

ORDINANCE NO. 2018-2

AN ORDINANCE ESTABLISHING A PERMITTING PROCESS FOR PRIVATE CLUBS IN THE CITY OF POTTSVILLE, ARKANSAS, AND FOR OTHER PURPOSES

WHEREAS, the Legislature for the State of Arkansas passed Act 1112 of 2016 which now requires under A.C.A. §3-9-222 local city council approval of all applications for a private club permit prior to them being submitted to the Alcoholic Beverage Control Division; and,

WHEREAS, the City Council of the city of Pottsville, Arkansas, desires to establish a procedure for this approval process to be in compliance with Act 1112 of 2017.

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

Section 1. Title. The title of this Ordinance shall be "The Private Club Permit Procedure Ordinance for the City of Pottsville, Arkansas."

Section 2. Authority. This Ordinance is passed pursuant to the authority granted to the city of Pottsville by the state of Arkansas under A.C.A. §3-9-222 specifically Act 1112 of 2017.

Section 3. Definitions.

(a) **Alcoholic Beverages** - means all intoxicating liquors of any sort, including beer and wine.

(b) **City** - means the city of Pottsville, Arkansas.

(c) **Controlled Beverages** - means all beverages of any kind subject to regulation under any alcoholic beverage control law of the state of Arkansas and this Ordinance.

(d) **On-premises consumption** - means the sale or dispensing of alcoholic beverages by the drink or in broken or unsealed containers for consumption on the premises where sold or dispensed.

(e) **Permit**- means any authorization issued by any law passed by the General Assembly of the State of Arkansas; the Alcoholic Beverage Control Division of the State of Arkansas or by the city pursuant to any Arkansas Alcoholic Beverage Control Division regulation or this Ordinance whether described as a permit, license or otherwise.

(f) **Permittee** - means the person to whom a permit or license to sell, dispense or distribute alcohol has been granted.

(g) **Person** - means any natural person, partnership, association, corporation, syndicate or company.

(h) **Police Chief** - means the Chief of Police of the Pottsville Police Department or his/her designee.

(I) **Private Club** - means a non-profit corporation organized and existing under the laws of the state authorized to serve alcohol by the state of Arkansas and the Alcoholic Beverage Control Division.

(J) **State** - means the State of Arkansas.

Section 4: Permits Required.

(a) It shall be unlawful for any person to engage in the business of distributing, selling or dispensing within any private club for on-premises consumption, any controlled beverage, within the city without a permit issued by the City, or with an expired permit.

(b) The provisions of this section shall not apply to the manufacture, sale and distribution of wines or vinous liquors manufactured, sold and distributed by residents of Arkansas.

Section 5: Application for Private Club Permits.

(a) An application for a private club permit required by this Section 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 private club permit application.

(b) Only one location per application.

(c) The application shall be submitted to the City of Pottsville with a one time, non-refundable application fee in the amount of \$250.00. This fee is completely separate from any licensing fees which may later be due to the city of Pottsville to operate a business in the city of Pottsville.

(d) No city permit will be issued until approved by the City Council.

(e) It shall be unlawful for any person to make any false statement or representation in any application required by this section or to give any false answer to any question contained therein.

(f) It shall be unlawful to operate a private club or sell alcoholic beverages for on-premises consumption in Pottsville before being permitted by the appropriate state agency.

(g) Permits required by this Section shall run for one calendar year. Annual permit renewal fees of \$50.00 shall be due and payable on December 1st of each year for the succeeding year beginning January 1st.

(h) The City will not issue or renew any permits pursuant to this Section until all outstanding supplemental beverage taxes, if applicable, are paid.

(i) All permits issued by the City pursuant to this Section shall be prominently displayed on the permitted premises by the permittee in the same manner as required by the state for state permits.

(j) 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 advertising and promotion taxes and/or supplemental beverages taxes, if applicable, are paid.

(k) All fees, taxes and penalties received by the City pursuant to this Chapter shall be used for general purposes within the City of Pottsville pursuant to A.C.A. §3-9-223(f).

(l) Permits shall not be transferable or assignable unless and until approval is granted by the Alcoholic Beverage Control Division and notice is provided to the City of Pottsville and all other requirements of this Ordinance are met.

(m) A city permit, if granted, shall be specific to the proposed location and to the applicant listed in the application.

Section 6: Same Payment Dates; Proration. All permit fees shall be paid between December 1st and December 31st of each year. Permits obtained after July 1st of each year shall pay one half of the annual fee. Delinquent permit fees shall be subject to a delinquent penalty of 25% of the permit fee for each thirty (30) day period the fee remains.

Section 7: Term of Permit. No permit shall issue for more than the remainder of the calendar year, and all shall expire at midnight, December 31 of each year. In case of the revocation or surrender of such permit before the expiration of such calendar year period, the holder thereof shall not be entitled to receive any refund whatsoever.

Section 8: Transferability of Permits.

(a) Permits shall not be transferable, except as otherwise provided herein.

(b) All applications for transfer of locations shall comply with the provisions herein set forth governing new permits.

Section 9: Notice of Transfer of Business. Should any permit holder make a request to the Alcohol Beverage Control Division to transfer their permit to another location,

individual or organization, the Police Chief shall be notified in writing of such request within seven (7) days.

Section 10: Display of Permit. Every person or organization issued a permit pursuant to this section shall be required to display this permit in the same location as is displayed the State Controlled Beverage Permit.

Section 11: Suspension or Revocation of Permit. Whenever the state shall revoke any permit, the city permit to deal in such products shall thereupon be automatically revoked without any action by the City or any municipal officer.

Section 12. Type of Permit Covered by Ordinance and Hours of Operation.

(a) Private club permit. Authorizes the purchase of any controlled beverage from persons holding an off-premises retail liquor or beer permit who have been designated by the director of the State Alcohol 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.

(b) Hours of operation. Hours of operation shall be in conformance with state statute, including Title 3 of the Arkansas Code relating to Alcoholic Beverages.

Section 13: Penalty.

(a) Any person violating the provision of this Ordinance or any person who makes a false affidavit or statement or report or application to the city as part of the procedures of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction be fined a sum, up to, but not exceeding:

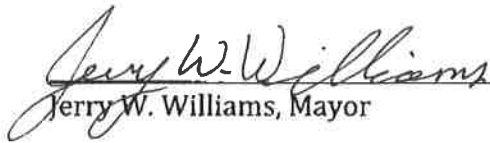
1. One Thousand Dollars (\$1,000.00) for the first offense.
2. Two Thousand Dollars (\$2,000.00) for the second offense.
3. Four Thousand Dollars (\$4,000.00) for each subsequent offense after the second offense.
4. Plus court costs and applicable fees.


(b) If it is found that any violation of this Ordinance is found to be continuous in respect to time, the fine or penalty for allowing the continuous thereof, in violation of this Ordinance, shall not exceed Five Hundred Dollars (\$500.00) for each day that it is unlawfully continued, plus court costs and applicable fees.

Section 14: Severability. In the event any title, subtitle, section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase or word of this Ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of this ordinance which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this Ordinance.

Passed this 26th day of February, 2018.




Jerry W. Williams, Mayor


City Clerk/Treasurer