

ORDINANCE #: 827-2017

AN ORDINANCE OF THE CITY OF DRY RIDGE, GRANT COUNTY, KENTUCKY, REPEALING THE PREVIOUS OCCUPATIONAL LICENSE FEE ORDINANCES AND ESTABLISHING AND LEVYING A REVISED OCCUPATIONAL LICENSE FEE ON EMPLOYEES FOR THE PRIVILEGE OF ENGAGING IN WORK ACTIVITIES WITHIN THE CITY OF DRY RIDGE, KENTUCKY, ALL FOR THE HEALTH, SAFETY, WELFARE AND CONVENIENCE OF THE INHABITANTS, RESIDENTS AND CITIZENS OF THE CITY OF DRY RIDGE, KENTUCKY.

WHEREAS, the City of Dry Ridge, Kentucky, is a Kentucky home rule city and governmental entity existing under charter and acts and statutes of the Commonwealth of Kentucky so providing services municipal to its citizens, residents and all persons within or coming within the limits of the said city, all of which require the use of city revenues from the city's general revenues and other dedicated funds; and

WHEREAS, the City of Dry Ridge has determined that it requires additional revenues general by which to continue to provide municipal services to its citizens, residents and those other persons within or coming within the limits corporate of the city; and, therefore, under the authority of Section 181 of the Constitution of the Commonwealth of Kentucky, and KRS 92.280(2), it intends hereby to raise additional revenues by the levy and imposition of an occupational license and licensing fee system on employees with all revenues and monies generated thereby and therefrom being dedicated to the general fund of the City of Dry Ridge, Kentucky, for all such purposes and uses as may be determined by the city.

WHEREAS, the City of Dry Ridge has determined that the previously enacted occupational license tax policies and procedures should be revised to better meet the needs of the City and better serve the citizens of Dry Ridge.

BE IT HEREBY ORDAINED BY THE CITY OF DRY RIDGE AS FOLLOWS:

SECTION ONE

The following ordinances are hereby repealed and replaced 604-2000, 710-2007, 730-2008, 775-2013, 776-213 and 781-2013.

SECTION TWO

Dedication of Revenues.

All monies and revenues generated by the occupational license fees levied and imposed by this Ordinance, shall and the same are hereby dedicated to the General Fund of the City of Dry Ridge, Kentucky, as shown upon the budgets of the City so adopted and approved by the City Council of the City of Dry Ridge, Kentucky.

SECTION THREE

Administration.

This Ordinance shall be administered by the City of Dry Ridge, Kentucky, through the principal office of its City Clerk/Treasurer, or other designated or specified city employees, personnel, agents or designees. The City of Dry Ridge, Kentucky, is hereby authorized and empowered to engage or employ other persons or agencies as it deems necessary to administer and enforce the herein Ordinance.

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SECTION FOUR

Effective date of ordinance.

The requirement of an employee occupational license and the imposition of an occupational licensing fee upon employees established and fixed hereinafter, shall be effective as of February 13, 2017.

SECTION FIVE

Requirement of an employee occupational license.

For the right and privilege to be employed or engage in any manner of work activities, as an employee or employed person, within the City of Dry Ridge, Kentucky, there is hereby and here under established that all such employees and employed persons obtain from the City of Dry Ridge, Kentucky, an annual employee occupational license, unless specifically exempt under this Section.

All sworn public safety officials, including all law enforcement, fire department and EMS/EMT personnel working for a governmental (public) agency are hereby exempt from the occupational/payroll tax. In the event another governmental agency imposes a payroll tax upon employees of the City who are within the exempted class, then the exemption for the employees of that governmental agency shall be repealed and any such employees shall be subject to the payroll tax. Individuals employed by a private (non-public) entity are not exempt from the occupation/payroll tax.

SECTION SIX

Levy of employee occupational licensing fees.

For the privilege of being employed or engage in any occupation, business, trade, profession, or other activity within the City of Dry Ridge as an employee, the employee shall pay an occupational licensing fee of one and one-quarter percent (1¼ %) of all wages, salaries, commissions, or other compensation earned by such employee in the city for work done or services performed or rendered within the City of Dry Ridge, Kentucky.

