

HARDY MUNICIPAL CODE

2023

CHAPTER 2.56

ADVERTISING AND PROMOTION COMMISSION

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2.56.01 Created The city of Hardy Advertising and Tourist Promotion Commission is hereby created. This Commission shall be composed of seven (7) members as follows:

- A. Four (4) members shall be owners or managers of business in the tourism industry, at least three (3) of whom shall be owners or managers of hotels, motels or restaurants. They shall serve for staggered terms of four (4) years.

Pursuant to A.C.A. 26-75-605(a)(1), any individual who is a business owner or a manager of a business that is in the tourist industry need not be a resident of the City of Hardy, however, they must be a resident of Sharp or Fulton County to be eligible to serve on the Hardy Advertising and Promotion Commission.

- B. Two (2) members of the Commission shall be members of the governing body of the city and selected by the governing body and shall serve at the will of the governing body; and
- C. One (1) member shall be from the public at large who shall reside either in the City of Hardy or in Fulton or Sharp County and shall serve for a term of four (4) years.

2.56.02 Initial members The initial members of the Commission shall be selected as follows:

- A. The four (4) tourism industry positions provided for in subdivision 2.56.01 of this ordinance shall be filled by appointment made by the governing body of the city for staggered terms so that:
 - 1. One (1) member will serve for a term of one (1) year;
 - 2. One (1) for a term of two (2) years;
 - 3. One (1) for a term of three (3) years; and
 - 4. One (1) for a term of four (4) years.
- B. The at-large position provided for in subdivision 2.56.01 of this ordinance shall be filled by nomination by the citizens of the city of Hardy and approval by the governing body of the city.
- C. Vacancies on the Commission, whether resulting from expiration of a regular term or otherwise, in any of the four (4) tourism industry positions provided for in in this ordinance or in the at-large position shall be filled by appointment made by the remaining members of the Commission, with the approval of the governing body of the city.

2.56.03-1 Levy of Tax for Lodging

Pursuant to Arkansas Code Annotated §26-75-601 et seq., a tax is hereby levied upon the following (Ord. No. 2023-3, Sec 1):

- a) There is hereby levied a tax of three percent (3.0%) upon the gross receipts or gross proceeds from the renting, leasing or otherwise furnishing of all hotel, motel, vacation rental houses/rooms, cabins, bed and breakfasts, campgrounds, condominiums, or other similar sleeping accommodations for profit in the City of Hardy; provided, however, that such accommodations shall not include the rental or lease of such accommodations for periods of thirty (30) days or more, and shall not apply to a buyer's occupancy of real estate prior to closing nor to a seller's occupancy of real estate after closing.
- b) The tax levied by this section shall be collected from the purchaser or user of the accommodations by the person furnishing such accommodations. Such person shall remit tax collections to the Advertising & Promotion Commission the first day of the second month after the month the tax is collected, accompanied by reports on forms to be furnished by the Advertising and Promotion Commission. All establishments remitting this tax shall be entitled to a two percent (2%) discount on the amount due if such tax is paid on or before the 20th day of the month after the tax is collected. The proceeds from the tax levied by this section shall be for the

benefit of the Advertising and Promotion Commission. Collection of said tax shall begin May 01, 2023.

2.56.03-2 Levy of Tax for Prepared Food and Beverage

Pursuant to Arkansas Code Annotated §26-75-601 et seq., a tax is hereby levied upon the following (Ord. No. 2023-3, Sec. 1):

- (a) There is hereby levied a prepared food and beverage tax of three percent (3%) upon the portion of the gross receipts or gross proceeds received by restaurants, cafes, cafeterias, delicatessens, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery-store restaurants, mobile food retail food establishments, bars, private clubs, private chefs, and any platform, online or offline, which advertises and offers to a purchaser prepared food and beverage and accepts payment from the purchaser for such prepared food and beverage, from the sale of prepared food and beverages for on-premises or off-premises consumption, but such tax shall not apply to such gross receipts or gross proceeds of organizations qualified under 26 U.S.C. § 501(c)(3).
- (b) The tax levied by this section shall be collected from the purchaser of the prepared food and beverage by the person furnishing such food and beverage. Such person shall remit tax collections to the Advertising & Promotion Commission the first day of the second month after the month the tax is collected, accompanied by reports on forms to be furnished by the Advertising and Promotion Commission. All establishments remitting this tax shall be entitled to a two percent discount on the amount due if such tax is paid on or before the 20th day of the month after the tax is collected. The proceeds from the tax levied by this section shall be for the benefit of the Advertising and Promotion Commission. Collection of said tax shall begin May 01, 2023.

