

I Brenda Melker City Clerk Attest that this is a true and correct  
Copy of Ordinance # 92-08.

Brenda Melker  
City Clerk

ORDINANCE NO. 92-08

AN ORDINANCE RELATING TO THE IMPOSITION OF AN OCCUPATIONAL LICENSE TAX UPON THE PRIVILEGE OF ENGAGING IN ANY TRADE, OCCUPATION, OR PROFESSION WITHIN THE CITY OF PIONEER VILLAGE, BULLITT COUNTY, KENTUCKY, MEASURED BY ONE PERCENT (1%) OF THE GROSS WAGES. DEFINITION OF TERMS; PROVISIONS FOR THE REGULATION, ADMINISTRATION, ENFORCEMENT AND COLLECTION OF OCCUPATIONAL LICENSE TAX AND THE PURPOSES THEREOF; IMPOSITION UPON EMPLOYERS OF THE DUTY TO WITHHOLD, REPORT AND PAY THE OCCUPATIONAL LICENSE TAX OF EMPLOYEES; PROVISION FOR PENALTIES FOR VIOLATIONS OF THIS ORDINANCE; PROVISIONS FOR SEVERABILITY; PROVISIONS FOR EFFECTIVE DATES; AND REPEALING CLAUSE.

WHEREAS, the City Council of the City of Pioneer Village, Bullitt County, Kentucky, has determined it is necessary to insure the existence of adequate funds to properly provide for services to residents of the City of Pioneer Village; and

WHEREAS, the City Council has determined that the imposition of an Occupational License Tax is a fair, equitable and proper method to provide these funds; and

WHEREAS, the tax will provide some of the necessary funds to supply the services the residents of the City of Pioneer Village wish, deserve and demand;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PIONEER VILLAGE, BULLITT COUNTY, KENTUCKY, AS FOLLOWS:

SECTION I: Short Title. This Ordinance may be referred to as the Pioneer Village Occupational License Tax Ordinance.

Section II: Definitions. The following words, when used in this Ordinance, shall have the meanings ascribed to them in this Section, except where the context clearly indicates or requires a different meaning:

- a. Association: Shall mean a partnership, limited partnership, joint venture or any other form of unincorporated enterprises, owned or engaged in by two (2) or more persons.
- b. City: Shall mean City of Pioneer Village, Bullitt County, Kentucky.
- c. Collector: Shall mean the person designated by the City as the Occupational License Tax Collector and Administrator under this Ordinance.
- d. Commission Merchant or Commission Employee: Shall mean any person who engages in the sale of goods for compensation in the form of a commission only. This also means any person who buys and resells goods if the person does not maintain a retail store or wholesale sales floor and does not store goods except during short periods before transportation to the buyer.

- e. Compensation: Shall mean the compensation paid by any employer to any employee, including wages, salaries, commissions, bonuses, and all other commissions received by a commission merchant or commission employee. Compensation as herein defined does not include fringe benefits paid for by an employer.
- f. Corporation: Shall mean a corporation or joint stock association organized under the laws of the United States, the State of Kentucky, or any other state, territory or foreign country of dependency.
- g. Employee: Shall mean and include any person engaging in or following any trade, occupation, profession or activity as defined herein and receiving compensation consisting of either wages, salary, commission or other forms of compensation. This also includes real estate salespeople employed by a real estate broker and paid on a commission basis, and all mechanics who perform services for customers of an auto repair shop and who are paid by the owner of the auto shop for each repair or maintenance job done. The substance and not the form shall govern, and no employee working under the supervision of another person shall be considered to be an independent contractor merely because a contract has been signed making it appear that the employee is an independent contractor.
- h. Employer: Shall mean and include any individual, person, partnership, association, corporation, governmental body or unit or administration or agency or any other activity or any other entity, who or that employs one or more persons on a salary, wage, commission or other compensation basis. "Employer" shall also mean the person or entity liable for the withholding of occupational license taxes from the compensation of an employee.
- i. Firm: Shall mean any sole proprietorship, partnership, corporation, joint venture, limited partnership, or other form of organization formed for the purpose of doing business.
- j. Individual: Shall mean a natural person.
- k. Licensee: Shall mean and include any person required to pay an occupational license tax under this Ordinance.
- l. Occupational, Trade Profession or Other Activity: Shall mean and include the doing of any kind of work, the rendering of any kind of personal service, or the holding of any kind of position or job within the city, by any clerk, laborer, tradesman, manager, official or other employee, where the relationship between the individual performing the services and the person for whom such services are rendered, is, as to those services, the legal relationship of employer and employee, including also a partner of the firm or officer who receives a salary for this personal service rendered in the business of such firm or corporation and shall also include (an officer or employee employed) either by election or appointment, by the federal, state, county or city, where the services of such official or employee are rendered within the city.

