will be by appointment by the Mayor and approval of the City Council; will not be partially or totally related to the elected position of Recorder. (Ord. No. 92-2, Sec. 1.)

2.32.02 Duties The duties will be to submit monthly, a full report and detailed statement of the financial condition of the city to the City Recorder; submit all bills for a timely payment to avoid late fees, etc; record all revenues and date of timely deposit; maintain the Purchase Order books; maintain a computerized inventory of city materials and equipment; maintain a computerized maintenance record of city machinery; perform those duties of bookkeeping as delegated by the Mayor. (Ord. No. 92-2, Sec. 2.)

2.32.03 Employment The Bookkeeper/Treasurer will not be employed by the city of Mayflower in any other capacity. (Ord. No. 92-2, Sec. 3.)

2.32.04 Confusion of titles This position is not to be confused with the title "Treasurer" as identified in the Municipal League Handbook. (Ord. No. 92-2, Sec. 4.)

2.32.05 Relation The Bookkeeper/Treasurer shall not be immediately related to any city employee. (Ord. No. 92-2, Sec. 5.)

CHAPTER 2.36

CITY ATTORNEY

Sections:

| | |
|---------|----------|
| 2.36.01 | Duties |
| 2.36.02 | Position |

2.36.01 Duties. It shall be the duty of the City Attorney to prosecute all cases in the Municipal Court for violation of the city's ordinances, and to prosecute and defend, as the case

may require, for the city, all cases in which the city may be interested, whether civil or criminal, in all the courts state and federal. attend City Council, Board and Commission meetings as necessary or required; provide legal advice and council to the Mayor and City Council; draft and/or review all legislation; prepare and provide legal opinions as necessary; and perform other such related legal services as directed by the Mayor and/or City Council.

2.36.02 Position The position of City Attorney for the City of Mayflower Arkansas shall be appointed by the acting Mayor of the City of Mayflower. (Ord. No. 2019-07, Sec. 1)

CHAPTER 2.40

VOLUNTEER FIRE DEPARTMENT

Sections:

| | |
|---------|---|
| 2.40.01 | Creation and supervision |
| 2.40.02 | Members |
| 2.40.03 | Equipment |
| 2.40.04 | Fire Chief |
| 2.40.05 | Meetings and training |
| 2.40.06 | Rules, policies and procedures |
| 2.40.07 | Fee |
| 2.40.08 | Non-subscriber |
| 2.40.09 | Lien |
| 2.40.10 | Compensation |
| 2.40.11 | Reports |
| 2.40.12 | Membership dues |
| 2.40.13 | Fire expenses |
| 2.40.14 | Boundaries |
| 2.40.15 | Assistance |
| 2.40.16 | Local Police and Fire Retirement System (LOPFI) |
| 2.40.17 | Adoption by reference |
| 2.40.18 | Fire Marshal |

2.40.01 Creation and supervision There is hereby created a "Volunteer Fire Department" within and for the city of Mayflower Arkansas, to be supervised and operated by a committee composed of the Mayor and two members of the City Council. (Ord. No. 81-2, Sec. 1.)

2.40.02 Members The term Volunteer Fire Department shall consist of those members of the community who shall offer his or her services of his or her own free will, for the purpose of organizing and maintaining a municipal department of the city, the primary purpose of which will be to fight fires and to prevent their occurrence. (Ord. No. 81-2, Sec. 2.)

2.40.03 Equipment All equipment acquired in the name of the Volunteer Fire Department of the city of Mayflower, Arkansas, shall become the property of the city of Mayflower, Arkansas, unless otherwise provided. (Ord. No. 81-2, Sec. 3.)

2.40.04 Fire Chief The Fire Chief shall be appointed by the Mayor and confirmed by the City Council. He shall be directly charged with the responsibility and accountability to the city for all equipment and shall exercise control and management of the organization. He shall name and select, with the approval of the Mayor and City Council, the members of the department, and shall direct and control all work of said department.

2.40.05 Meetings and training There shall be held not less than two (2) meetings each month of the department for the purpose of instruction and training and all members shall attend unless excuses for reasonable cause (Ord. No. 120, Sec. 2.); the date and time of regular meetings will be set by the Fire Chief.

2.40.06 Rules, policies and procedures The Volunteer Fire Department shall adopt such rules as may be deemed necessary for the proper function of the department, but all such, rules, bylaws, policies and/or standard operating procedures (SOP's) shall be subject to the approval of the Mayor, the Fire Committee, and/or the City Council. The City Council shall promulgate such rules and regulations to govern the department as it shall deem expedient.

STATE LAW REFERENCE - See AC.A. 14-53-101

2.40.07 Fee Those citizens and residents of Mayflower, Arkansas, who wish to become subscribers to the services provided by the Volunteer Fire Department shall become eligible for said services by paying to the City Dispatcher a fee of \$35.00 per residences and \$75.00 per business, per year. Upon receipt of the aforesaid fee, no further charges for services will be imposed upon a subscriber as may be imposed upon non-subscribers as hereinafter set forth. (Ord. No. 81-2, Sec. 4.)

2.40.08 Non-subscriber Hereafter, any non-subscriber who receives the services of the Volunteer Fire Department in fighting a fire for the preservation, or attempt thereof, of that non-subscriber's property, then that non-subscriber shall be charged a fee of \$300.00 for the services provided. The city of Mayflower, Arkansas, shall have a lien upon such property preserved for the collection of the fee. (Ord. No. 81-2, Sec. 5.)

2.40.09 Lien The lien herein provided for shall be enforced at any time within eighteen (18) months after such services are provided, and may be enforced by proper action filed in the Chancery Court of Faulkner County, Arkansas. (Ord. No. 81-2, Sec. 6.)

2.40.10 Compensation All selected and approved members of the Mayflower volunteer Fire Department shall receive the sum of Five Dollars (\$5.00) for attendance and service at each fire and Two Dollars and Fifty Cents (\$2.50) for responding to a medical emergency. Service is

deemed to have been performed when the circumstances require the necessity of unloading and connecting fire hoses to the equipment or by providing medical assistance. The Fire Chief shall receive compensation of Ten Dollars (\$10.00) and department officers shall receive Seven Dollars and Fifty Cents (\$7.50) for attendance and service at each fire.

2.40.11 Reports The Fire Chief shall keep, or cause to be kept, a record of the names of all members who attends regular meetings and who perform a service at each fire, and he shall submit a monthly report on the number of fires and department meetings attended by each member each month to the Mayor and the City Council (Ord. No. 120, Sec. 6.)

2.40.12 Membership dues Membership dues are established as \$35.00 per year per residence and \$75.00 per year per business.

2.40.13 Fire expense Any non-subscriber who receives the services of the volunteer Fire Department in fighting a fire of that non-subscriber's property shall be charge, up to the maximum fee allowed under state statues, for services provided. The normal expenses for non-subscribers include \$300.00 for a house or grass fire; \$300.00 for a business fire; and \$300.00 for a vehicle fire.

STATE LAW REFERENCE - See A.C.A. 20-22-901

2.40.14 Boundaries The boundaries of the Mayflower Volunteer Fire Department are defined as follows:

- A. North Boundary: The north boundary shall extend to the southern city limits of the city of Conway, Arkansas.
- B. South Boundary: The south boundary shall extend to the Faulkner/Pulaski County line at Palarm Creek.
- C. East Boundary: The east boundary shall be the west shoreline of Lake Conway from the Conway city limits to the Lake Conway Dam. The area of Arkansas Highway 89 east to the Pierce Creek access road, a distance of five (5) miles.
- D. West Boundary: The west boundary shall extend from Palarm Creek along the bank of the Arkansas River to Lollie Road. Thence east to the boundary of Round Mountain and the Mayflower city limits, north to the Conway city limits and bordering on the east boundary of Round Mountain. (Ord. No. 88-7, Sec. 1.)

2.40.15 Assistance Assistance will be provided, when so requested, to the Conway Fire Department, the Pine Village Volunteer Fire Department and the Saltillo Volunteer Fire Department. (Ord. No. 88-7, Sec. 2.)

2.40.16 Local Police and Fire Retirement System (LOPFI) All eligible members of the Mayflower volunteer Fire Department shall receive LOPFI coverage. The city (employer) will make all LOPFI contributions. There are no employee contributions required for volunteer service.

2.40.17 Adoption by reference All portions of Arkansas Code of 1987 Annotated, as contained in the current Handbook for Arkansas Municipal Officials, pertaining to volunteer fire department policies, procedures, rules, regulations, and personnel are adopted by reference and are made a part of this chapter as much so if they were reprinted in their entirety.

2.40.18 Fire Marshal: The position of Fire Marshal is hereby established within the Mayflower Fire Department. The Fire Marshal shall be nominated by the Fire Chief and confirmed by the City Council. (Ord. No. 2023-03, Sec. 1)

The Fire Marshal shall have the following duties and responsibilities:

1. **Fire Prevention:** The Fire Marshal shall be responsible for the prevention of fires and the enforcement of all the Arkansas Fire Prevention Code and regulations within the fire district. The Fire Marshal shall also be responsible for conducting fire safety inspections and enforcing fire safety regulations in all buildings within the fire district.
2. **Fire Investigation:** The Fire Marshal shall be responsible for investigating all fires within the fire district to determine the cause and origin of the fire. The Fire Marshal shall also be responsible for determining whether any violations of fire safety codes and regulations contributed to the cause of the fire.
3. **Public Education:** The Fire Marshal shall be responsible for developing and implementing public education programs to promote fire safety within the City of Mayflower. The Fire Marshal shall also be responsible for providing training to City personnel in fire prevention and safety.
4. **Emergency Response:** The Fire Marshal shall provide assistance to the Fire Chief and other emergency responders during fire and other emergency situations.
5. **Other Duties:** The Fire Marshal shall be responsible for completion of other relevant duties as assigned by the City or the Fire Chief.

