

ORDINANCE NO. O-20-10

AN ORDINANCE ESTABLISHING A THREE PERCENT (3%) TAX UPON THE GROSS RECEIPTS OF HOTELS AND MOTELS AND OTHER LODGING ESTABLISHMENTS IN THE CITY OF ARKADELPHIA, ARKANSAS FOR THE CITY'S ADVERTISING AND PROMOTIONAL NEEDS, AND FOR OTHER PURPOSES.

WHEREAS, the City Board has determined that there is a need to advertise and promote the City of Arkadelphia, Arkansas; and

WHEREAS, the levy of a hotel and motel tax is essential to the development of advertising and promotion of the City of Arkadelphia, Arkansas; and

WHEREAS, the City is authorized under ACA §26-75-601 et. seq., to levy a gross receipts tax of three percent (3%) upon the gross receipts of hotels, motels and lodging establishments within the city limits; and

WHEREAS, under ACA, §26-75-605, the City is authorized to create an Advertising and Promotion Commission to collect and determine use of the tax funds collected.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY BOARD OF DIRECTORS OF THE CITY OF ARKADELPHIA, ARKANSAS:

SECTION 1: (a) A tax of three percent (3%) is hereby levied on the portion of the gross receipts or gross proceeds received from the renting, leasing or otherwise furnishing of hotel, motel, house, cabin, bed and breakfast, campground, condominium or other such lodging rental accommodations for sleeping, for profit in the City of Arkadelphia, Arkansas, but such accommodations shall not include the rental or lease of such accommodations for periods of thirty (30) days or more; and

SECTION 2: (a) The three percent (3%) tax described in this ordinance hereof shall be paid by the persons, firms, and corporations liable therefor and shall be collected by the Advertising and Promotions Commission of the City of Arkadelphia (herein after called the "Commission"), or by a designated agent of the Commission, in the same manner and at the same time as the tax is levied by the Arkansas Gross Receipts Act of 1941, ACA §26-52-101, et. seq. (ACA §26-75-603 (a)(1)).

on forms provided by the twentieth (20th) day of each month all collections of the tax for the preceding month 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 of 1941 §26-52-101 et seq., and the Arkansas Tax Procedure Act, §26-18-101 et seq., so far as practicable, will be applicable with respect to the enforcement and collection of the tax levied pursuant to the authority of ACA §26-75-603. The administration and enforcement, and all actions shall be by and through the Commission officials or designated agents.

SECTION 3: (a) There is hereby created the City of Arkadelphia Advertising and Promotions Commission, which shall be composed of seven (7) members, each of whom shall reside within the city, unless otherwise provided, as follows:

1. Four (4) members shall be owners or managers of a business in the tourism industry of which two must reside in the city and two may reside outside the city but within the county, at least three (3) of whom shall be owners or managers of hotels, motels or restaurants, and who shall serve for staggered terms of four (4) years; and

2. Two (2) members of the Commission shall be members of the governing body, selected by the governing body and shall serve at the will of the governing body; and

3. One (1) member shall be from the public at large who reside in the City and shall be nominated by the City Manager and approved by the City Board of Directors for a term of four (4) years, in accordance with the applicable Arkansas law.

(b) The four (4) tourism industry positions provided for in subdivision (a)(1) of ACA §26-75-605(a)(1) shall be nominated by the City Manager and approved by the City Board of Directors to staggered terms as follows:

- (A) one (1) member will serve for a term of one (1) year;
- (B) one (1) for a term of two (2) years;
- (C) one (1) for a term of three (3) years; and
- (D) one (1) for a term of four (4) years.

years. Vacancies on the commission, whether resulting from expiration of a regular term or otherwise, in any of the four tourism industry positions or in the at-large position shall be filled by recommendation of the remaining members of the Commission, with the approval of the City Board of Directors.

SECTION 4: (a) All local taxes collected pursuant to this ordinance shall be used for the following purposes:

1. The use or pledge of all, or any part of, the revenues derived from the tax, for the purposes prescribed in this ordinance shall be for the advertising and promotion of the City of Arkadelphia, Arkansas. This revenue shall be used or pledged for the purposes authorized in this ordinance and in accordance with ACA §26-75-606 only upon the recommendation of the Commission.

