

Denise Hurd
Clerk-Treasurer
cityclerk@conwayarkansas.gov
501-513-3501



City of Conway
1111 Main Street
Conway, Arkansas 72032
501-450-6100

Operating as a Mobile Food Vendor in Conway

As with restaurants, an A & P Permit is required by the City for Mobile Vendors who sell prepared foods; the A & P Tax (AKA Hamburger Tax) levies an additional (two) 2% “City Tax” on the sale of prepared foods.

To obtain a permit:

- **A & P Permit Application:** Submit completed application to the City Clerk’s office via hand delivery, mail, fax, or email to denise.hurd@conwayarkansas.gov.
- **A & P Permit Fee:** No charge.
- **Renewal:** The permit is not renewable; the A & P Permit shall expire at the time of cessation of the business of the taxpayer at the location designated on the permit; if you move your business to a new address, you must apply for a new A & P Permit number. A separate A & P Permit must be obtained for each location.
- **Temporary Building Permit:** Mobile Vendors operating in the City for more than 14 days per year must obtain a Temporary Building Permit; this permit is issued by the City Permit & Inspections Dept. at 501-450-6107. The cost is \$250.00 annually and the permit is good for a period of 1 year.
- **Regulations:** For a complete list of regulations see Ordinance No. O-11-99; this ordinance will not apply to mobile vendors who operate 14 days or less per year, and will list the Zoning Districts you may operate in.

Other Information:

- No business license required; letter of verification is available upon request by calling 501-513-3501, or email denise.hurd@conwayarkansas.gov.
- Permission from property owner must be obtained prior to setup.
- Total sales tax to be collected on prepared foods is 10.75%.
- Contact the Arkansas Sales & Use Tax Dept. at 501-682-7104 to obtain a Sale & Use tax number.
- Contact the Faulkner County Health Dept. at 501-450-4941 to obtain State requirements.
- Attach current Certificate of Approval to A&P Application.
- Contact the Planning Dept. at 501-450-6105 to obtain a Zoning District Map of zones listed in Ordinance No. O-11-99.
- Vending in a Public Park: Ordinance O-12-62 Section 1D - states: **“It is prohibited to offer for sale any food, drink, merchandise, or service without Parks Director approval”.**
- To inquire about being a Mobile Food Vendor in the Toad Suck Daze Festival, please contact the Conway Chamber of Commerce at 501-327-7788; this festival is not organized by the City of Conway.

Mobile Food Vendor Ordinance:

Ordinance No. O-11-99: Established standards for the regulation of mobile vendors and include regulations in the Conway Zoning Ordinance.

A & P Prepared Food Tax (AKA HAMBURGER TAX): <https://conwayarkansas.gov/archive/>

Ordinance No. O-05-142: Pursuant to Act 185 of 1965, and as subsequently amended, the City of Conway has adopted ordinances levying taxes upon the gross receipts from the renting, leasing, or otherwise furnishing of hotel, motel, or short term rental accommodations for sleeping, meeting, or party room for profit in the City **and upon the gross receipts of restaurant, cafes, cafeterias, delicatessens, drive-in restaurants and similar businesses** as defined by the levying ordinance from the sale of prepared food for consumption on and off the premises of such establishment in the City of providing for other matters;

And the City desires to establish procedures for the collection and enforcement of said taxes that have been levied and administered by the City with the adoption of Ordinance No. O-00-01, Ordinance O-05-97, Ordinance no. O-05-98, and Ordinance No. O-05-131 pursuant to Act 185 of 1965, and as subsequently amended.

Denise Hurd, Clerk-Treasurer
cityclerk@conwayarkansas.gov



City of Conway
1111 Main Street
Conway, Arkansas 72032
501-450-6100
501-450-6109 FAX

WHAT IS PREPARED FOODS AND THE A&P TAX?

The City of Conway enacted ordinances in 2005 which levies a two percent sales tax on the gross receipts of the sale of prepared food and beverages in the city, this is known as the A&P Tax. By state law, under this levy the tax is applied to restaurants, cafes, cafeterias, delicatessens, drive-in restaurants, carry out restaurants, concession stands, convenience stores, grocery store, restaurants and similar businesses who sell prepared food or beverages for on or off premise consumption. This tax became effective November 1, 2005 and a businesses who engaged in the selling of prepared food will be required to collect the tax. This tax levy does not affect the sale of foods or beverages not deemed prepared, nor does the tax levy apply to those operations that are classified in the federal tax code as being a 501 (c) 3 tax exempt organization.