- m. Person: Shall mean any natural person, co-partnership, fiduciary, association or corporation. Whenever the word "person" is used in any clause prescribing and imposing a penalty in the nature of a fine or imprisonment, the work, as applied to a partnership or other form of unincorporated enterprise shall mean the partners or members thereof, and as applied to corporations, shall mean the officers and directors thereof.
- n. Resident: Shall mean any natural person, co-partnership, fiduciary, association, corporation or other entity domiciled or having a business site in the City.
- o. Salaries, Wages, Commissions and Other Compensations (sometimes referred to as "Wages"): Shall mean and include the total gross amount of all salaries, wages, commission, bonuses, share of net partnership receipts or withdrawals, corporate dividend paid in lieu of salaries or wages, and any and all other payments or other considerations which a person receives from, or is entitled to, for any work done or personal services rendered within the City in any trade, occupation or profession, or any other activity, including all deductions, whether for tax, insurance or other, but excluding fringe benefits paid for by an employer. Amounts paid to traveling salesmen or other workers as allowances or reimbursements for travel or other expenses incurred in the business of the employer, except to the extent of the excess of such amounts over such expenses actually incurred and accounted for by the employee to his employer are excluded from the foregoing definition.
- p. Sales Within The City: Shall mean all sales of merchandise delivered to a customer within the city of services performed within the city for a customer.
- q. Treasurer: Shall mean the treasurer or City Clerk of the City of Pioneer Village, Bullitt County, Kentucky.

The singular shall include the plural, and the masculine shall include the feminine and the neuter.

SECTION III: Application. The occupational license tax shall apply only to employees of persons, firms, corporations and associations doing business within the boundaries of the City. A person, firm, corporation, or association is doing business within the boundaries of the City if such entity does any of the following:

- a. Employs one or more employees, commissions merchants or commissions employees to work in the City.
- b. Maintains a place of business within the City.
- c. Owns, manages or leases property in the City. Managing rental property owned by such entity or by others is included.
- d. Solicits any business within the City, provided that solicitation by advertising only shall not subject any person to a license fee.

**SECTION IV: License Fees Imposed-Rate.** On or after October 1, 1992, there is hereby levied and imposed an occupational license tax upon all persons engaged in any occupation, trade, profession or business in the City for the privilege of engaging in such occupation, trade, profession or business, which occupational license tax shall be measured by and be equal to one percent (1%) of the gross annual salaries, wages or compensations earned by any such persons for work done or services performed or rendered within the City.

**SECTION V: Apportionment of License Fees.** Where such salaries, wages, commissions, and other compensations are earned for work performed or services rendered both within and without the City, said occupational license tax shall be measured by such part of the salaries, wages, commissions and other compensations as is earned as a result of work performed or services rendered in the City. Such occupational license tax shall be computed by obtaining the percentage which the compensation for work performed or services rendered within the City bears to the total compensation earned.

**SECTION VI: Domestic Servants Exempted.** Because of the great cost of administration and difficulty of collection involved, no occupational license tax under Ordinance shall be required of domestic servants employed in private homes.

**SECTION VII: Specific Receipts Excluded.** The following money receipts are not deemed to be "Salaries, wages, commissions and other compensations and net profits" within the meaning of this Ordinance, to wit:

- a. **Old Age or Retirement Payments:** Periodic payments commonly recognized as old age or retirement pensions made to persons retired from service after reaching a specific age or a stated period of employment are not subject to the occupational license tax.
- b. **Disability, Sickness and Accident Benefits and Unemployment Compensation, and other insurance payment received from personal injuries or property losses:** Payments to employees by an employer under disability, sickness, and accident benefit plan are not subject to the occupational license tax. Unemployment compensation payments by the Commonwealth of Kentucky, or any other agency, are not subject to the occupational license tax. Payments received for personal injuries and property losses are not subject to the occupational license tax.
- c. **Death Benefits:** Death benefits payable to the beneficiary of an employee or to his estate, whether payable in a single sum or otherwise, are not subject to the occupational license tax.
- d. **Worker's Compensation Benefits:** Benefits arising under the Workers' Compensation Act as compensation for disabilities sustained during the course of employment together with any amount of damages received by suit or agreement, on account of such disability are not subject to the occupational license tax.