(Ord. No. 2023-03, Sec. 2)

The Fire Marshal shall have the authority to:

1. Enter and inspect all buildings as allowed for in the Arkansas Fire Prevention Code within the fire district to ensure compliance with fire safety codes and regulations.
2. Order the correction of any violations of fire safety codes and regulations.

3. Order the evacuation or temporary closure of any building that presents an imminent danger to the safety of its occupants.
4. Order the cessation of any activity that presents an imminent danger of fire.
5. Issue citations or make arrests as necessary.

(Ord. No. 2023-03, Sec. 3)

CHAPTER 2.44**CITY COURT****Sections:**

| | |
|---------|---------------------------------------|
| 2.44.01 | City Court established |
| 2.44.02 | City Judge |
| 2.44.03 | Cases |
| 2.44.04 | Fees |
| 2.44.05 | Convening |
| 2.44.06 | Fines |
| 2.44.07 | General funds |
| 2.44.08 | Court costs |
| 2.44.09 | Money from criminal and traffic cases |
| 2.44.10 | Maintenance Fund |
| 2.44.11 | Acceptance of Acts by reference |
| 2.44.12 | Violations |
| 2.44.13 | Future amendments |
| 2.44.14 | Numerical designation |
| 2.44.15 | Time Payment Allocations |

2.44.01 City Court established. That because of the necessity of protecting the health and safety of the citizens of Mayflower, and those who use our streets and highways, it has become imperative to establish a City Court within and for the city of Mayflower, Arkansas. (Ord. No. 122, Sec. 1.)

2.44.02 City Judge That from and after the date and passage of this ordinance there shall be established a City Court in Mayflower, Arkansas, with the Judge to be selected by the Mayor of the city of Mayflower as provided by law. Said Judge is to serve at the will of the Mayor and the City Council of Mayflower, Arkansas, and said Judge's salary shall be as determined by the City Council of Mayflower, Arkansas. (Ord. No. 122, Sec. 2.)

2.44.03 Cases That the Judge of the city of Mayflower, shall hear all civil and misdemeanor cases brought to it and that said Court will hear such cases within its jurisdiction as it is determined by the laws of the state of Arkansas. (Ord. No. 122, Sec. 3.)

2.44.04 Fees That the fees for said City Court shall be as follows:

- A. Filing fee in all civil cases \$5.00.
 - B. Court costs in all criminal cases \$5.00.
- (Ord. No. 122, Sec. 4.)

2.44.05 Convening That the City Court shall convene at such time and place as shall be determined by the Judge of said court, but not less than once each month. (Ord. No. 122, Sec. 5.)

2.44.06 Fines That all fines levied by said City Court are to be kept by the City Clerk, and are to be kept in a separate ledger along with a docket for all criminal cases and a docket for all civil cases. (Ord. No. 122, Sec. 6.)

The Mayflower Deputy District Court Clerk is hereby designated as the person primarily responsible for the collection of fines assessed in District Court for the City of Mayflower, Arkansas and that person shall be required to have sufficient bond. (Ord. No. 2015-03, Sec. 1)

2.44.07 General funds That the costs and fines as set forth above are to be deposited in the general funds of the City Treasure of the city of Mayflower. (Ord. No. 122, Sec. 7.)

2.44.08 Court costs There is hereby levied an additional twenty dollars (\$20.00) fine to be collected from all defendants who plead guilty or nolo contendere to, is found guilty of, or forfeits bond for any misdemeanor or traffic violation in the district court of the city. That all funds generated by the additional fine shall be used exclusively to help defray the cost of incarcerating city prisoners, including payments to other entities for incarcerating city prisoners. (Ord. No. 2020-03, Sec. 1 & 2)

2.44.09 Money from criminal and traffic cases

- A. Ten Dollars (\$10.00) of the monies collected from each criminal and traffic case shall be appropriated to a fund which shall be used to replace and maintain the Mayflower Police Department's vehicles and equipment.
- B. Ten Dollars (\$10.00) of the monies collected from each criminal and traffic case shall be appropriated to a fund, which shall be used to establish and maintain the Mayflower Police Department's Arkansas Crime Information Center (ACIC)/National Crime Information Center (NCIC) program. (Ord. No. 2005-1, Sec. 1.)
- C. There shall be a fee of Ten Dollars (\$10.00) for each copy of the basic accident and incident report and a fee of One Dollar and Fifty Cents (\$1.50) per page for each copy of a supplemental report. All fees collected under this ordinance shall be retained by the municipality for the support of the Mayflower Police Department. (Ord. No. 2005-5, Sec. 1-2.)

2.44.10 Maintenance Fund The following fund is hereby established to handle the monies appropriated in Section 1 herein above: Police Department's Vehicle and Equipment Replacement and Maintenance Fund. (Ord. No. 92-3, Sec. 2.)

2.44.11 Acceptance of Acts by reference The City Council of the city of Mayflower, Arkansas, adopts, insofar as the City Court of Mayflower, Arkansas, has jurisdiction over misdemeanor crimes committed within said city, an ordinance adopting:

Arkansas Criminal Code of 1975
 Arkansas Controlled Substances Act of 1971
 Water and Air Pollution Control Act of 1949
 Highway and Transportation Act of 1977
 Arkansas Motor Carriers Act of 1955
 Arkansas Hazardous Waste Management Act of 1979
 Uniform Motor Vehicle Administration, Registration, Certificate of Title and Auto Theft
 Act of 1949
 Act 300 of 1937

and the amendments to said acts which are incorporated herein by reference as if they were set out in this ordinance word for word. (Ord. No. 83-9, Sec. 1.)

2.44.12 Violations Violation of the foregoing acts within the city of Mayflower, Arkansas, shall hereafter be deemed violations of this ordinance and penalties as provided by said act shall be determined and administered in the same manner and method as the same would be in either the Faulkner County Municipal or Circuit Court for misdemeanor violations. (Ord. No. 83-9, Sec. 2.)

2.44.13 Future amendments This ordinance shall adopt, by reference, future amendments or acts of the Arkansas State Legislature, providing for misdemeanor criminal penalties and the same shall be incorporated into this ordinance, upon passage and enactment, as if set out herein word for word. (Ord. No. 83-9, Sec. 3.)

2.44.14 Numerical designation In order to provide for accurate reference, each provision of the presently existing acts and their amendments codified in the Arkansas Statutes shall bear the same numerical designation as they are presently codified, and all future acts and amendments shall be referred to either by the act identification number or by the codification applied to it by the compilers of the Arkansas Statutes. (Ord. No. 83-9, Sec. 4.)

2.44.15 Time Payment Allocations There is hereby authorized an alternative method of time payment allocation of fines and court costs by the Mayflower District Court whereby all-time payments shall be allocated fifty percent (50%) to court costs and fifty percent (50%) to fines. Whenever either court costs or fines are fully paid, all remaining time payments shall be allocated to remaining amounts due. (Ord. No. 2016-04, Sec. 1)

CHAPTER 2.48

PERSONNEL POLICIES

Sections:

- 2.48.01 Personnel Policy Handbook
- 2.48.02 General employee benefits
- 2.48.03 Matters affecting the status of employees
- 2.48.04 Standards of conduct
- 2.48.05 Miscellaneous information

2.48.01 Personnel Policy Handbook. The following personnel policies shall apply to all employees of the city of Mayflower.

- A. **Equal Opportunity Employer.** The city of Mayflower, Arkansas, is committed to providing equal employment opportunities without regard to race, color, religion, national origin, sex, age, handicap or veteran status as required by all federal and state laws. Furthermore, the city does not discriminate on the basis of disability. The city's commitment extends to all employment-related decisions, terms and conditions of employment, including job opportunities, promotions, pay and benefits.
- B. **At-Will Employer.** The city of Mayflower, Arkansas, is an at-will employer. This means that the city of Mayflower or any city employee may terminate the employment relationship at any time for any reason with the understanding that neither has an obligation to base that decision on anything but his or her intent not to continue the employment relationship. No policies, comments, or writings made herein or during the employment process shall be construed in any way to waive this provision.
- C. **Job Posting And Advertising.**

1. Application for employment will be accepted from anyone who wishes to apply for employment upon forms provided by the city. Application forms are available in the office of the city.
2. In the event of a job opening, the particular position or positions open will be announced and posted in a newspaper of general circulation at least ten (10) days prior to the deadline for receiving applications. Copies of the job announcement form will be distributed to city departments and as appropriate, to public and private employment agencies, local newspapers and other sources which might recruit applicants. Recruitment resources will be notified at least ten (10) days prior to the predetermined cut-off date for receiving applications.
3. Applications for full-time city employment will not be accepted from anyone under eighteen (18) years of age. Except as otherwise provided by Arkansas law, the Mayor shall make the final decision with respect to hiring new employees and promoting existing employees.

