

# BENTON CITY COUNCIL MEETING

JANUARY 12, 2015

7:00 PM



AGENDA MEETING 6:30 PM



BENTON MUNICIPAL COMPLEX  
114 SOUTH EAST STREET  
COUNCIL CHAMBERS

**DAVID MATTINGLY, MAYOR**

**REGULAR SESSION**  
**January 12, 2015**  
**7:00 PM**  
**AGENDA**

- I. Call to Order** **Mayor Mattingly**
- II. Invocation**
- III. Pledge of Allegiance** **Alderman Baptist**
- IV. Roll Call** **City Clerk**
- V. Approval of Minutes** **December 22, 2014**  
*Regular Meeting*
- VI. PROCLAMATION** **Mayor Mattingly**  
*Martin Luther King- January 19<sup>th</sup> A Day of Service*
- VII. RESOLUTION NO. 1 OF 2015** **Mayor Mattingly**  
*A RESOLUTION ESTABLISHING THE TIME OF THE COUNCIL MEETINGS, SETTING ITS MEETING AGENDA AND ESTABLISHING RULES FOR CONDUCTING COUNCIL, AND COMMITTEE MEETINGS; AND FOR OTHER PURPOSES*
- VIII. COMMITTEE REPORTS & MOTIONS**
- 1. Finance Committee** **Alderman Ponder**
- A.) ORDINANCE NO. 1 OF 2015**  
*AN ORDINANCE AUTHORIZING MEMBERS OF THE BENTON FIREMEN'S PENSION AND RELIEF FUND TO PARTICIPATE IN THE DEFERRED RETIREMENT OPTION PLAN FOR A PERIOD OF TIME NOT TO EXCEED TEN YEARS; AND FOR OTHER PURPOSES*
- B.) ORDINANCE NO. 2 OF 2015**  
*AN ORDINANCE WAIVING COMPETITIVE BIDDING AND AUTHORIZING AND RATIFYING THE MAKING OF A CONTRACTS WITH UCI; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES*
- 2. Community Services/Animal Control** **Alderwoman Reed/Terrell**
- A.) ORDINANCE NO. 3 OF 2015**  
*AN ORDINANCE ADOPTING REGULATIONS OF THE CITY OF BENTON WHICH PERTAIN TO THE SALE OF ALCOHOL WITHIN THE CITY; ESTABLISHING THE REQUIREMENTS TO MAINTAIN A CITY ALCOHOL PERMIT; LEVYING CERTAIN FEES THEREON; LEVYING A SUPPLEMENTAL TAX ON THE SALE OF CERTAIN CONTROLLED BEVERAGES; PRESCRIBING PENALTIES FOR THE ENFORCEMENT OF SAME; REPEALING ORDINANCE 70 OF 2011; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES*
- B.) RESOLUTION NO. 2 OF 2015**  
*A RESOLUTION RATIFYING AND CONFIRMING THE REAPPOINTMENT OF PAM GIBSON AS COMMISSIONER TO THE BENTON PLANNING & ZONING COMMISSION; AND FOR OTHER PURPOSES*

**C.) RESOLUTION NO. 3 OF 2015**

*A RESOLUTION RATIFYING AND CONFIRMING THE APPOINTMENT OF  
JOCELYN CASH AS COMMISSIONER TO THE BENTON PLANNING &  
ZONING COMMISSION; AND FOR OTHER PURPOSES*

- |           |  |                                     |
|-----------|--|-------------------------------------|
| <b>3.</b> | <b>Streets &amp; Drainage Committee</b>        | <b>Alderman Cunningham</b>          |
| <b>4.</b> | <b>Personnel/Health &amp; Safety Committee</b> | <b>Alderman Donnor</b>              |
| <b>5.</b> | <b>Parks Committee</b>                         | <b>Alderman Lee</b>                 |
| <b>6.</b> | <b>Public Utilities Commission</b>             | <b>Alderman Herzfeld</b>            |
| <b>7.</b> | <b>A &amp; P Commission</b>                    | <b>Aldermen Donnor &amp; Ponder</b> |

**IX. Unfinished Business**

**X. New Business**

**XI. Announcements**

**XII. Adjourn**

**MINUTES OF THE BENTON CITY COUNCIL**  
**Regular Session**  
**December 22, 2014**  
**Benton Municipal Complex**

**The Benton City Council was called to order for a regular session at 7:00 p.m.**

**The Mayor gave the invocation.**

**Alderman Terrell led the pledge of allegiance.**

**Roll was called.**

**The following persons were in attendance:**

**Alderman Frank Baptist  
Alderman Charles Cunningham  
Alderman Bill Donnor  
Alderman James Herzfeld  
Alderman Steve Lee  
David Mattingly, Mayor**

**Alderman Kerry Murphy  
Alderman Evelyn Reed  
Alderman Jerry Ponder  
Alderman Lori Terrell  
Cindy Stracener, City Clerk  
Brent Houston, City Attorney**

**When roll was called nine (9) council members were present. Alderman Moore was absent. A quorum was declared.**

**The Mayor requested approval for the December 8, 2014 council meeting minutes. Alderman Lee made a motion to approve the minutes. Seconded by Alderman Terrell. The Mayor called for a voice vote on the approval of the minutes. All aldermen present replied in the affirmative. The minutes for the December 8, 2014 council meeting were approved with 9 affirmative and 1 absent vote.**

