

City of Conway
⑤ R-3870

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ORDINANCE NO. 0-00-01

AN ORDINANCE LEVYING A TAX ON CERTAIN ACCOMMODATIONS; AUTHORIZING THE CREATION OF AN ADVERTISING AND PROMOTION COMMISSION, REPEALING ANY ORDINANCES IN CONFLICT; AND FOR OTHER PURPOSES. *Conway, Ark.*

WHEREAS, the City of Conway desires to create an Advertising and Promotion Commission in order to facilitate tourism and the promotion of the City of Conway, and fund such a commission as well as fund improvements and facilities by levying a tax as authorized by state law, specifically A.C.A. 26-75-601, et seq.

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

Section 1:

- (a) There is hereby created the City of Conway Advertising and Promotion Commission, which shall be composed of seven (7) members as authorized pursuant to A.C.A. 26-75-605(a)(1)(2)(3).
- (b) Vacancies on the commission in any of the four (4) tourism industry positions provided for in A.C.A. 26-75-605 or in the at-large position provided for in that section shall be filled by appointment made by the remaining members of the commission with the approval of the city council.

Section 2:

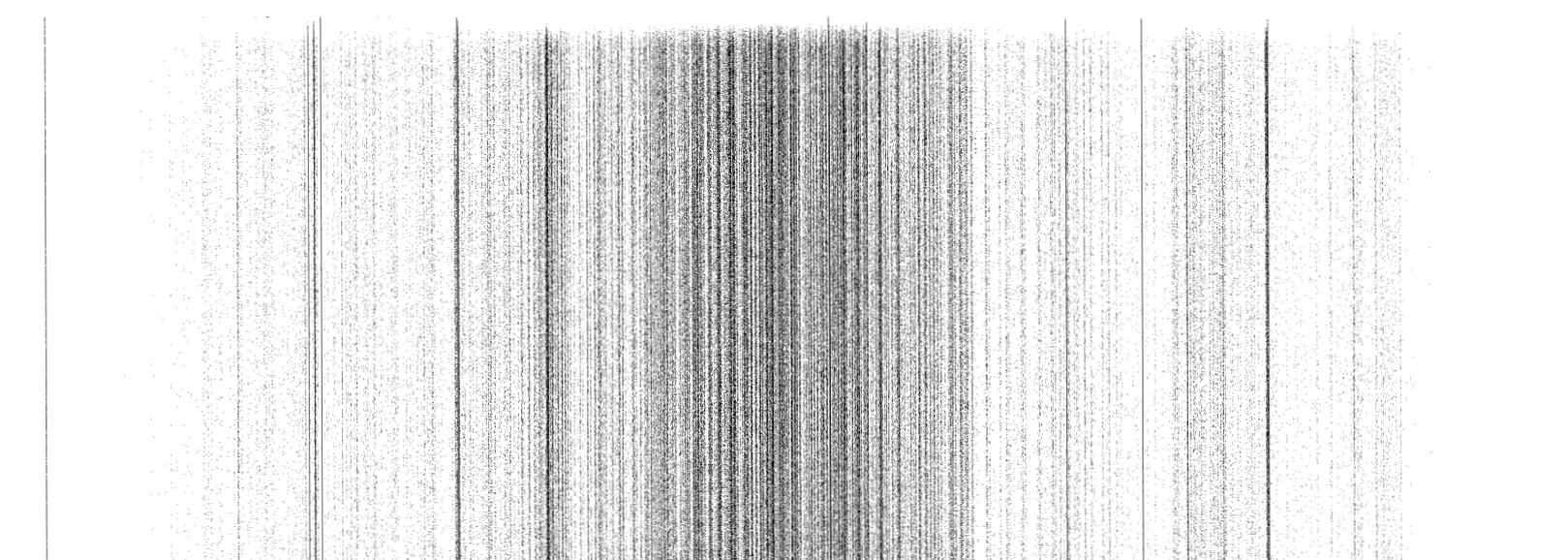
- (a) Each member of the commission shall file any oath required by law in the State of Arkansas of public officials.
- (b) A commissioner appointed under the provision of this article may be removed for cause upon a two-thirds (2/3) vote of the city council.

Section 3:

- (a) The City of Conway Advertising and Tourist Promotion Commission shall meet within two (2) weeks of its appointment and shall be organized by electing a chairman, a secretary and a treasurer. Thereafter, the commission shall meet as often as may be necessary, and also shall be subject to special call by the chairman.
- (b) The commissioners shall adopt such rules and regulations as they may deem necessary and expedient for the proper operation of said commission, and they shall have the authority to alter, change or amend such rules and regulations at their discretion.

Section 4:

- (a) The commissioners hereunder appointed in addition to their other powers enumerated by state law, shall have the exclusive right and power to make purchases of all supplies necessary for the management and operation of the commission.



(b) The commissioners shall have authority to employ the necessary personnel to assist in the administration and operation of the advertising and tourist promotion fund and shall have the authority to fix the salary or salaries for such personnel. Any employee who shall handle funds for the commission shall be required to furnish the city a surety bond in an amount to be determined by the commission to insure the city against misappropriation of funds.