D. Post Offer Pre-Employment Physicals.

1. Post offer pre-employment physicals will be required for every applicant to be hired for the city in a permanent employment position. Such examinations shall be paid for by the city and shall be used to determine whether the applicant can perform the essential functions of the job with or without reasonable accommodation. The examinations shall be performed by licensed physicians selected by the Mayor. These medical files shall be maintained in the physician's office with a summary report provided to the Mayor whether the employee can or cannot do the job and what, if any, restrictions are necessary to determine any work restructuring or accommodations. Although the physicians make the medical determinations relative to physical/mental requirements of the job and any direct safety threat determinations, their determinations are only recommendations subject to the decision to make reasonable accommodation or not by the Mayor. Only in cases of emergency may an employee begin work prior to the post-employment job offer medical examination, but employment is subject to passing such examination.
2. Reports and records of all physical, psychological and mental exams shall be kept in the offices of the physicians or mental health practitioners with only a summary report provided to the Mayor to be kept in a confidential file apart from the personnel file. Should there be a dispute concerning the exam, or should a supervisor be informed as to the need for reasonable accommodation including job restructuring, the report shall be made available to the necessary legal and supervisory or administrative personnel within the city government.

E. Fitness For Duty Exam. Employees who become incapacitated due to mental or

physical disabilities from performing the essential job functions with or without reasonable accommodation or who pose a direct safety threat shall be subject to a fitness for duty examination. Based on the findings of the exam and other job restructuring factors, the Mayor shall take such action as is necessary for the good of the city.

- F. Omnibus Transportation Employee Testing Act of 1991 It is the city of Mayflower intent to comply with all regulations and requirements of the Omnibus Transportation Employee Testing Act of 1991. City employees required to have a Commercial Driver's License (CDL) must comply with all regulations in the 1991 Omnibus Transportation Act. The Act requires alcohol and drug testing for all city employees whose jobs require a CDL. These tests include pre-employment, post-accident, random, reasonable suspicion, and return to duty and follow up testing. The city of Mayflower will not permit an employee who refuses to submit to required testing to perform or continue to perform any activity that requires a CDL. All CDL drivers must obtain from the city of Mayflower the city's written substance abuse policy. CDL drivers are required to read this material and sign a statement acknowledging that they have received a copy of the city's Substance Abuse Policy.
- G. Other Drug and Alcohol Testing Employees other than those with a CDL are subject to testing for the use of alcohol and illegal substances as outlined in the city's policy on this subject. All employees must obtain from the city of Mayflower, the city's written substance abuse policy. Employees are required to read this material and sign a statement acknowledging that they have received a copy of the city's substance abuse policy.

2.48.02 General employee benefits.

A. Vacations.

1. Police Department.

- a. The head or Chief of each Police Department shall arrange that each employee shall be granted an annual vacation of not less than fifteen (15) working days with full pay. (A.C.A. 14-52-106)
- b. All employees of the Police Department shall accumulate vacation time at the rate of one (1) and one-quarter (1/4) working days for each month of working service.
- c. It is the specific duty of the Police Chief to see that employees of the Police Department actively take all of their vacation time before the end of the calendar year.

B. Vacation Accrual Rate.

Vacation time is granted to all employees who have completed six (6) months of service. Employees hired between January 1st and June 30th are eligible for one (1) Week of vacation with pay after completion of six (6) months of service. In the year following the date of hiring, the employee becomes eligible for one (1) additional week of vacation on the employee's anniversary date. Employees hired after June 30th are not eligible for any vacation in that calendar year, but will be eligible for one (1) week of vacation in the following calendar year after completing six (6) months of service.

| <u>Years of Service</u> | <u>Vacation</u> |
|--------------------------|-----------------|
| 0 - 6 months | None |
| 1 year but less than 6 | 5 working days |
| 2 years but less than 5 | 10 working days |
| 5 years | 11 working days |
| 6 years | 12 working days |
| 7 years | 13 working days |
| 8 years | 14 working days |
| 9 years through 14 years | 15 working days |
| 15 years & over | 20 working days |

2. The amount of personnel off at any one time will be governed by the Supervisor based upon departmental workloads.
3. Employees should notify their department heads at least one (1) week in advance of being absent for vacation time.
4. If a city holiday occurs during the calendar week in which a vacation period is scheduled for an employee, the employee's vacation should be extended for one (1) additional working day.
5. Accrued time will be paid if the employee leaves the employment of the city. Vacations are not cumulative and no more than five (5) days may be carried over six (6) months past the anniversary date without written approval of the Mayor.
6. To the extent it differs from the procedure set forth herein, the uniformed employees of the Police and Fire Departments shall accrue vacation days in accordance with the provisions set forth in the relevant Arkansas statutes, if any. It should be understood that policies concerning vacation time for non-uniformed employees are simply a suggested method of computing vacation time. This suggested method in no way alters the city of Mayflower at-will employment

policy as described in the Personnel Policy Manual.

C. Holidays and Holiday Pay.

1. The appropriation made by the City Council for salaries shall include additional pay for holidays for all agents, servants and employees of the city, including but not limited to uniformed employees, as provided by the laws of the State of Arkansas.

2. Holidays.

| | |
|----------------------------|-----------------------------|
| New Year's Day | January 1st |
| Martin Luther King Jr. Day | Third Monday in January |
| President's Day | Third Monday in February |
| Memorial Day | Last Monday in May |
| Independence Day | July 4th |
| Labor Day | First Monday In September |
| Thanksgiving Day | Fourth Thursday in November |
| The Day After Thanksgiving | |
| Christmas Eve | December 24th |
| Christmas Day | December 25th |
| Personal Leave Day | At employee's discretion |

D. Sick Leave.

Police Department

- a. Law enforcement officers, regardless of their titles, shall accumulate sick leave at the rate of twenty (20) working days per year beginning one (1) year after the date of employment. If unused, sick leave shall accumulate to a maximum of sixty (60) days. (A.C.A. 14-52-107)
- b. Time off may be charged against accumulated sick leave only for such days that an officer is scheduled to work. No such sick leave, as provided in this section, shall be charged against any officer during any period of sickness, illness, or injury for any days which the officer is not scheduled to work.
- c. If, at the end of his term of service, upon retirement or death, whichever occurs first, any police officer has any unused accumulated sick leave, he shall be paid for this sick leave at the regular rate of pay in effect at the time of retirement or death. Payment for unused sick leave in the case of a police officer, upon retirement or death, shall not exceed sixty (60) days' salary. (A.C.A. 14-52-107)

- d. The city may pass an ordinance allowing payment for up to ninety (90) days of unused sick leave. [A.C.A. 14-52-107 (c)]

2. Non-uniformed employees.

- a. The city of Mayflower recognizes that inability to work because of illness or injury may cause economic hardships. For this reason, the city of Mayflower provides paid sick leave to full-time employees. Eligible employees accrue sick leave at the rate of eight (8) hours per month.
- b. Any sick leave days accumulated which are not used in any calendar year may be carried over as accumulated sick leave days for the succeeding calendar year up to a maximum of thirty-six (36) days.
- c. An employee may be eligible for sick leave days for the following reasons:
 - (1) Personal illness or physical incapacity;
 - (2) Quarantine of an employee by a physician or health officer;
 - (3) Illness in the immediate family which would require the employee to take care of the family member(s); or
 - (4) Medical, dental and optical visits.
- d. An employee who is unable to report for work due to one of the previously listed sick leave reasons shall report the reason for his absence to the employee's supervisor or some other person acting for the employee's supervisor within two (2) hours from the time the employee is expected to report for work. Sick leave with pay may not be allowed unless such report has been made as aforementioned.
- e. Employees who are absent more than three (3) consecutive days due to unconfirmed illness may be required by the supervisor or department head to submit a physician's statement.
- f. Absence for part of a day that is chargeable to sick leave in accordance with these provisions shall be deducted from accrued leave in amounts of not less than one-half(½) day increments. An employee who uses all of his or her accrued sick leave days shall thereafter be placed on an inactive, without pay status.
- g. An employee may use earned sickleave while receiving workers' compensation benefits only to the extent that the leave augments the employee's workers' compensation benefit to the amount equal to the

employee's regular rate of pay. An employee may use sick leave in this fashion for a maximum of six months.

- h. Non-uniformed employees will not be paid for accrued sick days upon termination of employment with the city.

E. Funeral or Bereavement Leave.

1. Funeral leave with pay up to a maximum of three (3) calendar days shall be granted to all city employees in cases of death or in the circumstances of death in the immediate family only.
2. Immediate Family shall include mother, father, brother, sister son, daughter, grandparents' son-in-law, daughter-in-law spouse, spouse's immediate family or those relatives who live in the employee's household including "step" relatives.
3. Travel time may be granted upon prior approval of the Mayor in addition to the three (3) days where travel time of more than eight (8) hours is necessary.
4. The Mayor may grant funeral leave of not more than one (1) day for an employee to be a pallbearer or attend a funeral of someone not within the immediate family.

- F. Maternity Leave. Employees affected by pregnancy, childbirth or related medical conditions shall be treated the same for all employment-related purposes as persons disabled for non-pregnancy-related reasons. Therefore, accrued sick leave and vacation leave, if representative of the employee, will be granted for maternity use after which leave without pay must be used.

G. Uniformed Services

- I. Certain rights to re-employment after service in the uniformed services, as well as provisions relating to pension and health benefits are established in the Uniformed Services Employment and Re-employment Rights Act of 1994, 38 U.S.C. 4301 et seq., and in A.C.A. 21-4-102. It is the city's policy to honor and comply with the provisions of those statutes.
2. In addition, employees who are members of a military service organization or National Guard unit shall be entitled to a military leave of fifteen (15) days with pay plus necessary travel time. (A.C.A. 21-4-102).