**Jennings Sewell was recognized as the November Employee of the Month.**

**The next item on the agenda was Committee reports and motions. Alderman Ponder was recognized for the Finance Committee report. He stated that the next items on the agenda were a result of the finance committee meeting that was held today prior to the agenda meeting. Alderman Ponder asked for the first reading of Ordinance 78 of 2014 - An Ordinance Amending the 2014 Budget for the General Fund as Adopted in Ordinance 77 of 2013; Appropriating Funds for the Police Department; Authorizing the Purchase of AWIN Radios; Declaring an Emergency; and For Other Purposes. Seconded by Alderman Donnor. The ordinance was read by the city clerk. The Mayor asked for any comments. Mr. Houston stated that it will require the passage of this ordinance as well as the next ordinance in order for us to fully fund this purchase. This was done by competitive bid pursuant to a state contract. That is why there is not any competitive bidding. Alderman Ponder made a motion to suspend the rules. Seconded by Alderman Lee. The Mayor asked that the roll be called on the motion to suspend. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Moore absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Motion was approved with 9 affirmative and 1 absent vote. Alderman Ponder made a motion to adopt Ordinance 78 of 2014 on its second and third**

readings. Seconded by Alderman Donnor. The ordinance was read by title only. The Mayor asked that the roll be called. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Moore absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Ordinance 78 of 2014 was adopted with 9 affirmative and 1 absent vote. Alderman Ponder made a motion to adopt the emergency clause. Seconded by Alderman Cunningham. The Mayor asked that the roll be called for the emergency clause. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Moore absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. The emergency clause was approved with 9 affirmative and 1 absent vote.

Alderman Ponder asked for the first reading of Ordinance 79 of 2014 – An Ordinance Amending the 2015 Budget for the General Fund as Adopted in Ordinance 75 of 2014; Appropriating Funds for the Police Department; Authorizing the Purchase of AWIN Radios; Declaring an Emergency; and For Other Purposes. Seconded by Alderman Terrell. The ordinance was read by the city clerk. The Mayor asked for any comments. None. The Mayor stated that when we first starting looking at this we were looking at \$1.2 million to acquire the franchise and purchase all the equipment. We are now looking at \$755,000 because of some tough and prudent negotiations by Chief Lane plus we had some suppliers who wanted to do business and book it in 2014. Alderman Ponder made a motion to suspend the rules. Seconded by Alderman Terrell. The Mayor asked that the roll be called on the motion to suspend. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Moore absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Motion to suspend was approved with 9 affirmative and 1 absent vote. Alderman Ponder made a motion to adopt Ordinance 79 of 2014 on its second and third readings. Seconded by Alderman Lee. The ordinance was read by title only. The Mayor asked that the roll be called. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Moore absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Ordinance 79 of 2014 was adopted with 9 affirmative and 1 absent vote. Alderman Ponder made a motion to adopt the emergency clause. Seconded by Alderman Baptist. The Mayor asked that the roll be called. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Moore absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. The emergency clause was approved with 9 affirmative and 1 absent vote.

Alderman Ponder made a motion to adopt Resolution 63 of 2014 – A Resolution Authorizing the City to Enter into a Contract with Saline County for the Funding of the Saline County District Court- Benton Division; and For Other Purposes. Seconded by Alderman Donnor. The resolution was read by the city clerk. Mr. Houston stated that a letter has been sent to the county and they have agreed to accept the contract as written which calls for a 50/50 split between the county and the city for the operations for 2015. Last year we requested an audit which show 57/43 and we agreed to 60/40. This year the audit showed a 50/50 split which will save the city approximately \$60,000. The Mayor asked that the roll be called. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Moore absent,

**Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Resolution 63 of 2014 was approved with 9 affirmative and 1 absent vote.**

**Alderman Ponder made a motion to add Ordinance 81 of 2014 – An Ordinance Authorizing the Payment of Funds to the City’s Fire Relief Pension Fund; and For Other Purposes. Seconded by Alderman Terrell. The Mayor asked that the roll be called. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Moore absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Motion was approved with 9 affirmative and 1 absent vote. Alderman Ponder asked for the first reading of Ordinance 81 of 2014. Seconded by Alderman Donnor. The ordinance was read by the city clerk. Alderman Lee stated that he would be abstaining since he retired from this specific pension fund. The Mayor stated that by providing additional funds to this pension fund then it will take the fund off the insolvent list. Alderman Ponder made a motion to suspend the rules. Seconded by Alderman Murphy. The Mayor asked that the roll be called on the motion to suspend. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Moore absent, Alderman Herzfeld yes, Alderman Lee abstain, and Alderman Terrell yes. Motion to suspend was approved with 8 affirmative, 1 abstention and 1 absent vote. Alderman Ponder made a motion to adopt Ordinance 81 of 2014 on its second and third readings. Seconded by Alderman Terrell. The ordinance was read by title only. The Mayor asked that the roll be called. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Moore absent, Alderman Herzfeld yes, Alderman Lee abstain, and Alderman Terrell yes. Ordinance 81 of 2014 was adopted with 8 affirmative, 1 abstention and 1 absent vote. Alderman Ponder made a motion to adopt the emergency clause. Seconded by Alderman Donnor. The Mayor asked that the roll be called. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder yes, Alderman Moore absent, Alderman Herzfeld yes, Alderman Lee abstain, and Alderman Terrell yes. The emergency clause was approved with 8 affirmative, 1 abstention and 1 absent vote.**

