

ORDINANCE NO. 225

AN ORDINANCE ESTABLISHING ONE PERCENT TAX UPON THE GROSS RECEIPTS OF HOTEL AND MOTEL ACCOMMODATIONS FOR PROFIT, AND RESTAURANTS, CAFES AND FOOD SERVICE BUSINESSES IN THE CITY LIMITS OF MARION, ARKANSAS; AND FOR OTHER PURPOSES

BE IT ORDAINED by the City Council of the City of Marion, Arkansas:

Section 1. Definitions: Food Services Businesses - Restaurants, Cafes, Cafeterias, Delis, Drive-In Restaurants, Carry-Out Restaurants, Concession Stands, Convenience Stores, Grocery Store Restaurants, and any business that derives revenues or proceeds from the sale of prepared food and beverages for on or off premises consumption, but these businesses shall specifically not include tax exempt fraternal or charitable organizations qualified under Section 501(c)(3) of the Federal Internal Revenue Code.

Section 2. Hotel/Motel Tax. There is hereby levied upon every person, firm or corporation, a tax of one percent (1%) upon the gross receipts or gross proceeds from the renting, leasing or otherwise furnishing of hotel, motel or short-term condominium rental accommodations for sleeping, meeting or party room facilities for profit in the City of Marion, but such accommodations shall not include the rental or lease of such accommodations for periods of thirty (30) days or more.

Section 3. Restaurant Tax. There is hereby levied upon every person, firm or corporation, a tax of one percent (1%) upon the gross receipts or gross proceeds received by any food service business, as defined above.

Section 4. It shall be the responsibility of the Advertising and Promotion Commission established below, or by a designated agent of the Commission, to prescribe the forms for reporting this tax under the guidelines and provisions of Ark. Code Ann. Section 26-75-601, et seq., as amended by Act 626 of 1989 and Act 650 of 1989.

Section 5. Collection of Tax. The tax so levied shall be paid by the persons, firms and corporations liable therefor, and

shall be collected by the Advertising and Promotion Commission established below, 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, Ark. Code Ann. Section 26-52-101, et seq., as amended, and the person paying said tax shall report and remit the tax upon forms provided by and as directed by the Advertising and Promotion Commission of the City of Marion, Arkansas. The authority for forms of notice, assessment, procedures and collection shall be pursuant to Ark. Code Ann. Section 26-75-601, as amended, but the administration and enforcement and all actions shall be by and in the name of the Advertising and Promotion Commission of the City of Marion, Arkansas.

Section 6. All taxes, interest, penalties and costs collected pursuant to the tax levied by this Ordinance shall be credited to the City's advertising and promotion fund, which is hereby created in this Ordinance.

Section 7. Advertising and Promotion Commission. There is hereby created a City Advertising and Promotion Commission to be composed of seven members, of which four members shall be hotel, motel or restaurant owners or managers, and who shall be appointed by the Mayor, with the approval of the City Council of the City of Marion, for staggered terms of four (4) years. The above four members of the Commission shall, at the first meeting of the Commission, draw lots for terms so that one member shall serve for one year, one member shall serve for two years, one member shall serve for three years, and one member shall serve for four years. All successors of such members shall be appointed for a term of four full years. The remaining three members of the Commission shall consist of the Mayor and two members of the City Council, selected by the City Council of Marion.

Section 8. All funds credited to the City Advertising and Promotion Fund pursuant to this Ordinance shall be used in the manner determined by the Advertising and Promotion Commission, provided that said funds shall be used for advertising and pro-

moting the City and its environs. In addition, the funds may be used for the construction, reconstruction, extension, equipment, improvement, maintenance, repair and operation of a convention center in the City of Marion and facilities necessary for, supporting or otherwise pertaining to, a convention center, or for the payment of the principal of, interest on and fees and expenses in connection with bonds, as provided by Arkansas law, and may further be used for the construction, reconstruction, repair, maintenance, improvement, equipping and operation of public recreation facilities in said City and, in addition, may be used for any purpose authorized by Act 650 of 1989 of the Acts of Arkansas.

All local taxes levied above and credited to the City Advertising and Promotion Fund shall be used for the above purposes, except 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;
- (3) for general subsidy of any civic groups or Chamber of Commerce, except the Advertising and Promotion Commission may contract with such groups to provide actual services to the Commission that are connected with tourism, events or conventions;
- (4) The authorization and limitations contained herein shall be reasonably construed so as to provide funds for promoting and encouraging tourists and conventions while not allowing such special revenues to be utilized for expenditures that are normally paid from general revenues of the City.

Section 9. Any person, firm or corporation who fails to pay the gross receipts or gross proceeds tax under the provisions of this Ordinance shall be guilty of a Class C Misdemeanor and shall be fined an amount not to exceed \$100.00 or confined in the city jail for a time not to exceed thirty (30) days, or both, in the judgment of the Court.

Section 10. If any provision of this Ordinance or the application thereof to any person or circumstance 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 provisions of this act are declared to be severable.

Section 11. All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

PASSED AND APPROVED this 28 day of Nov., 1989.

Earl S. ...
Mayor

ATTEST:

John Baratti Jr.
City Clerk