G. Family Medical Leave

1. The Family Medical Leave Act (FMLA) of 1993 requires cities with fifty (50) or more employees to offer up to twelve (12) weeks of unpaid, job-protected leave to eligible employees for certain family and medical reasons. Eligible city employees may take up to twelve (12) weeks of unpaid leave for the following reasons:
 - a. The birth and care of the employee's child;
 - b. The placement of a child into an employee's family by adoption or by foster-care arrangement;
 - c. The care of an immediate family member (spouse, child or parent) who has a serious health condition; and
 - d. The inability of a city employee to work because of a serious health condition which renders the employee unable to perform the essential functions of his or her job.
2. The Federal Act requires that the city maintain the employee's health coverage under any group plan during the time the employee is on FMLA leave. To be eligible for the FMLA benefits employees must:
 - a. Be employed by the city for at least one year;
 - b. Have worked 1250 hours over the previous twelve (12) months preceding the leave request.
3. City employees must use vacation or accrued leave before FMLA leave will be granted. City employees are required to provide advance leave notice in writing, to the employee's supervisor (at least 30 days) when leave is foreseeable (such as childbirth, adoption or planned medical treatment, or as early as possible if the leave taken is not foreseeable 30 days in advance). Depending on each individual situation, the city may require a medical certification to support a request for FMLA leave because of a serious health condition and require a fitness for duty report to return to work.
4. The city understands that upon return from FMLA leave, most employees must be restored to their original or equivalent position with equivalent pay, benefits and other employment terms. Furthermore, the use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

I. Court Duty Leave. Employees will be granted leave with pay for witness or jury duty. Employees are also permitted to retain the allowance for services from the court for such service. To qualify for jury or witness duty leave, employees must submit to the Mayor a copy of the summons or other relevant court related paperwork as early as

possible upon receipt thereof. In addition, proof of service must be submitted to the employee's supervisor when the employee's period of jury or witness duty is completed. Firefighters are no longer exempt from jury duty. The statute providing for exemption 14-53-103 was repealed in 1997.

- J. Miscellaneous Leave. The attendance of employees at seminars and training programs is considered part of their continuing professional development. Attendance at these meetings is to be pre-approved by Mayor. In the event employees are required to attend these meetings at a location requiring an overnight stay or travel time in excess of the employee's normal work day, overtime will not be paid. However, the city will pay all reasonable out-of-pocket expenses for lodging, travel costs, meals etc. pursuant to its regular expense policy.

- K. Employee Health Benefits. The city of Mayflower provides a group health plan for all its full-time employees. Detailed information on the policy and coverage should be given to the employee when the employee is hired. Additional information may be obtained from the Mayor's office.
 - 1. Occupational Injuries. All employees of the city are covered under the Arkansas State Workers' Compensation Law. Any employee incurring an "on-the-job" injury should immediately notify his supervisor, who will arrange for appropriate medical treatment and prepare the necessary reports required in order for the employee to be compensated. Rules and regulations concerning Workers' Compensation have been posted on the department bulletin boards.
 - 2. Accidental Injury. If any full-time employee is involved in an accident (not job connected) and the injury sustained in such accident necessitates that the employee be absent from work, the employee shall be entitled to receive pay at a regular salary for the number of days accumulated sick leave credited to that employee at the time the accident occurred.

2.48.03 Matters affecting the status of employees.

- A. Attendance. Employees shall be in attendance at their work stations in accordance with the rules and regulations established by the Mayor and Council. All departments shall keep daily attendance records of all employees which shall be reported to the Mayor on the form and on the date specified by the Mayor and Council.

- B. Work Hours.
 - 1. Except for police officers and firefighters, work hours for all employees shall be forty (40) hours per week which begin each Friday at 00:01 a.m. Work hours for police and fire employees shall be in accordance with state statutes and departmental regulations.

2. The city reserves the right to adjust and change hours of work, days of work and schedules in order to fulfill its responsibility to the citizens of the city of Mayflower. In the event of an emergency, previously scheduled hours of work, days of work and work arrangements may be altered at the discretion of the department head. Changes in work schedules will be announced as far in advance as practicable.
3. Whenever possible, employee work schedules shall provide a rest period (break) during each four-hour work shift. Reasonable time off for a meal will be provided.

C. Overtime Pay.

1. Overtime will be paid for hours worked in excess of forty hours per week. The rate of pay for overtime shall be one and one-half (½) the employee's normal hourly rate.
2. Upon the direction or approval of the Mayor, compensation for overtime may be made in the form of compensatory leave to the employee. The overtime record of the Mayor shall be final with respect to the number of compensatory leave days earned of an employee. Compensatory leave must be taken within the calendar year earned and should be scheduled in the same manner required for vacation days.

D. Vacancies and Promotions.

1. It is the intent of the city of Mayflower to hire and promote the most qualified applicant for all vacant positions. To give the employees of the city of Mayflower an opportunity to apply for job vacancies, announcements of job openings will be posted on employee bulletin boards.
2. In accordance with E.E.O.C. (Equal Employment Opportunity Commission) guidelines and policies, notice of job vacancies will be sent to the appropriate news media and employment agencies throughout the relevant labor market. A job description of each vacant position will be provided upon request.
3. The final decision regarding promotions shall be made by the Mayor upon recommendation of the Supervisor.

- E. Training. The city of Mayflower is committed to continuing and on-going training for all employees. However, in addition to formal training provided by the city for various positions, each employee has the responsibility of ascertaining for himself that he is possessed with sufficient training to enable him to perform his job. In the event that the employee feels that additional training is needed, he should notify his department head. Expenses incurred in on-the-job training should be assumed by the city.

F. Performance Evaluations.

1. To ensure that employees perform their jobs to the best of their ability, it is important that they be recognized for good performance and that they receive appropriate suggestions for improvement when necessary.
2. Consistent with this goal, an employee's performance will be evaluated by the supervisors on an on-going basis. Final evaluations are normally done annually.
3. All written performance reviews will be based on the employee's overall performance in relation to the employee's job responsibilities and will also take into account the employee's conduct, demeanor and record of attendance along with any tardiness. In addition to regular performance evaluations described above, special written performance evaluations may be conducted by the employee's supervisor at any time to advise the employee of his current level of performance and where appropriate, the existence of performance or disciplinary problems and solutions.
4. It should be noted that a performance evaluation does not necessarily mean a salary adjustment.
5. When salary adjustments are appropriate as a result of a performance review, or to facilitate employee retention goals of the city, the pay adjustment should be recommended by an employee's supervisor or department head and approved by the Mayor. (Ord. No. 2014-05, Sec. 1)

G. Job Safety.

1. Safety is largely the use of good judgment and the practice of good work habits. It requires good judgment to know the safe way and it requires good work habits to continue the safe way. If an employee is not positive of which way is the safest, he should ask his supervisor or department head for the correct method.
2. Unsafe conduct is misconduct. The following safety rules should always be observed:
 - a. Follow all departmental safety rules;
 - b. Use all mechanical safeguards on or for employee equipment;
 - c. Immediately cease using and report any faulty or potentially faulty equipment to the supervisor or department head;
 - d. Immediately report any unsafe or potentially unsafe working condition or equipment;

- e. Immediately report any and every accident to the supervisor or department head.
- H. Refusal To Work. A city employee's commitment is to public service. Any work stoppage, slowdown, strike or other intentional interruption of the operations of the city shall cause the employee to forfeit his or her employment and result in the termination of the employee from the city of Mayflower.

I. Resignation/Termination.

1. Employees desiring to terminate their employment relationship with the city of Mayflower are urged (but not required) to notify the city at least two (2) weeks in advance of their intended termination. Such notice should preferably be given in writing to the employee's department head or supervisor. Proper notice generally allows the city sufficient time to calculate all final accrued monies due the employee for his or her final paycheck. Without adequate notice however, the employee may have to wait until after the end of the next normal pay period in order to receive such payments.
2. Employees who plan to retire are urged to provide the city with a minimum of two (2) months notice. This will allow ample time for the processing of appropriate pension forms to ensure that any retirement benefits to which an employee may be entitled to commence in a timely manner.
3. As mentioned elsewhere in this Handbook, all employment relationships with the city of Mayflower are on an at-will basis. Thus, although the city of Mayflower hopes that relationships with employees are long term and mutually rewarding, the city reserves the right to terminate the employment relationship of any employee at any time.

2.48.04 Standards of Conduct.

A. Conduct Towards The Public.

1. Employees of the city of Mayflower shall at all times be civil, orderly and courteous in their conduct and demeanor. In each contact with the public, an employee must be aware that his appearance, actions and statements are in essence those of the city.
2. In dealing with the public, each employee must attempt to make his conduct one which inspires respect for both himself and the city and further, one which generates the cooperation and approval of the public.
3. Not everyone an employee may meet in the course of his or her duties will be courteous. However, an employee should treat the public as he would like to be treated ... with courtesy, patience, respect and understanding. This attitude or approach to public service cannot be overemphasized.
4. When an employee is uncertain of the correct response to an inquiry from the public, he or she should refer the inquiry to the individual or the department which can provide the most satisfactory response to the inquiry. It is better to admit lack of knowledge than to provide erroneous information.