**Alderman Ponder stated that he asked Alderman Terrell to present Ordinance 80 of 2014 – An Ordinance Permitting Kristi Ponder to Conduct Business with the City of Benton and Prescribing the Extent of Such Authority; and For Other Purposes. Alderman Terrell asked for the first reading of Ordinance 80 of 2014. Seconded by Alderman Donnor. The ordinance was read by the city clerk. The Mayor asked for any comment. Alderman Ponder stated that he would be abstaining on the vote and any discussion of this ordinance. The Mayor stated that the Alcoa Road project is a major project in the next few years since we are the lead agency we have to manage the relocation of all utilities. Also since the project is an 80/20 that 20 has to be shared between the city, Bryant and the county. Our accounting staff is stretched now so I went out and talked to several CPA firms then Kristi Ponder who has agreed to handle this project for us. She will be working part time this is not a contract. Alderman Terrell made a motion to suspend the rules. Seconded by Alderman Cunningham. The Mayor asked that the roll be called on the motion to suspend. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder abstain, Alderman Moore absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Motion to suspend was approved with 8 affirmative, 1 abstention and 1 absent vote.**

**Alderman Terrell made a motion to adopt Ordinance 80 of 2014 on its second and third readings. Seconded by Alderman Donnor. The ordinance was read by title only. The Mayor asked that the roll be called. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder abstain, Alderman Moore absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. Ordinance 80 of 2014 was adopted with 8 affirmative, 1 abstention and 1 absent vote. Alderman Terrell made a motion to adopt the emergency clause. Seconded by Alderman Reed. The Mayor asked that the roll be called. Roll called resulted in Alderman Baptist yes, Alderman Murphy yes, Alderman Cunningham yes, Alderman Reed yes, Alderman Donnor yes, Alderman Ponder abstain, Alderman Moore absent, Alderman Herzfeld yes, Alderman Lee yes, and Alderman Terrell yes. The emergency clause was approved with 8 affirmative, 1 abstention and 1 absent vote.**

**Alderman Terrell was recognized for a report from the Community Service/Animal Control Committee. She stated that after the November election a committee was created to study the alcohol issue now that the county is wet. Tonight at the committee meeting an ordinance was presented concerning the regulations and permitting. The committee approved having the ordinance put out for public examination and comments. An ordinance will be presented at the first meeting in January. The Mayor stated that this group has been working very aggressively since the election. On January 12, 2015 this body will have the chance to approve an ordinance on how we issue the permits and fees for what we will be charging. The ABC Board will be meeting January 21, 2015 to approve permits.**

**Alderman Cunningham was recognized for the Streets and Drainage Committee report. He stated that he had nothing to report.**

**Alderman Donnor was recognized for the Personnel/Health & Safety Committee report. He stated he had nothing to report.**

**Alderman Lee was recognized for the Parks Committee report. He stated that the committee met on December 9, 2014. The committee approved the Parks Director taking bids to demolish a building at Lake Norrell. We also approved getting bids for a bathroom at Sunset Lake and we approved the purchase of a fertilizer sprayer.**

**Alderman Herzfeld was recognized for the Public Utility Commission report. He stated that he had nothing to report.**

**Alderman Ponder was recognized for the Advertising and Promotion Commission report. He stated that the commission met on December 18, 2014. Elgin Hamner was sworn in and his term expires 2017. A post event report was given by Matt Brumley for the Amplify Fest, approximately 30,000 people attended over 2 days. The Master Gardeners made a presentation they will be having an event in June of 2015 with over 500 master gardeners from all over the state here in our city for a week. A letter was sent to all groups who were funded by A&P in 2014 advising them of the guidelines for 2015.**

**There was not any new or unfinished business.**

**The Mayor stated that January 3, 2015 will be the swearing in ceremony for the majority of the elected officials. With all that is going on out there we just want to say thank you to our**

**public safety people for what they give and do. Alderman Murphy made a motion for this body to give unanimous support to our public safety department and show that we support them 100%. Seconded by Alderman Lee. The Mayor called for a voice vote. All aldermen present replied in the affirmative. The Mayor stated that a staff meeting was held today and the financial position of this city is very strong. We will ended the 2014 year in the black.**

**Merry Christmas and Happy New Year.**

**The meeting adjourned at 7:33 p.m.**

\_\_\_\_\_  
**Cindy Stracener, City Clerk**

\_\_\_\_\_  
**David Mattingly, Mayor**

## PROCLAMATION

**WHEREAS**, each year, America sets aside a day to remember a giant of our nation's history and a pioneer of the Civil Rights Movement; and

**WHEREAS**, during his lifetime, Dr. Martin Luther King, Jr. sought to forge the common ground on which people from all walks of life could join together as equals to address important community issues. Service, he realized, was the great equalizer. As he once said, "everybody can be great, because everybody can serve;" and

**WHEREAS**, the City of Benton, Arkansas salutes the Arkansas Martin Luther King, Jr. Commission (AMLKC) on collaborating for a day of community service activities for children and adults of all ages for the 2015 "A DAY OF SERVICE - A Day On, Not A Day Off" Event; and

**WHEREAS**, this event will serve as an outlet to promote the importance of education, community involvement, collaborative efforts, building relationships; and

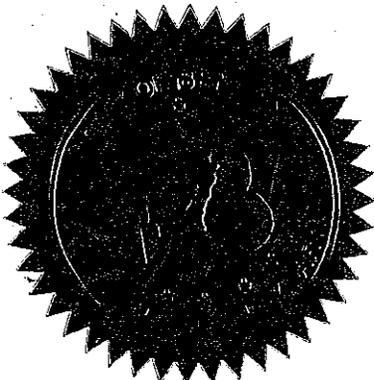
**WHEREAS**, this event will be held at the Benton Event Center, 17322 Interstate 30, Benton, Arkansas, 72019.

