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ORDINANCE NO. O-05-97**AN ORDINANCE LEVYING A TAX UPON THE GROSS RECEIPTS FROM THE SALE OF PREPARED FOOD AND BEVERAGES FOR THE BENEFIT OF ADVERTISING AND PROMOTION OF THE CITY OF CONWAY AND FOR PARK FACILITIES, AND FOR OTHER PURPOSES:**

WHEREAS, by Arkansas state statute 26-75-602, cities of the first class may, by ordinance, levy a tax not to exceed three percent upon the gross receipts received by restaurants, cafes, cafeterias, delicatessens, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store-restaurants, and similar business from the sale of prepared food and beverages for on or off-premises consumption, but not applying to organizations qualified under section 501(c)(3) of the federal Internal Revenue Code; and

WHEREAS, Ark. Code Ann. § 26-75-606 provides that funds credited to the city advertising and promotion fund may, in addition to the stated purposes and uses pursuant to that subchapter, funds generated by such levy may be used, spent, or pledged by the Commission for construction, reconstruction, repair, maintenance, improvement, equipping, and operation of public recreation facilities including but not limited to facilities constituting city parks; and

WHEREAS, the Commission has indicated its willingness to designate a portion of the proceeds of such tax levy and contingent upon the Commission entering into a formal agreement with the City of Conway stipulating that a portion of the funds generated hereunder will be deposited into a special fund to be used for the development, purchase and construction of Conway parks to be disbursed by the Mayor upon approval of the City Council.

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

SECTION 1. The City of Conway shall levy a one percent (1.00%) tax upon prepared food and beverages as authorized by state law. Of this levy, twenty five percent (or \$0.25) shall be used at the discretion of the Commission, and seventy five percent (or \$0.75) shall be used by the Commission at the direction of the Mayor upon approval of the City Council for the development, purchase and construction of the Conway parks and recreation facilities.

SECTION 2. The one percent tax described in this section shall be paid by the persons, firms and corporations liable therefore and shall be collected by 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.

SECTION 3. The Commission is hereby authorized to:

1. Assess penalties and interest against taxpayers who fail to timely report or pay the tax. The penalty is equal to five percent (5%) of the unpaid tax amount per month not to exceed a total assessment of thirty-five percent (35%) of the unpaid tax. Simple interest on unpaid taxes shall be assessed at the rate of ten percent (10%) per annum.
2. Assess unpaid or unreported tax within three (3) years of the date the tax is due.

3. Provide for judicial relief from proposed assessments in accordance with state law (Arkansas state statute 26-75-603 (d))
4. Issue certificates of indebtedness in accordance with state law.
5. The commission shall have all remedies and may take all proceedings for the collection of the tax which may be taken for the recovery of a judgment at law.
6. 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 the 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 4. All ordinances in conflict herewith are repealed to the extent of the conflict.

PASSED this 16th day of August, 2005.

APPROVED:



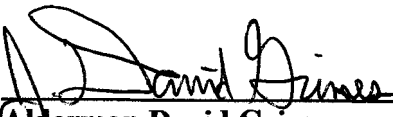
Mayor Tab Townsell

ATTEST:



City Clerk/Treasurer Michael O. Garrett

Sponsor:



Alderman David Grimes