



A G E N D A
SILOAM SPRINGS BOARD OF DIRECTORS
FEBRUARY 2, 2016
BOARD MEETING - 6:30 PM
ADMINISTRATION BUILDING, 400 N. BROADWAY

Regular Board of Directors Meeting:

Opening of Regularly Scheduled Meeting

Call to Order

Roll Call

Prayer

Pledge of Allegiance

Approval of Minutes

Regular Meeting of January 19, 2016

I. Public Input

Items from the Public not on the Agenda (public may address any City business not listed on the agenda)

II. Regularly Scheduled Items

Contracts and Approvals

A. Purchase / Kenwood Drainage Culvert / Scurlock Industries

Ordinances

B. Ordinance 16-01 / 3rd Reading / Amending Chapter 6 of the Code of Ordinances / Alcoholic Beverages

C. Ordinance 16-02 / 2nd Reading / Amend Article VI, Division 1 of the Municipal Code / Preference Among Municipal Bidders

D. Ordinance. 16-03 / 2nd Reading / Amending Section 74-72 of the Municipal Code to revise the Family Aquatic Center rates

Resolutions

E. Resolution 03-16 / Referendum on City Contributions of Social Security

F. Resolution 04-16 / Significant Development Permit / 2500 Hwy. 412 E. / Burger King

Staff Reports

Administrator's Report

III. Directors Reports

IV. Adjournment

MINUTES OF THE REGULAR MEETING OF
THE BOARD OF DIRECTORS OF THE
CITY OF SILOAM SPRINGS, BENTON COUNTY,
ARKANSAS, HELD JANUARY 19, 2016

The Board of Directors of the City of Siloam Springs, Arkansas, met in regular session at the City of Siloam Springs Administration Building, on January 19, 2016.

The Meeting was called to order by Mayor Turner.

Roll Call: Johnson, Smiley, Burns, Beers, Smith, Coleman –Present
Jones – Absent

Phillip Patterson, City Administrator; David Bailey, Acting City Attorney; Renea Ellis, City Clerk; James Wilmeth, Police Chief; Greg Neely, Fire Chief; Don Clark, Community Services Director; Christina Petriches, Finance Director; all present.

Opening prayer was led by Steve Beers.

Mayor John Turner led the Pledge of Allegiance.

Director Jones arrived at 6:31pm.

A copy of the January 5, 2016 minutes of the regular meeting had previously been given to each Director. A Motion was made by Smiley and seconded by Coleman to accept the minutes. Mayor called for a voice vote. Motion passed unanimously.

The first agenda item was the Open Hearing for Citizens Present.

Don Cundiff, 601 W. Tahlequah, complimented the Board on the way they conduct Board of Director meetings. He then stated Bella Vista is breaking ties with the Chamber due to the State Constitutional Prohibition against Cities appropriating funds to private corporations.

The next item on the agenda: Approve BKD, LLC Auditors.

Discussion: Christina Petriches, Finance Director, briefed the item. A Motion to approve the contract for auditing services with BKD, LLC for up to three years was made by Coleman and seconded by Jones.

Roll Call:

Smiley, Burns, Beers, Smith, Jones, Coleman, Johnson –Aye.

7 Ayes. No Nays. Motion passed.

The next item on the agenda: Approve Change Order / Library / Sidewalk on Mt. Olive.

Discussion: Don Clark, Community Services Director, briefed the item. Jones asked if T & I will put in sidewalk and if it will affect other previously discussed amenities. Clark answered it will be a subcontractor, and no, it will not interfere. Smith asked if anything will be placed in the triangular sidewalk area at the joining of Jefferson and Mt Olive. Clark answered no, and that they are discussing removing it. Jones asked if that location would be a possible relocation for

the Chataqua House monument that was removed when the old hospital was demolished. Clark answered possibly. Johnson asked if sidewalk will have to be rebuilt with street diet. Clark answered no, that they have taken that into consideration. A Motion to approve Library Sidewalk Change Order in the amount of \$42,944.00 with staff recommendations was made by Burns and seconded by Jones.

Roll Call:

Burns, Beers, Smith, Jones, Coleman, Johnson, Smiley –Aye.
7 Ayes. No Nays. Motion passed.

The next item on the agenda: Ordinance 15-31 / 1st Reading / 2015 International Property Maintenance Code.

Discussion: Mayor stated he has been asked by staff to pull this Ordinance. Coleman asked if a vote is required. Phillip Patterson, City Administrator, stated no, since staff is requesting this item be pulled permanently.

The next item on the agenda: Ordinance 15-32 / 2nd Reading / Amending Municipal Code Section 94-127 / Unlicensed and Inoperable Vehicles.

Discussion: Mayor stated he has been asked by staff to pull this Ordinance.

The next item on the agenda: Ordinance 16-01 / 2nd Reading / Amending Chapter 6 of the Code of Ordinances / Alcoholic Beverages.

Discussion: Phillip Patterson, City Administrator, briefed the item, and asked if a motion was made to place this on its second reading, that it be subject to a slight language change in Section 6-4 N. He then went over the change. A Motion to Place Ordinance 16-01 Amending Chapter 6 of the City's Code of Ordinances Regarding Alcoholic Beverages on its second reading, subject to a language change in Section 6-4 N, suspending the rules and reading title only, was made by Smiley and seconded by Beers.

Roll Call:

Beers, Smith, Jones, Coleman, Johnson, Smiley, Burns –Aye.
7 Ayes. No Nays. Motion passed.

An Ordinance entitled:

**AN ORDINANCE AMENDING CHAPTER 6, ALCOHOLIC BEVERAGES, OF THE
SILOAM SPRINGS MUNICIPAL CODE TO ADD DEFINITIONS, STATE SPECIFIC
GROUNDS FOR SUSPENSION OR REVOCATION OF PERMITS, AND FOR OTHER
PURPOSES.**

Was read on its second reading.

The next item on the agenda: Ordinance 16-02 / 1st Reading / Amend Article VI, Division 1 of the Municipal Code / Preference Among Municipal Bidders.

Discussion: Phillip Patterson, City Administrator, briefed the item. Beers stated he is appreciative for us spending money locally and wadding in to see how it goes. Burns stated this fits in with the restructuring part of the workshop previously discussed. A Motion to Place Ordinance 16-02 providing a five percent (5%) preference to local resident bidders, up to a

maximum of \$500 on its first reading, suspending the rules and reading title only, was made by Johnson and seconded by Smith.

Roll Call:

Smith, Jones, Coleman, Johnson, Smiley, Burns, Beers –Aye.
7 Ayes. No Nays. Motion passed.

An Ordinance entitled:

AN ORDINANCE AMENDING ARTICLE VI, DIVISION 1 OF THE SILOAM SPRINGS MUNICIPAL CODE TO ADD SECTION 2-227 REGARDING A PREFERENCE FOR MUNICIPAL BIDDERS.

Was read on its first reading.

The next item on the agenda: Ordinance 16-03 / 1st Reading / Amending Section 74-72 of the Municipal Code to revise the Family Aquatic Center rates.

Discussion: Don Clark, Community Services Director, briefed the item. Smiley stated she is glad to see these changes and that it will be less cumbersome. She then asked how this affects the net revenue. Clark stated \$29,692 in 2015 numbers, and then this year, under the new system, for residents would be \$26,192. Smiley asked is it still not breaking even. Clark answered no. Smith asked how this compares with other cities. Clark then gave a breakdown of surrounding cities. A Motion to Place Ordinance 16-03 Family Aquatic Center Rates on its first reading, suspending the rules and reading title only, was made by Smiley and seconded by Smith.

Roll Call:

Jones, Coleman, Johnson, Smiley, Burns, Beers, Smith –Aye.
7 Ayes. No Nays. Motion passed.

An Ordinance entitled:

AN ORDINANCE AMENDING SECTION 74-72(a) OF THE SILOAM SPRINGS MUNICIPAL CODE; REVISING RATES FOR THE FAMILY AQUATIC CENTER.

Was read on its first reading.

The next item on the agenda: Resolution 03-16 / Referendum on City Contributions of Social Security for Part Time Employees.

Discussion: Phillip Patterson, City Administrator, gave a brief overview and then requested this item be pulled.

Administrator's Report: Phillip Patterson, City Administrator, reported expenditures at the Water Plant for an annual cost of Polymer (coagulant aid in treatment process) project at \$36,787; at the Wastewater Plant for annual cost of polymer projected at \$45,989; and at the Library for library materials detection system at \$32,614.58 (out of the \$4.7M, not current year budget general funds). He then gave an update on the Twin Springs Park Wall and Trees that were damaged from the previous flooding. He stated they are in the process of getting a quote and design to repair the wall, which will include other repairs besides the flood damage. He stated the large

tree near the wall where it was blown out is being removed. He then stated the forest commission specialist came out to look at several trees in the Twin Springs Park. He said that based on her recommendation, two other trees were removed due to current conditions and safety issues. He stated these will all be replaced in the Fall. He reminded everyone to complete their Statement of Financial Interest which is due by the end of the month. He stated the City is moving its Emergency Messaging system from Blackboard to Code Red for alerts. He pointed out participants will need to opt-in on weather alerts. He announced there will be numerous sign-up events held at major businesses and other various locations throughout the City.

Open Hearing of Directors: Mayor stated the new Siloam Springs Medical Plaza opened this past Monday and Siloam Springs Internal Medicine and Siloam Springs Express Care will both be located within this plaza. Beers stated he attended the ribbon cutting and it is fun to see another business opening in the City. He referred to Martin Luther King, Jr. Day and expressed his appreciation on how diverse the community is which helps make us stronger. Burns stated he attended the open house, and he has an appointment set. He stated a new chapter is starting in town of the Ozark Off-Road Cyclist group which will meet on Monday at the Cross Country Cyclery. He expressed his appreciation for the work being done downtown. He then stated he is looking forward to the City promoting the 3/8th cent sales tax. Smith extended a compliment from a citizen in Ward 4 to the Fire Department for assistance during flooding. Smiley expressed her excitement for the beginning work at the South Side Park and how close we are to completing the new Library. She stated there are dogs at the animal shelter that are in need of dog chews, and that donations would be appreciated. Coleman expressed his excitement to see progress on the new Library. He stated a concern is the criticism the Board receives from citizens for their involvement with private contractors. He stated the City is in legal standing with their contracts.

Coleman then made a motion to adjourn; seconded by Smiley. The Mayor called for a voice vote. All Ayes. Motion passed.

Meeting adjourned.

APPROVED:

ATTEST:

John Mark Turner, Mayor

Renea Ellis, City Clerk

{seal}



STAFF REPORT

To: Phillip Patterson, City Administrator
Cc: Don Clark, Community Services Director
From: Justin Bland, City Engineer
Date: January 22, 2016
Subject: Purchase / Kenwood Drainage Culvert / Scurlock Industries

Recommendation: Approval of purchase of the Kenwood Drainage Box Culvert from Scurlock Industries in the amount of \$130,350.00.

Background: During right-of-way and easement negotiations for the Kenwood St. widening project, the First Assembly of God Church and the City came to an agreement. In exchange for the needed right-of-way and easement from the church, the City would extend the underground storm water system downstream of Kenwood to a point where the main church building would no longer be in danger of flooding.

Bids for the needed 330 feet of 10'x4' concrete box culvert were opened on January 29th and the City received two bids as shown below:

<u>Bidder</u>	<u>Total Amount</u>
Scurlock Industries	\$130,350.00
Forterra Pipe and Precast	\$172,590.00

Fiscal Impact: The total fiscal impact for this project will be \$130,350.00 and will come from the \$160,000 that was budgeted for this project in the 2016 Budget. It will be charged to line item 20-01-599999-720 (First Assembly Drainage). City crews will install this pipe and there will be additional funds required beyond this purchase, however the overall project cost is expected to be within budget.

Attachments: None



CITY OF
Siloam Springs
It's a natural.

STAFF REPORT

TO: Mayor and Board of Directors
FROM: Phillip Patterson, City Administrator
DATE: December 30, 2015
RE: Ordinance 16-01 / First Reading / Amending Chapter 6 of the Code of Ordinances /
Alcoholic Beverages

Recommendation: Approval of Ordinance 16-01 amending Chapter 6 of the City's code of ordinances regarding alcoholic beverages.

Background: In 2013, the City adopted Ordinance No. 13-01, which established the most current code on alcoholic beverages. As with any newly written rules and regulations, once implementation occurs it sometimes becomes apparent that amendments are needed. So it is with the City's alcoholic beverage code. Due to a number of reasons, staff began reviewing and researching various amendments to Chapter 6 beginning in early 2015. The proposed changes are a result of this effort.

Attached, please find a copy of the proposed changes (Exhibit A). This attachment shows the redacted text (~~deleted text~~ vs. added text). The attached ordinance only shows the text of how the Code will read, subject to the adoption of the ordinance. The following is a short summary of the proposed amendments:

1. Sec. 6-2 Definitions. The terms Disturbance and Premises have been added.
2. Sec. 6-4 Applications for Permits. A requirement to have all members of a co-partnership identified. An exemption to the 200' restriction from a church or school in the Historic Downtown Overlay District. A list of individuals who the City will not issue a liquor permit to. A requirement for local criminal background checks. A requirement for what information a liquor permit must contain.
3. Sec. 6-6 Prohibited Activities/Warning Notice. Provisions added regarding disturbances.
4. Sec. 6-11 Beer and Wine Sales, Location. This section is proposed for deletion since the requirement is previously stated in section 6-4(g).
5. Sec. 6-17 Operating without a City Permit. Revisions clarify that providing alcoholic beverages for consumption on- or off-premise without a city permit is a violation, except when in a private residence to family or guests.
6. Sec. 6-19 - Revocation. Revise title to include term "suspension". Clarify procedures for hearing before city administrator related to a suspension or revocation of a permit.
7. Sec. 6-20 - Statement of Causes of Suspension or Revocation of City Controlled Beverage Permit. New section added to require permittees to be notified of potential causes of suspension or revocation of permit, along with process for notification of suspension or revocation.

8. Sec. 6-21 Acts Resulting in Revocation or Suspension of City Controlled Beverage License. New section added to identify acts that may result in suspension or revocation of permit for up to 30, 90 or 120 days.
9. Sec. 6-31(j) Special Event Alcohol Permit. Clarifies hours of permit. Allows a person or entity to obtain six (6) rather than two (2) permits per year. Reduces permit fee from \$50 to \$25.

