

**ORDINANCE NO. 2013-\_\_04\_\_**

**AN ORDINANCE CREATING THE CHEROKEE VILLAGE ADVERTISING AND PROMOTION COMMISSION AND FOR OTHER PURPOSES**

**WHEREAS**, the City Council of the City of Cherokee Village, Arkansas, has determined that there is a need for programs and projects to advertise and promote the City of Cherokee Village thereby enhancing revenues for our businesses, the City and other benefits; and

**WHEREAS**, the City of Cherokee Village is required under ACA § 26-75-605 to create an Advertising and Promotion Commission if the City levies a gross receipts tax for the development of advertising and promotion of the city; and

**WHEREAS**, the City of Cherokee Village, Arkansas, has by ordinance levied a gross receipts tax for the development of advertising and promotion of the city

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF CHEROKEE VILLAGE, ARKANSAS**

Section 1: Creation of Cherokee Village Advertising and Promotion Commission

(a) There is hereby created the Cherokee Village Advertising and Promotion Commission. The commission shall have the powers and duties prescribed by state law under ACA § 26-75-605. The commission shall be composed of seven (7) members, each of whom shall reside within Sharp County or Fulton County, as follows:

(1) Four (4) members shall be owners or managers of businesses in the tourism industry;

(A) At least three (3) of these members shall be owners or managers of hotels, motels or restaurants and shall serve for staggered terms of four (4) years;

(2) Two (2) members of the commission shall be members of the governing body of the City of Cherokee Village, Arkansas, and shall be selected by the governing body and shall serve at the will of the governing body;

(3) One (1) member shall be from the public at large and shall serve for a term of four (4) years.

(b) The initial members of the Cherokee Village Advertising and Promotion Commission shall be selected as follows:

(1) The four (4) tourism industry positions provided for above shall be filled by appointment made by the City Council of Cherokee Village for staggered terms so that:

(A) One (1) member will serve for a term of one (1) year;

(B) One (1) for a term of two (2) years;

(C) One (1) for a term of three (3) years; and

(D) One (1) for a term of four (4) years.

(2) The at-large position from the public at large shall be filled by nomination by the Mayor and approval of the City Council of Cherokee Village.

(c) Whether resulting from expiration of a regular term or otherwise, a vacancy on the Cherokee Village Advertising and Promotion Commission in any of the four (4) tourism industry positions or the at-large position shall be filled by appointment made by the remaining members of the Commission, with the approval of the Cherokee Village City Council.

## Section 2: Commission Meetings

Regular meeting dates shall be established by the Cherokee Village Advertising and Promotion Commission and published in the same manner as other city committees and boards. The commission shall adopt rules for its own procedure. All meetings shall be open to the public and be subject to Arkansas Code provisions for elected and appointed officials. An accurate record of all meetings shall be kept, the original being filed in a journal in the City Clerk/Treasurer's office as a permanent record.

## Section 3: Disposition of Revenues

All taxes, interest, penalties and costs collected pursuant to this Ordinance shall be credited to the Cherokee Village Advertising and Promotion Fund, which is hereby created. The disposition of these revenues shall be in compliance with ACA § 26-75-604.

No member of the Cherokee Village Advertising and Promotion Commission shall have authority to spend the funds so collected. The Cherokee Village Advertising and Promotion Commission shall expend the funds by majority vote in open session. The Cherokee Village Advertising and Promotion Commission shall submit their requests for payments to the Cherokee Village Clerk/Treasurer for payment from the Cherokee Village Advertising and Promotion Fund. Transfers from the Cherokee Village Advertising and Promotion Fund shall be reported in the monthly report of expenditures distributed to the City Council of Cherokee Village, Arkansas.

