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City

**ORDINANCE NO. O-17-93**

AN ORDINANCE CALLING AND SETTING A DATE FOR A SPECIAL ELECTION ON THE QUESTION OF THE LEVY OF A GENERAL LOCAL SALES AND USE TAX AT THE RATE OF THREE-EIGHTHS OF ONE PERCENT (0.375%) WITHIN THE CITY FOR THE PURPOSE OF MAKING IMPROVEMENTS TO STREETS WITHIN THE CITY, WHICH TAX SHALL CEASE AS OF MARCH 31, 2023; PRESCRIBING OTHER MATTERS PERTAINING THERETO; AND DECLARING AN EMERGENCY.

**WHEREAS**, the City Council of the City of Conway, Arkansas (the "City") has determined that additional revenues are necessary in order to pay the costs of critical improvements to streets within the City ; and

**WHEREAS**, Title 26, Chapter 75, Subchapter 2 of the Arkansas Code of 1987 Annotated (the "Municipal General Sales and Use Tax Act") authorizes the levy of general citywide sales and use taxes of up to one percent (1.000%) in increments of one-eighth of one percent (0.125%); and

**WHEREAS**, if approved by the electors of the City, the City has determined to levy a three-eighths of one percent (0.375%) general citywide sales and use tax (the "Sales and Use Tax") under the authority of the Municipal Sales and Use Tax Act, such Sales and Use Tax to cease and shall no longer be levied as of March 31, 2023; and

**WHEREAS**, receipts of the Sales and Use Tax will be utilized solely for the purpose of improving, constructing, repairing and widening of certain streets within the City, which may include related planning and design, roundabouts, sidewalks and multi-use pathways, traffic signals and controls, curbing, guttering and drainage improvements, right-of-way acquisition and utility relocation, and providing for matching state and federal funds for such purposes; and

**WHEREAS**, the purpose of this Ordinance is to call a special election on the levy by the City of the Sales and Use Tax;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Conway, Arkansas:

**Section 1.** That under the authority of the Municipal General Sales and Use Tax Act and subject to approval by the electors of the City of the question set forth in Section 3 below, there is hereby levied (i) a sales tax at the rate of three-eighths of one percent (0.375%) on the gross receipts from the sale at retail within the City of all items and services which are subject to taxation under the Arkansas Gross Receipts Act of 1941, as amended (Arkansas Code of 1987 Annotated §26-52-101 *et seq.*), and (ii) an excise (or use) tax at the rate of three-eighths of one percent (0.375%) on the storage, use, distribution or other consumption within the City of tangible personal property or taxable services subject to taxation under the Arkansas Compensating Tax Act of 1949, as amended (Arkansas Code of 1987 Annotated §26-53-101 *et seq.*), on the sale price of the property or, in the case of leases or rentals, on the lease or rental price (collectively, the "Sales and Use Tax"). The Sales and Use Tax shall be levied, and the net collections received after deduction of the administrative charges of the State of Arkansas and

required rebates shall be utilized for the payment of expenses associated with improving, constructing, repairing and widening of certain streets within the City. The Sales and Use Tax shall be levied and collected only on the gross receipts, gross proceeds or sales price in the maximum amount allowed from time to time under Arkansas law, subject to rebates and limitation as required for certain "single transactions" as from time to time required by Arkansas statutes. The levy and collection of the Sales and Use Tax shall commence on and as of such date as provided by Arkansas law and shall cease as of March 31, 2023.

**Section 2.** That there be, and there is hereby called, a special election to be held on Tuesday, November 14, 2017, at which election there shall be submitted to the electors of the City the question of the levy of the Sales and Use Tax.

**Section 3.** That the question shall be placed on the ballot for the special election in substantially the following form:

**SPECIAL ELECTION ON CITY SALES AND USE TAX LEVY**

There is submitted to the qualified electors of the City of Conway, Arkansas, the question of the levy of a general citywide sales and use tax at the rate of three-eighths of one percent (0.375%) (the "Sales and Use Tax") pursuant to Title 26, Chapter 75, Subchapter 2 of the Arkansas Code of 1987 Annotated (the "Municipal General Sales and Use Tax Act"). If approved by the electors of the City, receipts of the Sales and Use Tax will be utilized solely for the purpose of improving, constructing, repairing and widening of certain streets within the City. If approved, the levy and collection of the Sales and Use Tax shall commence on and as of such date as provided by Arkansas law and shall cease as of March 31, 2023.