2.56.04 Collection of tax

- A. The tax so levied shall be paid by the persons, firms, and corporations liable therefore and shall be collected by the Advertising and Promotion Commission of the levying city or by a designated agent of the Commission in the same manner and at the same time as the tax levied by the Arkansas Gross Receipts Act of 1941, 26-52-101 et seq. This tax shall become effective on the 1st day of September, 2001.
- B. The person paying the tax shall report and remit it upon 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 Receipt Act of 1941, 26-52-101 et seq., shall, so far as practicable, be applicable with respect to the enforcement and collection of the tax

levied and said provisions are deemed incorporated herein as applicable with respect to the enforcement and collection of the tax. The administration and enforcement, and all actions, shall be by and in the name of the Commission through the proper Commission officials or agents. The Commission shall have the authority to sue and be sued in its name, and it may own, operate, sell, lease, contract, or otherwise deal in or dispose of real property, buildings, improvements, or facilities of any nature in accordance with law.

- C. When a business is sixty (60) days delinquent in remitting the afore mentioned taxes, the Hardy City Business License will be revoked and the business will not be allowed to conduct business as usual until delinquent taxes are paid in full.
- D. The Commission shall promulgate rules and regulations and prescribe all forms as are necessary or required for the enforcement and collection of the tax so levied. In enforcing the tax, the Commission shall utilize the provisions of Ark. Code Ann. § 26-75-603(c), the Commission is authorized and enabled to:
 - (1) Assess penalties and interest against taxpayers who fail to timely report or pay the tax. The penalty is equal to five percent (5%) of the unpaid tax amount per month not to exceed a total assessment of thirty-five percent (35%) of the unpaid tax. Simple interest on unpaid taxes shall be assessed at the rate of ten percent (10%) per annum;
 - (2) Assess unpaid or unreported tax within three (3) years of the date the tax is due;
 - (3) Provide for judicial relief from proposed assessments in accordance with Ark. Code Ann. § 26-75-603(d); and
 - (4) Issue certificates of indebtedness consistent with that permitted by the provisions of Ark. Code Ann. § 26-75-603(d) and (e).

2.56.05 Disposition and use of revenues

- A. All taxes, interest, penalties, and costs collected pursuant to this ordinance shall be credited to the City Advertising and Promotion Fund which is hereby created. The disposition of revenues and the use of the funds collected shall be credited to the City Advertising and Promotion Fund in accordance to and in compliance with A.C.A. 26-75-604(a).
- B. All funds credited to the City Advertising and Promotion Fund pursuant to A.C.A. 26-75-601, et seq., shall be used for advertising and promoting the city and its environs, for the construction, reconstruction, extension, equipment, improvement, maintenance, repair, and operation of a convention center or for the operation of a convention center, or for operation of tourist promotion facilities in the city or Fulton County or Sharp County if the city owns an interest in said facility, or facilities necessary for, supporting or otherwise pertaining to, a convention center, as stated in A.C.A. 26-75-606(a)(1).

- C. 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 fund derived from the hotel and restaurant tax for such purposes.
- D. Funds credited to the City Advertising and Promotion Fund pursuant to A.C.A. 26-75-601 et seq., may be used, spent, or pledged by the Commission, in addition to all other purposes prescribed in A.C.A. 226-75-606, on and for the construction, reconstruction, repair, maintenance, improvement, equipping and operation of public recreation facilities in said city if the city owns an interest in the center or facility, including, but not limited to, facilities constituting city parks.
- E. All taxes levied as authorized in A.C.A. 26-75-601, et seq., shall be credited to the City Advertising and Promotion Fund and shall be used for the purposes described in this section.
- F. Such taxes shall not be used:
 - 1. For general capital improvements within the city;
 - 2. For the costs associated with general operation of the city;
 - 3. For general subsidy of any civic groups or Chamber of Commerce.
- G. However, the Advertising and Promotion Commission may contract with such groups to provide to the Commission actual services that are connected with tourism events or conventions.
- H. The Advertising and Promotion Commission may engage personnel and agencies and incur administrative costs as it deems necessary to conduct its business.