Staff believes that these proposed amendments are necessary and appropriate for the continued implementation and enforcement of the City's liquor rules and regulations, and in the best interest of the City. For these reasons staff recommends approval.

Fiscal Impact: Staff is not aware of any significant budgetary impacts associated with these code amendments.

Attachments:

Exhibit A – Redacted copy of Code Chapter 6
Ordinance 16-01

Chapter 6 - ALCOHOLIC BEVERAGES

ARTICLE I. - GENERAL PROVISIONS

Sec. 6-1. - Applicability.

- (a) It is hereby declared that the business of manufacturing, transporting, storing, handling, receiving, distributing, selling, serving, or dispensing, either at wholesale or retail, any controlled beverage, except wine, within the City of Siloam Springs, is a privilege, and for the exercise of such privilege there are hereby imposed the regulations, requirements, restrictions, fees, and taxes as set forth in this chapter.
- (b) These general provisions shall apply to all permittees in addition to any specific provisions under individual headings for each type of permit.
- (c) Nothing in this chapter shall be read as authorizing distribution, possession or consumption of any controlled beverage at or within the parks, athletic fields or other public facilities of the City of Siloam Springs.

Sec. 6-2. - Definitions.

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words and phrases not specifically defined in this chapter shall have the meanings assigned by A.C.A. tit. 3 and/or the Arkansas Alcoholic Beverage Control Division Regulations.

Alcoholic beverages means all intoxicating liquors of any sort, other than beer and wine.

Beer means any fermented liquor made from malt or any similar substance therefor and having an alcohol content not in excess of five percent or less than one-half of one percent by weight.

City means the City of Siloam Springs, Arkansas.

Controlled beverages means all beverages of any kind subject to regulation under any alcoholic beverage control law of the State of Arkansas and this chapter.

Disturbance means a breakdown of peaceful and law abiding behavior to include, but not be limited to, a fight, brawl or riot, or the commission of a criminal act.

Hotel means every building or other structure commonly referred to as a hotel, motel, motor lodge, or by similar name, which is kept, used, maintained, advertised, and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers or guests, whether transient, permanent, or residential, in which 50 percent or more rooms are used for the sleeping accommodations of such guests and having one or more public dining rooms with adequate and sanitary kitchen facilities, and a seating capacity for at least 50 persons, where meals are regularly served to such guests, such sleeping accommodations and dining room being conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel operation.

Large attendance facility means a facility housing convention center activity, or tourism activity, or trade show and product display and related meeting activity, or any similar large meeting or attendance activity, and, either itself or through one or more independent contractors, complies with all of the following:

- (1) Actually serves full and complete meals and food on the premises;
- (2) Has one or more places for food service on premises with a seating capacity for not less than 500 people;
- (3) Employs a sufficient number and kind of employees to serve meals and food on the premises capable of handling at least 500 people; and
- (4) Serves controlled beverages on premises at one or more places only on days that meals and food are served at one or more places on premises.

Light wine means the fermented juices of grapes, berries, or fruits and any other mixture containing the fermented juice of grapes, berries, or fruits, having an alcoholic content between one-half of one percent and five percent alcohol by weight.

Malt beverage products means any liquor brewed from the fermented juices of grain having an alcoholic content of not less than five percent nor more than 21 percent by weight.

Malt liquor means liquor brewed from the fermented juices of grain.

Microbrewery-restaurant means any establishment in which beer, containing not in excess of five percent of alcohol by weight, and/or malt beverage products, containing not in excess of 21 percent of alcohol by weight, are both brewed and sold at retail in a restaurant setting under the same ownership and in the same building or attached buildings.

On-premises consumption means the sale of alcoholic beverages by the drink or in broken or unsealed containers for consumption on the premises where sold.

Permit means any authorization issued by the Alcoholic Beverage Control Division of the State of Arkansas and/or by the city pursuant to any Arkansas Alcoholic Beverage Control Division regulation and/or this chapter of the Code of Siloam Springs whether described as a permit, license or otherwise.

Permittee means the person to whom a permit has been issued.

Person means any natural person, partnership, association, corporation, syndicate, or company.

Premises means a defined location, structure or building, together with its land and outbuildings, occupied by a business and utilized in the pursuit of its interest, but excluding those areas used solely as a private residence. Provided that nothing in this code shall authorize sale, dispensing or consumption of alcoholic beverages on premises more broadly defined than authorized or licensed by the Alcoholic Beverage Control Division.

Private club means a nonprofit corporation organized and existing under the laws of this state, no part of the net revenues of which shall inure directly or indirectly to the benefit of any of its members or any other individual, except for the payment of bona fide expenses of the club's operations, conducted for some common recreational, social, patriotic, political, national, benevolent, athletic, or other nonprofit object or purpose other than the consumption of alcoholic beverages. The nonprofit corporation shall have been in existence for a period of not less than one year before application for a permit. At the time of application for the permit, the nonprofit corporation must have not less than 100 members regularly paying annual dues of not less than \$5.00 per member, and, at the time of application, must own or lease, or be the holder of a buy-sell agreement or offer and acceptance, or have an option to lease a building, property, or space therein for the reasonable comfort and accommodation of its members and their families and guests, and restrict the use of club facilities to such persons.

Restaurant means any public place or private place kept, used, maintained, advertised and held out to the public or to a private or restricted membership as a place where complete meals are actually and regularly served, such place being provided with adequate and sanitary kitchen and dining equipment and a seating capacity of at least 50 people and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests or members. At least one meal per day shall be served at least five days a week, with the exception of holidays, vacations and periods of redecorating. Further, on the day that alcoholic beverages are served to customers of the outlet, the outlet must also prepare and serve at least one complete meal for consumption on the premises.

Retailer means any person who holds a permit under any alcoholic beverage control law of the State of Arkansas to sell at retail controlled beverages to consumers only.

Spirituous means liquor distilled from the fermented juices of grains, fruits, or vegetables containing more than 21 percent alcohol by weight, or any other liquids containing more than 21 percent alcohol by weight.

State means the State of Arkansas.

Vinous means the fermented juices of fruits containing more than five percent and not more than 21 percent alcohol by weight.

Wholesaler and distributor means any person who holds a permit under any alcoholic beverage control law of the State of Arkansas to purchase controlled beverages from a manufacturer or importer and to sell such controlled beverages to retailers only.

Sec. 6-3. - Permits required.

- (a) It shall be unlawful for any person to engage in the business of manufacturing, transporting, storing, handling, receiving, distributing, selling, or dispensing, either at wholesale or retail, any controlled beverage, except wine, within the city without a permit issued by the city, or with an expired permit.
- (b) The provisions of this chapter exempting wine mean that said regulations shall not apply to the manufacture, sale, and distribution of wines or vinous liquors manufactured, sold, and distributed by residents of Arkansas. In such instances, the applicable laws and regulations of the State of Arkansas shall apply, and same shall be enforceable as if incorporated herein.

Sec. 6-4. - Application for permits.

- (a) Application for a permit required by this chapter shall be in writing on a form prescribed by the city and shall be accompanied by the required fee and a copy of the applicant's state permit. No city permit will be issued until applicant has received a state permit.
- (b) It shall be unlawful for any person to make any false statement or representation in any application required by this chapter or to give any false answer to any question contained therein.
- (c) An application shall identify all members having ownership of a copartnership seeking a permit under this section.
- (ed) Permits required by this chapter shall be issued in such a manner that they will run for such length of time as the state permit. Annual permit renewal fees shall be due and payable prior to the initial opening of the business, and thereafter on September 15 of each year for

the succeeding year. Late fees shall be imposed at the same rates and in the same manner as for business privilege licenses, as provided at section 22-33 of this Code.

- (de) The city will not issue or renew any permits pursuant to this chapter until all outstanding hotel, motel, and restaurant taxes and/or supplemental beverage taxes, if applicable, are paid.
- (ef) No new permit shall be granted to any person to engage in the sale of liquor at retail, for consumption off the premises, for any business situated within 1,000 feet of any church or school. The distance shall be measured from the nearest point of the church or school building to the nearest point of the building to be permitted.
- (fg) No ~~other~~-new permits shall be granted to any person to engage in the business of manufacturing, transporting, storing, handling, receiving, distributing, selling, or dispensing, either at wholesale or retail, any controlled beverage, for any business situated within 200 feet of any church or school building. The distance shall be measured from the nearest point of the church or school building to the nearest point of the building to be permitted. The distance requirement shall not apply to businesses located in the H-1DT (Historic Downtown) Overlay District.
- (h) No permit shall be issued to:
 - (1) A person who has been convicted of, or plead guilty or nolo contendere to, a felony;
 - (2) A person under the age of twenty-one (21) years;
 - (3) A person who is not a citizen or resident alien of the United States;
 - (4) A copartnership, unless all members of such copartnership are citizens or resident aliens of the United States;
 - (5) A person who shall have had his or her permit issued under this Code revoked for cause or who has been convicted of a violation of this Code until the expiration of two (2) years from the date of such revocation or conviction; or
 - (6) A corporation or copartnership, if any of its officers or members have been convicted of a violation of this Code, have had a permit issued under this Code revoked for cause until two (2) years from the date of the conviction or revocation, or who have been convicted of, or plead guilty or nolo contendere to a felony.
 - (7) Any person or entity not in possession of a valid City business license.
- (gi) All permits issued by the city pursuant to this chapter shall be prominently displayed on the permitted premises by the permittee in the same manner as required by the state for state permits.
- (j) In order to determine an applicant's suitability for a permit, the applicant, or in the case of a copartnership, its members shall submit to a local criminal background check through the city's police department. The applicant(s) shall sign a release that allows the police department to divulge the results of all criminal background checks to the city administrator or his/her designee.
- (hk) When any state permit is revoked by the state or required to be returned to the state for any reason, the city permit shall be returned to the city. The city will restore the permit upon proof that the state permit has been restored to the applicant, provided that no reclaimed permit will be restored to an applicant until all outstanding hotel, motel, and restaurant taxes and/or supplemental beverages taxes, if applicable, are paid.
- (il) All fees, taxes, and penalties received by the city pursuant to this chapter shall be deposited to the credit of general fund revenues.

- (jm) Permits shall not be transferable or assignable except as provided by A.C.A. § 3-4-103A (Fiduciaries—Continuation of permitted business).
- (n) All applications for permits issued by the city shall contain, in addition to any further information or material to be prescribed by the rules and regulations of the Alcoholic Beverage Control Division, the following:
- (1) The name of the person to whom the permit is issued;
 - (2) The type of permit;
 - (3) A description by street and number, or otherwise, of the permitted premises;
 - (4) A statement in substance that the permit shall not be deemed a property or vested right and that it may be revoked at any time pursuant to law;
 - (5) The name and address of the owner of the premises. Upon a change in the ownership, the permittee or the new owner may file notice to that effect in writing with the city on forms to be provided by the city for that purpose.

Sec. 6-5. - Right of city to inspect records.

The city shall have the right to inspect and examine the records of any permittee subject to any tax or permit fee based on gross sales or receipts.

Sec. 6-6. - Prohibited activities/warning notice.

- (a) Any person to which a controlled beverage permit has been issued shall comply with all laws and regulations of the State of Arkansas, the Alcoholic Beverage Control Division of the State of Arkansas, and the City of Siloam Springs regarding the control and regulation of controlled beverages, including but not limited to the following:
- (1) Purchase by or for minors, sale to minors, or handling by minors prohibited.
 - a. It shall be unlawful for any person under the age of 21 years to have in his or her possession, to purchase or attempt to purchase, or otherwise obtain any controlled beverages. However, this provision shall not apply to beverages served by members of one's family or to the use of wine in any religious ceremony or rite in any established church or religion.
 - b. It shall be unlawful for any person to, knowingly or unknowingly, purchase on behalf of, furnish to, give away to, or otherwise dispose of to any person under the age of 21 years any controlled beverages; however, this provision shall not apply to the serving of such to members of one's family or to the use of wine in any religious ceremony or rite in any established church or religion.
 - c. It shall be unlawful for any person engaged in the business of manufacturing, distributing or selling, at wholesale or retail, any controlled beverages to sell, offer for sale, or give away, under any conditions, any such controlled beverages to any person under the age of 21 years. The burden of determining the age of any person shall be upon the seller.
 - d. It shall be unlawful for any wholesaler, retailer, or transporter of controlled beverages to allow any employee or other person under the age of 21 years of age to have anything whatsoever to do with the sale, transporting or handling of controlled beverages. However, with the written consent of a parent or guardian, persons 18 years of age and older may be employed by licensed liquor and beer wholesalers and by licensed native wineries to

handle controlled beverages at the place of business of the licensed wholesaler or wineries.

- (2) A warning notice regarding the sale to, possession or purchase by, or furnishing to minors of controlled beverages shall be posted in a conspicuous place in public view in each place of business where controlled beverages are sold, served or dispensed, including all drive up windows. The warning notices shall be of the size, have the content, and be posted in the manner as prescribed by the Arkansas Alcoholic Beverage Control Division.
- (b) Except where otherwise expressly authorized under the laws of the State of Arkansas, no establishment selling controlled beverages, including beer and small farm wine, may sell or otherwise distribute controlled beverages through drive-up windows. Any premises licensed for controlled beverage sales that maintains or operates a drive-up window for sales of food or other merchandise must post a notice not less than three inches by five inches, clearly affixed to the drive up window and clearly visible to patrons thereof, stating "NO ALCOHOLIC BEVERAGES SOLD THROUGH THIS DRIVE UP WINDOW." The same notice must also be posted on the interior of the permitted outlet so as to be clearly visible to employees selling items, through the drive up window.
- (c) No ~~person who has received a license under any ordinance of the City of Siloam Springs~~ permittee for the sale or dispensing of alcoholic beverages for on-premises consumption including private club licenses shall suffer or permit any person to appear on the licensed premises in such manner or attire as to expose to view any portion of the pubic area, anus, vulva, or genitals or any simulation thereof, nor suffer or permit any female to appear on the premises in such manner or attire as to expose to view any portion of her breast below the top of the areola or any simulation thereof.
- (d) That no person shall bring into or consume or allow to be brought into or allow to be consumed intoxicants or alcoholic beverages of any kind, in any commercial establishment, or business, which suffers or permits any person to appear on the premises in such manner or attire as to expose to view any portion of the pubic area, anus, vulva, or genitals or any simulation thereof, or suffers or permits any female to appear on the premises in such manner or attire as to expose to view any portion of her breast below the top of the areola or any simulation thereof.
- (e) It shall be unlawful for any permittee to willfully permit any disturbance or unlawful or disorderly act or conduct to be committed by any person or group of persons upon any premises permitted for the sale of controlled beverages.
- (f) It shall be unlawful for any permittee, in any manner to encourage or participate in any disturbance or unlawful or disorderly act or conduct upon any premise permitted for the sale of controlled beverages. However, such person engaged in the sale of controlled beverages may use such lawful means as may be proper to protect his person or property from damage or injury.
- (g) Permittees, or their managers on duty, shall promptly report any disturbance on the premises.
- (h) It shall be unlawful for any permittee to not post and keep at all times visible to the public, in a conspicuous place on the premises, a sign to be furnished by the city , which sign shall be in the following form: "WARNING – THE CITY OF SILOAM SPRINGS POLICE DEPARTMENT MUST BE NOTIFIED OF ALL DISTURBANCES IN THIS ESTABLISHMENT".