SECTION 5: Penalties: Persons or entities liable for payment of the taxes levied by this ordinance shall be subject to the assessment of penalties and interest as follows:

- (a) A penalty equal to five percent (5%) of the unpaid 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 twelve (12%) per annum.
- (b) In addition to any civil penalties provided for 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 a sum not to exceed one hundred dollars (\$100) for each additional thirty (30) day period the said violation continues.

SECTION 5: If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provision of this ordinance are declared severable.

SECTION 6: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 7: This ordinance shall be effective upon and after its passage and publication.

PASSED ON THIS 15th DAY OF December, 2020

Scott Byrd, Mayor

Jessica Davis, City Clerk

NOT PART OF ORDINANCE

For Board Reference Only

As Section 4 references the ACA under which the funds can be used, I thought it would be advantageous for you to have a copy of that section of the code for your perusal.

2012 Arkansas Code
Title 26 - Taxation
Subtitle 6 - Local Taxes
Chapter 75 - Municipal Sales and Use Taxes
Subchapter 6 - -- Advertising and Promotion Commission Act
§ 26-75-606 - Use of funds collected.

Universal Citation: [AR Code § 26-75-606 \(2012\)](#)

(a) (1) (A) In the manner as shall be determined by the municipal advertising and promotion commission, all funds credited to the city advertising and promotion fund pursuant to this subchapter shall be used for the:

(i) Advertising and promoting of the city and its environs;

(ii) Construction, reconstruction, extension, equipment, improvement, maintenance, repair, and operation of a convention center;

(iii) Operation of tourist promotion facilities in the city or the county where the city is located if the city owns an interest in the convention center or facility, and facilities necessary for, supporting, or otherwise pertaining to, a convention center; or

(iv) Payment of the principal of, interest on, and fees and expenses in connection with bonds as provided in this subchapter.

(B) The commission may engage such personnel and agencies and incur such administrative costs as it deems necessary to conduct its business.

(2) (A) The commission is the body that determines the use of the city advertising and promotion fund.

(B) 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, the commission may use its funds derived from the hotel and restaurant tax.

(3) (A) The commission may purchase, own, operate, sell, lease, contract, or otherwise deal in or dispose of real property, buildings, improvements, or facilities of any nature in accordance with this subchapter.

(B) If the commission is dissolved, the city shall assume the authority under subdivision (a)(3)(A) of this section.

(b) (1) (A) Any city of the first class that may levy and does levy a tax pursuant to this subchapter may use or pledge all or any part of the revenues derived from the tax for the purposes prescribed in this subchapter or for the operation of tourist-oriented facilities, including, but not limited to, theme parks and other family entertainment facilities or for the retirement of bonds issued for the establishment and operation of other tourist-

oriented facilities, including, but not limited to, theme parks and other family entertainment facilities.

(B) These revenues shall be used or pledged for the purposes authorized in this subsection only upon approval of the commission created pursuant to this subchapter.

(2) Funds credited to the city advertising and promotion fund pursuant to this subchapter may be used, spent, or pledged by the commission, in addition to all other purposes prescribed in this subchapter, on and for the construction, reconstruction, repair, maintenance, improvement, equipping, and operation of public recreation facilities in the city or the county where the city is located if the city owns an interest in the center or facility, including, but not limited to, facilities constituting city parks and also for the payment of the principal of, interest on, and fees and expenses in connection with bonds as provided in this subchapter in the manner as shall be determined by the commission for the purpose of such payment.

(c) (1) All local taxes levied as authorized in § 26-75-602(a) shall be credited to the city advertising and promotion fund and shall be used for the purposes described in subsections (a) and (b) of this section.

(2) The taxes shall not be used:

(A) For general capital improvements within the city or county;

(B) For the costs associated with the general operation of the city or county; or

(C) For general subsidy of any civic group or the chamber of commerce.

(3) However, the commission may contract with such groups to provide to the commission actual services that are connected with tourism events or conventions.

(4) The authorization and limitations contained in this subsection 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.