B. Uniforms and Personal Appearance.

1. Uniforms or uniform allowance will be provided to personnel of certain departments as authorized by the Council. Personnel who are provided uniforms or uniform allowance shall wear uniforms at all times while on duty. Uniforms shall be kept as neat and presentable as working conditions permit.
2. Employees not required to wear uniforms should dress in appropriate professional departmental attire. If an employee is not sure what is appropriate attire, then the employee should check with his supervisor or department head.

C. Unlawful Harassment.

1. The city of Mayflower expressly prohibits its officials or employees from engaging in any form of unlawful employee harassment based on race, religion, color, sex, national origin, age, disability or status as a veteran or special disabled veteran.
2. Harassment is any annoying, persistent act or actions that single out an employee, to that employee's objection or detriment, because of race, sex, religion, national origin, age (over 40) or disability. Harassment may include any of the following:
 - a. Verbal abuse or ridicule;
 - b. Interference with an employee's work;
 - c. Displaying or distributing sexually offensive, racist or other derogatory materials;
 - d. Discriminating against any employee in work assignments or job related training because of one of the above-referenced bases;
 - e. Intimate physical contact;
 - f. Making offensive sexual, racial or other derogatory innuendoes;
 - g. Demanding favors (sexual or otherwise), explicitly or implicitly, as a condition of employment, promotion, transfer or any other term or condition of employment.
3. It is every employee's responsibility to ensure that his or her conduct does not include or imply harassment in any form. If, however, harassment or suspected harassment has or is taking place:
 - a. An employee should report harassment or suspected harassment to the department head. If the department head is the alleged harasser, then the complaint should be reported to the supervisor in the chain of command. This complaint should be made in writing.
 - b. Any time an employee has knowledge of harassment he/she shall

inform the department head in writing.

- c. Each complaint shall be fully investigated and a determination of the facts and an appropriate response will be made on a case-by-case basis.
4. The city of Mayflower will not tolerate harassment or any form of retaliation against an employee who has either instigated or cooperated in the investigation of alleged harassment. Disciplinary action will be taken against offenders.

D. Guidelines For Appropriate Conduct.

1. An employee of the city of Mayflower is expected to accept certain responsibilities, adhere to acceptable principals in matters of personal conduct and exhibit a high degree of personal integrity at all times. This not only involves a sincere respect for the rights and feelings of others, but also demands that both while at work and in their personal life, an employee refrain from behavior that might be harmful to the employee, his co-workers, the citizens and/or the city.
2. Whether an employee is on duty or off duty, his or her conduct reflects on the city. An employee is encouraged to observe the highest standards of professionalism at all times.
3. Types of behavior and conduct that the city considers inappropriate include, but are not limited to the following:
 - a. Falsifying employment or other city records;
 - b. Violating any city non-discrimination and/or harassment policy;
 - c. Soliciting or accepting gratuities from citizens;
 - d. Excessive absenteeism or tardiness;
 - e. Excessive, unnecessary or unauthorized use of city property;
 - f. Reporting to work intoxicated or under the influence of non-prescribed drugs and illegal manufacture, possession, use, sale, distribution or transportation of drugs;
 - g. Buying or using alcoholic beverages while on city property or using alcoholic beverages while engaged in city business on city premises, except where authorized;
 - h. Fighting or using obscene, abusive or threatening language or gestures;
 - i. Theft of property from co-workers, citizens or the city;
 - J. Unauthorized possession of firearms on city premises or while on city business;
 - k. Disregarding safety or security regulations;
 - l. Insubordination;
 - m. Neglect or carelessness resulting in damage to city property or

equipment.

4. Should an employee's performance, work habits, overall attitude, conduct or demeanor become unsatisfactory and in violation of either of the above referenced items or any other city policies, rules or regulations, an employee will be subject to disciplinary action up to and including dismissal.

E. Absenteeism and Tardiness.

1. The city of Mayflower expects all of its employees to be at work on time and on a regular basis. When employees are unnecessarily absent or late, it is expensive, disruptive and places an unnecessary burden on fellow employees, supervisors, city government as a whole and the taxpayers who receive city services. Should an employee be unable to report to work on time because of illness or personal emergency, that employee should give "proper notice" to his or her supervisor. Unexcused absences and tardiness could result in disciplinary action.
2. "Proper notice" is defined by the city to be notice in advance of the time an employee should report for work or no later than one (1) hour thereafter if advance notice is impossible.
3. An absence of an employee from duty, including any absence of one (1) day or part thereof, (other than an absence authorized by this personnel handbook or by law) that is not authorized in advance by the Department Head or the employee's supervisor should be deemed absence without leave. Such absence shall be without pay.

F. Inclement Weather.

In exceptional circumstances beyond the employee's control, such as weather causing hazardous conditions, the employee is required to contact his or her supervisor for instructions regarding job assignments for that particular work day. If an employee's department is open for business, the employee is expected to report for work. However, if, in the employee's opinion, the conditions are too hazardous for him or her to get to work safely, he or she will have the option of taking the time off as a vacation day. Regardless of the situation, an employee is expected to give his or her supervisor "proper notice" if he or she is unable to report for work.

G. Outside Employment or Moonlighting.

1. If an employee is considering additional employment, he or she should discuss the additional employment with his or her department head or supervisor for approval.

2. If as an employee of the city, an employee participates in additional employment, it must not interfere with the proper and effective performance of his or her job with the city. An employee's outside employment must not be of a nature that adversely effects the image of the city, resulting in embarrassment, legitimate and reasonable criticism or of a type that may be construed by the public to be an official act of the city or in any way violate these policies. City uniforms shall not be worn during outside employment unless approved in advance by the Mayor.

H. Political Activity. City employees are encouraged to exercise their legal right to vote and, if necessary, reasonable time will be granted for that purpose.

I. Outside Compensation.

No reward, gift or other form of remuneration in addition to regular compensation shall be received from any source by employees of the city for the performance of their duties as employees of the city. If a reward, gift or other form of remuneration is made available to any employee, it shall be credited to a designated employee fund with approval of the Mayor.

J. Use of Narcotics. Alcohol and Tobacco.

1. Employees of the city of Mayflower shall not use habit-forming drugs, narcotics or controlled substances unless such drugs are properly prescribed by a physician.
2. The consumption of alcohol or other intoxicants is prohibited while an employee is on duty. Employees are not to consume intoxicants while off duty to such a degree that it interferes with or impairs the performance of his or her duties. Employees involved in any unauthorized use, possession, transfer, sale, manufacture, distribution, purchase or presence of drugs, alcohol or drug paraphernalia on city property or being reported to work with detectable levels of illegal drugs or alcohol will be subject to disciplinary action including termination.
3. Each department head or supervisor may establish smoking policies for his or her departmental employees.

K. Drug-Free Workplace.

1. It is the policy of the city of Mayflower to create a drug-free workplace in keeping with the spirit and intent of the Drug-Free Workplace Act of 1988 and its amendments. The use of controlled substances is inconsistent with the behavior expected of employees, subjects all employees and visitors to city facilities to unacceptable safety risks and undermines the city's ability to operate effectively

and efficiently. Therefore, the unlawful manufacture, distribution, dispensation, possession, sale or use of a controlled substance in the workplace or while engaged in city business for the city of Mayflower or on the city's premises is strictly prohibited. Such conduct is also prohibited during non-working hours to the extent that, in the opinion of the city, it impairs an employee's ability to perform on the job or threatens the reputation or integrity of the city.

2. To educate employees on the danger of drug abuse, the city has established a drug-free awareness program. Periodically, employees will be required to attend training sessions at which the dangers of drug abuse, the city's policy regarding drugs, the availability of counseling, and the city's employee assistance program will be discussed. Employees convicted of controlled substances or related violations in the workplace must inform the city within five (5) days of such conviction or plea. Employees who violate any aspect of this policy may be subject to disciplinary action up to and including termination. At its discretion, the city may require employees who violate this policy to successfully complete a drug abuse assistance or rehabilitation program as a condition of continued employment.

L. Disciplinary Action.

1. Should an employee's performance, work habits, overall attitude, conduct or demeanor become unsatisfactory based on violations listed in Guidelines For Appropriate Conduct or any other city policies, rules or regulations, the employee will be subject to disciplinary action up to and including dismissal.
2. Disciplinary action may be any of the several forms listed below:
 - a. Warning or Reprimand. A reprimand is action used to alert the employee that his or her performance is not satisfactory or to call attention to the employee's violation of employment rules and/or regulations. City employees may be officially reprimanded orally or in writing.
 - b. Suspension. Suspension involves the removal of an employee from his or her job. An employee may be suspended with or without pay.
 - c. Demotion. A demotion is an action that places the employee in a position of less responsibility and less pay.
 - d. Termination. This type of disciplinary action is a removal of an employee from city employment.
3. An employee shall have the right to redress all types of disciplinary action

outlined in the Procedure for Review of Disciplinary Decisions, Section 2.48.04 (M).