## Section 4: Use of Funds Collected

(a) (1)(A) In the manner as shall be determined by the Cherokee Village Advertising and Promotion Commission and in compliance with ACA § 26-75-606, all funds credited to the Cherokee Village Advertising and Promotion fund shall be used for the:

- (i) Advertising and promoting Cherokee Village and its environs;
- (ii) Construction, reconstruction, extension, equipment, improvement, maintenance, repair, and operation of a convention center;
- (iii) Operation of tourist promotion facilities in the City of Cherokee Village or Sharp County or Fulton County where the city owns an interest in the convention center or facility, and facilities necessary for, supporting, or otherwise pertaining to, a convention center; or
- (iv) Payment of the principal of, interest on, and fees and expenses in connection with bonds permitted by ACA § 26-75-601, *et seq.*

(1)(B) The Cherokee Village Advertising and Promotion Commission may request from the City Council of Cherokee Village the authorization to engage such personnel and agencies and to incur such administrative costs as it deems necessary to conduct its business, but the Commission shall have no authority to do so without express authorization from the City Council.

(2)(A) The Cherokee Village Advertising and Promotion Commission is the body that determines the use of the Cherokee Village Advertising and Promotion fund.

(2)(B) If the Cherokee Village Advertising and Promotion Commission determines that funding of the arts is necessary for or supporting of Cherokee Villages advertising and promotion endeavors, it may use Cherokee Village Advertising and Promotion funds.

(3)(A) The Cherokee Village Advertising and Promotion Commission may purchase, own, operate, sell, lease, contract, or otherwise deal in or dispose of real property, buildings, improvements, or facilities of any nature in accordance with ACA § 26-75-601, *et seq.*

(3)(B) If the Commission is dissolved, the city of Cherokee Village shall assume the authority under subdivision (a)(3)(A) of this section.

(b) (1)(A) Funds credited to the Cherokee Village Advertising and Promotion Fund may be used, spent or pledged by the Commission, in addition to all other purposes prescribed in this ordinance, on and for the operation of tourist-oriented facilities, including, but not limited to, theme parks and other family entertainment facilities or for the retirement of bonds issued for the establishment and operation of other tourist-oriented facilities, including, but not limited to, theme parks and other family entertainment facilities.

(1)(B) The Cherokee Village Advertising and Promotion funds shall be used or pledged for the purposes authorized only upon approval of the Cherokee Village Advertising and Promotion Commission.

(2)(A) Funds credited to the Cherokee Village Advertising and Promotion Fund may be used, spent, or pledged by the Cherokee Village Advertising and Promotion Commission, in addition to all other purposes prescribed, on and for the construction, reconstruction, repair, maintenance, improvement, equipping, and operation of public recreation facilities in the city or Sharp County or Fulton County if the City of Cherokee Village owns an interest in the center or facility, including, but not limited to, facilities constituting city parks and also for the payment of the principal of, interest on, and fees and expenses in connection with bonds as permitted by ACA § 26-75-601, *et seq.* in the manner as shall be determined by the Cherokee Village Advertising and Promotion Commission for the purpose of such payment.

(c) (1) All funds credited to the Cherokee Village Advertising and Promotion Fund shall be used for the purposes described in this ordinance.

(2) The taxes shall not be used:

(A) For the general capital improvements within Cherokee Village or Sharp County or Fulton County;

(B) For the costs associated with the general operation of the City of Cherokee Village or Sharp County or Fulton County;

(C) For the general subsidy of any civic group or the chamber of commerce.

(3) However, the Cherokee Village Advertising and Promotion Commission may contract with such groups to provide the commission actual services that are connected with tourism events or conventions.

(4) The authorization and limitations contained in this ordinance shall be reasonably construed so as to provide funds for promoting and encouraging tourism and conventions while not allowing such special revenues to be utilized for expenditures that are normally paid from general revenues of the City of Cherokee Village.

#### Section 5: Bonds

The City of Cherokee Village shall be authorized in accordance with ACA § 26-75-607 to issue bonds to provide funds for accomplishing convention center projects and to pledge all or any part of the revenues from the tax levied by Cherokee Village on the gross receipts of hotels, restaurants, etc. pursuant to the power given to the City to pay the principal of, interest on, and fees and expenses in connection with the bonds. The issuance and execution of these bonds shall be in accordance with §§ ACA 26-75-608 through 26-75-613.

#### Section 6: Severability

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

**PASSED AND APPROVED BY THE CHEROKEE VILLAGE CITY COUNCIL**

DATED 3/29/13

APPROVED:

  
Lloyd W. Hefley, Mayor

ATTEST:

  
Lana Hamilton, Clerk/Treasurer