

**ORDINANCE NO. 08-01
CITY OF CADIZ, KENTUCKY**

OCCUPATIONAL LICENSE TAXES

AN ORDINANCE RELATING TO IMPOSITION AND ADMINISTRATION OF AN OCCUPATIONAL LICENSE REQUIREMENT THROUGH: (1.) PAYMENT OF A BUSINESS LICENSE TAX BY BUSINESS ENTITIES; AND (2.) PAYMENT OF A PAYROLL TAX BY EMPLOYEES.

WHEREAS, the Cadiz city council desires to comply with the requirements of KRS 67.750 to 67.790,

BE IT ORDAINED by the city council of the City of Cadiz, Kentucky as follows:

Ordinance No. 08-01 is hereby enacted and shall read in full as follows:

Ordinance No. 606, Ordinance No. 630, and Ordinance No. 07-02 are hereby repealed in their entirety.

Sections:

- I. Definitions
- II. Business License Tax
- III. Payroll Tax
- IV. Information to Remain Confidential
- V. Penalties
- VI. Use of Business License Tax and Payroll Tax
- VII. Severability
- VIII. Effective Date

I. DEFINITIONS

- 1. “*Business entity*” means each separate corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted. “Business entity” shall not include funds,

foundations, corporations, or associations organized and operated for the exclusive and sole purpose of religious or charitable purposes.

2. “*City*” means the City of Cadiz, Kentucky.
3. “*Compensation*” means wages, salaries, commissions, or any other 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 arrangement, including but not limited to salary reduction arrangements under Section 401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 458 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.
4. “*Employee*” means any person who renders services to another person or business entity for compensation, including an officer of a corporation and any officer, employee, or elected official of the United States, a state, or any political subdivision of a state, or any agency or instrumentality of any one (1) or more of the above. A person classified as an independent contractor under the Internal Revenue Code shall not be considered an employee.
5. “*Employer*” means the person or entity for which an individual performs or performed any service, of whatever nature, as the employee of such person or entity.
6. “*Gross receipts*” means 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.
7. “*Sales revenue*” means receipts from the sale, lease, or rental of goods, services, or property.
8. “*Taxable gross receipts*” in case of a business entity having payroll or sales revenues both within and without the city means gross receipts as defined in subsection (6) of this section, as apportioned under section (II.) of this ordinance.

9. “Taxable gross receipts” in case of a business entity having payroll or sales revenue only in the city means gross receipts as defined in subsection (6) of this section.
10. “Taxable year” means the calendar year upon the basis of which gross receipts is computed.

II. BUSINESS LICENSE TAX

1. BUSINESS LICENSE REQUIRED

Every business entity engaged in any business in the city shall apply for and obtain a business license from the city before the commencement of business. Licensees are required to notify the city of any changes in address or any other changes that render the information supplied to the city in the license application inaccurate.

2. BUSINESS LICENSE TAX REQUIRED

The business license tax shall be based on the following chart:

TYPE OF BUSINESS ENTITY	BUSINESS LICENSE TAX
Wholesale	.5% of gross receipts
Retail	1% of gross receipts
Professional	3% of gross receipts

The minimum business license tax shall be fifty dollars \$50.00. The maximum business license tax for each wholesale business entity shall be six hundred twenty-five dollars (\$625.00). The maximum business license tax for each retail business entity shall be one thousand two hundred fifty dollars (\$1,250.00). The maximum business license tax for each professional business entity shall be two thousand five hundred dollars (\$2,500.00).

3. APPORTIONMENT

This subsection applies only to business entities doing business both inside and outside the city.

Because the business license tax is due only for business conducted inside the city limits, this subsection provides the formulas to calculate what fraction of a business entity’s gross receipts is subject to the business license tax.

Forms are available at City Hall to assist with these calculations.

- A. Gross receipts shall be apportioned as follows:
 - (i.) For business entities with both payroll and sales revenue in more than one (1) tax district, by multiplying the gross receipts by a

fraction, the numerator of which is the payroll factor, described in subsection (B) immediately below, plus the sales factor, described in subsection (C) immediately below, and the denominator of which is two (2); and

- (ii.) For business entities with sales revenue in more than one (1) tax district, by multiplying the gross receipts by the sales factor as set forth in subsection (C) immediately below.

B. Payroll Factor

The payroll factor is a fraction, the numerator of which is the total amount paid or payable in the city during the taxable year by the business entity for compensation, and the denominator of which is the total compensation paid or payable by the business entity everywhere during the taxable year. Compensation is paid or payable in the city based on the time the individual's service is performed within the city.

C. Sales Factor

The sales factor is a fraction, the numerator of which is the total sales revenue of the business entity in the tax district during the taxable year, and the denominator of which is the total sales revenue of the business entity everywhere during the taxable year.