(c) The commissioners shall make quarterly reports to the mayor and city council beginning three (3) months after their oath of office, reporting in full on the operations of the commission, including an accounting of receipts and disbursements, and shall upon request of the city council furnish such other and further reports and data as may be required. The commissioners shall select a recognized auditing firm to submit an annual audit of the operations of the commission to the mayor and city council.

Section 5:

(a) *Hotel/motel accommodations; Meeting or party-room facilities:* A tax of two (2) percent is hereby levied on the gross receipts or gross proceeds received from the renting, leasing or otherwise furnishing hotel, motel or short-term condominium rental accommodations for sleeping, meeting or party-room facilities to the extent taxable under state law for profit in the city, but such accommodations shall not include the rental or lease of such accommodations for periods of thirty (30) days or more;

(b) (1) *Collection by commission.* The two (2) percent tax described in this section hereof shall be paid by the persons, firms and corporations liable therefore and shall be collected by the advertising and promotion commission of the city (hereinafter the "commission") or by a designated agent of the commission in the same manner and at the same time as the tax levied by the Arkansas Gross Receipts Act, A.C.A. § 26-52-101 et seq.

(2) *Authorized collection procedure.* The person collecting the tax shall pay and report said tax on forms provided by the commission and as directed by the commission. The rules, regulations, forms of notice, assessment procedures, and the enforcement and collection of the tax under the Arkansas Gross Receipts Act shall, so far as is practicable, be applicable with respect to the enforcement and collection of the tax described herein. However, the administration and enforcement and all actions shall be by and in the name of the commission through the proper commission officials or agents.

(3) *Collectors; report forms.* The tax levied by this article shall be collected from the purchaser or user of accommodations by the person furnishing such accommodations. Such person shall pay to the city on the twentieth day of each month all collections of the tax for the preceding month, accompanied by reports on forms to be prescribed by the commission.

(c) (1) *Uses of tax revenue.* All funds credited to the city advertising and promotion fund pursuant to this ordinance shall be used for advertising and promoting the city and its environs or for the construction, reconstruction, extension, equipment, improvement, maintenance, repair and operation of a convention center or for the operation of tourist promotion facilities in the city and facilities necessary for supporting, or otherwise pertaining to, a convention center, or for any other use as authorized by state law, in the manner as shall be determined by the city advertising and promotion commission.

(2) *Commission determines use.* The commission is the body that determines the use of the city advertising and promotion fund. Pursuant to this section, if the commission determines that funding of the arts is necessary for or supporting of its city's advertising and promotion endeavors, it can use its funds and/or funds

derived from the hotel tax. (A.C.A. § 26-75-606 (a)(2)).

(3) *Taxes credited to fund.* All local taxes levied as authorized by this ordinance shall be credited to the city advertising and promotion fund and shall be used for the purposes prescribed by state law and this ordinance.

a. *Prohibited use of taxes.* Such taxes shall not be used:

1. for general capital improvements within the city;
2. for the costs associated with the general operation of the city; and
3. for general subsidy of any civic groups or the chamber of commerce.

b. However, the advertising and promotion commission may contract with such groups to provide to the commission actual services that are connected with tourism events or conventions;

c. The authorization and limitations contained herein 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. (A.C.A. § 26-75-606 (c)(4)).

(d) (1) *Use for tourist-oriented facilities.* Any city of the first class which is authorized to levy and does levy a tax as authorized in A.C.A. 26-75-601, *et seq.*, is authorized to use or pledge all, or any part of, the revenues derived from the tax for the purposes prescribed and authorized by state law and this ordinance, including, but not limited to, the operation of tourist-oriented facilities.

(2) *Use for public recreation.* Funds credited to the city advertising and promotion fund pursuant to this ordinance may be used, spent or pledged by the commission in addition to all other purposes prescribed in this ordinance on and for the construction, reconstruction, repair, maintenance, improvement, equipping and operation of public recreation facilities in Conway, including but not limited to facilities constituting city parks, and for any and all purposes authorized by state law and this ordinance. (A.C.A. § 26-75-606 (b)(2)).

Section 6:

Persons or entities liable for payment of the taxes levied by this chapter shall be subject to the assessment of penalties and interest as follows:

(a) A penalty equal to five percent (5%) of the unpaid tax amount per month not to exceed a total assessment of thirty-five (35%) of the unpaid tax. Simple interest on unpaid taxes shall be assessed at the rate of ten percent (10%) per annum.

(b) In addition to any civil penalties provided or imposed by statute or ordinance, any person or entity liable for payment of said tax which fails to file the said report or which fails to pay the said tax for a period of sixty (60) days or more after the end of any month for which a report or payment of tax is due, shall be guilty of a violation and shall be fined in a sum not to exceed one hundred dollars (\$100.00). If said violation continues, said person or entity shall be fined in a sum not to exceed one hundred dollars

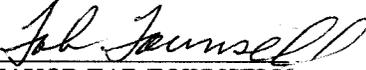
(\$100.00) for each additional thirty-day period said violation continues.

Section 7:

That any ordinances in conflict herewith are hereby repealed to the extent of that conflict.

PASSED this 25th day of January, 2000.

APPROVED:


MAYOR TAB TOWNSELL

ATTEST: -


MICHAEL O. GARRETT, CITY CLERK