To facilitate the administration of this tax, the city adopted Ordinance O-05-142 setting regulations for the collection and enforcement of this tax. A copy of this ordinance can be found on the city's website at <https://media.conwayarkansas.gov/media/archive/ordinances/2005/O-05-142.pdf> and is subject to periodic change by City Council action.

Businesses which are required to charge this tax shall be required to apply for a free but mandatory Advertising and Promotions Tax Permit. The A&P permit will allow the city to maintain more accurate records on the businesses collecting the tax, their location, the owners, mailing address, etc. Permits will be issued through the Office of the City Clerk upon the submittal of an application. Tax proceeds will be required to be remitted to the city every month, as well as monthly statements of gross receipts on the sale of prepared food and beverages at each business. Permit application information forms and monthly tax statement forms are available through the Office of the City Clerk at City Hall, 1111 Main Street in Downtown Conway or may be downloaded from the city web on the City Clerk's page.

Tax Form:

https://media.conwayarkansas.gov/media/documents/Monthly_AP_Tax_Remittance_Form_2025.pdf

Information Packet:

<https://conwayarkansas.gov/city-clerk/>

Taxes must be remitted by the twentieth (20th) day of the month following the collection month or be subject to penalties and interest. The Commission or its agent reserves the right to audit the business to insure proper payment of the tax. Enforcement for non-payment or improper payment could result in the legal action being pursued against the business. There is a two percent (2%) discount available to businesses that remit tax payments on or before the twentieth (20th) day of the month following collection. Procedures for disputation of tax liability are also included in the collections and enforcement ordinance cited above.

While state law does allow for the collection of this tax, it does not offer clear definitions of what constitutes “prepared food and beverages”. These definitions are left to the local jurisdictions to define and apply. The City of Conway will make every effort to reasonably apply a uniform standard in its definition of what items should be taxed. Lacking clear legal definitions from the state, the city recognizes that legitimate questions of applicability could arise and that many items must be determined on a case by case basis. The Commission will gladly hear appeals from businesses as to the application of the tax to various items. However, appeals will not be allowed to delay the application of the tax for items to which the tax should reasonably be applied.

In general, the tax will be applicable to all restaurants and mobile food vendors and all products served in restaurants and mobile food vendors. Grocery, supermarket, or convenience store products are taxable only to the extent they are restaurant-style products. Beyond that generalization, a couple of guidelines can be used as rules of thumb:

- If a food or beverage is prepared on site, it is taxable.
- If it is served on site, it is taxable.
- If it is prepared off site in packages ready for retail sale, it is not taxable unless it is served.
- If it is prepared off-site but not prepackaged for retail sale, it is taxable.
- A can soda from a cooler in a convenience store is not taxable. A can soda served to a diner in a restaurant is taxable; a fountain soda is taxable either way.
- Pizzas delivered to homes or served in restaurants are taxable, but purchased pre-packaged in a grocery store are not taxable.
- Pre-packaged foods such as pizzas or burritos heated in a convenience store microwave are not taxable but the same type items not pre-packaged and selected out from under a heat lamp by the clerk at the same convenience store is taxable.
- Cheese dip served to restaurant diners is taxable as is cheese dip sold for take home. Cheese dip sold in retail ready packages at the cashier of the same restaurant is not taxable.
- Donuts boxed and packaged for retail are not taxable; unpackaged donuts served by wait staff or self-served individually are taxable.
- Potato chips sold in prepackaged retail ready lunch sizes are not taxable; the same package served with a meal is taxable, but the same package purchased in addition to a meal is not.