- (ei) If any ~~person engaged in the sale of controlled beverages in the city~~ permittee shall conduct his place of business in a manner as to constitute a nuisance, the city administrator, subject to appeal to the board of directors, shall revoke the license of such person to sell controlled beverages in the city.
- (fj) Any person violating any provision of this ordinance shall be subject to the general penalties as set out in section 1-7 of the Code of Siloam Springs.

Sec. 6-7. - Liquids exempt.

The articles enumerated in this section shall not, after having been manufactured and prepared for the market, be subject to the provisions of this chapter:

- (1a) Denatured alcohol or denatured rum produced and used as provided by laws and regulations now or hereinafter in force.
- (2b) Medical preparations manufactured in accordance with formulae prescribed by the United States Pharmacopoeia, national formulary or the American Institute of Homeopathy that are unfit for use for beverage purposes.
- (3c) Patented, patent and proprietary medicines that are unfit for use for beverage purposes.
- (4d) Toilet, medical and antiseptic preparations and solutions that are unfit for use for beverage purposes.
- (5e) Flavoring extracts and syrups that are unfit for use as a beverage or for intoxicating beverage purposes.
- (6f) Vinegar and preserved sweet cider.
- (7g) Alcohol medicated according to such formulae as will render it unfit for beverage purposes and which is to be sold for legitimate external use.
- (8h) Alcohol for mechanical and scientific purposes if unfit for a beverage.
- (9i) The provisions of this chapter shall not apply to pure, ethyl or denatured alcohol intended for use and/or used for scientific, chemical, mechanical, industrial, medicinal and/or culinary purposes, or for use in the manufacture of patented, patent, proprietary, medicinal, pharmaceutical, antiseptic, toilet, scientific, chemical, mechanical and industrial preparations or products unfit for beverage purposes.

Sec. 6-8. - Drinking in public place.

No person shall, in any public place, highway, street, or in or upon any passenger coach or in or upon any vehicle commonly used for the transportation of passengers, or in or about any depot, platform, waiting station or room, drink any intoxicating liquor, beer or wine.

Sec. 6-9. - Public intoxication.

No person shall be drunk or intoxicated in any public place, public building or at any public gathering.

Sec. 6-10. - Sunday sale of wine, beer.

- (a) Notwithstanding any other provision of this chapter, it shall be unlawful for any person to sell any wine or beer for off-premises consumption on Sunday.
- (b) Any person violating this section shall be punished by a fine of not less than \$50.00 nor more than \$100.00.

Sec. 6-11. — Beer and wine sales, location.

~~No person shall engage in the retail or wholesale sale, trade, or giving away of beer or wine within 200 feet of any church or school building.~~

Secs. 6-~~1211~~—6-15. - Reserved.

ARTICLE II. - PENALTIES/SUSPENSION/REVOICATION

Sec. 6-16. - Furnishing to or consumption by minors, drunkards or intoxicated persons.

- (a) Any person convicted of knowingly or unknowingly selling, serving, giving, procuring or otherwise furnishing any controlled beverage to any person under 21 years of age, or habitual drunkard or intoxicated person shall be deemed guilty of a misdemeanor and shall be fined not less than \$200.00 nor more than \$500.00.
- (b) Any person under the age of 21 years or habitual drunkard or intoxicated person who has in his or her possession, purchases or attempts to purchase, or otherwise obtain any controlled beverage shall, upon conviction, be deemed guilty of a misdemeanor and shall be subject to a fine of not less than \$10.00 nor more than \$500.00.

Sec. 6-17. - Operating without a city permit.

- (a) Beer and light wine. Any person who sells, serves, barters, exchanges, or gives away beer or light wine without having a valid city permit as provided by this chapter shall, upon conviction, be deemed guilty of a misdemeanor and shall be fined not more than \$500.00. Each day of such operation without a valid city permit shall constitute a separate and distinct offense.
- (b) On-premises consumption, including private clubs. Any person who sells, serves, barters, exchanges, or gives away controlled beverages, except wine, for on-premises consumption without having a valid city permit as provided by this chapter shall, upon conviction, be deemed guilty of a misdemeanor and shall be fined not more than \$500.00. Each day of such operation without a valid city permit shall constitute a separate and distinct offense.
- (c) General. Any person, except as provided in subsections (a) and (b) above, who sells, serves, barters, exchanges, or gives away controlled beverages, except wine, for consumption on- or off-premise, without having a valid city permit as provided in this chapter shall, upon conviction, be deemed guilty of a misdemeanor and shall be fined not more than \$500.00. Each day of such operation without a valid city permit shall constitute a separate and distinct offense. Provided, however, that these provisions shall not be construed to require a license of any lawful occupant ~~of private premises~~ in their private residence to serve alcohol, without charge, to family or guests.

Sec. 6-18. - General penalty.

Except as set forth above, any person violating any provision of this chapter shall be subject to the general penalties as set out in section 1-7 of the Code of Siloam Springs.

Sec. 6-19. — Suspension or Revocation.

- (a) The city administrator may, upon his own complaint or that of any law enforcement officer or agency having jurisdiction over the permitted premises, suspend, cancel or revoke any permit granted under this chapter if the permit granted to such permittee by the state is

suspended, canceled or revoked respectively for any reason, or if the permittee is convicted of any violation of applicable state law, or is guilty of any of the other acts or omissions listed as causes under A.C.A. § 3-9-235(b), as grounds for revoking a state permit.

- (b) The city administrator may, for any other lawful reason, suspend for a period not to exceed six months or revoke the license-permit of any licensee-permittee violating this chapter after due notice to the licensee-permittee and an opportunity for the licensee-permittee to be heard.
- (c) The proceedings shall be in accordance with rules and regulations established by the city administrator and not inconsistent with law. However, the city administrator shall not be bound by the legal rules of evidence in conducting hearings and in making his or her decisions and may take into consideration any testimony, papers, or documents which he or she may deem relevant to the issue.
- (ed) When any license-permit is revoked, no new license-permit shall be issued to the same person, partnership or corporation within one year of such revocation.

Sec. 6-20. - Statement of causes of suspension or revocation of city controlled beverage permit.

- (a) There shall be printed and furnished by the City to each permittee a statement of the causes for which controlled beverage permits may be suspended or revoked.
- (b) The statement shall be prepared by the city administrator or their designee and delivered to the permittee as soon as may be practicable thereafter.
- (c) Any amendments therein shall also be sent by the city administrator or their designee to all permittees as soon as may be practicable after the amendment.
- (d) Failure to send the statement or changes therein, or failure to receive them, or any misstatement or error contained in the statement or amendments shall, however, not be an excuse or justification for any violation or remit or decrease any penalty or forfeiture therefor.
- (e) Within three (3) days after a permit shall have been suspended or revoked, notice thereof shall be given to the permittee by mailing the notice addressed to him or her at the premises permitted.
- (f) Notice shall also be mailed to the owner of the premises permitted.
- (g) The holder of the permit shall thereupon surrender the permit to the city administrator or his/her designee.
- (h) The mailing of the permit by the permittee to the city administrator or his/her designee by registered mail or insured parcel post shall be deemed sufficient compliance with this provision.
- (i) The city administrator, immediately upon notice of suspension or revocation, shall serve a written notice thereof upon to the police chief and the city clerk.
 - (1) This notice shall identify the permit number of the suspended permit, and state the name and place of residence of the holder, the location of the permitted premises, and the date when the permit was suspended or revoked. In the case of a suspension, the notice shall include the dates of the suspension.
 - (2) In case the permit is not immediately surrendered, the city administrator shall issue a written demand for the surrender of the permit and deliver the demand to the police chief. The police chief or their designee shall immediately take possession of the permit and return the permit to the city administrator or his/her designee.

Sec. 6-21. Acts Resulting in Revocation or Suspension of City Controlled Beverage License:

- (a) The prohibited acts identified in section 6-6 of this chapter and reasons for suspension or revocation of a permit identified in section 6-19 notwithstanding, the following acts on the part of any permittee or their employees are violations which may result in the suspension of the permittee's city controlled beverage permit for a period up to 30 days:
- (1) Sale of controlled beverages when the permit is not posted;
 - (2) Failure to maintain health, safety, and sanitary standards;
 - (3) Consuming, or under the influence of, a controlled beverage while on duty;
 - (4) Failure to surrender a permit when the business has been voluntarily inoperative for over thirty (30) days;
 - (5) Use of an unlabeled dispensing faucet;
 - (6) Allowing prostitutes to frequent the premises;
 - (7) Allowing immoral conduct on the premises;
 - (8) Negligently selling to users of narcotics;
 - (9) Delivery of controlled beverages by a retailer away from his or her permitted premises;
 - (10) Sale of controlled beverages in a container or of a size other than approved by the Arkansas Beverage Control Division for such use;
 - (11) Misrepresentation of a brand, or keeping beverages in an unauthorized container, or refilling, diluting, or failing to destroy empty bottles;
 - (12) Failure to maintain membership books or properly maintain guestbooks by a private club;
 - (13) Allowing an unauthorized guest in a private club;
 - (14) Dispensing to nonmembers or non-guests by a private club;
 - (15) Unauthorized purchasing by a private club from other than a retailer;
 - (16) Failure to maintain financial records;
- (b) The prohibited acts identified in section 6-6 of this chapter and reasons for suspension or revocation of a permit identified in section 6-19 notwithstanding, the following acts on the part of any permittee or their employees are violations which may result in the suspension of the permittee's city controlled beverage permit for a period up to 90 days:
- (1) Defacing, destroying, or altering a permit;
 - (2) Manufacturing, selling, offering, dispensing, or giving away, possessing, or transporting controlled beverages upon which tax is not paid;
 - (3) Failure to maintain proper records by a manufacturer;
 - (4) Selling to any person the permittee knows or has reasonable cause to believe is acquiring the controlled beverages for the purpose of illegal sale or other prohibited disposition (bootlegging);
 - (5) Accepting food stamps in payment for controlled beverages;
 - (6) Sale of controlled beverages by vending machine.
- (c) The prohibited acts identified in section 6-6 of this chapter and reasons for suspension or revocation of a permit identified in section 6-19 notwithstanding, the following acts on the part of any permittee or their employees are violations which may result in the suspension of the permittee's city controlled beverage permit for a period up to 120 days:
- (1) Failure to furnish access to premises by any law enforcement officer or any authorized Alcoholic Beverage Control Division personnel or failure to cooperate

or take reasonable action to assist any such law enforcement officers or authorized division personnel who are on the permitted premises in the performance of their duties;

- (2) Failure to allow inspection of books or records;
- (3) Posting permit on unauthorized premises;
- (4) Manufacture or possession of controlled beverage with excess alcoholic content;
- (5) The permittee possessed or knew or reasonably should have known that any agent or employee or patron of the establishment possessed, used, sold or produced on the permitted premises any illegal drug or narcotic or controlled substance or that any agent or employee while acting on the permittee's behalf knowingly allowed the possession, use, sale or production on the permitted premises of any illegal drug or narcotic or controlled substance;
- (6) Selling or allowing the consumption of alcoholic beverages on the permitted premises when the permit is suspended or on inactive status;
- (7) Selling to minors;
- (8) Unauthorized employment of a minor;
- (9) Disorderly conduct or a breach of the peace by a patron or employee on the permitted premises. Disorderly conduct includes without limitation a fight, brawl, or disturbance that results in bodily injury to a person on the permitted premises;
- (10) Selling to an intoxicated person;
- (11) Unauthorized manufacturing, selling, offering, dispensing, or giving away of controlled beverages;
- (12) Conducting or permitting gambling on premises, not including bingo and raffles allowed in A.C.A. § 23-114-101 Charitable Bingo and Raffles Enabling Act, or a lottery allowed in A.C.A. § 23-115-101 Arkansas Scholarship Lottery Act;
- (13) Violation of legal closing hours;
- (14) Possession of a weapon on the permitted premises by a person without a possessory or proprietary interest in the permitted premises, unless otherwise authorized by law.

Secs. 6-20—6-25. - Reserved.

ARTICLE III. - TYPES OF PERMITS—FEES—SPECIFIC PROVISIONS—HOURS OF OPERATION

Sec. 6-26. - Wholesale. Modified

(a) *Wholesale liquor permit.* Authorizes the purchase from licensed manufacturers or importers of spirituous and vinous beverages or malt liquor containing more than five percent alcohol by weight, and the sale of such beverages to persons holding a valid liquor off-premises permit or a hotel, motel or restaurant on-premises consumption permit.

- (1) Permit fee. There is hereby levied an annual permit fee renewable on September 15 of \$500.00 for each and every establishment engaged in storing, transporting and/or selling at wholesale any spirituous or vinous (except wine) liquors within the city.
- (2) Hours of operation. It shall be unlawful for any person to sell, offer for sale, or give away, at wholesale, any spirituous, vinous, or malt liquors before the hours of 6:00 a.m. and after the hour of 11:00 p.m. on weekdays, 12:00 midnight on Friday and

Saturday, at any hour on Sunday, on Christmas Day, or during any 24-hour interval designated an emergency period by the mayor, board of directors, or any person acting in the mayor's or board of director's capacity.