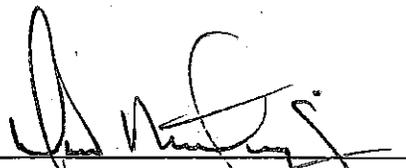
**NOW, THEREFORE, I, DAVID MATTINGLY**, acting under my authority as Mayor of the City of Benton, Arkansas, do hereby proclaim Monday, January 19, 2015 as

### **"A Day of Service - A Day On, Not A Day Off"**

and hereby urge my fellow citizens to join me in supporting the Arkansas Martin Luther King, Jr. Commission for their contributions in promoting the remembrance of Dr. King while participating in community service.

**IN WITNESS HEREOF**, I have hereunto set my hand and caused the Seal of the City of Benton, Arkansas, to be affixed at City Hall this 12th day of January in the year of our Lord, Two Thousand and Fifteen.



  
David Mattingly, Mayor

The signature of David Mattingly is written in a cursive, handwritten style. It is positioned above a horizontal line, and the name "David Mattingly, Mayor" is printed below the line. The signature is located on the right side of the document.

## RESOLUTION NO. 1 OF 2015

### A RESOLUTION ESTABLISHING THE TIME OF THE COUNCIL MEETINGS, SETTING ITS MEETING AGENDA AND ESTABLISHING RULES FOR CONDUCTING COUNCIL, AND COMMITTEE MEETINGS; AND FOR OTHER PURPOSES

**WHEREAS**, ACA §14-43-501 requires the City Council to organize annually at its first council meeting in January to determine the rules of its proceedings, and

**WHEREAS**, in accordance with this statutory requirement, the City Council does hereby adopt the following rules for its proceedings for the coming year.

**NOW, THEREFORE**; be it resolved by the City Council of the City of Benton, Arkansas that:

**SECTION 1.** The City Council shall meet in regular session at 7:00 pm on the second and fourth Monday of each month, unless by a 2/3rds (7 of the 10 member council) vote, the council votes to reschedule the meeting at least 20 days prior to the normally scheduled monthly meetings. In the month of December only one council meeting may be held on a date determined by the Mayor. Should the Mayor determine that there is insufficient business for the City Council he may cancel the meeting on the Friday before the regularly scheduled date.

**SECTION 2.** In accordance with ACA §14-43-502(b)(2) special council meetings may be called by the Mayor or any three members of the City Council. Notice must be given at least 48 hours prior to the meeting. Emergency meetings may be called on shorter notice, provided however that at least the two (2) hour notice required by the Arkansas Freedom of Information Act is given to the representatives of the news media in accordance with ACA §25-19-106(b)(2).

**SECTION 3.** An agenda meeting shall be held at a time designated by the Mayor prior to the regularly scheduled council meeting to review those items on the agenda and to hear any informal reports or the Mayor, City Attorney or a Council Member. Discussion of the agenda items will be limited to the Council Members, Mayor, City Attorney, any employee of the city and any individual who has scheduled business before the council that day. Public comment concerning items on the agenda shall occur during the regularly called meeting and during any specially called meeting. Public comment is also welcome at any committee meeting of the city council on the matters before it.

**SECTION 4.** The agenda for any business to be considered at any regularly scheduled council meeting shall be prepared by the Mayor and available to all members of the Council and to any citizen on or about 12:00 noon on the Friday preceding any regularly scheduled council meeting or when it is otherwise complete by posting it on the city's website. The agenda may include any item sponsored by the Mayor or any member of the City Council, city commission or any member of the general public provided that such item or items have been submitted to the Mayor or the Mayor's designee no later

than 12:00 pm on the Tuesday preceding said regularly scheduled meeting. No item, whether new or old business, may be added to the agenda unless at the agenda meeting which precedes the regularly scheduled meeting, the council suspends the rule by at least a 2/3 vote of all members of the whole council to add any item or items to its agenda. Any item, whether new or old business, may also be added to the agenda by the Mayor at or before the agenda meeting. A report of any item added to the agenda during the agenda meeting shall be made during the council meeting.

**SECTION 5.** All ordinances and resolutions shall first be considered and approved by the appropriate committee or commission before being placed on the council meeting agenda, unless the council waives this requirement by at least a 2/3 vote of the whole council in the agenda meeting. Any item may also be placed on the council agenda if it is sponsored by the Mayor without the approval of a committee or commission. If a committee or commission determines that a matter should not be considered by the full council, it shall not be placed on the council agenda. However, during the agenda meeting, a matter which did not obtain the approval of the committee or commission, may be added to the council agenda by at least a 2/3 affirmative vote of all members of the whole council.