4. RETURNS REQUIRED

- A. Every business entity shall submit a business license tax return for the preceding taxable year by April 15 each year except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for returns shall be supplied by the city.
- B. Every business entity shall submit a copy of its federal income tax return at the time of filing its return with the city. Whenever, in the opinion of the city, it is necessary to examine the federal income tax return of any business entity in order to audit the return, the city may compel the business entity to produce for inspection a copy of all statements and schedules in support thereof. The city may also require copies of reports of adjustments made by the federal government.
- C. Every business entity shall, no later than sixty (60) days following the enactment of this Ordinance, provide to the city a list of all vendors with whom it conducts business within the city. Thereafter, every business entity shall furnish with its business license tax return an updated list of all vendors with whom it conducts business within the city.

III. PAYROLL TAX

1. PAYROLL TAX REQUIRED

The payroll tax shall be measured by one and one-half percent (1.5%) of all wages and compensation paid or payable in the city for work done or services performed or rendered in the city by an employee.

2. EMPLOYER TO WITHHOLD

Every employer making payments of compensation to an employee shall deduct and withhold upon the payment of the compensation the payroll tax required by this ordinance. Amounts withheld shall be paid to the city in accordance with subsection (3.) immediately below. If an employee's employer does not withhold the payroll tax required pursuant to this ordinance, the employee shall pay over to the city in accordance with subsection (3.) immediately below the payroll tax due.

3. RETURNS REQUIRED

Every employer required to deduct and withhold payroll tax pursuant to this ordinance shall submit a payroll tax return on a quarterly basis.

4. LIABILITY OF EMPLOYER FOR FAILURE TO WITHHOLD OR PAY PAYROLL TAX

- A. Every employer who fails to withhold or pay to the city any sums of payroll tax required by this ordinance to be withheld and paid shall be personally and individually liable to the city for any sum or withheld or required to be withheld.
- B. The city shall have a lien upon all the property of any employer who fails to withhold or pay over to the city sums required to be withheld under this ordinance. If the employer withholds but fails to pay to the city the amounts withheld, the lien shall commence as of the date the amounts withheld were required to be paid to the city. If the employer fails to withhold, the lien shall commence at the time the liability of the employer is assessed by the city.

5. REPORTING REQUIREMENTS

- A. Every employer required to deduct and withhold payroll tax pursuant to this ordinance shall annually, on or before February 28 of each year, submit a detailed employee listing indicating the amount of compensation paid to each employee.

- B. Every employer shall furnish each employee a statement on or before January 31 of each year showing the amount of payroll tax deducted by the employer from the employee's compensation and paid to the city for the preceding calendar year.

IV. INFORMATION TO REMAIN CONFIDENTIAL

No present or former employee of the city 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 city, or any information produced by a hearing or investigation, 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 furnishing any taxpayer or the taxpayer's properly authorized agent with information respecting his or her own return. Further, this prohibition does not preclude any employee of the city from testifying in any court, or from introducing as evidence returns or reports filed with the city, in an action for violation of a city tax law or in any action challenging a city tax law.

V. PENALTIES

1. Any business entity that fails to file a business license tax return or pay the required business license tax by April 15 shall be subject to a penalty equal to five percent (5%) of the business license tax due. The total penalty levied pursuant to this subsection shall not be less than twenty-five dollars (\$25.00).
2. Every employer who fails to file a payroll tax return or pay the payroll tax on or before the quarterly due dates shall be subject to a penalty in an amount equal to five percent (5%) of the payroll tax due for each delinquent quarterly period. The total penalty levied pursuant to this subsection shall not be less than twenty-five dollars (\$25.00). If an employer does not withhold payroll tax due pursuant to this ordinance, and the employee is therefore responsible for payment of the payroll tax, the employee shall be subject to the penalty described herein.
3. In addition to the penalties prescribed in this section, an amount equal to twelve percent (12%) per annum simple interest shall accrue on any delinquent business license tax or payroll tax. A fraction of a month is counted as an entire month.
4. The city shall be entitled to recover all costs and reasonable attorney's fees incurred by the city in enforcing any provision of this ordinance.
5. Any person who violates the provisions of section (IV.) of this ordinance by intentionally inspection confidential taxpayer information without authorization

shall be fined not more than five hundred dollars (\$500.00) or imprisoned for not longer than six (6) months, or both. If such violator is a city employee, such employment with the city shall be immediately terminated.

6. Any person who violates the provisions of section (IV.) of this ordinance by divulging confidential taxpayer information shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not longer than one (1) year, or both. If such violator is a city employee, such employment with the city shall be immediately terminated.

VI. USE OF BUSINESS LICENSE TAX AND PAYROLL TAX

All money derived from the occupational license, designated business license taxes and payroll taxes herein, shall be paid to the city and placed to the credit of the city's general revenue fund.

VII. 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, licensee, 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.

VIII. EFFECTIVE DATE

This ordinance shall be effective immediately upon its publication.

Date of First Reading: June 3, 2008

Date of Second Reading: July 1, 2008



Lyn Bailey, Mayor

Attest:



Lisa Rogers, City Clerk