- (b) *Wholesale beer and light wine permit.* Authorizes the purchase of beer, light wine or malt liquor from a licensed manufacturer or importer and the sale of such beverages to retailers holding a valid permit to sell beer, light wine or malt liquor for consumption on or off the premises.
- (1) Permit fee. There is hereby levied an annual permit fee renewable on September 15 of \$125.00 for each and every wholesale dealer, broker or distributor of beer and light wine. (Per A.C.A. § 3-5-101, wholesalers of beer may sell malt liquor.)
 - (2) Hours of operation. The authorized hours of operation shall be the same as for wholesale liquor dealers in [subsection] (a).
 - (3) [Report of sales.] All wholesale dealers and distributors selling beer and light wine to retail dealers within the city shall provide to the city's accounting division on or before June 30 of each year a report of said distributor's total sales of beer and light wine for the previous calendar year to each retailer within the city. No wholesale beer and light wine permit will be renewed until such report has been received by the city.

Secs. 6-27—6-30. - Reserved.

Sec. 6-31. - Retail. Modified

- (a) *Retail liquor off-premises permit.* Authorizes the purchase of spirituous and vinous beverages from any person holding a valid wholesale liquor permit and the sale of such beverages at retail to consumers for consumption off the premises; any holder of a liquor off-premises permit may also purchase malt liquors containing more than five percent alcohol by weight from either persons holding a wholesale beer permit or a wholesale liquor permit, and sell such beverages to consumers for consumption off the premises described in the permit. It shall be unlawful for any person to accept retail orders for any spirituous, vinous, or malt liquors for delivery outside of the premises of the store operated by such person.
- (1) Permit fee. There is hereby levied an annual permit fee renewable on September 15 of \$250.00 for each and every retail liquor dealer engaged in the business of selling or dispensing, at retail any vinous (except wine), spirituous, or malt liquors for off-premises consumption.
 - (2) Hours of operation. It shall be unlawful for any person to sell or offer to sell any controlled beverages for off-premises consumption before the hour of 7:00 a.m. or after the hour of 11:00 p.m. on weekdays, after the hour of 12:00 midnight on Friday or Saturday and at any hour on Sunday on Christmas Day, or during any 24-hour period designated an emergency by the mayor or the board of directors.
- (b) *Retail beer and light wine off-premises permit.* Authorizes the purchase of beer, light wine, or malt liquor containing less than five percent alcohol by weight from wholesalers holding a valid permit and the sale of such controlled beverages for consumption off the premises described in the permit.

- (1) Permit fee. For the privilege of selling beer and light wine, at retail, for off-premises consumption, there is hereby levied an annual permit fee renewable on September 15 as follows:
 - a. For a retailer whose annual gross sales of beer and/or light wine do not exceed \$1,000.00, the permit fee shall be \$15.00.
 - b. For a retailer whose annual gross sales of beer and/or light wine exceed \$1,000.00, the permit fee shall be \$15.00 plus one-half-cent for each dollar of gross sales in excess of \$1,000.00.
 - c. The permit fee for a new applicant with no sales history shall be \$40.00.
 - d. For the purpose of renewing an existing permit, annual sales shall be the actual gross sales for the previous calendar year. If the permittee has not been in operation for a full year at December 31 of the previous year, annual sales shall be determined by dividing the total actual sales by the number of months of operation and multiplying the result by 12.
 - e. If a new permit was issued between March 15 and September 14, the first renewal rate (due on September 15 of the issue year) shall be \$40.00.
 - (2) Hours of operation. It shall be unlawful for any person to sell or offer to sell beer or light wine for off-premises consumption before the hour of 7:00 a.m. or after the hour of 11:00 p.m. on weekdays, after the hour of 12:00 midnight on Friday or Saturday, at any hour on Sunday, on Christmas Day, or during any 24-hour period designated an emergency by the mayor or board of directors.
- (c) *Retail beer and light wine on-premises permit.* Authorizes the purchase of beer, light wine, or malt liquor containing less than five percent alcohol by weight from a wholesaler holding a valid permit and the sale of such controlled beverages for consumption on or off the premises described in the permit.
- (1) Permit fee. There is hereby levied an annual permit fee of the same amounts and computed in the same manner as the annual fees for retail beer and light wine off premises in [subsection] (b) above.
 - (2) Hours of operation. It shall be unlawful for any person to serve, sell, offer for sale, or give away for consumption on-premises any beer or light wine between the hours of 1:00 a.m. and 7:00 a.m. on Monday through Saturday, on Sunday except during the hours of 10:00 a.m. until midnight, on Christmas Day, or during any 24-hour interval designated an emergency period by the mayor, board of directors, or any person acting in the mayor's or the board of director's capacity.
- (d) *Private club permit.* Authorizes the purchase of any controlled beverages from persons holding an off-premises retail liquor or beer permit who have been designated by the director of the State Alcoholic Beverage Control Board as a private club distributor, and authorizes the dispensing of such beverages for consumption on the premises of the private club to members and guests only of the private club. (Private clubs holding a retail beer on-premises permit may purchase beer, light wine, or malt liquor containing not more than five percent alcohol by weight from holders of valid wholesale beer permits).
- (1) Permit fee. For the privilege of operating a private club within the city, there is hereby levied an annual permit fee of \$250.00. For any new private club permit issued between March 15 and September 14, the first renewal rate (due on September 15 of the issue year) shall be \$125.00.

- (2) Supplemental beverage tax. In addition to the \$250.00 per year permit fee, there is hereby imposed and levied a city supplemental tax of five percent upon the annual gross receipts which are derived by such private club from charges to the members and/or their guests for the following services:
 - a. For the preparation and serving of mixed drinks; and
 - b. For the cooling and serving of beer, light wine, and wine.The city's supplemental beverage tax is in addition to the state supplemental tax on private clubs and shall be paid to the appropriate city official, shall be due monthly at the same time that the state supplemental tax is due, and shall be accompanied by one copy of the state supplemental tax return. If any permittee shall fail to remit the supplemental tax within the time period that the state tax is due, a penalty of 12½ percent of the tax due shall be due and payable in addition to the tax.
 - (3) Hours of operation. It shall be unlawful for the owner, operator, or any employee of a private club to serve or permit the consumption of any controlled beverages on the premises of said private club between the hours of 2:00 a.m. and 10:00 a.m. on any day, or during any 24-hour interval designated an emergency period by the mayor, board of directors, or any person acting in the mayor's or the board of director's capacity.
- (e) *On-premises consumption—Hotel, motel or restaurant permit.* Authorizes the purchase of any controlled beverages from persons holding a valid wholesale permit and the sale of such beverages for consumption on the premises of the restaurant described in the permit or in-room hospitality units of the hotel or motel described in the permit. (Persons holding an on-premises consumption hotel, motel, or restaurant permit are not required to have a retail beer permit).
- (1) Permit fee. For the privilege of selling controlled beverages for on-premises consumption by hotels, motels, or restaurants, in accordance with A.C.A. § 3-9-201 et seq., there is hereby levied annual permit fees in the following applicable amounts:
 - a. Hotel or motel having fewer than 100 rooms, \$250.00.
 - b. Hotel or motel having 100 or more rooms, \$500.00.
 - c. Restaurants having a seating capacity of less than 100 persons, \$250.00
 - d. Restaurants having a seating capacity of 100 or more persons, \$500.00.
 - e. Any new permit issued for on-premises consumption hotel, motel, or restaurant operations between March 15 and September 14, shall be at one-half the rates shown above.
 - (2) Supplemental beverage tax. In addition to the annual permit fees for the sale of controlled beverages for on-premises consumption by hotels, motels, or restaurants, there is hereby levied a city supplemental beverage tax of five percent upon the annual gross proceeds or gross receipts from the sale of alcoholic beverages pursuant to this subsection. Wine, beer, light wine, and malt liquors containing less than five percent alcohol by weight, shall not be subject to the supplemental beverage tax.

The city's supplemental beverage tax is in addition to the state supplemental tax and shall be paid to the appropriate city official, shall be due monthly at the same time that the state supplemental tax is due, and payment shall be accompanied by one

copy of the state supplemental tax return. If any permittee shall fail to remit the supplemental tax within the time period that the state tax is due, a penalty of 12½ percent of the tax due shall be due and payable in addition to the tax.

- (3) Hours of operation. It shall be unlawful for any person holding an on-premise consumption hotel, motel or restaurant permit to sell, offer for sale, serve give away, or permit consumption of any controlled beverages between the hours of 2:00 a.m. and 10:00 a.m. on Monday through Saturday, on Sunday except between the hours of 10:00 a.m. until midnight (except when a Sunday falls on December 31 of any year, in which case until 2:00 a.m. the following Monday), on Christmas Day, or during any 24-hour interval designated an emergency period by the mayor, board of directors, or any person acting in the mayor's or the board of director's capacity.
- (f) *Large attendance facility permit.* Authorizes the sale of all types of controlled beverages by a facility which houses a convention center activity, or tourism activity where such establishment has a seating capacity of not less than 500 people and which serves controlled beverages only on the premises on days that meals and food are served at one or more places on the premises.
- (1) Permit fee. There is hereby levied an annual permit fee of \$500.00 for each and every large attendance facility within the city. For any new permit issued between March 15 and September 14, the permit fee shall be one-half of the above amount.
 - (2) Supplemental beverage tax. Large attendance facilities shall be subject to the same supplemental beverage taxes, due dates, and penalties as on-premises consumption hotel, motel, or restaurant permittees in [subsection] (e).
 - (3) Hours of operation. The hours of operation for large attendance facility permittees shall be the same as those allowed for on-premises consumption hotel, motel, or restaurant permittees in [subsection] (e).
- (g) *Off-premises caterer permit.* Authorizes the purchase of alcoholic beverages from a retailer to transport to a private function which is being catered by the permit holder and to serve alcoholic beverages to attendees of the private function in conjunction with catered food.
- (1) Permit fee. A permit fee of \$250.00 is levied annually, renewable on September 15. For any new permit issued between March 15 and September 14, the permit fee shall be half of the above amount.
 - (2) Hours of operation. The hours of operation for an off-premises catering permittee shall be the same as those allowed for on-premises consumption hotel, motel, or restaurant permittees in [subsection] (e).
- (h) *Restaurant beer and wine permit.* Authorizes a restaurant which has a valid state restaurant beer and wine permit to obtain a City of Siloam Springs Restaurant Beer and Wine Permit for the retail sale of beer and wine pursuant to A.C.A. § 3-9-301 and § 3-4-1001 et seq.
- (1) Permit fee. There is hereby levied an annual permit fee renewable on September 15, of the same amounts and computed in the same manner as the annual fees for retail beer and light wine off-premises and on-premises permits in subsections (b) and (c) of this section.
 - (2) Hours of operation. It shall be unlawful for any restaurant to sell beer or wine through this permit beyond the hours established for the retail beer and light wine on-premises permit of subsection (c).
- (i) *Satellite catering permit* to serve large meeting or attendance facility. Only caterers with on-premises consumption - hotel, motel and restaurant permits authorized by subsection

(e) may cater alcoholic beverages in large meeting and attendance facilities as defined in A.C.A. § 3-9-202(8).

- (1) Permit fee. There is hereby levied an annual permit fee renewable on September 15 for a satellite catering permit of \$250.00. For any new permit issued between March 15 and September 14, the permit fee shall be half of the above amount.
- (2) Supplemental beverage tax. Satellite catering activities will be subject to the same supplemental beverage taxes, due dates, and penalties as on-premises consumption hotel, motel, or restaurant permittees in subsection (e).
- (3) Hours of operation. The hours of operation for any satellite catering permittee shall be the same as those allowed for on-premises consumption hotel, motel, or restaurant permittee in subsection (e).

(j) *Special event alcohol permit.* Authorizes any person, 21 years of age or older and not otherwise prohibited by the laws of the State of Arkansas or the United States, to purchase a permit authorizing the dispensing of controlled beverages for consumption on private premises that are not otherwise licensed for such distribution by the City of Siloam Springs. Said permit shall be subject to the following conditions:

- a. Application for said permit must be made no less than 15 days in advance.
- b. Said permit shall be good for the hours of 10:00 a.m. to 12:00 ~~p.m.~~ midnight during one 24-hour period designated by the applicant.
- c. Said permit shall not authorize the dispensing of any controlled beverages on city property, or any other location prohibited by law, including within applicable distances from church or school buildings.
- d. No person or entity may obtain more than ~~two-six~~ (6) special event alcohol permits during any given calendar year.
- e. The city reserves the right to deny any request for a special event alcohol permit if, in the opinion of the city administrator, fire chief, chief of police or any public health official, such permit would be detrimental to public health, safety or welfare.

- (1) Permit fee. The special event alcohol permit fee shall be ~~\$50~~ 25.00, payable at the time of application.
- (2) Hours of operation. It shall be unlawful for the holder of any special event alcohol permit, or their agent or employee, to serve or permit the consumption of any controlled beverages on the permitted premises outside of the hours set forth in the permit, or during any 24-hour interval designated an emergency period by the mayor, board of directors, or any person acting in the mayor's or the board of director's capacity.

(k) *Microbrewery permit.* ~~A~~ authorizes an establishment, with appropriate state licenses, to operate a microbrewery which shall manufacture one or more varieties of beer or malt beverage in an aggregate quantity not to exceed 5,000 barrels per year and to store any such beer or malt beverage and any other beer or malt beverage which the microbrewery-restaurant licensee may purchase from wholesalers licensed by this state on the microbrewery-restaurant licensed premises. The establishment holding said permit may also:

- a. Operate a restaurant (if otherwise properly zoned and licensed by the city) which shall be the sales outlet for beer or malt beverage manufactured by the microbrewery and which shall sell the beer or malt beverage and any

other beer or malt beverage which the microbrewery-restaurant licensee may purchase from wholesalers licensed by this state for consumption on the licensed premises;

- b. Sell on the premises beer or malt beverages manufactured by the microbrewery in brewery-sealed packages at retail directly to the consumer for off-premises consumption;
 - c. Provide products it manufactures to charitable or nonprofit organizations or sell for resale products it manufactures to charitable or nonprofit organizations holding valid special event alcohol permits as provided for by the alcoholic beverage control board, and City of Siloam Springs, except that the microbrewery-restaurant licensee may not sell to nonprofit organizations holding private club licenses. The sale of those products shall be limited to the duration of the particular special event; and
 - d. Sell beer or malt beverages manufactured by the microbrewery-restaurant to a nonprofit corporation leasing space in the microbrewery-restaurant or in an adjoining building.
- (1) Permit fee. There is hereby levied an annual permit fee renewable on September 15, of the same amounts and computed in the same manner as the annual fees for retail beer and light wine off-premises and on-premises permits in subsections (b) and (c) of this section.
 - (2) Hours of operation. It shall be unlawful for any restaurant to sell beer or wine through this permit beyond the hours established for the retail beer and light wine on-premises permit of subsection (c).