**SECTION 6.** The Mayor shall be ex-officio president of the council and shall preside at its meetings including the agenda meeting. In the absence of the Mayor, the council shall elect a president pro-tempore to preside at that meeting. All proceedings of the council shall be governed by the Procedural Rules for Municipal Officials. The order of business for all regularly scheduled meetings shall be as follows:

1. Call to Order
2. Invocation
3. Pledge of Allegiance
4. Roll Call
5. Approval of previous meeting Minutes (and special meeting minutes)
6. Special presentations or proclamations
7. Approval of the financial report from the previous month (when applicable)
8. Reports of all standing committees by the committee chair
9. Reports of any special and ad hoc committees
10. Unfinished Business
11. New Business
12. Announcements
13. Adjournment

**SECTION 7.** All ordinances of a general or permanent nature shall be read fully and distinctly on three (3) different days. Additionally, by a 2/3 vote of the majority of the members of the whole council, it may dispense with the requirement that all ordinances of a general or permanent nature be read on three (3) different days and/or that the ordinance be read by title only as authorized by A.C.A. §14-55-202. Voting on the ordinance by the council shall not occur until after the third and final reading. Each ordinance shall designate whether or not it is being published.

**SECTION 8.** Any and all discussions, comments, and/or debates by any member of the council, mayor, and other interested persons shall be limited to no more than five (5) minutes per person, per measure. Extensions of this time may be granted by the city council by majority vote. Explanations of a measure as well as responses to questions about the measure, which are made by a Council Member, official, department head, employee or citizen who is bringing the measure before the council, or any advice by the City Attorney, shall not be included in the council's five (5) minute time limit.

**SECTION 9.** A quorum of the council members must be present for any council meeting or special council meeting to be held. Council working sessions may be called when no quorum is present, however no decisions or votes shall be taken by the members.

**SECTION 10.** Committee meetings may be scheduled or called on an as-needed-basis by the chair of the committee, if notice is given 48 hours prior to the meeting. Emergency committee meetings may be called on shorter notice, provided that at least the two (2) hour notice required by the Arkansas Freedom of Information Act is given to the representatives of the news media in accordance with ACA §25-19-106(b)(2). Committee chairs shall be responsible to work with the committee's staff liaison to notify the media, the public, the Mayor and all elected officials of all regular and special committee meetings.

**SECTION 11.** A quorum of the committee members must be present for the committee meeting. If less than a quorum of the committee members are present, the committee may discuss and take public comment but no vote shall occur on any matter before the committee. If a quorum of the committee members is present, the committee chairman shall have exclusive decision regarding the voting procedures of the committee. No committee member shall have more than one vote.

**SECTION 12.** A brief summary of all discussions and decisions of the committee shall be reported at the following council meeting by the chair of the committee or his/her committee representative. The committee chairs shall insure that the document retention policy of the city is abided by with respect to committee meeting records.

**SECTION 13.** The agenda for any business to be transacted at any special meeting or committee meeting shall be limited to the purpose for which said meeting was called. The committee chair shall set the agenda for each committee meeting. Items may be added to the agenda by the committee chair with the consent of the majority of the committee members present during the meeting.

**SECTION 14.** Council members shall always treat city employees with professional courtesy. Council members shall not berate, harass, intimidate, or admonish any city employee.

**SECTION 15.** All cell phones will be silenced during City Council meetings with the exception of public safety employees who are in attendance.

**SECTION 16.** It is recommended that all committees meet no earlier than 6:00 pm. It is also recommended that committee meetings not overlap with meetings of other committees as well as the Public Utility Commission.

PASSED AND APPROVED THIS THE \_\_\_\_\_ DAY OF JANUARY, 2015.

\_\_\_\_\_  
David Mattingly, Mayor

\_\_\_\_\_  
Cindy Stracener, City Clerk

ORDINANCE NO. 1 OF 2015

AN ORDINANCE AUTHORIZING MEMBERS OF THE BENTON FIREMEN'S PENSION AND RELIEF FUND TO PARTICIPATE IN THE DEFERRED RETIREMENT OPTION PLAN FOR A PERIOD OF TIME NOT TO EXCEED TEN YEARS; AND FOR OTHER PURPOSES.

WHEREAS, members of the Benton Fire Department who are members of the Firemen's Pension and Relief Fund who have not less than twenty (20) years of credited service and who are eligible to receive a service retirement pension may elect to participate in the Arkansas Firemen's Deferred Option Plan (Plan) pursuant to A.C.A. §24-11-830, as amended, for a five year time period; and,

WHEREAS, the City Council may extend the participation in the Plan for a period of time not to exceed ten (10) years for all active members and all members of the Plan; and

WHEREAS, the City Council desires to grant an extension of time to allow participation in the Plan for a period of time not to exceed ten (10) years.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Benton, Arkansas, that:

SECTION 1. Pursuant to A.C.A. §24-11-830, as amended, the City Council does hereby authorize that all members of the Benton Fire Department who are active members as well all members on the Plan may participate in the Arkansas Firemen's Deferred Option Plan for a period of time not to exceed ten (10) years.