Any questions should be directed to the Business Agent for the Advertising and Promotion Commission:

Lisa Stephens, CPA
715 Front Street
Conway, Arkansas, 72032
501-327-2834

Or:

Denise Hurd, City Clerk-Treasurer
Conway City Hall
1111 Main Street
Conway, Arkansas, 72032
501-513-3501



Advertising & Promotion Commission
Resolution No. 15-1

A RESOLUTION MEMORIALIZING, CLARIFYING AND REFINING THE STANDARD PROCESS FOR COLLECTION OF A&P TAXES AND ENFORCEMENT OF STATE LAWS AND CITY ORDINANCES APPLYING TO SAME, INCLUDING A PROCESS FOR REVOCATION OF A&P TAX PERMITS

WHEREAS, the Advertising and Promotion Commission of Conway, Arkansas (hereinafter "Commission") has recognized a need to document a standard process for handling delinquencies in remitting Advertising & Promotion taxes (hereinafter "A&P tax") collected, and other violations of city ordinances or state laws applicable to the assessment and collection of same; and

WHEREAS, Conway's Municipal Code Chapter 3.24 and Arkansas Code Annotated § 26-75-601 *et. seq.* authorizes establishes and authorizes the Commission to promulgate rules and policies to regulate the enforcement and collection of the A&P tax; and

WHEREAS, the Commission wishes to establish a standard process by which to address non-compliance with state laws and city ordinances governing the assessment and collection of A&P taxes, but which process shall not abrogate the Commission's ability to use its discretion in individual cases to determine the most appropriate method by which to ensure compliance

NOW, THEREFORE, BE IT RESOLVED BY THE ADVERTISING & PROMOTION COMMISSION OF THE CITY OF CONWAY, ARKANSAS THAT:

SECTION 1: The following standard process will be observed in cases of delinquencies in remitting A&P taxes collected, unless the Commission elects in individual cases to use its discretion to deviate from same, within the bounds of applicable law and ordinance:

- A. Thirty (30) days delinquent: When an A&P Tax Permit Holder is thirty (30) days delinquent in payment of any A&P Tax due, the Permit Holder will receive Notice of Delinquency and Proposed Assessment and Notice of Intent to Revoke A&P Permit. These notices will inform the Permit Holder of the proposed assessment of delinquent A&P tax. These notices will also inform the Permit Holder that a hearing will be held by the Commission at a specific date, time and place, at which the Commission will make a final assessment of the A&P tax due for the affected period and a decision whether to revoke the Permit Holder's A&P Tax Permit for delinquency or other failure to comply.
- B. Sixty (60) days delinquent: When an A&P Tax Permit Holder is approximately sixty (60) days delinquent in payment of any A&P Tax due, and for which delinquency the Permit Holder has received the notices described in Subsection A, above, the Commission will have a hearing at its next regularly scheduled meeting, at which a final assessment shall be made of the amount delinquent for the affected period, and a determination made whether to revoke the Permit Holder's A&P Permit. If a final assessment is approved, a Notice of Final Assessment will be executed and sent to the Permit Holder as soon as practicable after the meeting. If the Permit Holder's A&P Permit is revoked by vote of the Commission, then a Notice of Permit Revocation and Cease & Desist Letter, ordering the Permit Holder to cease transacting business in the City of Conway, will be executed and served on the Permit Holder as soon as practicable after the meeting.

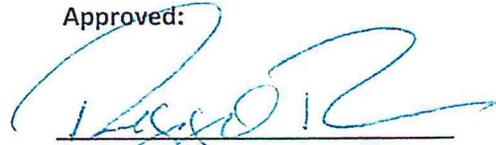
- C. Ninety (90) days delinquent: When an A&P Tax Permit Holder is ninety (90) days delinquent in payment of any A&P Tax due, a Certificate of Indebtedness shall be filed in the amount of the final assessment determined by the Commission. The Commission will also vote, at its next regularly scheduled meeting, on whether to authorize the City Attorney to take appropriate legal action if the Permit Holder's A&P Tax Permit has previously been revoked and the Permit Holder's business is still in operation.
- D. One hundred twenty (120) delinquent: When an A&P Tax Permit Holder is one hundred twenty (120) days delinquent in payment of any A&P Tax due, the City Attorney's Office will take such further legal action against the Permit Holder as may be approved by the Commission.

SECTION 2: All notices, summons or other documents will be sent in a manner to provide legally sufficient service, which includes notices sent via mail to most recent address provided by the Permit Holder and, to the extent practical and/or required, served by Conway Code Enforcement. These documents will originate from the Commission or the Commission's authorized designee.

SECTION 3: The Commission will continue to make use of other efforts available to it to enforce City ordinances and State laws, including but not limited to, directing Code Enforcement to issue citations and audit procedures on each situation of delinquency and/or noncompliance.