Sec. 6-36. - Manufacturing.

- (a) *Liquor manufacturing permit.* Authorizes the manufacture or distilling of spirituous or vinous liquors, and the sale to persons holding valid permits to wholesale or import such liquors.
 - (1) Permit fee.
 - a. For the manufacturing and sale of spirituous liquors, the annual permit fee renewable on September 15 shall be \$500.00 for each and every manufacturing plant.
 - b. For the manufacturing and sale of vinous (except wine) liquors, the annual permit fee renewable on September 15 shall be \$250.00 for each and every manufacturing plant.
- (b) *Beer manufacturing permit.* Authorizes the manufacture of beer containing not in excess of five percent alcohol by weight, and the sale of such beer to persons holding a valid permit to wholesale or import such beer.
 - (1) Permit fee. For the manufacture and sale of beer, the annual permit fee renewable on September 15 shall be \$250.00 for each and every manufacturing plant.
 - (2) However, no city manufacturing permit shall be required for home-brewed beer:
 - a. Upon the manufacturer's own premises;
 - b. For consumption by the manufacturer and his or her family and guests, but not for sale; and
 - c. In quantities per calendar year not to exceed:

1. Two hundred gallons if there are two or more adults in the household; or
 2. One hundred gallons if there is only one adult in the household.
- (3) Any manufacturer of home-brewed beer must have attained 21 years of age.
 - (4) "Home-brewed" means beer made from malted barley, wheat, or cereal grains, or any substitute therefor, and having an alcoholic content not in excess of five percent by weight, brewed for consumption by the manufacturer and his or her family and guests, but not for sale.
- (c) *Rectifying permit.* Authorizes the rectifying, purifying, mixing, blending, or flavoring of spirituous liquors or the bottling, warehousing, or other handling or distribution of rectified distilled spirits. Rectifiers may sell, deliver, or transport only to wholesalers holding a valid permit to wholesale, to other rectifiers, or for the purpose of export out of state.
- (1) Permit fee. For the privilege of rectifying, blending, or flavoring spirituous liquors, there is hereby assessed an annual permit fee, renewable on September 15, of \$750.00 for each and every rectifying, blending, or flavoring plant.

Secs. 6-37—6-40. - Reserved.

ORDINANCE NO. 16 – 01

AN ORDINANCE AMENDING CHAPTER 6, ALCOHOLIC BEVERAGES, OF THE SILOAM SPRINGS MUNICIPAL CODE TO ADD DEFINITIONS, STATE SPECIFIC GROUNDS FOR SUSPENSION OR REVOCATION OF PERMITS, AND FOR OTHER PURPOSES.

WHEREAS, experience has shown the need for certain clarifications and technical corrections to the Siloam Springs Alcoholic Beverage Code; and

WHEREAS, the following amendments will provide greater clarity to alcohol permittees, city staff and the general public as to allowed activities, as well as penalties and remedies for violations; and

WHEREAS, said changes are in the best interest of the health, safety and general welfare of the citizens of Siloam Springs;

NOW THEREFORE BE IT ENACTED, by the Board of Directors of the City of Siloam Springs, as follows:

Section 1: Section 6-2, Article I, Chapter 6 of the Siloam Springs Municipal Code is hereby amended to include the following definitions in alphabetical order:

Disturbance means a breakdown of peaceful and law abiding behavior to include, but not be limited to, a fight, brawl or riot, or the commission of a criminal act.

Premises means a defined location, structure or building, together with its land and outbuildings, occupied by a business and utilized in the pursuit of its interest, but excluding those areas used solely as a private residence. Provided that nothing in this code shall authorize sale, dispensing or consumption of alcoholic beverages on premises more broadly defined than authorized or licensed by the Alcoholic Beverage Control Division.

Section 2: Section 6-4, Article I, Chapter 6 of the Siloam Springs Municipal Code is hereby amended to read as follows:

Sec. 6-4. - Application for permits.

- (a) Application for a permit required by this chapter shall be in writing on a form prescribed by the city and shall be accompanied by the required fee and a copy of the applicant's state permit. No city permit will be issued until applicant has received a state permit.
- (b) It shall be unlawful for any person to make any false statement or representation in any application required by this chapter or to give any false answer to any question contained therein.
- (c) An application shall identify all members having ownership of a co-partnership seeking a permit under this section.
- (d) Permits required by this chapter shall be issued in such a manner that they will run for such length of time as the state permit. Annual permit renewal fees shall be due and payable prior to the initial opening of the business, and thereafter on September 15 of

- each year for the succeeding year. Late fees shall be imposed at the same rates and in the same manner as for business privilege licenses, as provided at section 22-33 of this Code.
- (e) The city will not issue or renew any permits pursuant to this chapter until all outstanding hotel, motel, and restaurant taxes and/or supplemental beverage taxes, if applicable, are paid.
 - (f) No new permit shall be granted to any person to engage in the sale of liquor at retail, for consumption off the premises, for any business situated within 1,000 feet of any church or school. The distance shall be measured from the nearest point of the church or school building to the nearest point of the building to be permitted.
 - (g) No new permits shall be granted to any person to engage in the business of manufacturing, transporting, storing, handling, receiving, distributing, selling, or dispensing, either at wholesale or retail, any controlled beverage, for any business situated within 200 feet of any church or school building. The distance shall be measured from the nearest point of the church or school building to the nearest point of the building to be permitted. The distance requirement shall not apply to businesses located in the H-1DT (Historic Downtown) Overlay District.
 - (h) No permit shall be issued to:
 - (1) A person who has been convicted of, or plead guilty or nolo contendere to, a felony;
 - (2) A person under the age of twenty-one (21) years;
 - (3) A person who is not a citizen or resident alien of the United States;
 - (4) A co-partnership, unless all members of such co-partnership are citizens or resident aliens of the United States;
 - (5) A person who shall have had his or her permit issued under this Code revoked for cause or who has been convicted of a violation of this Code until the expiration of two (2) years from the date of such revocation or conviction; or
 - (6) A corporation or co-partnership, if any of its officers or members have been convicted of a violation of this Code, have had a permit issued under this Code revoked for cause until two (2) years from the date of the conviction or revocation, or who have been convicted of, or plead guilty or nolo contendere to a felony.
 - (7) Any person or entity not in possession of a valid City business license.
 - (i) All permits issued by the city pursuant to this chapter shall be prominently displayed on the permitted premises by the permittee in the same manner as required by the state for state permits.
 - (j) In order to determine an applicant's suitability for a permit, the applicant, or in the case of a co-partnership, its members shall submit to a local criminal background check through the city's police department. The applicant(s) shall sign a release that allows the police department to divulge the results of all criminal background checks to the city administrator or his/her designee.
 - (k) When any state permit is revoked by the state or required to be returned to the state for any reason, the city permit shall be returned to the city. The city will restore the permit upon proof that the state permit has been restored to the applicant, provided that no reclaimed permit will be restored to an applicant until all outstanding hotel, motel, and restaurant taxes and/or supplemental beverages taxes, if applicable, are paid.
 - (l) All fees, taxes, and penalties received by the city pursuant to this chapter shall be deposited to the credit of general fund revenues.

- (m) Permits shall not be transferable or assignable except as provided by A.C.A. § 3-4-103A (Fiduciaries – Continuation of permitted business).
- (n) All applications for permits issued by the city shall contain, in addition to any further information or material to be prescribed by the rules and regulations of the Alcoholic Beverage Control Division, the following:
 - (1) The name of the person to whom the permit is issued;
 - (2) The type of permit;
 - (3) A description by street and number, or otherwise, of the permitted premises;
 - (4) A statement in substance that the permit shall not be deemed a property or vested right and that it may be revoked at any time pursuant to law;
 - (5) The name and address of the owner of the premises. Upon a change in the ownership, the permittee or the new owner may file notice to that effect in writing with the city on forms to be provided by the city for that purpose.

Section 3: Section 6-6, Article I, Chapter 6 of the Siloam Springs Municipal Code is hereby amended to read as follows:

Sec. 6-6. - Prohibited activities/warning notice.

- (a) Any person to which a controlled beverage permit has been issued shall comply with all laws and regulations of the State of Arkansas, the Alcoholic Beverage Control Division of the State of Arkansas, and the City of Siloam Springs regarding the control and regulation of controlled beverages, including but not limited to the following:
 - (1) Purchase by or for minors, sale to minors, or handling by minors prohibited.
 - a. It shall be unlawful for any person under the age of 21 years to have in his or her possession, to purchase or attempt to purchase, or otherwise obtain any controlled beverages. However, this provision shall not apply to beverages served by members of one's family or to the use of wine in any religious ceremony or rite in any established church or religion.
 - b. It shall be unlawful for any person to, knowingly or unknowingly, purchase on behalf of, furnish to, give away to, or otherwise dispose of to any person under the age of 21 years any controlled beverages; however, this provision shall not apply to the serving of such to members of one's family or to the use of wine in any religious ceremony or rite in any established church or religion.
 - c. It shall be unlawful for any person engaged in the business of manufacturing, distributing or selling, at wholesale or retail, any controlled beverages to sell, offer for sale, or give away, under any conditions, any such controlled beverages to any person under the age of 21 years. The burden of determining the age of any person shall be upon the seller.
 - d. It shall be unlawful for any wholesaler, retailer, or transporter of controlled beverages to allow any employee or other person under the age of 21 years of age to have anything whatsoever to do with the sale, transporting or handling of controlled beverages. However, with the written consent of a parent or guardian, persons 18 years of age and older may be employed by licensed liquor and beer wholesalers and by licensed native wineries to

handle controlled beverages at the place of business of the licensed wholesaler or wineries.

- (2) A warning notice regarding the sale to, possession or purchase by, or furnishing to minors of controlled beverages shall be posted in a conspicuous place in public view in each place of business where controlled beverages are sold, served or dispensed, including all drive up windows. The warning notices shall be of the size, have the content, and be posted in the manner as prescribed by the Arkansas Alcoholic Beverage Control Division.
- (b) Except where otherwise expressly authorized under the laws of the State of Arkansas, no establishment selling controlled beverages, including beer and small farm wine, may sell or otherwise distribute controlled beverages through drive-up windows. Any premises licensed for controlled beverage sales that maintains or operates a drive-up window for sales of food or other merchandise must post a notice not less than three inches by five inches, clearly affixed to the drive up window and clearly visible to patrons thereof, stating "NO ALCOHOLIC BEVERAGES SOLD THROUGH THIS DRIVE UP WINDOW." The same notice must also be posted on the interior of the permitted outlet so as to be clearly visible to employees selling items, through the drive up window.
- (c) No permittee for the sale or dispensing of alcoholic beverages for on-premises consumption including private club licenses shall suffer or permit any person to appear on the licensed premises in such manner or attire as to expose to view any portion of the pubic area, anus, vulva, or genitals or any simulation thereof, nor suffer or permit any female to appear on the premises in such manner or attire as to expose to view any portion of her breast below the top of the areola or any simulation thereof.
- (d) That no person shall bring into or consume or allow to be brought into or allow to be consumed intoxicants or alcoholic beverages of any kind, in any commercial establishment, or business, which suffers or permits any person to appear on the premises in such manner or attire as to expose to view any portion of the pubic area, anus, vulva, or genitals or any simulation thereof, or suffers or permits any female to appear on the premises in such manner or attire as to expose to view any portion of her breast below the top of the areola or any simulation thereof.
- (e) It shall be unlawful for any permittee to willfully permit any disturbance or unlawful or disorderly act or conduct to be committed by any person or group of persons upon any premises permitted for the sale of controlled beverages.
- (f) It shall be unlawful for any permittee, in any manner to encourage or participate in any disturbance or unlawful or disorderly act or conduct upon any premise permitted for the sale of controlled beverages. However, such person engaged in the sale of controlled beverages may use such lawful means as may be proper to protect his person or property from damage or injury.
- (g) Permittees, or their managers on duty, shall promptly report any disturbance on the premises
- (h) It shall be unlawful for any permittee to not post and keep at all times visible to the public, in a conspicuous place on the premises, a sign to be furnished by the city , which sign shall be in the following form: "WARNING – THE CITY OF SILOAM SPRINGS POLICE DEPARTMENT MUST BE NOTIFIED OF ALL DISTURBANCES IN THIS ESTABLISHMENT".

- (i) If any permittee shall conduct his place of business in a manner as to constitute a nuisance, the city administrator, subject to appeal to the board of directors, shall revoke the license of such person to sell controlled beverages in the city.
- (j) Any person violating any provision of this ordinance shall be subject to the general penalties as set out in section 1-7 of the Code of Siloam Springs.

Section 4: Subsections 6-7(1) through 6-7(9), Article I, Chapter 6 of the Siloam Springs Municipal Code are hereby renumbered as Subsections 6-7(a) through 6-7(i).

Section 5: Section 6-11, Article I, Chapter 6 of the Siloam Springs Municipal Code is hereby deleted in its entirety.

Section 6: Sections 6-11 through 6-15, Article I, Chapter 6 of the Siloam Springs Municipal Code are hereby reserved.

Section 7: Subsection 6-17(c), Article II, Chapter 6 of the Siloam Springs Municipal Code is hereby amended to read as follows:

- (c) General. Any person, except as provided in subsections (a) and (b) above, who sells, serves, barter, exchanges, or gives away controlled beverages, except wine, for consumption on- or off-premise without having a valid city permit as provided in this chapter shall, upon conviction, be deemed guilty of a misdemeanor and shall be fined not more than \$500.00. Each day of such operation without a valid city permit shall constitute a separate and distinct offense. Provided, however, that these provisions shall not be construed to require a license of any lawful occupant in their private residence to serve alcohol, without charge, to family or guests.

Section 8: Section 6-19, Article II, Chapter 6 of the Siloam Springs Municipal Code is hereby amended to read as follows:

Sec. 6-19. – Suspension or Revocation.