2.48.05 Miscellaneous information.

- A. Policy Statement. The city of Mayflower possesses the sole right to operate and manage the affairs of the city.
- B. Severability.
 - 1. Should any of the provisions of these employee policies and procedures be determined to be contrary to federal, state, or local law, the remaining provisions of these employee policies and procedures shall remain in full force and effect.
 - 2. To the extent that any state law provides additional or different benefits or rights to employees, the provisions of these employee policies and procedures shall be deemed to include those statements of law.
- C. Departmental Policies and Procedures. Each department head is authorized to adopt lawful oral or written policies governing the day-to-day operations of that department. Departmental policies, if in conflict with these employee policies and procedures, shall be governed by these employee policies and procedures.
- D. Change of Address. It is important that if an employee changes his or her home address or telephone number to notify his or her department head of this change so that personnel files may be kept up to date. This is important in case the city must mail the employee any information that it feels the employee will need, such as "withholding" statements for the employee's income taxes. Also, if there is any change in the employee's marital status, the employee should report it to his or her department head.

CHAPTER 2.52

ADVERTISING AND PROMOTION COMMISSION

Sections:

- 2.52.01 Creation of Commission
- 2.52.02 Oath and Removal
- 2.52.03 Meetings
- 2.52.04 Authority and Accountability
- 2.52.05 Levy of Tax
- 2.52.06 Penalties and Interest

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| 2.52.07 | Applications of Ordinances and Construction with other Laws |
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| 2.52.13 | Discontinuance of Business - Unpaid Taxes |
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2.52.01. Creation of Commission

- (a) There is hereby created the City of Mayflower Advertising and Promotion Commission, which shall be composed of seven (7) members as authorized pursuant to A.C.A. 26-75-605 (a)(1)(2)(3).
- (b) Vacancies on the commission in any of the four (4) tourism industry positions provided for in A.C.A. 26-75-605 *or* in the at-large position provided for in that section shall be filled by appointment made by the remaining members of the commission with the approval of the city council.

(Ord. No. 2020-09, Sec. 1)

2.52.02. Oath and Removal

- (a) Each member of the commission shall file any oath required by law in the State of Arkansas of public officials.

- (b) A commissioner appointed under the provision of this article may be removed for cause upon which a two-thirds (2/3) vote of the city council.

(Ord. No. 2020-09, Sec. 2)

2.52.03 Meetings

- (a) The City of Mayflower Advertising and Tourist Promotion Commission shall meet within two (2) weeks of its appointment and shall be organized by electing a chairman, a secretary, and a treasurer. Thereafter, the commission shall meet as often as may be necessary, and also shall be subject to special call by the chairman.

- (b) The commissioners shall adopt such rules and regulations as they may deem necessary and expedient for the proper operation of said commission, and they shall have the authority to alter, change, or amend such rules and regulations at their discretion.

(Ord. No. 2020-09, Sec. 3)

2.52.04 Authority and Accountability

- (a) The commissioners hereunder appointed in addition to their other powers enumerated by state law, shall have the exclusive right and power to make purchases of all supplies necessary for the management and operation of the commission.
- (b) The commissioners shall have authority to employ the necessary personnel to assist in the administration and operation of the advertising and tourist promotion fund and shall have the authority to fix the salary or salaries for such personnel. Any employee who shall handle funds for the commission shall be required to furnish the city a surety bond in an amount to be determined by the commission to insure the city against misappropriation of funds.
- (c) The commissioners shall make quarterly reports to the mayor and city council beginning three (3) months after their oath of office, reporting in full on the operations of the commission, including an accounting of receipts and disbursements, and shall upon request of the city council furnish such other and further reports and data as may be required. The commissioners shall select a recognized auditing firm to submit an annual audit of the operations of the commission to the mayor and city council.

(Ord. No. 2020-09, Sec. 4)

2.52.05 Levy of Tax

- (a) *Hotel/motel accommodations; Meeting or party-room facilities:* A tax of two (2) percent is hereby levied on the gross receipts or gross proceeds received from the renting, leasing, or otherwise furnishing hotel, motel, or short-term condominium

rental accommodations for sleeping, meeting, or party-room facilities to the extent taxable under state law for profit in the city, but such accommodations shall not include the rental or lease of such accommodations for periods of thirty (30) days or more;

- (b) (1) *Collection by commission.* The two (2) percent tax described in this section hereof shall be paid by the persons, firms, and corporations liable therefore and shall be collected by the advertising and promotion commission of the city (hereinafter 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, A.C.A. § 26-52-101 et seq.

(2) *Authorized collection procedure.* The person collecting the tax shall pay and report 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 is practicable, be applicable with respect to the enforcement and all actions shall be by and in the name of the commission through the proper commission officials or agents.

(3) *Collectors; report forms.* The tax levied by this article shall be collected from the purchaser or user of accommodations by the person furnishing such accommodations. Such person shall pay to the city on the twentieth (20th) day of each month all collections of the tax for the preceding month, accompanied by reports on forms to be prescribed by the commission.

- (c) (1) *Uses of tax revenue.* All funds credited to the city advertising and promotion fund pursuant to this ordinance shall be used for advertising and promoting the city and its environs or for the construction, reconstruction, extension, equipment, improvement, maintenance, repair, and operation of a convention center for the operation of tourist promotion facilities in the city and facilities necessary for supporting, or otherwise pertaining to, a convention center, or for any other use as authorized by state law, in the manner as shall be determined by the city advertising and promotion commission.

(2) *Commission determines use.* The commission is the body that determines the use of the city advertising and promotion fund. Pursuant to this section, 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 and/or funds derived from the hotel tax. (A.C.A. 26-75-606 (a)(2))

(3) *Taxes credited to fund.* All local taxes levied as authorized by this ordinance shall be credited to the city advertising and promotion fund and shall be used for the purposes prescribed by state law and this ordinance.

a. *Prohibited use of taxes.* Such taxes shall not be used:

1. for general capital improvements within the city;
2. for the costs associated with the general operation of the city;
and
3. for general subsidy of any civic groups or the chamber of commerce.

b. However, the advertising and promotion commission may contract with such groups to provide the commission actual services that are connected with tourism events or conventions;

c. The authorization and limitations contained herein 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. (A.C.A. § 26-75-606 (c)(4)).

(d) (1) *Use for tourist-oriented facilities.* Any city of the first class which is authorized to levy and does levy a tax as authorized in A.C.A. 26-75-601, *et seq.*, is authorized to use or pledge all, or any part of the revenues derived from the tax for the purposes prescribed and authorized by state law and this ordinance, including, but not limited to, the operation of tourist-oriented facilities.

(1) *Use for public recreation.* Funds credited to the city advertising and promotion fund pursuant to this ordinance may be used, spent, or pledged by the commission in addition to all other purposes prescribed in this ordinance on and for the construction, reconstruction repair maintenance, improvement equipping, and operation of public recreation facilities in Mayflower, including but not limited to facilities constituting city parks, and for any and all purposes authorized by state law and this ordinance. (A.C.A. § 26-75-606 (b)(2)).

(e) Exemptions: Senior Center Facilities, Long term Leased Homes, and Educational Facilities are specifically excluded from this tax.

(Ord. No. 2020-09, Sec. 5)

2.52.06 Penalties and Interest Persons or entities liable for payment of the taxes levied by this chapter shall be subject to the assessment of penalties and interest as follows:

- (a) A penalty equal to five percent (5%) of the unpaid tax amount per month not to exceed a total assessment of thirty-five (35%) of the unpaid tax. Simple interest on unpaid taxes shall be assessed at the rate of ten percent (10%) per annum.
- (b) In addition to any civil penalties provided or imposed by statute or ordinance, any person or entity liable for payment of said tax which fails to file the said report or which fails to pay the said tax for a period of sixty (60) days or more after the end of any month for which a report or payment of tax is due, shall be guilty of a violation and shall be fined in a sum not to exceed one hundred dollars (\$100.00). If said violation continues, said person or entity shall be fined in a sum not to exceed one hundred dollars (\$100.00) for each additional thirty-day period said violation continues.

(Ord. No. 2020-09, Sec. 6)

2.52.07. Applications of Ordinances and Construction with other Laws The provisions of this ordinance shall be cumulative to the Arkansas Gross Receipts Acts of 1941, A.C.A. § 26-52-101 et. seq. and the Arkansas Tax Procedure Act, § 26-18-101, et. seq., 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. (Ord. No. 2020-09, Sec. 7)

2.52.08. Definitions The following words and phrases, except where the context clearly indicates the application of different meaning, when used in this Ordinance shall have the following meanings:

- (a) "A&P Tax" means the gross receipts tax levied by the City pursuant to Act 185 of 1965 and subsequently amended.
- (b) "Assessment" means a tax is assessed when it is recorded as the liability of a taxpayer on the Commission's records. The assessment becomes a first assessment following the decision of the Commission, or a hearing officer if the assessment is protested.
- (c) "Business Agent" means the designated agent of the Commission in charge of its books, accounts, and financial affairs and is authorized to act on behalf of the Commission in the performance of its duties.
- (d) "Business Entity" means a corporation, associated partnership, joint venture, limited liability company, limited liability partnership, trust, or other legal business entity.
- (e) "Commission" means the city Advertising and Promotion Commission of Mayflower, Arkansas, and any representative designated by the Commission to perform any function hereunder.

- (f) "Commission Offices" means the address and offices designated by the Commission as its official place of business.
- (g) "City" means the City of Mayflower, Arkansas.
- (h) "Due Date" means the A&P Tax is due and payable on the first day of each calendar month following the month the tax is imposed on gross receipts.
- (i) "Delinquency Date" means the A&P Tax is delinquent and subject to penalty on the first day of the month following the month it is due.
- (j) "Discount Date" means the date by which early payment of the A&P Tax would allow the taxpayer a discount, spelled out by provisions herein, off the full remittance of the tax for the month.
- (k) "Person" means any natural person, firm, corporation, or other Business Entity.
- (l) "Taxpayer" means any person liable to remit the A&P Tax.