PASSED this 10th day of November, 2015.

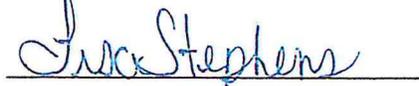
Approved:



Reggie Rose

President, A&P Commission

Attest:



Lisa Stephens
Witness

RECEIVED
11-2-15
K. Francis

301527

[Signature] D.C.



City of Conway, Arkansas
Ordinance No. O-11-99

AN ORDINANCE AMENDING THE CONWAY ZONING ORDINANCE O-94-54 ESTABLISHING STANDARDS FOR MOBILE VENDORS INCLUDING MOBILE FOOD VENDORS:

WHEREAS, it is desirable to establish standards for the regulation of mobile vendors and include these regulations in the Conway Zoning Ordinance;

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

SECTION 1. Definitions: The following words and phrases shall have the following meanings for the purposes of this ordinance and shall be added alphabetically to the Conway Zoning Ordinance, Article 301, Definitions, Section 301.2

Mobile Vendor: Any person or persons who operates or sells goods from a mobile cart, stationary cart, pedal cart, trailer, van, or similar chassis with or without an engine, or tent for a period of 15 days or greater per year. Mobile vendors who operate for 14 days or less per year shall not be regulated by this ordinance.

Mobile Food Vendor - Any person or persons who operates or sells food from a mobile cart, stationary cart, pedal cart, trailer, van, or similar chassis with or without an engine, or tent for a period of 15 days or greater per year. Mobile food vendors who operate for 14 days or less per year shall not be regulated by this ordinance.

SECTION 2. Zoning Districts: Mobile vendors and mobile food vendors shall be allowed as indicated in the following zoning districts. Addendum A to the Conway Zoning Ordinance O-94-54 shall be amended as follows:

Allowed Uses	R-1	R-2A	R-2	SR	MF-1	MF-2	MF-3	RMH	HR	C-1	C-2	C-3	C-4	O-1	O-2	O-3	I-1	RU-1	I-3	A-1	S-1	S-2
Mobile Vendor										X	X	X	X	C	C	C	C	C	C		C	C
Mobile Food Vendor										X	X	X	X	C	C	C	C	C	C		C	C

X = allowed by right C = conditional use permit

SECTION 3. Mobile Vendor/Mobile Food Vendor Regulations: The following text shall be added to the Conway Zoning Ordinance O-94-54 Article 601, Special Provisions, Section 6.01.28.

Mobile vendors and mobile food vendors shall be subject to the following regulations:

- A. Mobile vendors/mobile food vendors are permitted in the C-1, C-2, C-3, and C-4 zoning districts by right and O-1, O-2, O-3, I-1, RU-1, I-3, S-1, and S-2 districts with a conditional use permit.
- B. Mobile vendors/mobile food vendors shall not operate within City street rights of way, City parks, or other public properties without securing a franchise agreement from the City Council.
- C. Mobile vendors/mobile food vendors shall be located on private property.
- D. Mobile vendors/mobile food vendors must locate on a paved surface or approved parking area.
- E. Mobile vendors/mobile food vendors shall provide the city written permission from the property owner allowing operation of the mobile business for the duration of the time frame allowed by the permit.
- F. Mobile vendors/mobile food vendors shall obtain written permission from the property owner or property owner within 500 feet allowing the mobile vendor and their customers to access commercial

restroom facilities. Portable toilets may not be used to satisfy this requirement. Push carts or other similar equipment are exempt from this requirement.