Vote on the question by placing an "X" in one of the squares following the question, either for or against:

FOR adoption of a three-eighths of one percent (0.375%) local sales and use tax within the City of Conway, Arkansas for the purpose of improving, constructing, repairing and widening of certain streets within the City, which may include related planning and design, roundabouts, sidewalks and multi-use pathways, traffic signals and controls, curbing, guttering and drainage improvements, right-of-way acquisition and utility relocation, and providing for matching state and federal funds for such purposes, such tax to cease as of March 31, 2023.....

AGAINST adoption of a three-eighths of one percent (0.375%) local sales and use tax within the City of Conway, Arkansas for the purpose of improving, constructing, repairing and widening of certain streets within the City, which may include related planning and design, roundabouts, sidewalks and multi-use pathways, traffic signals and controls, curbing, guttering and drainage improvements, right-of-way acquisition and utility relocation, and providing for matching state and federal funds for such purposes, such tax to cease as of March 31, 2023.....



**Section 4.** That the election shall be held and conducted and the vote canvassed and the results declared under the law and in the manner now provided for Arkansas municipal elections unless otherwise provided in the Municipal General Sales and Use Tax Act, and only qualified voters of the City shall have the right to vote at the election.

**Section 5.** That a copy of this Ordinance shall be given to the Faulkner County Clerk and the Faulkner County Board of Election Commissioners at least sixty (60) days prior to the date of the special election so that the necessary election officials and supplies may be provided. A certified copy of this Ordinance shall also be provided to the Director of the Department of Finance and Administration and the Treasurer of the State of Arkansas as soon as practical.

**Section 6.** That the results of the special election shall be proclaimed by the Mayor, and his proclamation shall be published one time in *The Log Cabin Democrat*. The proclamation shall advise that the results as proclaimed shall be conclusive unless attacked in the Circuit Court of Faulkner County within thirty (30) days after the date of publication of the proclamation.


**Section 7.** That the Mayor and the City Clerk, for and on behalf of the City, be, and they hereby are authorized and directed to do any and all things necessary to call and hold the special election as herein provided and, if the levy of the Sales and Use Tax is approved by the electors, to cause the Sales and Use Tax to be collected in accordance with the Municipal General Sales and Use Tax Act, and to perform all acts of whatever nature necessary to carry out the authority conferred by this Ordinance.

**Section 8.** That all ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.


**Section 9.** That it is hereby ascertained and declared that there is a critical need to obtain an additional source of revenue to pay for critical improvements to streets within the City in order to promote and protect the health, safety and welfare of the inhabitants of the City. It is, therefore, declared that an emergency exists and this Ordinance being necessary for the immediate preservation of public peace, health and safety shall be in force and effect immediately from and after its passage.

PASSED AND APPROVED this 12<sup>th</sup> day of September, 2017.

Approved:

By:   
Mayor Bart Castleberry

Attest:

By:   
Michael O. Garrett  
City Clerk/Treasurer

(S E A L)

### CERTIFICATE

The undersigned, City Clerk of the City of Conway, Arkansas, hereby certifies that the foregoing is a true and perfect copy of an Ordinance adopted at a regular meeting of the City Council of the City of Conway, Arkansas, held at 6:30 p.m. on September 12<sup>th</sup>, 2017.

DATED: September 13<sup>th</sup>, 2017



Michael O. Garrett  
City Clerk/Treasurer



#### CERTIFICATE of RECORD

**Instrument #201715834**

Real Estate Book  
Ordinance

Filed: 10/06/2017 08:30 am  
Faulkner County, Arkansas  
Crystal Taylor, Circuit Clerk  
By: Liz Baumgartner, D.C.

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