**SECTION VIII: Employer Located Outside of City:** Employers located outside of the City are subject to withholding of occupational license tax on the salaries, wage, commissions and other compensation of the employees where the employer is doing business in the City as defined in Section III hereof.

**SECTION IX: Interest and Penalties:**

- a. Any person who fails to file any return required hereunder within the time due shall be charged a penalty of five percent (5%) of the amount of the unpaid occupational license tax for each month such return remains unfiled, not exceeding a penalty of twenty-five percent (25%) in the aggregate.
- b. All occupational license taxes imposed by this Ordinance which remain unpaid after they become due shall bear interest at the rate of one-half of one percent (.5%) per month (or part thereof) and any person who fails to pay such occupational license tax when same shall become due shall also be charged a penalty of ten percent (10%) of the amount of such unpaid occupational license tax of Ten Dollars (\$10.00), whichever shall be greater.
- c. Any person who shall fail, neglect or refuse to make any return required by this Ordinance, or any employer who shall fail to withhold said occupational license tax, or to pay to the City those so withheld under the terms of this Ordinance, or any person who shall refuse to permit the Collector or any agent or employee designated by him in writing, to examine books, records, and papers pertaining to information required under this Ordinance, or who shall knowingly make any incomplete, false, or fraudulent return; fail, neglect or refuse to apply for an occupational license tax reporting number as required by Section XI, or who shall attempt to do anything whatsoever to avoid the full disclosure of the amount of earnings in order to avoid the payment of the whole or any part of the occupational license tax, shall become liable to the City for such tax as well as the interest and penalty thereon, and shall in addition, be subject to a fine of not less than Fifty Dollars (\$50.00) or more than Five Hundred Dollars (\$500.00) or imprisonment for not more than thirty (30) days, or to both such fine and imprisonment for each offense. Such criminal penalties shall be in addition to the penalties imposed above.

**SECTION X: Collector Designated Enforcement Official Authorized to Promulgate Rules and Regulations with Consent of Mayor or City Council:**

- a. The Collector is hereby charged with the enforcement of provisions of this Ordinance, and is hereby empowered to prescribe, adopt and promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of the provisions of the ordinance, including but not limited to provisions for the reexamination and correction of returns to which an underpayment or overpayment is claimed or found to have been made, and the rules and regulations as promulgated by her shall be binding upon the licensee and employers. Provided, however, all such rules, regulations and decisions shall be subject to the consent and approval of the Mayor or City Council.
- b. The Collector, or any agent or employee designated by her in writing, may examine the books, papers and records of any employee or supposed employee of any licensee or supposed licensee in order to determine the accuracy of any return made, or if no return was made, to ascertain the amount of occupational license tax imposed by the terms of this Ordinance, as she may deem this reasonably

necessary for the purpose incident to the performance of her duties hereunder. The Collector may enforce this right by application to the appropriate court having jurisdiction over these matters.

- c. The Collector may dispense with examination of the books, papers, and records of any employee or employer in any case where the Collector is furnished with a certificate of a qualified Certified Public Accountant, or the sworn statement of any other reputable accountant or bookkeeper stating that the amount of occupational license tax reported conforms to the State or Federal Income Tax Return filed for the applicable period.

SECTION XI: License Fee Reporting Numbers; Payment of License Fee; Withholding Returns by Employer and Employee; Federal Form(s) to Accompany Return.