- (a) The city administrator may, upon his own complaint or that of any law enforcement officer or agency having jurisdiction over the permitted premises, suspend, cancel or revoke any permit granted under this chapter if the permit granted to such permittee by the state is suspended, canceled or revoked respectively for any reason, or if the permittee is convicted of any violation of applicable state law, or is guilty of any of the other acts or omissions listed as causes under A.C.A. § 3-9-235(b), as grounds for revoking a state permit.
- (b) The city administrator may, for any other lawful reason, suspend for a period not to exceed six months or revoke the permit of any permittee violating this chapter after due notice to the permittee and an opportunity for the permittee to be heard.
- (c) The proceedings shall be in accordance with rules and regulations established by the city administrator and not inconsistent with law. However, the city administrator shall not be bound by the legal rules of evidence in conducting hearings and in making his or her decisions and may take into consideration any testimony, papers, or documents which he or she may deem relevant to the issue.

- (d) When any permit is revoked, no new permit shall be issued to the same person, partnership or corporation within one year of such revocation.

Section 9: Sections 6-20 and 6-21, Article II, Chapter 6 of the Siloam Spring Municipal Code are hereby enacted to read as follows:

6-20. - Statement of causes of suspension or revocation of city controlled beverage permit.

- (a) There shall be printed and furnished by the City to each permittee a statement of the causes for which controlled beverage permits may be suspended or revoked.
- (b) The statement shall be prepared by the city administrator or their designee and delivered to the permittee as soon as may be practicable thereafter.
- (c) Any amendments therein shall also be sent by the city administrator or their designee to all permittees as soon as may be practicable after the amendment.
- (d) Failure to send the statement or changes therein, or failure to receive them, or any misstatement or error contained in the statement or amendments shall, however, not be an excuse or justification for any violation or remit or decrease any penalty or forfeiture therefor.
- (e) Within three (3) days after a permit shall have been suspended or revoked, notice thereof shall be given to the permittee by mailing the notice addressed to him or her at the premises permitted.
- (f) Notice shall also be mailed to the owner of the premises permitted.
- (g) The holder of the permit shall thereupon surrender the permit to the city administrator or his/her designee.
- (h) The mailing of the permit by the permittee to the city administrator or his/her designee by registered mail or insured parcel post shall be deemed sufficient compliance with this provision.
- (i) The city administrator, immediately upon notice of suspension or revocation, shall serve a written notice thereof upon to the police chief and the city clerk.
 - (1) This notice shall identify the permit number of the suspended permit, and state the name and place of residence of the holder, the location of the permitted premises, and the date when the permit was suspended or revoked. In the case of a suspension, the notice shall include the dates of the suspension.
 - (2) In case the permit is not immediately surrendered, the city administrator shall issue a written demand for the surrender of the permit and deliver the demand to the police chief. The police chief or their designee shall immediately take possession of the permit and return the permit to the city administrator or his/her designee.

6-21. Acts Resulting in Revocation or Suspension of City Controlled Beverage License:

- (a) The prohibited acts identified in section 6-6 of this chapter and reasons for suspension or revocation of a permit identified in section 6-19 notwithstanding, the following acts on the part of any permittee or their employees are violations which may result in the suspension of the permittee's city controlled beverage permit for a period up to 30 days:
 - (1) Sale of controlled beverages when the permit is not posted;
 - (2) Failure to maintain health, safety, and sanitary standards;
 - (3) Consuming, or under the influence of, a controlled beverage while on duty;

- (4) Failure to surrender a permit when the business has been voluntarily inoperative for over thirty (30) days;
 - (5) Use of an unlabeled dispensing faucet;
 - (6) Allowing prostitutes to frequent the premises;
 - (7) Allowing immoral conduct on the premises;
 - (8) Negligently selling to users of narcotics;
 - (9) Delivery of controlled beverages by a retailer away from his or her permitted premises;
 - (10) Sale of controlled beverages in a container or of a size other than approved by the Arkansas Beverage Control Division for such use;
 - (11) Misrepresentation of a brand, or keeping beverages in an unauthorized container, or refilling, diluting, or failing to destroy empty bottles;
 - (12) Failure to maintain membership books or properly maintain guest books by a private club;
 - (13) Allowing an unauthorized guest in a private club;
 - (14) Dispensing to nonmembers or non-guests by a private club;
 - (15) Unauthorized purchasing by a private club from other than a retailer;
 - (16) Failure to maintain financial records;
- (b) The prohibited acts identified in section 6-6 of this chapter and reasons for suspension or revocation of a permit identified in section 6-19 notwithstanding, the following acts on the part of any permittee or their employees are violations which may result in the suspension of the permittee's city controlled beverage permit for a period up to 90 days:
- (1) Defacing, destroying, or altering a permit;
 - (2) Manufacturing, selling, offering, dispensing, or giving away, possessing, or transporting controlled beverages upon which tax is not paid;
 - (3) Failure to maintain proper records by a manufacturer;
 - (4) Selling to any person the permittee knows or has reasonable cause to believe is acquiring the controlled beverages for the purpose of illegal sale or other prohibited disposition (bootlegging);
 - (5) Accepting food stamps in payment for controlled beverages;
 - (6) Sale of controlled beverages by vending machine.
- (c) The prohibited acts identified in section 6-6 of this chapter and reasons for suspension or revocation of a permit identified in section 6-19 notwithstanding, the following acts on the part of any permittee or their employees are violations which may result in the suspension of the permittee's city controlled beverage permit for a period up to 120 days:
- (1) Failure to furnish access to premises by any law enforcement officer or any authorized Alcoholic Beverage Control Division personnel or failure to cooperate or take reasonable action to assist any such law enforcement officers or authorized division personnel who are on the permitted premises in the performance of their duties;
 - (2) Failure to allow inspection of books or records;
 - (3) Posting permit on unauthorized premises;
 - (4) Manufacture or possession of controlled beverage with excess alcoholic content;
 - (5) The permittee possessed or knew or reasonably should have known that any agent or employee or patron of the establishment possessed, used, sold or produced on the permitted premises any illegal drug or narcotic or controlled substance or that

- any agent or employee while acting on the permittee's behalf knowingly allowed the possession, use, sale or production on the permitted premises of any illegal drug or narcotic or controlled substance;
- (6) Selling or allowing the consumption of alcoholic beverages on the permitted premises when the permit is suspended or on inactive status;
 - (7) Selling to minors;
 - (8) Unauthorized employment of a minor;
 - (9) Disorderly conduct or a breach of the peace by a patron or employee on the permitted premises. Disorderly conduct includes without limitation a fight, brawl, or disturbance that results in bodily injury to a person on the permitted premises;
 - (10) Selling to an intoxicated person;
 - (11) Unauthorized manufacturing, selling, offering, dispensing, or giving away of controlled beverages;
 - (12) Conducting or permitting gambling on premises, not including bingo and raffles allowed in A.C.A. § 23-114-101 Charitable Bingo and Raffles Enabling Act, or a lottery allowed in A.C.A. § 23-115-101 Arkansas Scholarship Lottery Act;
 - (13) Violation of legal closing hours;
 - (14) Possession of a weapon on the permitted premises by a person without a possessory or proprietary interest in the permitted premises, unless otherwise authorized by law.

Section 10: Section 6-31(j), Article III, Chapter 6 of the Siloam Springs Municipal Code is hereby amended to read as follows:

- (j) *Special event alcohol permit.* Authorizes any person, 21 years of age or older and not otherwise prohibited by the laws of the State of Arkansas or the United States, to purchase a permit authorizing the dispensing of controlled beverages for consumption on private premises that are not otherwise licensed for such distribution by the City of Siloam Springs. Said permit shall be subject to the following conditions:
 - a. Application for said permit must be made no less than 15 days in advance.
 - b. Said permit shall be good for the hours of 10:00 a.m. to 12:00 midnight during one 24-hour period designated by the applicant.
 - c. Said permit shall not authorize the dispensing of any controlled beverages on city property, or any other location prohibited by law, including within applicable distances from church or school buildings.
 - d. No person or entity may obtain more than six special event alcohol permits during any given calendar year.
 - e. The city reserves the right to deny any request for a special event alcohol permit if, in the opinion of the city administrator, fire chief, chief of police or any public health official, such permit would be detrimental to public health, safety or welfare.
- (1) Permit fee. The special event alcohol permit fee shall be \$25.00, payable at the time of application.
- (2) Hours of operation. It shall be unlawful for the holder of any special event alcohol permit, or their agent or employee, to serve or permit the consumption of any controlled beverages on the permitted premises outside of the hours set forth in the

permit, or during any 24-hour interval designated an emergency period by the mayor, board of directors, or any person acting in the mayor's or the board of director's capacity.

Section 11: Section 6-31(k), Article III, Chapter 6 of the Siloam Springs Municipal Code is hereby amended to read as follows, subsections 6-31(k)a through 6-31(k)d, and 6-31(k)(1) and 6-31(k)(2) remain unchanged:

- (k) *Microbrewery permit.* Authorizes an establishment, with appropriate state licenses, to operate a microbrewery which shall manufacture one or more varieties of beer or malt beverage in an aggregate quantity not to exceed 5,000 barrels per year and to store any such beer or malt beverage and any other beer or malt beverage which the microbrewery-restaurant licensee may purchase from wholesalers licensed by this state on the microbrewery-restaurant licensed premises. The establishment holding said permit may also:

Section 12: Repealer and severability.

Prior Ordinances in conflict with the provisions enacted herein are repealed to the extent of the conflict as of the effective date of this Ordinance. If any provision of a section of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of the section or related sections which can be given effect without the invalid provision or application, and to this end the provisions are severable.

ORDAINED AND ENACTED this _____ day of _____, 2016.

APPROVED:

ATTEST:

John Mark Turner, Mayor

Renea Ellis, City Clerk

(SEAL)



CITY OF
Siloam Springs
It's a natural

STAFF REPORT

TO: Mayor and Board of Directors
FROM: Phillip Patterson, City Administrator
DATE: January 12, 2016
RE: Ordinance 16-02 / 1st Reading / Amend Article VI, Division 1 of the Municipal Code / Preference Among Municipal Bidders

Recommendation: Approval of Ordinance No. 16-02 providing a five percent (5%) preference to local resident bidders, up to a maximum of \$500.

Background: In 2015, the Arkansas General Assembly passed Act 1059 which permits cities to grant a bidding preference of up to five percent (5%) to firms residing within the city limits. This preference will allow the City to purchase from local businesses even if they are not the lowest bidder or have the lowest quote. Studies have shown that spending in one's local community produces economic benefits for that community. Some studies indicated that the benefit is two-fold, while others have shown that the economic benefit is three times as much. One study found that the local businesses return an average of 52 percent of their revenue to the local economy. For these reasons, staff recommends approval of Ordinance No. 16-02.

Fiscal Impact: The financial impact of this ordinance may result in increases of up to \$500 on certain purchases. However, it is anticipated that any such increase will produce additional economic benefits for the community as a whole.

Attachments:

Ordinance No. 16-02

ORDINANCE NO. 16-02

AN ORDINANCE AMENDING ARTICLE VI, DIVISION 1 OF THE
SILOAM SPRINGS MUNICIPAL CODE TO ADD SECTION 2-227
REGARDING A PREFERENCE FOR MUNICIPAL BIDDERS

WHEREAS, Act 1059 of the 2015 Arkansas General Assembly created a new statute, codified at A.C.A. § 14-58-105, which allows the City to grant a bidding preference to a firm residing within its city limits; and

WHEREAS, in order to support and encourage the growth and sustainability of local businesses, it is in the best interests of the citizens of the City of Siloam Springs, Arkansas, that Section 2-227 be added to the Code of Ordinances of the City of Siloam Springs to grant the bidding preference authorized by Act 1059 of the 2015 Arkansas General Assembly. **Now Therefore:**

BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY OF SILOAM SPRINGS, ARKANSAS, THAT:

The Siloam Springs Municipal Code is amended to add Section 2-227 to read as follows:

Section 2-227. Preference among municipal bidders.

- (a) The following words and phrases shall for the purpose of this section have the following meanings:

Commodities means all property, including without limitation, equipment, printing, stationery, supplies (to the extent not purchased pursuant to section 2-182(d)), and capital improvements, but excluding leases on real property, real property, or a permanent interest in real property, and exempt commodities and services;

Firm resident in the city means any individual, partnership, association, or corporation, whether domestic or foreign, that:

- (1) Maintains at least one (1) staffed place of business located within the corporate limits of the city;
- (2) For not less than two (2) successive years immediately before submitting a bid, has paid taxes to the county that benefit the city on either real or personal property used or intended to be used in connection with the firm's business; and,
- (3) Has a valid business registration/license with the city.

Lowest qualified bid means the lowest bid that conforms to the specifications and request for bids.

City means the City of Siloam Springs.

Nonresident firm means a firm that is not included in the definition of a firm resident in the city.

Services means labor, time, or effort furnished by a contractor.

- (b) In the purchase of commodities or services by competitive bidding, a reference of five percent (5%) shall be granted to the lowest qualified bid for a bidder that qualifies as a firm resident in the city.
- (1) The maximum monetary amount of any preference granted, regardless of the bid amount

or percentage of preference, shall be Five Hundred Dollars (\$500.00).

- (2) In calculating the preference to be allowed, the total amount of each bid of each firm resident in the city who claims the preference shall be reduced by five percent (5%), up to the maximum allowed as described above, from the total amount of each bid.
 - (3) If after making the deduction, the bid of any firm resident in the city claiming the preference is lower than the bid of the nonresident firm, then the award shall be made to the firm resident in the city that submitted the lowest qualified bid, whether or not that particular firm resident in the city claimed the preference.
- (c) The preference provided for in this section only applies in comparing bids when one (1) or more bids are by a firm resident in the city and the other bid or bids are by a nonresident firm.
- (1) The preference provided for in this section does not apply to competing bids of firm residents in the city after preferential rejection of the bids of nonresident firms, nor to the situation where all bidders are firm residents in the city.
- (d) If any provision or condition of this section conflicts with any provision of federal or state law or any rule or regulation made under federal or state law pertaining to federal grants-in-aid programs or other federal or state aid programs, the provision or condition shall not apply to the state-supported or federal-supported contracts for the purchase of commodities or services to the extent that the conflict exists. However, all provisions or conditions of this section with which there is no conflict apply to contracts to purchase commodities or services to be paid, in whole or in part, from federal funds.
- (e) The provisions of this section shall apply, without limitation, to public works projects, capital improvements, commodities, materials, equipment, and services procured by the city.
- (f) When circumstances arise to which this section and Ark. Stat. Ann. § 19-11- 259 (regarding preferences among bidders) apply, both the preference provided under this section and the preference provided under Ark. Stat. Ann. § 19-11-259 shall also apply.
- (g) To the extent that federal purchasing laws or bidding preferences conflict, this section does not apply to projects related to supplying water or wastewater utility services, operations, or maintenance to a federal military installation by a municipality of the state.