SECTION 2. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are hereby declared to be severable.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
David Mattingly, Mayor

\_\_\_\_\_  
Cindy Stracener, City Clerk

DESIGNATED FOR PUBLICATION

**ORDINANCE NO. 2 OF 2015**

**AN ORDINANCE WAIVING COMPETITIVE BIDDING AND  
AUTHORIZING AND RATIFYING THE MAKING OF A CONTRACTS  
WITH UCI; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES**

WHEREAS, the City Council has determined that there is an immediate need to upgrade the city computer server due to its present working condition; and

WHEREAS, if the city's computer server were to stop functioning properly, city services to the public would be adversely effected; and

WHEREAS, the City Council wishes to authorize the Mayor to enter into a contract with UCI to upgrade the computer server immediately.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BENTON, ARKANSAS:

SECTION 1: It is in the best interest of the city to immediately replace the city computer server in order for the city administration to provide necessary services to the public.

SECTION 2: UCI, who is familiar with the computer network of the city, has agreed to replace the server at a costs itemized in Exhibit "1" of this ordinance.

SECTION 3: The requirement of competitive bidding for the upgrading of the city computer server is deemed not feasible or practical and is therefore waived.

SECTION 4: The Mayor is hereby authorized to enter into an agreement on behalf of the city with UCI in order to make this upgrade. The Mayor is authorized to make the necessary payments authorized herein once the installation is complete.

SECTION 5: It is hereby found and determined that there is an immediate need to upgrade the city server to provide necessary public services. Therefore, an emergency exists and this ordinance is necessary for the preservation of the public peace, health and safety. It shall be in full force and effect immediately from and after its passage and approval.

PASSED AND APPROVED this the \_\_\_\_\_ day of January, 2015.

\_\_\_\_\_  
David Mattingly, Mayor

\_\_\_\_\_  
Cindy Stracener, City Clerk

Exhibit "1"

1 PowerEdge R730	OzarkIS Quote 1717	\$12,361.16(Plus Tax)
2 Exchange Server and CAL License Tax)	SHI Quote 8975297	\$13,385.79 (Plus
3 Windows Server and CAL License Tax)	SHI Quote 9013260	\$8,145.20 (Plus
Total		\$33,892.15

**ORDINANCE NO. 3 OF 2015**

**AN ORDINANCE ADOPTING REGULATIONS OF THE CITY OF BENTON WHICH PERTAIN TO THE SALE OF ALCOHOL WITHIN THE CITY; ESTABLISHING THE REQUIREMENTS TO MAINTAIN A CITY ALCOHOL PERMIT; LEVYING CERTAIN FEES THEREON; LEVYING A SUPPLEMENTAL TAX ON THE SALE OF CERTAIN CONTROLLED BEVERAGES; PRESCRIBING PENALTIES FOR THE ENFORCEMENT OF SAME; REPEALING ORDINANCE 70 OF 2011; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES**

WHEREAS, Title 3 of the Arkansas Code relating to alcoholic beverages recognizes the power of local governmental bodies to regulate the operation of establishments under that Title as may be necessary for the protection of public health, welfare, safety, and morals; and

WHEREAS, the City Council desires to adopt certain regulations pertaining to the sale of alcoholic beverages within the city; to establish the requirement to obtain and maintain city alcohol sales permits; to set permit fees; to levy supplemental alcohol taxes; and to prescribe penalties for the violation of these regulations; and

WHEREAS, at least three (3) copies of the proposed regulations have been filed with the City Clerk of the City of Benton and available for public inspection since December 23, 2014; and,

WHEREAS, a public notice was published in the Saline Courier, a newspaper of general circulation in the community, on or about December 31, 2014, advising the public that three (3) copies of the proposed regulations were available for public examination at the office of the City Clerk, City Hall, 114 South East Street, Benton, Arkansas.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Benton, Arkansas, that:

SECTION 1. The City of Benton does hereby adopt, by reference, the Alcoholic Beverages Regulations which are attached to this ordinance as Exhibit "1" which are incorporated now by reference as if stated word for word. These regulations include the levy of fees and the levy of a supplemental controlled beverage tax which are likewise adopted by this ordinance.

SECTION 2. Ordinance 70 of 2011 is repealed as of the effective date of the levy of the supplemental beverage tax stated in Section 4. All existing private clubs within the city as of the passage of this ordinance which possess a permit to dispense alcohol by the Arkansas Alcohol Control Board shall pay the permit fees established in Ordinance 70 of 2011 for 2015. Beginning in 2016, all private clubs within the city shall pay the permit fees at the rate and due date as established herein. The supplemental beverage tax levied herein shall however be levied as of the effective date of this ordinance.

SECTION 3. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are hereby declared to be severable.

SECTION 4. Due to the passage of Issue Six in the 2014 general election authorizing the sale of alcoholic beverages in Saline County, there is an immediate need to adopt regulations regulating these sales within the city. Therefore, an emergency exists, and this ordinance is necessary for the preservation of the public peace, health and safety. It shall be in full force and effect immediately from and after its passage and approval. With respect to the supplemental tax on controlled beverages, it shall be levied as of March 1, 2015.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_,  
2015.

\_\_\_\_\_  
David J. Mattingly, Mayor

\_\_\_\_\_  
Cindy Stracener, City Clerk

DESIGNATED FOR PUBLICATION

**CONTROLLED BEVERAGES  
REGULATIONS**

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## CONTROLLED BEVERAGES

### ARTICLE 1

### GENERAL PROVISIONS

#### 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 Benton, 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 heading for each type of permit.

#### 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 Title Three of the Arkansas Code Annotated and/or the Arkansas Alcoholic Beverage Control Division Regulations.