- G. Mobile food vendors shall secure a health permit from the Arkansas State Health Department prior to operation.
- H. A permanent water or wastewater connection is prohibited.
- I. Electricity shall be from an electrical outlet via a portable cord that is in conformance with the City codes or a generator. All power supplies shall be protected from vehicular traffic.
- J. Mobile vendors/mobile food vendors shall possess any required City and State tax permits as required including the City of Conway prepared foods tax permit.
- K. Mobile vendors/mobile food vendors shall not operate a drive through service.
- L. Mobile vendors/mobile food vendors shall not locate in fire lanes, block the ingress/egress to the area, cause traffic hazards, block sidewalks, streets, alleys, or any other public place by causing people to congregate at or near the place where food or merchandise is being sold or offered for sale.
- M. All mobile food vendors shall provide garbage receptacles for customer use.
- N. During business hours and at the conclusion of business activities at a given location the mobile vendor shall clean the area around the mobile vending establishment of all trash, litter, and debris.
- O. The noise level of mechanical equipment or outside sound equipment used in association with a mobile establishment shall not be a nuisance.
- P. Any lighting must be inward, downward, and shrouded so that the light source is not directly visible.
- Q. Signage is limited to signs attached flat to the exterior of the mobile vending structure of equipment. Signage printed on umbrellas or similar may be utilized. "A" frame signs as defined in the Conway Sign Ordinance may also be utilized.
- R. Vending vehicles and/or equipment may not be larger than 180 s.f.
- S. Tents/Inflatable Structures may be used for temporary events or sales. A building permit must be obtained along with Fire Marshall approval for tents larger than 200 square feet in area.
- T. A recreational vehicle may not be used for commercial activity.
- U. Vehicle sales offices are not considered mobile vendors and may not operate from a mobile vending structure. This prohibition excludes special event "tent" sales lasting 15 days or less in any 12 month period.
- V. The sale of portable buildings must comply with the regulations of this section. Portable building sales must occur from a paved parking surface. Portable buildings may not be used as sales offices.
- W. Seasonal sales such as Christmas tree sales, flower sales, etc. must comply with the regulations of this section.

SECTION 4. EXEMPTIONS. The following activities, businesses, and/or persons, as such are commonly known, shall be exempt from mobile vendor/mobile food vendor regulations. However, this exemption shall not be construed to limit or restrict the application of other laws and regulations pertaining to such activities, businesses and/or persons:

- A. Newspaper couriers.
- B. Lemonade stands.
- C. Stands used to sell or distribute flowers, fruit, vegetables, produce, or plants grown on the property where the stand is located.
- D. Delivery or distribution of food, goods or products ordered or purchased by customers from a point of sale other than a mobile vendor/mobile food vendor.
- E. Delivery or distribution of food by or for any not-for-profit organization, governmental agency, or other charitable organization.
- F. Ice Cream Truck Vendors as defined and regulated in Ordinance O-07-85 and amending ordinance O-07-109. Ordinance O-07-85 regulates the sale of frozen desserts from truck or cart vendors within the street right of way vending from a location for 15 minutes or less.
- G. Catering trucks vending to businesses from one location for 30 minutes or less.
- H. Farmer's market sales.

SECTION 5: Mobile Vendor Site Permit. Mobile vendors/mobile food vendors utilizing a mobile structure where employees primarily work from within the structure and food or goods are prepared and/or dispensed through a window are required to obtain a mobile vendor site permit prior to moving the mobile structure onto a

parcel or lot. This permit is valid for 12 months and must be renewed annually. The fee shall be assessed as a "Temporary Structure" fee of \$250.

SECTION 6: Special Event Mobile Vendor Site Permits. The Mayor may grant special event mobile vendor site permits for events which are 15 or fewer days in length and which are community-wide events which bring benefits to the community as a whole. At the Mayor's discretion, no fees will be paid for these permits and the permits may be issued for mobile vendors which may be situated in the public right-of-way and/or which may not meet the Zoning Ordinance requirements for building setbacks. At the Mayor's discretion, a tent or awning, or in special circumstances, a building which exceeds the dimensional requirements of this ordinance, may be granted a special event mobile vendor site permit.

SECTION 7: Parking. In no instance, with the exception of special event vendor site permits as outlined above, may the mobile vendor/mobile food vendor reduce the number of available parking spaces below the minimum required for the primary business or other businesses on that same lot.

PASSED this 22nd day of November, 2011.

Approved:



Mayor Tab Townsell

Attest:



Michael O. Garrett
City Clerk/Treasurer



Conway Advertising & Promotion Commission Gross Receipts Tax Monthly Report

IMPORTANT: This report must be received by Conway A & P Commission on/or before the 30th day of the month (otherwise add penalty as instructed)

A & P Tax Permit Number Issued by City: _____

Business Name: _____

Owner's Name: _____

Address 1: _____

Address 2: _____

City: _____ State: _____ Zip: _____

Payment for the Month of _____, Year _____

(Each month must be reported separately. Report must be filed even if NO tax is due.)

