

**ORDINANCE NO. 1948**

**AN ORDINANCE AMENDING ARTICLE II, SECTION 102-31 OF THE MUNICIPAL CODE OF THE CITY OF EUREKA SPRINGS, FOR THE PURPOSE OF AMENDING THE DEFINITION OF “GIFT SHOPS” WHICH ARE SUBJECT TO THE GROSS RECEIPTS SALES TAX, AS LEVIED BY THE CITY OF EUREKA SPRINGS, AT ARTICLE II, SECTION 102-32 OF THE MUNICIPAL CODE OF THE CITY OF EUREKA SPRINGS WITH AN EMERGENCY CLAUSE**

**WHEREAS**, the City of Eureka Springs (“the City”) is authorized by state law to levy and collect a tax not to exceed two percent (2%) upon the gross receipts of certain businesses within the City; and

**WHEREAS**, among those businesses subject to this tax are gift shops, a majority of whose gross receipts or gross proceeds are derived from the sale of items commonly referred to as gifts or souvenirs available for sale to tourists, as defined by the levying ordinance of the City, and;

**WHEREAS**, confusion has arisen among shop owners about the application of the definition of gift shops, contained in the levying ordinance, and found at Article II, Section 102-31, resulting in the potential for inequitable application of this gross receipts tax, as well as in confusion to the tourists upon whom the City so significantly relies for a thriving economy, and;

**WHEREAS**, in order to alleviate confusion and to avoid the potential for any inequities, as well as to be fair to tourists, and avoid their confusion about the application of this gross receipts tax, the City Advertisement and Promotion Commission has studied the current definition and its application to the businesses in the City and recommends, by unanimous vote, that the definition of gift shops and gifts and souvenirs available for sale to tourists, contained in the levying ordinance, should be updated and amended to adhere to state law and to reflect the current mix of gift shops serving the tourists visiting the City, and;

**WHEREAS**, it is the intention of the City to fairly, efficiently and rationally apply this gross receipts tax to those businesses which thrive on and benefit from the tourist trade and traffic in the City, and it is the goal of the City to preserve and enhance the trust of the tourists who visit the City, and, an amendment to the levying ordinance, in order to amend the definition is required, to sustain these interests as well as the health and welfare of the citizens of the City.

**NOW THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA SPRINGS, ARKANSAS:**

**Section 1.** Pursuant to state law, the levying ordinance for the two percent (2%) gross receipts tax, found at The Eureka Springs Municipal Code, Article II, Section 102-32, is hereby amended to incorporate the definitions set forth herein.

**Section 2.** The Eureka Springs Municipal Code, Article II, Section 102-31, is hereby amended to read in its entirety as follows:

*Gift Shop* means any retail establishment which shall have been issued a business license by the City of Eureka Springs with the designation of Gift Shop and an A and P Tax Permit. Gift shop shall be defined as a business with a majority of whose gross receipts or gross proceeds are derived from the sale of items commonly referred to as gifts or souvenirs available for sale to tourists or any business which shall so designate its self in its application for a business license. Those items shall include, but not be limited to: arts and crafts, toys, clothing such as caps and T-shirts, housewares (such as mugs, glasses, plates, etc.), souvenir photographs, collectibles, artifacts (both natural and man-made), leather goods, jewelry, home furnishings, imported gift items, candy glassware, toiletries, and all other items available for sale to tourists. This ordinance specifically excludes from the tax levy those establishments a majority of whose gross receipts or gross proceeds are derived from the sale of hardware, building materials and fixtures, clothing (except aforementioned clothing) automotive supplies, drugs and health aids, groceries, furniture, antique furniture and books.

*Gross receipts tax* means a tax of two percent upon the gross receipts or gross proceeds from the renting, leasing or otherwise furnishing of motel or hotel accommodations; and upon the gross receipts or proceeds of restaurants, cafes and cafeterias; and upon the gross receipts or gross proceeds of gift or souvenir shops, a majority of whose gross receipts or gross proceeds are derived from the sale of items commonly referred to as gifts or souvenirs available for sale to tourists, in the city.

*Hotel or motel accommodations* means the renting, leasing or otherwise furnishing of accommodations in hotels or motels upon a day-to-day basis or a week-to-week basis. This shall not include the renting, leasing or furnishing of accommodations upon month-to-month tenancies or tenancies of a longer duration.

*Restaurant, cafe* means any establishment which shall offer any type of prepared foods for sale, and shall include the gross receipts upon all sales of prepared foods and upon all sales of any type of beverages sold on or from the premises, regardless of whether such prepared foods and/or any type of beverages sold on or from the premises are intended for consumption on or off the premises.

**Section 3.** All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

**Section 4.** That in the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance, Code, code section or chapter as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Ordinance, code section or chapter shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

**Section 5.** Whereas there is a large number of current collectors who have failed to remit the tax within the last few reporting periods an emergency is hereby declared to exist in that the peace of the town is threatened by the lack of collection and the uncertainty over the application of the definition.

**PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY  
OF EUEKA SPRINGS, ARKANSAS THIS \_\_\_\_\_ DAY OF  
\_\_\_\_\_, 2004.**

APPROVED:

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Kathy Harrison, Mayor

ATTEST:

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Mary Jean Sell, City Clerk