

ORDINANCE NO. 2023- 09

**AN ORDINANCE OF THE CITY OF FAIRFIELD BAY,  
ARKANSAS, APPROVING  
FAIRFIELD BAY LITTLE THEATRE ASSOCIATION, INC.,  
TO OPERATE PRIVATE CLUB  
AT THE CONFERENCE CENTER  
USING CITY EMPLOYEE AS  
DIRECTOR OF THE NON-PROFIT ENTITY  
DOING BUSINESS AT  
THE CONFERENCE CENTER  
OF THE CITY OF FAIRFIELD BAY  
FOR THE 2023 CALENDAR YEAR;  
DECLARING AN EMERGENCY;  
AND FOR OTHER PURPOSES**

WHEREAS, The State of Arkansas prohibits any City from undertaking certain official government activities with public servants, which includes public appointees, public employees, and public officials, “that are not available to others except as may be otherwise provided by law” in accordance with Ark. Code Ann. § 21-8-304(a); and

WHEREAS, the City does not sell alcoholic beverages, but has in the past entered into an agreement with a non-profit entity to sell alcoholic beverages at the Conference Center during events and activities at the Conference Center, as a means of economic development; and

WHEREAS, The City entered into an agreement with Fairfield Bay Little Theatre Association, Inc., using Kaleb J. Swenson as its Director, to provide for the service of alcoholic beverages by that business during events at the Conference Center, as provided in Ark. Code Ann. § 21-8-304(a); and

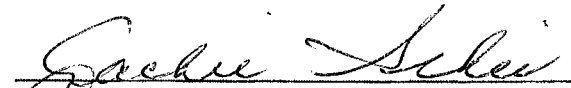
WHEREAS, the Mayor, the City, the Recorder-Treasurer, and the Conference Center Director now ask the City Council to review and approve the agreement which allowed Kaleb J. Swenson to sell alcohol at the Fairfield Bay Conference Center in 2023 in his capacity as Director for Fairfield Bay Little Theatre Association, Inc., at times when he was an employee of the City of Fairfield Bay, in accordance with the previously-approved 2023 Budget, as amended from time to time, and further as authorized by Ark. Code Ann. § 21-8-304(a);

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF FAIRFIELD BAY, ARKANSAS, that:**


1. This Ordinance is NOT TO BE CODIFIED as it will not be part of the Municipal Code.
2. NOT TO BE CODIFIED: The City Council has had ample opportunity to review the issues, and understands the economic development necessities of entering into an agreement with a non-profit entity to provide for the sale of alcohol at the Conference Center.
3. NOT TO BE CODIFIED: The City hereby RATIFIES, CONFIRMS, AND APPROVES the agreement with Fairfield Bay Little Theatre Association, Inc., using Kaleb J. Swenson as its Director, at a time when Swenson was an employee at the Conference Center, as authorized by Ark. Code Ann. § 21-8-304(a), as an at-will employee.
4. NOT TO BE CODIFIED: The City hereby RATIFIES, CONFIRMS, AND APPROVES this arrangement for the 2023 calendar year, as previously authorized in the 2023 Budget, as amended.
5. NOT TO BE CODIFIED: The City further stipulates and directs that the authority set forth herein expires on December 31, 2023, at midnight; the authority set forth herein requires a separate Ordinance for extension, if the next (2024) Budget Ordinance continues to authorize the position.
6. NOT TO BE CODIFIED: The City reserves the right to terminate this authorization. Nothing herein shall provide Mr. Swenson any substantive rights: he was hired as, and always was, an at-will employee of the City of Fairfield Bay. The City may terminate the employment of Mr. Swenson at any time, for any lawful reason, or for no reason, with or without notice, and with or without cause. Likewise, Mr. Swenson may resign from employment at any time, for any lawful reason, or for no reason, with or without notice, and with or without cause.
7. NOT TO BE CODIFIED: The Council RATIFIES, CONFIRMS, AND APPROVES THIS AUTHORIZATION, *NUNC PRO TUNC*, TO JANUARY 1, 2023.
8. **NOT TO BE CODIFIED: EMERGENCY CLAUSE:** Because of the potential danger to public peace, health, and safety, that will result from the lack of sufficient support staff at the Conference Center, AN EMERGENCY IS HEREBY DECLARED TO EXIST, and this Ordinance being necessary for the peace, health, safety, and general welfare of the City and its Citizens, IT SHALL BE IN FULL FORCE AND EFFECT IMMEDIATELY UPON AND AFTER ITS PASSAGE.

9. **NOT TO BE CODIFIED: SEVERABILITY CLAUSE:** If any provision of this Ordinance, or the application thereof, to any person or circumstance is held invalid for any reason, such invalidity shall not affect other provisions or applications of this Ordinance, which shall be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Dated this 8<sup>th</sup> Day of May, 2023.

  
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Honorable Jackie Sikes  
Mayor, City of Fairfield Bay, Arkansas

Attest:

  
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Rose O. Owen, Recorder-Treasurer

Prepared: Kelly Law Firm, PLC  
AJ Kelly,  
City Attorney  
Rev.2: 5/8/23