Taxable Gross Receipts	\$ _____
Tax (2% of gross)	\$ _____
Less 2% of Tax (if paid by 20 th of month)	\$ _____
Total	\$ _____
Penalty (5% after the 30 th day of the month)	\$ _____
Total Tax Due	\$ _____

Make checks payable to Conway A & P Commission and mail or deliver to:

<p>BY MAIL: Conway A & P Commission PO Box 1404 Conway, AR 72033 – 1404</p>	<p>IN PERSON: Centennial Bank – Main Office 620 Chestnut Conway, AR 72032</p>
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To make a secure online payment visit:

conwayark.com > Forms and Resources > Pay A&P Taxes Online

I hereby state, avow, and affirm that the statements here are full, true and correct as required by provisions of Ark. Code Ann. 26-75-601 and City Ordinance No. 0-05-142, such regulations promulgated thereunder by the Conway Advertising & Promotion Commission.

Date Prepared: _____

Signature of Owner, Officer, or Authorized Agent: _____

For questions or comments, please contact:

<p>Jill Walden Lisa Stephens CPA, PLC 715 Front Street Conway, AR 72032 501-327-2834</p>	<p>Denise Hurd Conway City Clerk Conway City Hall 501-513-3501</p>
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INSTRUCTIONS

1. All information supplied in this report should be on the basis of actual records and all records, including books of account, invoices, credit memoranda, refund slips and all other evidence of every kind which substantiate and prove the accuracy of the return as made on this form are required to be kept for (3) three years, and open to examination of Conway Advertising & Promotion Commission, or agent.
2. Unless otherwise specially instructed the total receipts to be reported in this return for the purpose of computation of tax due are the gross receipts from prepared food and drink.
3. Due Date – It is the duty of the Taxpayer to deliver the return on this form and payment to the Conway A & P Commission on or before the 20th day of each month for the preceding calendar month. The A & P Tax is due and payable as of the first day of each calendar month and shall be deemed delinquent if not paid on or before the first day of the next calendar month. (For example; the A & P Tax for January is due the first day of February; however, it is not delinquent until the second day of March.)
4. Discount – If the A & P Tax is delivered to the Conway A&P Commission on or before the 20th day of the month in which it is due, a 2% discount can be claimed on the tax due. (For example; if there is a \$100.00 tax due for the month of January, the taxpayer is allowed a \$2.00 discount if the tax is paid on or before February 20th, or if envelope is postmarked on or before February 20th.)
5. Penalties & Tax – If the tax is not paid by the delinquency date (the second day of the month after the month in which the tax is due), a 5% penalty will be charged for each month past due up to 35% in aggregate; in addition to the penalty assessed simple interest on any unpaid A & P tax shall be assessed at the rate of 10% per annum from the delinquency date.
6. Acceptance by the Conway A & P Commission of the tax remitted with any return shall not be conclusive as to the correctness of the matters set forth by the taxpayer in the return and shall not be finally determinative of the amount of tax liability.
7. A report **must** be filed even if there is no tax due.

COMMENTS OR QUESTIONS PLEASE CONTACT:

Lisa Stephens Certified Public Accountant, PLC
715 Front Street
Conway, AR 72032
(501) 327-2834

OR

Denise Hurd, Conway City Clerk
Conway City Hall
(501) 450-6100

Food and Alcohol Taxes in Conway,
Arkansas Effective 4/1/2023

State	6.50%
City	1.75%
County	.50%
Total Base Tax	8.75%

Faulkner County is a “dry” county; restaurants in Conway are only allowed to sell alcohol once they have obtained a Private Club Permit from the Arkansas Alcohol Beverage Control Board.

Mixed Drinks/Liquor (holders of private club permits)

State Sales Tax -	6.50%
City Tax –	1.75%
Faulkner County Tax -	.50%
State on premise retail Tax –	10.00%
State Add'l Mixed Drink Tax -	4.00%
Conway Beverage Tax	5.00%
Total =	27.75%

Beer & Wine

State Sales Tax –	6.50%
City Sales Tax -	1.75%
State On Premise Retail Tax -	10.00%
Faulkner County Tax -	.50%
Conway Beverage Tax –	5.00%
Total =	23.75%

Prepared Food

State Sales Tax –	6.50%
City Sales Tax -	1.75%
Faulkner County Tax -	.50%
Conway A&P Prepared Food Tax –	2.00%
Total =	10.75%