Ordained and Enacted this _____ day of _____ 2016.

ATTEST:

APPROVED:

Renea Ellis, City Clerk

John Mark Turner, Mayor

(SEAL)



CITY OF
Siloam Springs
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STAFF REPORT

To: Phillip Patterson, City Administrator
From: Don Clark, Community Services Director
Date: January 12, 2015
Subject: Ordinance No. 16-03 / Amending Section 74-72 of the Municipal Code to revise the Family Aquatic Center rates.

Recommendation: Approve of Ordinance No. 16-03 Family Aquatic Center Rates

Background: The Parks and Recreation Department is proposing a revision be made to the season membership rate schedule. In an attempt to address patron complaints and concerns and to avoid discrepancies between the Parks and Recreation office and the Family Aquatic Center, a simplified and consistent enrollment policy and fee schedule is needed.

Issuing season passes based on a household rather than a family and including a 4-person cap will address the following inconsistencies:

1. Capping the number of members per pass to four and charging \$15 for additional members will provide a more consistent schedule for patrons and staff. i.e. The current cost of a 6 plus family member pass is \$175. Families of 10 members are paying \$17.50 per member, where as a family of three is paying \$50 per member (the price of up to 4 members).
2. Include care givers on memberships. The City currently does not permit grandparents and child care givers to be listed on family memberships.
3. Discontinue the April 10% discount.
4. Discontinue the two out of school district rates and include one for out of school district.
5. Requiring proof of residency may be needed to determine the out of school district rates.
6. Discontinue the one-time out-of-town relative free admittance.

Fiscal Impact: There will be a minimal fiscal impact to the City.

Attachments: Current Family Aquatic Center rate schedule;
Proposed Family Aquatic Center rate schedule; and
Ordinance No. 16-03



EXISTING FAMILY AQUATIC CENTER RATES

Opening Day - May 23, 2015

Annual Membership Passes

10% discount if purchased during the month of April.

NUMBER OF MEMBERS	RESIDENT		NON-RESIDENT WITHIN SCHOOL DISTRICT		NON-RESIDENT OUT OF SCHOOL DISTRICT	
	REGULAR	DISCOUNTED	REGULAR	DISCOUNTED	REGULAR	DISCOUNTED
INDIVIDUAL	\$75.00	\$67.50	\$105.00	\$94.50	\$115.00	\$103.50
UP TO FOUR	\$150.00	\$135.00	\$165.00	\$148.50	\$175.00	\$157.50
FIVE	\$165.00	\$148.50	\$180.00	\$162.00	\$190.00	\$171.00
SIX OR MORE	\$175.00	\$157.50	\$190.00	\$171.00	\$200.00	\$180.00

Daily Admission Fee

Age 4 and up \$4.00

Age 3 and under \$3.00

Children under the age of ten must be accompanied by a parent or authorized guardian.

Large Group Rental

Groups up to 550 people may rent the Family Aquatic Center for their exclusive use during evening hours when the Center is not open to the public. Rental must be reserved at least two weeks in advance.

Security Deposit: \$250.00

Rental Fee: \$250.00 per hour

Swim Lessons

Classes for all ages are \$35.00 per person per session (one session consists of eight 50-minute lessons).

- Session 1 June 8th – 18th Classes meet mornings Monday through Thursday each week
 June 8th – 24th Classes meet Monday, Wednesday and Friday evenings
- Session 2 July 6th – 16th Classes meet mornings Monday through Thursday each week
 July 6th – 22nd Classes meet Monday, Wednesday and Friday evenings

Morning classes begin at 9:30 and 10:30 / Evening classes begin at 6:30 and 7:30.



PROPOSED FAMILY AQUATIC CENTER RATES

Opening Day - May 28, 2016

Annual Season Passes

RESIDENT		OUT OF SCHOOL DISTRICT	
\$135	Up to 4 household members; \$15 Each additional member	\$165	Up to 4 household members; \$15 Each additional member
\$60	Youth Pass 15 Years of age or younger	\$90	Youth Pass 15 Years of age or younger
\$60	Senior Pass	\$90	Senior Pass
\$70	Adult Pass	\$100	Adult Pass

Member benefits:

- Unlimited access to the FAC during normal business hours
- Member’s Only Window: No waiting in line
- Members only swim: Saturday mornings from 10:00 AM to noon
- Dive in Movie August 12th, 9-11 PM. Free with membership

Daily Admission Fee

Age 4 and up \$4.00

Age 3 and under \$3.00 Children under the age of ten must be accompanied by a parent or authorized guardian.

Large Group Rental

Groups up to 550 people may rent the Family Aquatic Center for their exclusive use during evening hours when the Center is not open to the public. Rental must be reserved at least two weeks in advance.

Security Deposit: \$250.00

Rental Fee: \$250.00 per hour

Swim Lessons

Classes for all ages are \$35.00 per person per session (one session consists of eight 50-minute lessons).

- | | | |
|-----------|--------------|---|
| Session 1 | June 13 – 23 | Classes meet mornings Monday through Thursday each week at 9:30 and 10:30 |
| | June 13 – 29 | Classes meet Monday, Wednesday and Friday evenings at 6:30 and 7:30 |
| Session 2 | July 11 – 21 | Classes meet mornings Monday through Thursday each week 9:30 and 10:30 |
| | July 11 – 27 | Classes meet Monday, Wednesday and Friday evenings at 6:30 and 7:30 |

PLEASE CONTACT THE PARKS AND RECREATION OFFICE FOR ADDITIONAL INFORMATION
 120 South Mt. Olive ~ (479) 524-5779 ~ parks@siloamsprings.com

ORDINANCE NO. 16-03

**AN ORDINANCE AMENDING SECTION 74-72(a) OF
THE SILOAM SPRINGS MUNICIPAL CODE;
REVISING RATES FOR THE FAMILY AQUATIC
CENTER.**

WHEREAS, City staff has reviewed the governing ordinance for the Family Aquatic Center and has identified revisions to improve efficiency and simplify the pricing and purchasing process for consumers; and

WHEREAS, the Family Aquatic Center membership fee schedule includes separate rates for residents, non-residents within the school district and non-residents out of school district; and

WHEREAS, a ten percent discount is applied to annual memberships purchased in the month of April; and

WHEREAS, to reduce confusion by the public and simplify sales and accounting procedures, usage fees for the Family Aquatic Center should be adjusted to discontinue the non-resident in school district rates and the ten percent discounted rate for memberships purchased during the month of April; and

WHEREAS, annual group memberships are currently based on family units; and

WHEREAS, in order to accommodate a greater variety of living arrangements, that annual memberships should be issued based on households rather than family units;

Now Therefore:

Be It Enacted, by the Board of Directors of the City of Siloam Springs, as follows:

SECTION I.

THAT Chapter 74-72(a) of the City Code ("Policies and Procedures for Facility Use") is hereby amended as follows (added terms are underlined, deleted terms are ~~struck through~~):

Sec. 74-72. Policies and procedures.

(a) Family Aquatic Center.

- (1) *General policy and authority.* Fees and memberships shall be instituted to offset the cost of operating the city's Family Aquatic Center. The Family Aquatic Center is available for use by various groups and organizations for swimming activities.

- (2) *Requirements for rental.* Individuals and groups must contact the parks and recreation department at least two weeks prior to the date which they wish to reserve the Family Aquatic Center or receive a group discount and enter into a rental agreement which must be approved in writing by the parks and recreation department.
- (3) *Fees and deposits.* All deposits collected will be deposited with the city administrator or his designee. A refund check will be issued within two weeks after the event. The following schedule will be in effect for admission to the Family Aquatic Center:

a. *Annual Siloam Springs School District resident memberships.* -
~~Memberships are available to city residents only at a ten percent discount on the following fees if the membership is purchased between April 1 and April 30:~~

- 1. Annual resident family household membership (family of four) (up to 4 household members) . . . ~~\$125.00~~ \$135.00
- 2. ~~Fifth family member . . . 15.00~~ Each additional member \$15.00
- 3. Sixth family member (or more) . . . 10.00
- 4. ~~Maximum cost . . . 150.00~~
- 5. ~~Annual resident individual membership . . . 75.00~~
- 6. Youth Pass (15 years of age and younger) . . . \$60
- 7. Senior Pass . . . \$60
- 8. Adult Pass . . . \$70

b. *Nonresident memberships of the city school district.* Memberships shall also be available to nonresidents of the city who are members of the city school district as follows:

- 1. Annual nonresident family membership (family of four) . . . ~~\$135.00~~ \$165.00
- 2. Fifth family member . . . 15.00
- 3. Sixth family member (or more) . . . 10.00
- 4. ~~Maximum cost . . . 160.00~~
- 4. ~~Annual nonresident individual membership . . . 105.00~~

c. ~~*Nonresident memberships*~~ *Outside the city school district memberships.*
Memberships shall also be available to ~~nonresident s of the city from~~ persons residing outside of the city school district as follows:

1. Annual ~~nonresident out of school district family~~ membership
(family of four) . . . \$175.00 (Up to 4 household members) \$165.00
2. ~~Fifth family member . . . 15.00~~ Each additional member \$15
3. ~~Sixth family member (or more) . . . 10.00~~
4. ~~Annual nonresident individual membership . . . 115.00~~
5. Youth Pass (15 years of age and younger) . . . \$90
6. Senior Pass . . . \$90
7. Adult Pass . . . \$100

d. *Daily admission fee.* Daily admission fees shall be as follows:

1. Age 4 and Up \$4.00
2. Age 3 and Under3.00

e. *Slide fee.* All day is included in membership and daily admission.

f. *Large group rental.* The "large group rental" fees are as follows:

1. Groups to 550 may rent the Family Aquatic Center for their exclusive use during evening hours when the center is not open to the public.
2. Rental fee will be \$250.00 per hour with a security deposit of \$250.00.
3. Large groups must rent the facility at least two weeks in advance.

g. *Annual CPI adjustment.* Unless otherwise provided by the board of directors, beginning with the 2015 season, and each year thereafter, rates shall be adjusted annually in accordance with the All Items Consumer Price Index for Urban Consumers (CPI-U), South Region, for the preceding year. The city administrator or his designee may, at their discretion, round such rates to the nearest plus or minus \$1.00 increment.

(4) Children under the age of ten must be accompanied by a parent or authorized guardian.

(No amendments are proposed for 74-72 sections (b) through (d), which are omitted herein for brevity.)

SECTION II. Repealer and severability.

Prior Ordinances in conflict with the provisions enacted herein are repealed to the extent of the conflict as of the effective date of this Ordinance. If any provision of a section of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of the section or related sections which can be given effect without the invalid provision or application, and to this end the provisions are severable.

ORDAINED AND ENACTED this ____ day of _____ 2016.

APPROVED:

ATTEST:

John Mark Turner, Mayor

Renea Ellis, City Clerk

(SEAL)



STAFF REPORT

TO: Phillip Patterson, City Administrator
FROM: Christina Petriches, Finance Director
DATE: 01/08/2016
RE: Resolution 03-16 / Referendum on City Contributions of Social Security

Recommendation: Approve the Resolution 03-16 Calling for a Referendum on Social Security Benefits

Background: We are currently paying social security on our part time employees; however, it was recently discovered that we have an agreement with the State of Arkansas dated 1951 that states we will not make these payments. Because our employees benefit from their participation in Social Security, we would like to offer them the opportunity to continue to participate. The State requires that we authorize a referendum in which they will determine whether the majority of part time employees desire to participate in Social Security.

We have also discovered that the Mayor and Board have been paying Social Security on their wages. The agreement with the State also requires the Board to stop paying Social Security on their wages. We would like authorization to allow for a referendum to determine whether a majority of Board of Directors, to include the Mayor, desire to participate in Social Security.

Fiscal Impact: Depending on the results of the referendum the City may pay less in payroll taxes of approximately \$20,000.

Attachments: Resolution 03-16

RESOLUTION NO. 03-16

A RESOLUTION TO REQUEST AUTHORIZATION OF A REFERENDUM

WHEREAS, it is the express purpose and intention of the City of Siloam Springs to extend to its part-time positions and as a separate class, the Board of Directors, to include the Mayor, an opportunity to participate in full Social Security on as broad a basis as is permitted under applicable State and Federal Law, and

NOW, THEREFORE, BE IT RESOLVED that the City of Siloam Springs is hereby authorized to make written request to the Arkansas State Social Security Administrator for authorization to hold a referendum to determine whether a majority of said employees desire full Social Security coverage effective January 1, 2016.

Done and Resolved this 2nd day of February 2016.

APPROVED:

John Mark Turner, Mayor

(SEAL)

ATTEST:

Renea Ellis, City Clerk

I hereby certify that this Resolution is a true and exact copy of the original adopted by the City Board of Directors on 2nd day of February 2016.

Renea Ellis, City Clerk



STAFF REPORT

TO: Phillip Patterson, City Administrator
FROM: Ben Rhoads, AICP, Senior Planner *BR*
Cc: Don Clark, Community Services Director
DATE: January 26, 2016
RE: Resolution 04-16 / Significant Development Permit / Burger King / 2500 Hwy. 412 East

Recommendation: Approval of Resolution 04-16 authorizing a significant development permit for 2500 Hwy. 412 East.

Background:

APPLICATION REVIEW DATES

Planning Commission review: January 12, 2016
Board of Directors review: February 2, 2016

APPLICANT AND AGENT

Applicant/Owner: Quad SS, LLC – Tim Clower, managing member.
Agent: Blew & Associates, PA – Jorge DuQuesne, PE

SUBJECT PROPERTY ADDRESS

2500 Hwy. 412 E.

PROJECT INTENT

The applicant requests to construct a 2,856.45 sq. ft. Burger King restaurant.

INTERNET MAP INFORMATION

Planning staff has created a map made with Google My Maps.
Attribution: Map data ©2015 Google Imagery ©2015, Arkansas GIS, DigitalGlobe, Landsat, State of Arkansas, USDA Farm Service Agency Washington County.

Please click on the following link to access. This link will only operate if reading this report digitally.

<https://www.google.com/maps/d/edit?mid=zHgGzzL4Wl4o.kK-zFe19ZM1U&usp=sharing>

REFERENCE APPLICATIONS

The following application is related to this request:
BOA15-10 (Variance Development Permit).