SECTION SEVEN

Employer's duties and responsibilities.

It shall be the duty and responsibility of an employer having employees subject to the herein occupational licensing and occupational licensing fee provisions to:

Withhold the herein employee occupational licensing fees due here under from the employer's employee's compensation had or derived from work activities within the City of Dry Ridge.

On the forms and returns provided by the City of Dry Ridge, timely remit and pay unto the City of Dry Ridge all such occupational licensing fees due to the city for the employer's employee's work activities within the City of Dry Ridge.

Cooperate with and provide the City of Dry Ridge with additional data and information germane hereto as may be required by the city in order to administer the herein Ordinance.

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SECTION EIGHT

Making of return and payment of licensing fees.

Each quarterly return shall be made by the employer and filed with the City Clerk of the City of Dry Ridge not later than close of business the last day of the calendar-month following the end of the reporting quarter. For purpose of meeting the deadline requirement of this section, post marks are not acceptable as proof of compliance.

All payments of employee occupational licensing fees due under the employer's return shall be made and remitted by cash, credit card, business check, certified check, cashier's check, or money order made payable to the City of Dry Ridge.

SECTION NINE

Confidentiality of records and information.

All returns and records of the employer and employee, including the names and identities of employer's employees, shall remain confidential and be not subject to public inspection, review or duplication, except the amount of monies paid for occupational licensing fees under a return is deemed to be a public record subject to public review and inspection under Kentucky's Open Records Act.

SECTION TEN

Inspection and audit of employers and employee record.

For cause, the City of Dry Ridge shall have the right to inspect and audit the records of an employer and its employees to insure compliance with this ordinance and insure due and full payment of all employee occupational licensing fees due here under to the City of Dry Ridge.

To substantiate the employer's returns made for a calendar-year, or any part of a calendar-year, the employer shall be required to file and attach a Form W-2 and W-3 to the return made for the quarter ending in each December of each calendar-year.

SECTION ELEVEN

Penalty and interest for late filings.

- (A) Any and every employer who fails to file a return or pay employees' tax on or before the due date prescribed herein shall be subject to a penalty in an amount equal to five percent (5%) of the tax due for each calendar month or fraction thereof. The total penalty levied pursuant to this sub section shall not exceed twenty-five percent (25%) of the tax due; however, the penalty shall not be less than twenty-five dollars (\$25); and, in addition to the penalties prescribed in this section, any business entity or employer shall pay, as part of the tax, an amount equal to twelve percent (12%) per annum simple interest on the tax shown due, but not previously paid from the time the tax was due until the tax is paid to the tax district. A fraction of a month is counted as an entire month. Further, every tax subject to the provisions herein and KRS 67.750 to 67.790 and all increases, interest, and penalties thereon, shall become, from the time the tax is due and payable, a personal debt of the taxpayer to the tax district.
- (B) *Penalties civil or criminal and sanctions for other actions, violations or noncompliance.*
- (C) In addition to the penalties prescribed in the section, any business entity or employer who willfully fails to make a return, willfully makes a false return, or willfully fails to pay taxes owing

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or collected with the intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class A misdemeanor.

- (D) In addition to the penalties prescribed in this section any business who willfully fails to make a return, willfully makes a false return, or willfully fails to pay taxes owing or collected with the intent to evade payment of the tax or amount collected, or any part thereof, shall be subject to the imposition of a stop work order, a revocation of their business license and the disconnection of any and all City provided utilized. The following sanctions contained in this subsection may be imposed upon violators beginning ten days after the tax are due and payable.
- (E) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under KRS 67.750 to 67.790 of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity of fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, shall be guilty of a Class A misdemeanor.
- (F) A return for the purposes of this section shall mean and include any return, declaration, or form prescribed by the tax district and required to be filed with the tax district by the provisions of KRS 67.750 to 67.790, or by the rules of the tax district, the herein ordinance, or by written request for information to the business entity by the tax district.
- (G) No present or former employee of any tax district shall intentionally and without authorization inspect or divulge any information acquired by him or her of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the tax district or other proper officer, or any information produced by a hearing or investigations, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns for taxation, or any other infraction of the tax laws, or in any way made a matter of public record, nor does it preclude furnishings and a taxpayer or taxpayer's property authorized agent with information respecting his or her return. Further, his prohibition does not preclude any employee of the tax district from testifying in any court, or from introducing as evidence returns or reports filed with the tax district, in an action for violation of a tax district laws or in any action challenging a tax district's tax laws.
 - (A) Any person who violates the above provisions of the sub section by intentionally inspecting confidential taxpayer information without authorization shall be fined not more than five hundred dollars (\$500) or imprisoned for not longer than six (6) months, or both.
 - (B) Any person who violates the above provisions of the subsection by divulging confidential taxpayer information shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than (1) year, or both.