(Ord. No. 2020-09, Sec. 8)

2.52.09 Administration and Regulations The administration of this ordinance is vested in the Commission and the Commission shall promulgate rules and regulations and prescribe all forms as are necessary or required for the enforcement and collection of the A&P Tax. (Ord. No. 2020-09, Sec. 9)

2.52.10 Permits

- (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 an A&P Tax Permit from the Commission.
- (b) A separate A&P Tax Permit must be obtained from the Commission for each location whereat the person conducts a business which is subject to the A&P Tax.
- (c) An A&P Tax Permit shall have no stated terms.

(Ord. No. 2020-09, Sec. 10)

2.52.11 Application for a Permit Any person transacting in the City a business which is subject to the A&P Tax shall file with the Commission an application for an A&P Tax Permit to conduct that business, the form and contents of which applications shall be as prescribed by the Commission from time to time. (Ord. No. 2020-09, Sec. 11)

2.52.12 Permits Not Assignable: Display Required and Expiration

- (a) The A&P Tax Permit shall not be assignable and shall be valid only for the person in whose name it is issued and for the location thereon designated.
- (b) The A&P Tax Permit shall at all times be conspicuously displayed at the location thereon assigned.
- (c) The A&P Tax Permit shall expire at the time of cessation of the business of the taxpayer at the location designated thereon.
- (d) 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 expired.

(Ord. No. 2020-09, Sec. 12)

2.52.13 Discontinuance of Business - Unpaid Taxes

- (a) Any taxpayer operating under an A&P Tax Permit, upon discontinuance of the business at the location thereon, shall return the A&P Tax Permit to the Commission for cancellation together with remittance of any unpaid and accrued A&P Taxes.
- (b) Failure to surrender the A&P Tax Permit and pay any and all accrued A&P Taxes shall be sufficient cause for the Commission to refuse the issuance of any A&P Tax Permit in the future to the Taxpayer.
- (c) In the case of the sale of any business which 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 said fixtures and equipment in the hands of the Purchaser of the business until all A&P Taxes have been paid.

(Ord. No. 2020-09, Sec. 13)

2.52.14 Revocation or Suspension - Renewal

- (a) Whenever a Person to whom an 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 Tax Permit.
- (b) Following such notice,
 - (1) 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.

(2) The hearing shall be conducted at a time and place to be designated by the Commission before such a person as is designated by the Commission to conduct such hearing, and the Taxpayer shall be entitled to introduce testimony and be represented by Counsel.

(3) The designated representative of the Commission shall determine at the hearing whether then Taxpayer A&P Tax Permit should be revoked.

(4) Failure of the Person to appear at the hearing shall be grounds for the Commission, acting through its designated representative, to revoke the Taxpayer's A&P Tax Permit.

- (c) The Person shall be entitled, within thirty (30) consecutive days from the date of the revocation of the Taxpayer's A&P Tax Permit, to appeal to the Circuit Court of Faulkner County, Arkansas, where the action shall be tried *de novo*.
- (d) 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.
- (e) Any revoked or suspended Permit may be renewed upon the filing of proper returns and the payment of all A&P Taxes due, or removal of any other cause of revocation or suspension.

(Ord. No. 2020-09, Sec. 14)

2.52.15 Preparation of Returns - Payments of A&P Tax

- (a) The A&P Tax shall be due and payable on the first 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 the first day of the next calendar month.
- (b) It shall be the duty of the Taxpayer(s) on or before the Discount Date or twentieth (20th) day of each calendar month to deliver to the Commission, 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 tax due. The tax due shall be remitted with the return.
- (c) If not paid on or before the Discount Date or the twentieth (20th) day of the 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 Delinquency Date or the first (1st) day of the calendar month next following.

(Ord. No. 2020-09, Sec. 15)

2.52.16 Discount for Prompt Payment

- (a) If the return is delivered on or before the Discount Date or the twentieth (20th) day of the calendar month following the month the tax is imposed on gross receipts, the Taxpayer may remit therewith to the Commission ninety-eight percent (98%) of the A&P Tax due on or before the Discount Date. A return is "Delivered" on the date it is postmarked if it is delivered by the U.S. Postal Service.
- (b) Failure of the Taxpayer to remit the A&P Tax on or before the Discount Date shall cause the Taxpayer to forfeit their 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.

(Ord. No. 2020-09, Sec. 16)

2.52.17 Additional Penalties and Tax If the Taxpayer fails to comply with certain provisions of this Ordinance, then the following penalties and additions to the Tax shall be applicable:

- (a) In the case of 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 for 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 be shown as tax on 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 with the failure continues, not to exceed thirty-five percent (35%) in the aggregate.
- (b) In addition to any penalty assessed hereunder, simple interest on any paid A&P Tax shall be assessed at the rate often percent (10%) per annum from the Delinquency Date.

(Ord. No. 2020-09, Sec. 17)

2.52.18 Examinations and Investigations

- (a) In the administration of this Ordinance, the Commission or its designated representatives, 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, facilities, and the books, records, papers, vouchers, accounts, and documents of any Taxpayer or other person. Every Taxpayer or other person and their agents and employees shall exhibit to the Commission or its designated representative these places and items and facilitate any examination or investigation.

(b) No Taxpayer shall be subjected to unnecessary examination or investigations and only one (1) inspection of a Taxpayer's book of accounts shall be made for each taxable year unless the Taxpayer requests otherwise, or unless the Commission, after investigation, notifies the Taxpayer in writing that an additional inspection is necessary.

(c) When conducting 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 business, institution, financial institution, the record of any state agency, agency of the United States Government, or agency of any other state where permitted by agreement or reciprocity.

Further, 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.

(d) In the administration of this Ordinance, the Commission, its Executive Director, or its Designated Representatives may:

(j) Administer oaths, conduct hearings, and compel by summons the attendance of witness testimony and the production of any books, records, papers, or other data of any person or Taxpayer, or

(2) (A) Examine under oath any person regarding the business of any Taxpayer concerning any matter incident to the administration of this Ordinance.

(B) The fees of witnesses required by the Commission, its Executive Director, or its Designated Representatives to attend any hearing shall be the same as those allowed to the witness appearing before Circuit Courts of this state. The fees shall be paid in the manner provided for the payment of other expenses incident to the administration hereof.

(e) The investigation may extend to any person who the Commission or its Designated Representatives determine has access to information which may be relevant to the examination or investigation.

(1) When any summons requiring the production of records as described in subsection (c) of this Section is served on a third-party record keeper, written notice of the summons shall be mailed to the Taxpayer that their records are being summoned, at least fourteen (14) days prior to the date fixed in the summons as the day for the examination of records.

(2) Notice to the Taxpayer(s) required by this section is sufficient if it is mailed by Certified mail to the last address of record with the Commission.

- (f) When the Commission or its Designated Representatives have the power to issue a summons for its own investigative or auditing purposes, then the Commission shall honor any reasonable request by the Taxpayer to issue a summons on the jurisdiction in Faulkner County, Arkansas, for an order compelling the production of the summoned records.

Failure to comply with the order of the court for the production of records may be punishable by the court as for contempt.

- (g) The cost of producing records of a third party required by a Summons shall be borne by the Taxpayer if they request the summons to be issued.

If the Commission or its Designated Representatives initiate the Summons for third-party records, the Commission shall bear the reasonable cost of producing the records. The Commission or its Designated Representatives may later assess the cost against any delinquent or deficient Taxpayer as determined by the records.

(Ord. No. 2020-09, Sec. 18)

2.52.19 Time Limitations for Assessments, Collection, Refunds, and Prosecution

- (a) Except as otherwise provided in this Ordinance, no assessment of the A&P Tax shall be made after the expiration of three (3) years from the date the return was required to be filed or the date the return was filed, whichever period expired later. The Commission shall not begin court proceedings after the expiration of the three-year period unless there has been a previous assessment for the collection of the tax.
- (b) Upon written agreement of the Commission and the Taxpayer, the time within which the Commission may make a final assessment, as provided herein, may be extended to a date mutually agreed upon in the written agreement.
- (c) Where, before the expiration of the time prescribed for the assessment of the tax or of the extensions thereof, both the Commission and the Taxpayer have consented in writing to an assessment after that time, the A&P Tax may be assessed at any time prior to the expiration of the time agreed upon.
- (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 the 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.

- (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.
- (f) Where the assessment of the A&P Tax has been made within the period of limitation properly applicable thereto, the A&P Tax may be collected by levy or proceedings 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.
- (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.

(Ord. No. 2020-09, Sec. 19)

2.52.20 Notice Requirements

- (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.

(1) All notices required to be given by the Commission to a Taxpayer shall be either served by personal service or sent by mail to the Taxpayer's last address on record with the Commission. If this 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.

(2) All notices of final assessment hereunder shall be sent by certified mail, return receipt requested.

- (b) The Taxpayer, when giving notice to the Commission, shall give notice either by mail or personal service on the Commission. The notice the Taxpayer gives shall be effective when postmarked, or in the case of personal service, when so served.
- (c) The Commission and any Taxpayer may, by written agreement, provide for any other reasonable means of giving notice.

- (d) All notice shall be in writing.

(Ord. No. 2020-09, Sec. 20)

2.52.21 Assessment and Collection of Taxes Generally

- (a) The Commission or its Designated Representatives 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.