*Alcoholic beverages* mean 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 alcohol content not in excess of 5% or less than one-half of 1% by weight.

*City* means the City of Benton, 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.

*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 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 which are 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 1% and 5% alcohol by weight.

*Malt beverage products* means any liquor brewed from the fermented juices of grain having an alcoholic content of not less than 5% nor more than 21% 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 5% of alcohol by weight, and/or malt beverage products, containing not in excess of 21 % 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 these regulations 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.

*Private club* means a nonprofit corporation organized and existing under the laws of the state and authorized to serve alcohol by the State of Arkansas and the Alcoholic Beverage Control Division.

*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 have 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.

*Spirituos* means liquor distilled from the fermented juices of grains, fruits, or vegetables containing more than 21% alcohol by weight.

*State* means the State of Arkansas.

*Sunday sales* means the sales of alcoholic beverages on Sunday shall be limited to those businesses within the city which possesses a current and valid license for the sale of alcoholic beverages issued by the Alcoholic Beverage Control Division and which are not otherwise prohibited by A.C.A. §3-3-210..

*Vinous* means the fermented juices of fruits containing more than 5% and not more than 21% alcohol by weight.

*Wholesaler and distributor* means any person who holds a permit under any alcoholic beverages 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.

### **Permits Required**

- (A) Unless otherwise authorized by the laws of the state of Arkansas, 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, within the city without a permit issued by the city, or with an expired permit.
- (B) The provisions of this chapter shall not apply to the manufacture, sale, and distribution of wines or vinous liquors manufactured, sold, and distributed by residence of Arkansas.

### **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) 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 on June 30th of each year for the succeeding year beginning July 1st.
- (D) 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.
- (E) 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.
- (F) 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.
- (G) All fees, taxes, and penalties received by the city pursuant to this chapter shall be deposited to the credit of general fund revenues.
- (H) Permits shall not be transferable or assignable except as provided by A.C.A. § 3-4-103A (Fiduciaries-Continuation of permitted business).

#### **Rights 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.

#### **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 Benton 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.
    - (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 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 persons shall be upon the seller.
  - (d) Unless otherwise authorized by A.C.A. §3-3-204, 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.
- (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) No person who has received a permit under any ordinance of the City of Benton 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 permitted 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.
  - (C) 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 a manner or attire as to expose to view any portion of her breast below the top of the areola or any simulation thereof.
  - (D) If any person engaged in the sale of controlled beverages in the city shall conduct his place of business in a manner as to constitute a nuisance, the City Council shall revoke the permit of such person to sell controlled beverages in the city. In the alternative, the City Council may pass a resolution declaring the business a nuisance and authorize the city to file suit in the Saline County Circuit Court requesting that the nuisance be abated.
  - (E) Any person violating any provision of this ordinance shall be deemed guilty of a misdemeanor and shall be fined not less than \$100.00 nor more than \$500.00.

**ARTICLE II**  
**PENALTIES/SUSPENSION/REVOICATION**

### **Furnishing to or Consumption by Minors**

- (F) 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 shall be deemed guilty of a misdemeanor and shall be fined not less than \$100.00 nor more than \$500.00.
- (G) Any person under the age of 21 years who has in his or her possession, purchases or attempts to purchase, or otherwise obtained any controlled beverage shall, upon conviction, be deemed guilty of a misdemeanor and shall be subject to a fine of not less than \$100.00 nor more than \$500.00.

### **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, unless otherwise excepted herein, 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 less than \$100.00 and not more than \$500.00. Each day of such operation without a valid city permit shall constitute a separate and distinct offense.

### **General Penalty**

- (H) Except as set forth above, any person violating any provision of this chapter shall be deemed guilty of a misdemeanor and shall be fined not less than \$100.00 nor more than \$500.00.

### **Suspension/Revocation**

- (A) The City Council may suspend for a period not to exceed six months or revoke the license of any licensee violating this chapter after due notice to the licensee and an opportunity for the licensee to be heard.
- (B) When any license is revoked, no new license shall be issued to the same person within one year of such revocation.

### **ARTICLE III**

#### **TYPES OF PERMITS-FEES-SPECIFIC PROVISIONS-HOURS OF OPERATION**

##### **Wholesale**

- (A) *Wholesale liquor permit.* Authorizes the purchase from licensed manufacturers or importers of spirituous and vinous beverages or malt liquor containing more than 5% 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 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, or Christmas Day, or during any 24-hour interval designated an emergency period by the mayor, City Council, or any person acting in the mayor's or City Council'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 of \$125.00 for each and every wholesale dealer, broker or distributor of beer and light wine or malt liquor.
  - (2) *Hours of operation.* The authorized hours of operation shall be the same as for wholesale liquor dealers.
  - (3) All wholesale dealers and distributors selling beer and light wine and retail dealers within the city shall provide to the City Clerk or the City Clerk's designee on or before June 30th 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.

## **Retail**

- (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 of \$425.00 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.
- (4) *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 interval designated an emergency period by the mayor, City Council, or any person acting in the mayor's or City Council's capacity.

- (B) *Retail beer and light wine off-premises permit.* Authorizes the purchase of beer, light wine, or malt liquor containing less than 5% 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 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 do not exceed \$2,000.00, the permit fee shall be \$20.00.
  - (c) For a retailer whose annual gross sales of beer and/or light wine exceed \$2,000.00, the permit fee shall be \$20.00 plus an additional \$5.00 for each one thousand dollars (\$1,000.00) of gross annual sales in excess of \$2,000.00.
  - (d) The permit fee for a new application with no sales history shall be \$40.00.
  - (e) 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 31st 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.