EXISTING LAND USES AND ZONING

EXISTING LAND USE	EXISTING ZONING
Retail / Portable Storage Building Sales	C-2 District (Roadway Commercial)
SURROUNDING LAND USE	SURROUNDING ZONING
North: Retail	North: C-2 District (Roadway Commercial)
South: Residential, multi-family	South: C-2 District (Roadway Commercial)
East: Retail	East: C-2 District (Roadway Commercial)
West: Retail – Shopping Center	West: C-1 District (General Commercial)

ZONING USE UNIT CONSISTENCY

The subject proposal is consistent with the medium impact commercial uses associated with Use Unit 15, which is permitted in C-2 District.

LOT STANDARDS CONSISTENCY

The minimum C-2 zones standards are compared with the subject property’s tracts below.

MINIMUM (C-2) ZONING REQUIREMENTS*	SUBJECT PROPERTY PROPOSAL
Lot Area: 8,000 sq. ft.	1.02 acres
Lot Width: 80 ft.	225 ft. (approx.)
Maximum Lot Coverage: 85 %	72.0 % (approx.)
Maximum Floor to Area Ratio: .60 (60%)	0.06 or 6%

*New zoning standards approved by the Board of Directors in Ord. 15-24 became effective on December 3, 2015 and therefore are used for this development review.

PARKING STANDARDS CONSISTENCY

According to Municipal Code Sec. 102-75(1)(a)(8), parking is calculated by the square footage of the proposed restaurant. The formula is 1 space for every 100 feet of floor area.

USE	REQUIRED PARKING	EXISTING PARKING	NET PROPOSED PARKING**	PARKING SURPLUS/ DEFICIT
Restaurant	28.56	21*	54	+25

*Accessible parking spaces at the current storage building sales business

**Includes ADA accessible spaces

STAFF DISCUSSION

The applicant is requesting the construction of a 2,856 sq. ft. Burger King fast food restaurant, south of the Casey’s General Store and west of Kenny’s Auto Services. The facility is proposed on a lot presently being used as a sales center for self-storage buildings and sheds. The existing retail use will likely be relocated elsewhere on Hwy. 412.

The lot presently contains two driveways located off of Hwy. 412, there is also a planned third exit only drive at the rear of the facility, abutting the southern property line. Because the two drives accessing Hwy. 412 are existing and not proposed, they are considered legal non-conforming with the driveway spacing requirements and do not require a variance. This, however, is not the case with the proposed rear driveway because it is proposed. The issue with the rear drive is that it is planned too close to the rear property line driveway setback. The drive will utilize an existing access easement that burdens Kenny's Auto Service, east of the subject property, located at 2690 Hwy 412 E. The location of this drive cannot be moved on account of this existing access easement. The south drive is needed as an alternative way westbound traffic may egress the site. It is marked as a one-way (exit only) drive. Traffic wishing to travel westbound on Hwy. 412 is encouraged use this drive and then make the left at the signalized intersection at Hwy. 412 and Hwy. 16. This proposed drive aligns with the existing drive for Arvest Bank, so traffic movement should not be an issue.

A second variance is needed for a driveway setback encroachment of an internal drive and parking lane to the right-of-way of Hwy. 412. The internal drive, which serves to connect the drive thru-lane to the main restaurant's parking area and drive, is essential to allow westbound vehicles to depart the site without forcing a U-turn at the Hwy. 16 and Hwy. 412 intersection—for safety reasons, left turn movements will not be permitted from the northeastern (drive-thru) drive. The drive is designed to prevent left turns. The location of the proposed connecting drive will not pose traffic stacking issues, as it is approximately 50 feet from the paved surface of Hwy. 412. Finally, three additional variances are needed relating to the one-way drive width, and the front and rear greenspace buffers. The merits and reasoning for these variances were reviewed and approved by the Board of Adjustment (BoA), on January 12, 2016. The BoA is the *final* authority on variances. As all the variances were approved by the BoA, no staff recommended conditions are needed at this point.

The proposal is providing a sidewalk fronting on Hwy. 412 and sidewalks to connect to the restaurant to fully accommodate foot traffic. The proposal meets all requirements for parking lot development and is offering a surplus of 24 spaces. The applicant is reluctant to reduce parking due to the foreseen demand for the facility. Staff can attest that this was the case for Wendy's and The Panda Express restaurants. The parking lot will contain ample interior islands with trees and will be lit at night. Street fees are not applicable due to the impact occurring on two state maintained highways, Hwy. 412 and Hwy. 16. Drainage flow runs off site and will not be negatively impacted by the proposal because the existing site is already nearly 100 percent paved; in fact due to landscaping, off site drainage flows are projected to decrease. Drainage will flow to the east on the surface of the rear egress drive to Hwy. 16, there will be no need for drainage swales on either side of the drive. This arrangement will allow the drive to be entirely within the existing 20 ft. access easement. The traffic study was ordered and it found that the proposal will have minimal impacts if the rear exit drive onto Hwy. 16 is utilized, which the plan proposes. With the exception of the aforementioned *approved* variances, the proposal meets or exceeds all City standards and all technical comments have been addressed by the applicant.

LEGAL NOTICE

Staff received no information that:

- the proposal interferes with the reasonable peace or enjoyment of the neighboring properties;
- the property values will be substantially damaged;
- the proposal is not adequately supported by infrastructure.

- Site posted: December 02, 2015.
- Newspaper legal notification: December 27, 2015 (Herald-Leader).
- Letter legal notification: December 22-26, 2015.
- Staff received no phone calls and one e-mail correspondence on the request. The e-mail correspondence was from a local realtor on behalf of a surrounding property owner. The property owner has concerns over the use of the rear access easement and drainage. Staff referred the realtor to the project engineer to discuss these concerns, and gave the realtor access to the project plans and drainage report. Staff also suggested that the concerned party attend the Planning Commission meeting to voice their concerns to the Commission.

COMPREHENSIVE PLAN CONSISTENCY

The 2030 Land Use Map describes this area as commercial and office. The proposed use is consistent with the 2030 Land Use Map.

PLANNING COMMISSION

The Planning Commission reviewed the Significant Development Permit application at the January 12, 2016 regular meeting. There were no comments from the public. After discussion by the Planning Commission, the Commission recommended to approve the significant development permit with staff suggested conditions by a 7-0 vote, with no abstentions.

Fiscal Impact:

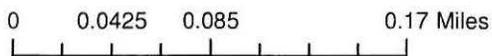
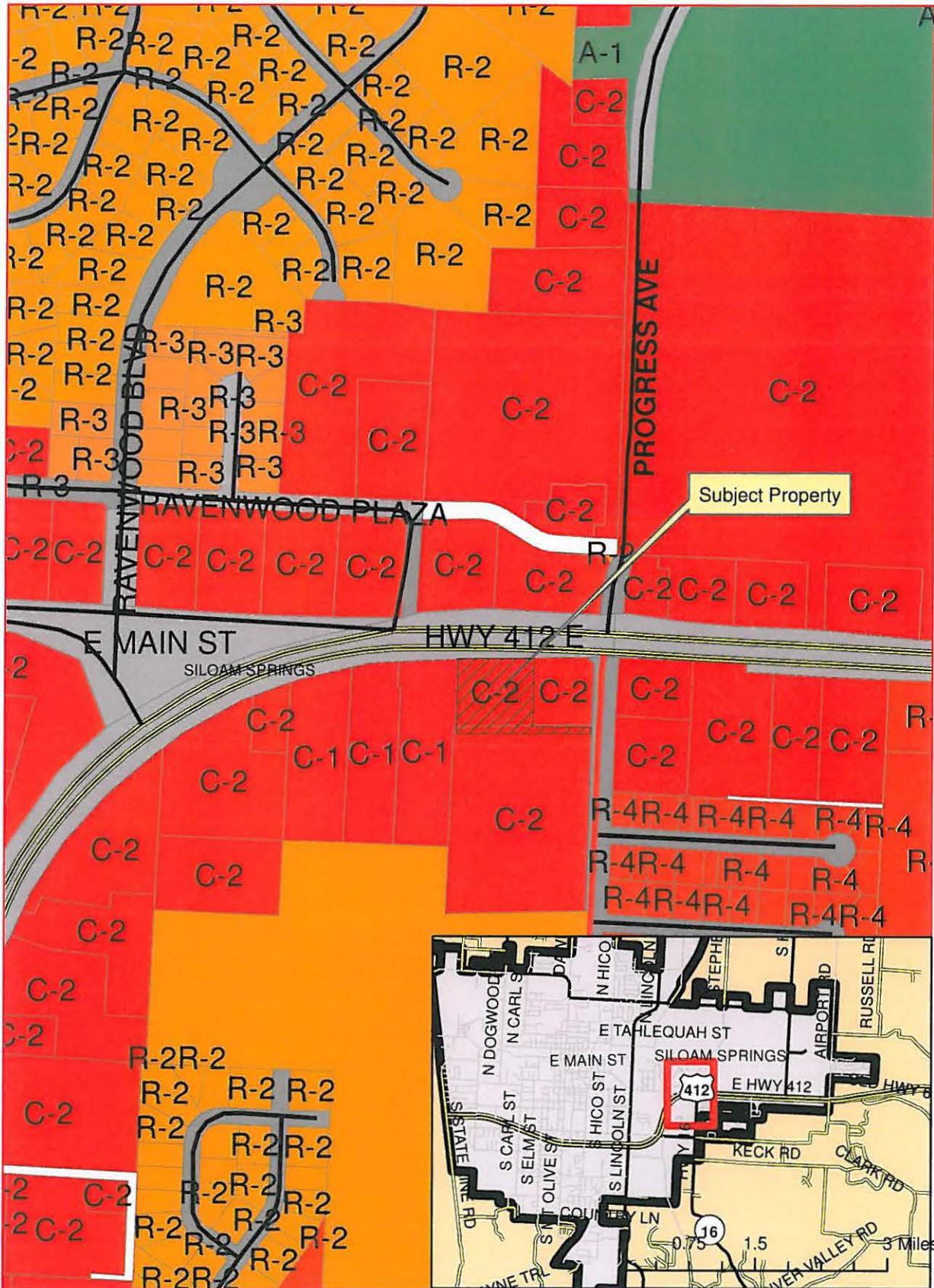
Street fees are not applicable for this project. No fiscal impact is anticipated.

Attachments:

General Area Map
Resolution No. 04-16

GENERAL AREA MAP

Significant Development
Permit SD 15-13



RESOLUTION NO. 04-16

**A RESOLUTION AUTHORIZING A SIGNIFICANT DEVELOPMENT
PERMIT FOR PROPERTY LOCATED AT THE
2500 HWY. 412 EAST**

Whereas, a public hearing on the proposed significant development permit was held on the 12th day of January 2016, before the City of Siloam Springs Planning Commission, after proper notice required by law; and

Whereas, no objections were registered at said hearing, and a motion approving issuance of said permit was passed by the Planning Commission; and

Whereas, it appears that the significant development permit is in the public interest; **Now Therefore:**

Be It Resolved by the Siloam Springs Board of Directors as follows:

A significant development permit for property located at 2500 Hwy. 412 East, as set forth on Exhibit "A" attached hereto, is hereby granted.

Done and Resolved this _____ day of February 2016.

APPROVED:

ATTEST:

John Mark Turner, Mayor

Renea Ellis, City Clerk

(SEAL)

MINUTES OF THE REGULAR MEETING
OF THE PLANNING COMMISSION OF THE
CITY OF SILOAM SPRINGS, BENTON COUNTY,
ARKANSAS, HELD JANUARY 12, 2016

The Planning Commission of the City of Siloam Springs, Benton County, Arkansas, met in regular session at the City Administration Building, Tuesday, January 12, 2016.

The meeting was called to order by Chairman Mounger.

Roll Call:

Colvin, Engle, Blakely, Nation, Mounger, Williams, Smith – Present.

City Administrator, Phillip Patterson; Mayor, John Mark Turner; City Clerk, Renea Ellis; Senior Planner, Ben Rhoads; City Engineer, Justin Bland; City Attorney, Jay Williams; Community Services Director, Don Clark; all present.

A copy of the December 8, 2015, regular minutes had previously been given to each Commissioner. A motion was made by Blakely and seconded by Williams to accept the minutes.

Mounger called for a voice vote.

All Ayes. No Nays. Motion passed.

The next item on the agenda was the election of officers. The floor was opened by Mounger for nominations for Chairman. Williams nominated Mounger; seconded by Smith. A motion was made by Colvin and seconded by Smith to cease nominations.

Mounger called for a voice vote.

All Ayes. No Nays. Motion passed.

Floor was opened by Mounger for nominations for Vice-Chairman. Colvin nominated Smith; seconded by Williams. A motion was made by Blakely and seconded by Nation to cease nominations.

Mounger called for a voice vote.

All Ayes. No Nays. Motion passed.

Floor was opened by Mounger for nominations for Secretary. Colvin nominated Blakely; seconded by Nation. A motion was made by Smith and seconded by Williams to appoint Blakely by acclamation.

Mounger called for a voice vote.

All Ayes. No Nays. Motion passed.

A Motion for recess and to reconvene after the conclusion of the Board of Adjustment meeting was made by Smith and seconded by Williams.

Mounger called for a voice vote.

All Ayes. No Nays. Motion passed.

The meeting was re-called to order by Chairman Mounger.

The next item on the agenda was a Significant Development Permit, SD15-13, 2500 Hwy. 412 East, Quad SS, LLC / Tim Clower, Blew and Associates, PA. – Jorge DuQuesne, PE.

Ben Rhoads, Senior Planner, briefed the item. Michael Johnson, 907 S. 21st Street, Fort Smith, thanked the City staff for all their efforts and hard work in helping them come to this location. He stated Terry Clark of Springdale is the owner. A Motion to approve with conditional staff recommendations was made by Nation and seconded by Blakely.

Roll Call:

Engle, Blakely, Nation, Mounger, Williams, Smith, Colvin – Aye.

7 Ayes. No Nays. Motion passed.

Mounger stated this item will go to the Board of Directors meeting on February 2, 2016.

There being no further business, a Motion was made by Williams and seconded by Smith to adjourn. Mounger called for a voice vote. All ayes.

Meeting Adjourned.

{Seal}

APPROVED:

ATTEST:

Karl Mounger, Chairman

Renea Ellis, City Clerk