(1) The assessment shall be made by recording the liability of the Taxpayer in the offices of the Commission in accordance with rules or regulation prescribed by the Commission.

(2) Upon request of the Taxpayer, the Commission shall furnish the Taxpayer a copy of the record of the assessment.

(b) The Commission shall collect all A&P Taxes imposed by law.

(1) As soon as practicable after the making of 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.

(2) Upon receipt of notice and demand from the Commission, the person liable for the Tax shall pay the stated amount including any interest, additions to tax, and assessable penalties at the place and time stated in the notice and demand.

(Ord. No. 2020-09, Sec. 21)

2.52.22 Proposed Assessments

(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 Representative shall examine the return and make any audit or investigation that is considered necessary.

(1) 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.

(2) Such notice will explain the basis of the proposed assessment and shall state the final assessment, as provided herein, will be made if the Taxpayer does not protest the proposed assessments as provided hereby. The Taxpayer does not have to protest the proposed assessment to later be entitled to exercise the right to seek a judicial review of the assessment.

(b) Any demand for additional payment of the A&P Tax which is made as a result of a verification of a mathematical error on the return shall not be deemed to be a proposed assessment under the provision of this Section and shall not be subject to the hearing or appeal provisions of this Section.

(Ord. No. 2020-09, Sec. 22)

2.52.23 Taxpayer Relief

- (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 procedure provided by this Section.
- (b) A Taxpayer may at their option either request the Commission to consider their request for relief solely upon written documents furnished by the Taxpayer or upon the written documents and any evidence produced by the Taxpayer at a hearing.

(1) 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.

(2) Within thirty (30) days after service of notice of the proposed assessment, the Taxpayer may file with the Commission a written protest under oath, signed by themselves or their authorized Agent, setting forth the Taxpayer's reasons for opposing the proposed assessment.

(3) The Commission may, in its discretion, extend the time for filing a protest for any period of time not to exceed an additional ninety- (90) day period.

(Ord. No. 2020-09, Sec. 23)

2.52.24 Hearing on Proposed Assessments

- (a) The Commission's Business Agent or other Designated Representative shall serve as a hearing officer to review all written protests submitted by Taxpayers, hold all hearings, and make written findings as to the applicability of proposed assessments.

(1) Decisions of the hearing officer shall be final unless revised by the Commission.

(2) 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.

- (b) The actual hearing of the written protest shall be held in the Commission's offices or other location set forth in the notice thereof to the Taxpayer.
- (c) The hearing officer shall set the time and place for bearing on the written protest and shall give the Taxpayer reasonable notice thereof.

(1) At the hearing, the Taxpayer may be represented by an Authorized Representative and may present evidence in support of their position.

(2) After the hearing, the Officer shall render their decision in writing and shall serve copies upon both the Taxpayer and the Commission.

(3) 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 hearing Officer.

(A) If the Commission refuses to make a revision or if the Taxpayer does not make a request for revision, then a final assessment shall be made upon the determination of the hearing Officer or the Commission.

(B) A Taxpayer may seek relief from the final decision of the hearing Officer or the Commission on a final assessment of a tax deficiency by following the procedure set forth in Section 20.

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

(A) in the best interest of the Taxpayer and the Commission;

(B) agreed by both parties;

(C) not fiscally unsound or administratively burdensome; and

(D) in compliance with state law.

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

(2) 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.

(Ord. No. 2020-09, Sec. 24)

2.52.25 Judicial Relief

(a) Within thirty (30) days after the issuance and service 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, Taxpayer may seek judicial relief from the final determination by either:

(1) Within one (1) year of the date of the final assessment, paying the amount of the A&P Tax due, including any interest or penalties, for any taxable period or periods covered by the final 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 (30) 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 Taxpayer for other taxable periods covered by the final assessment; or

(2) Within thirty (30) days of the issuance and service on the Taxpayer of the notice and Demand for payments, 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.

(A) The bond shall be subject to the condition that the Taxpayer shall file suite within thirty (30) days after filing of 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 any court cost assessed against them.

(B) A Taxpayer's failure to file suit, diligently prosecute the suit, or pay any tax Deficiency and court costs, as required by subsection (2) of this section, shall result in forfeiture of the bond in the amount of the assessment and assessed court costs.

(b) Jurisdiction for a suit to contest a determination of the Commission under this section shall be in the Circuit Court of Faulkner County, where the matter shall be tried *de nova*.

(c) The method provided in this section shall be the sole alternative method 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 for assessment or collection of any A&P Taxes.

(d) In any court proceedings under this section, the prevailing party may be awarded a judgment for court costs.

(Ord. No. 2020-09, Sec. 25)

2.52.26. Issuance of Certificate of Indebtedness and Exception

(a) (1)

(A) If a Taxpayer does not timely and properly pursue their remedies seeking relief from a decision of the Commission or hearing Officer and final assessment is made 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 named therein is indebted to the Commission for the amount of the tax established by the Commission as due.

(B) If a Taxpayer has a delinquent A&P Tax liability to the Commission of less than one thousand dollars (\$1,000), the Commission or its hearing Officer may enter into an agreement with the Taxpayer to pay the delinquency in installments. The Commission or its hearing Officer may choose not to issue a certificate of indebtedness during the period of the installment agreement if it is determined that such is in the best interest of the Commission.

(2) The Circuit Clerk shall enter immediately upon the Circuit Court judgment docket:

(A) The name of the delinquent Taxpayer;

(B) The amount certified as being due;

(C) The name of the tax; and

(D) The date of entry upon the judgment docket.

(3) (A) 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. The entry shall constitute the Commission lien upon the title of any real and personal property of the Taxpayers in the county where the certificate of indebtedness is recorded.

(B) This lien is in addition to any other lien existing in favor of the Commission to secure payment of taxes, applicable interest, 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.

(C) The certificate of indebtedness authorized by this subsection shall continue in force for ten (10) years from the date of recording and shall automatically expire after

the ten-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 afterward. ^{S-8}

(b) (1) After entry of the certificate, the Circuit Clerk shall issue a writ of execution directed to the Commission, authorizing the Commission to levy upon and against all real and personal property of the Taxpayer.

(2) The Commission shall have all remedies and may take all proceedings for the collection of the tax which may be taken for the recovery of a judgment at law.

(3) The writ shall be issued, served, and executed in the same manner as provided for in the issuance and service of executions rendered by the Circuit Courts of this State, except t4e Commission shall act in the place of the county sheriffs.

(4) The Commission shall have this authority for all liens either presently filed or filed after the passage of this Ordinance.

(c) (1) Nothing in this chapter shall preclude the Commission from resorting to any other means provided by law for collecting delinquent taxes.

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

(3) The taxes, fees, interest, and penalties imposed or levied hereby may be collected in the same way as a personal debt of the Taxpayer.

(4) The Commission may sue to the same effect and extend as for the enforcement of a right of action for debt.

(5) All provisional remedies available in these actions are available to the Commission in the enforcement of the payment of the A&P Tax.

(d) (1) 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 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 for in the issuance and service of executions rendered by the Circuit courts of this State.

(2) The Circuit Clerk 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.

- (e) The Commission may contract with persons inside or outside the state to help the Commission collect delinquencies of resident or nonresident Taxpayers.
(Ord. No. 2020-09, Sec. 26)

2.52.27 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 for when any required license or permit has not been secured, the Commission may institute any necessary action or proceeding in a court of competent jurisdiction in Faulkner County to enjoin the Person or Taxpayers 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 from the Commission.
(Ord. No. 2020-09, Sec. 27)

2.52.28 Settlement or Compromise of Liability Controversies

- (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.
- (b) The Commission may waive or remit the interest or penalty, or any portion thereof, ordinarily accruing because of a Taxpayer's failure to pay the 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 the 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.
- (c) In settling or compromising any controversy relating to the liability of a person for the A&P Tax for the taxable period, the Commission is authorized to enter into a written closing agreement concerning the 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, no additional assessment or collection shall be made by the Commission, and the Taxpayer shall not institute any judicial proceeding to recover such liabilities as agreed to in the closing agreement.

- (d) The Commission shall promulgate rules and regulations establishing guidelines for determining whether a proposed offer of compromise is adequate and acceptable to resolve a tax dispute.

(Ord. No. 2020-09, Sec. 28)

2.52.29 Release of Property from Lien

- (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.
- (b) When the Commission determines that its assessment certificate of indebtedness or judgment is clouding the title of property because of error in the description of properties or similarity in names, the Commission may issue a release without the payment of any consideration.
- (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 may be recorded.

(Ord. No. 2020-09, Sec. 29)

2.52.30 Violations Any person subject to the A&P Tax who is transacting business within the City without a valid A&P Tax Permit shall be guilty of a violation which shall be punishable by up to a five hundred dollar (\$500) fine. Each day a person transacts business within the City without a valid A&P Permit shall constitute a separate violation. (Ord. No. 2020-09, Sec. 30)

2.52.31 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 evade or defeat the payment, or otherwise fails to file a report, fails to pay the tax, or makes a false or fraudulent report, return, statement, claim application other instrument required by the commission in connection with 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 provision of

the Arkansas Tax Procedure Act as that Act applies to the A&P Tax, shall be subject to penalties set forth in Ark. Code Ann. § 26-18-101 to 105; 26-10-201 to 212 (Michie Repl. 1997 and Supp. 1999), 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. (Ord. No. 2020-09, Sec.31)