- (f) If a new permit was issued between January 1st and June 30th, the first renewal rate (due on June 30th of the issue year) shall be \$40.00.

(5) *Hours of operation.* It shall be unlawful for any persons 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 as prohibited by A.C.A. §3-3-210, on Christmas Day, or during any 24-hour interval designated an emergency period by the mayor, City Council, or any person acting in the mayor's or City Council's capacity.

(C) *Retail beer and light wine on premises permits.* 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 the premises described in the permit.

(a) *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 permits.

(b) *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 am and 7:00 am on Monday through Saturday, on Sunday except during the hours of 10:00 am until midnight, on Christmas Day, or during any 24-hour interval designated an emergency period by the mayor, City Council, or any person acting in the mayor's or City Council'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 5% 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 \$750.00. For any new private club permit issued between January 1st and July 1st, the fee shall be \$375.00.

(2) *Supplemental beverage tax.* In addition to the \$750.00 per year permit fee, there is hereby imposed and levied a city supplemental tax of 5% upon the annual gross receipts which are derived by such private club from charges to 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 12 ½% 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.

(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) Hotels or motels having fewer than 100 rooms, \$500.00.
- (b) Hotels or motels having 100 rooms or more, \$1,000.00
- (c) Restaurants having a seating capacity of less than 100 persons, \$500.00
- (d) Restaurants having a seating capacity of 100 or more persons, \$1,000.00

(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 ten percent (10%) 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 for the same period. If any permittee shall fail to remit the supplemental tax within the time period the state tax is due, a penalty of 12 ½% 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 to serve, sell, offer for sale, or give away for consumption on-premises any beer or light-wine between the hours of 2:00 am and 10:00 am on Monday through Saturday, on Sunday except during the hours of 10:00 am until midnight, on Christmas Day, or during any 24-hour interval designated an emergency period by the mayor, City Council, or any person acting in the mayor's or City Council'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 \$1,000.00 for each and every large attendance facility within the city. For any new permit issued between January 1<sup>st</sup> and June 30<sup>th</sup>, 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.
- (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.
- (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 beginning on July 1, 2015, for any new permit issued between January 1<sup>st</sup> and June 20<sup>th</sup> (beginning in 2016), the permit fee shall be half of the above-amount.
- (2) *May not cater alcoholic beverages to large attendance or meeting facility.* Off-premises caterers as authorized by this section and A.C.A. § 3-4-901-905 may not cater alcoholic beverages to any large attendance or meeting facilities. All sales are subject to all applicable sales, but not to supplemental beverage taxes.
- (3) *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.
- (H) *Satellite catering permit to serve large meeting or attendance facility.* 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 for a satellite catering permit of \$250.00. For any new permit issued between January 1<sup>st</sup> and June 30<sup>th</sup>, 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.
- (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 permittees.

## **Manufacturing**

- (A) *Liquor manufacturing permit.* Authorizes the manufacture or distilling of spirituous or vinous (except wine) 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 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 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 shall be \$250.00 for each and every manufacturing plant.
- (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 of \$750.00 for each and every rectifying, blending, or flavoring plant.

**RESOLUTION NO. 2 OF 2015**

**A RESOLUTION RATIFYING AND CONFIRMING THE REAPPOINTMENT OF  
PAM GIBSON AS COMMISSIONER TO THE BENTON PLANNING & ZONING  
COMMISSION; AND FOR OTHER PURPOSES**

**WHEREAS**, the City of Benton created the City of Benton Planning & Zoning Commission by Ordinance 29 of 1964; and

**WHEREAS**, the City Council desires to reappoint PAM GIBSON to the term of office she currently serves until its expected expiration date of January 1, 2020;

**NOW, THEREFORE, BE IT RESOLVED** BY THE CITY COUNCIL OF THE CITY OF BENTON, ARKANSAS:

**SECTION 1:** Pam Gibson is hereby confirmed as a member of the City of Benton Planning & Zoning Commission.

PASSED AND APPROVED this the \_\_\_\_ day of January, 2015.

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David J. Mattingly, Mayor

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Cindy Stracener, City Clerk

## RESOLUTION NO. 3 OF 2015

### A RESOLUTION RATIFYING AND CONFIRMING THE APPOINTMENT OF JOCELYN CASH AS COMMISSIONER TO THE BENTON PLANNING & ZONING COMMISSION; AND FOR OTHER PURPOSES

**WHEREAS**, the City of Benton created the City of Benton Planning & Zoning Commission by Ordinance 29 of 1964; and

**WHEREAS**, the City Council desires to appoint **JOCELYN CASH** to the unexpired term of former commissioner Tony Wright. She will serve the remainder of the term until its expected expiration date of January 1, 2018;

**NOW, THEREFORE, BE IT RESOLVED** BY THE CITY COUNCIL OF THE CITY OF BENTON, ARKANSAS:

**SECTION 1:** Jocelyn Cash is hereby confirmed as a member of the City of Benton Planning & Zoning Commission.

PASSED AND APPROVED this the \_\_\_\_ day of January 2015.

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David J. Mattingly, Mayor

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Cindy Stracener, City Clerk