SECTION TWELVE

Definitions.

As used herein or as set forth in KRS 67.750 to 67.795 and used concerning matters of and germane to occupational licensing and occupational license taxes, unless the context requires otherwise, the following words or terms shall have the following meaning:

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“BUSINESS ENTITY”

Each separate corporation, limited liability company, business development corporation, partnership, limited partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization or other legal entity through which business is conducted.

“COMPENSATION”

Wages, salaries, commissions, or another form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted as follows: (a) include any amounts contributed by an employee to any retirement, profit sharing or deferred compensation plan, which are deferred for federal income tax purposes under a salary reduction agreement or similar agreement, including but not limited to salary reduction arrangement under Section 401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal Revenue Code; and, (b) include any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or other payment method which permits employees to elect to reduce federal taxable compensation under the Internal Revenue code, including but not limited to Sections 125 and 132 of the Internal Revenue code.

“EMPLOYEE”

Any person who renders services to another person or business entity for compensation, or its equivalent, under an express or implied contract, and who is under the control or direction of the latter, including an officer of a corporation and any officer, employee, or elected official of the United States, a state, a political subdivision of a state, or any agency or instrumentality of any one or more of the above and so including temporary, provisional, casual, or part-time or out-sourced employees, workers or employment. A person classified as an independent contractor under the Internal Revenue Code shall not be considered as an employee.

“EMPLOYER”

As defined by Section 3401 of the Internal Revenue Code.

“FISCAL YEAR”

As defined by Section 7701 of the Internal Revenue Code.

“GROSS RECEIPTS”

All revenues or proceeds derived from the sale, lease, or rental of goods, services, or property by a business entity reduced by the following: (a) sales and excise taxes paid; and (b) returns and allowances.

“INTERNAL REVENUE CODE”

Internal Revenue Code in effect on December 31, 2016 and any applicable amendments made thereafter.

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“PERSON”

Every natural person, proprietorship, firm, organization, association, congregation, undertaking, venture, joint venture, company, corporation, administration, agency, governmental body or unit, or other entity. Whenever the term "person" is used in any clause prescribing or imposing a sanction or penalty, in the nature of a fine, or confinement, or imprisonment, the word, as applied to any association or entity, shall mean the partners or members thereof, and as applied to a corporation, the officers and directors thereof.

“TAX DISTRICT”

A home rule city, county, urban-county, charter county, consolidated local government, school district, special taxing district or any other statutorily created entity with the authority to levy gross receipts, net profits or occupational license taxes.

“TAXABLE YEAR”

The calendar year or fiscal year ending during the calendar year upon the basis of which gross receipts are computed.

“OCCUPATIONAL LICENSE FEES”, “OCCUPATIONAL TAX” and “PAYROLL TAX” for purposes of this Ordinance and related documents shall have one and the same meaning, may be used interchangeable and are separate and distinct from **“BUSINESS LICENSE”** .

SECTION THIRTEEN

Severability.

Each section and each provision of each section of this ordinance are severable, and if any provision, section, paragraph, sentence or part thereof, or the application thereof to any person, license, class or group, is held by a court of law to be unconstitutional or invalid for any reason, such holding shall not affect or impair the remainder of this ordinance, it being the legislative intent to ordain and enact each provision, section, paragraph, sentence and part thereof, separately and independently of the rest.

First Reading: January 30, 2017

Second Reading: February 13, 2017

PASSED, ORDAINED, APPROVED AND ORDERED PUBLISHED ON THIS THE

Attest

James Wells, Mayor

Amy Kenner, Clerk