- a. Each employer who employs one or more persons within the City shall obtain from the City an occupational license tax reporting number.
- b. Each employer who employs one or more persons within the City shall deduct monthly, or more often than monthly, at the time of payment thereon, the occupational license tax due from each employee measured by the amount of salaries, wages, commissions, or compensation due by the employer to the employee subject to the occupational license tax and shall pay to the treasurer the amount of occupational license tax so deducted. The payment required to be made on account of deductions by employer shall be made quarterly to the treasurer for the quarterly periods ending on the last day of March, June, September and December of each year on or before the last day of the month next following the quarter of said deduction. However, the Collector may, by regulation require employers to make returns and to remit the occupational license taxes withheld more frequently.
- c. Each employer who employs one or more persons within the City shall annually during the month of January make a return to the Collector, in which return is set forth the name and residence of each employee of the employer employed during the preceding calendar year, his or her social security number (or federal identification number), and the total aggregate of salaries, wages, commissions, or other compensations earned during such preceding calendar year for all employees (not individual designations); and provided further, that it shall be the duty of each employer who has deducted the occupational license tax from the wages, salaries, commission or other compensation referred to above, to furnish the employee a statement showing the amount of salary earned and occupational license tax deducted and paid by the employer during the preceding calendar year, on or before the last day of January of each year. Provided, however, that the failure or omission of any employer to deduct such occupational license tax shall not relieve the employee from the payment of such occupational license tax and compliance with such regulations with respect to making returns and payment thereof, as may be fixed in this Ordinance or established by the Collector.

- d. An employer who deducts and withholds the occupational license tax from one or more persons under his employ and who fails to file a return and make payments therewith shall in addition to the penalties prescribed herein upon conviction be subject to a fine of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) or imprisonment for not more than thirty (30) days, or both such fine and imprisonment, for each offense. Such criminal penalties shall be in addition to the penalties imposed above.

SECTION XII: Returns.

- a. Each person subject to an occupational license tax imposed by this Ordinance shall, on or before the 15th day of the fourth month of his tax year, make and file with the Collector a return on a form furnished by or attainable from the treasurer, setting forth the total aggregate amount of salaries, wages, commissions and other compensation (with appropriate schedules) and all calculations necessary to report occupational license taxes during the preceding license year. Provided, however, that where the entire occupational license tax due under the ordinance has been withheld and paid under the provisions hereof, the Collector may waive the filing of the return by the licensee; provided further, that where the fiscal year of the licensee differs from the calendar year and licensee files federal income tax return for such other fiscal period and where the return is made for a fiscal year, or any other period difference from the calendar year, the return shall be made on or before the 15th day of the fourth month following the end of said fiscal year, or other period. Such occupational license tax return shall also show the amount of occupational license tax imposed by this Ordinance. Provided further, that the first return under this ordinance shall be required to show only compensation earned from the effective date of this Ordinance to the close of the calendar of the fiscal period. The person making the returns shall, at the time of the filing thereof, pay to the treasurer the amount of the occupational license taxes shown to be due therein; provided, however, that where any portion of the occupational license tax so due shall have been deducted at the source, credit for such amount shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of the filing of the return, as herein above provided.
- b. The Collector shall have the authority to extend the time of filing an occupational license tax return. Such extension shall be upon the written request of the licensee and shall be received by the Collector prior to the due date of the occupational license tax return. Regardless of the number of extensions approved, all license fees remaining unpaid after they become due shall bear interest at the rate of one-half of one percent (.5%) per month (or part thereof) until paid. Provided further, that all occupational license taxes remaining unpaid for thirty (30) days after the original due date, or approved extension date, whichever shall be later, shall be subject to a ten percent (10%) penalty of the amount of such unpaid occupational license taxes or Ten Dollars (\$10.00) whichever shall be greater.

**SECTION XIII: Collection of License Fees; Records.**

- a. It shall be the duty of the Collector to collect and the treasurer to receive the occupational license tax imposed by this Ordinance.
- b. The treasurer shall give a receipt to the Collector for such taxes and shall keep records showing the amount paid by each license and employer and the date of such receipt.

**SECTION XIV: License Fees to be Deposited in General Revenue Fund; Use Thereof; Purpose of Ordinance.**

- a. All monies derived from the occupational license tax under the provisions of this Ordinance shall be paid to the city treasurer and placed to the credit of the general revenue fund of the City. The revenue therefrom shall be used and expended in defraying current, general and incidental expenses of the City and for capital improvements, and any other proper charges against the City.
- b. It is the purpose of this Ordinance to provide revenue for the general fund of the City, and it is not the intention of the City or of this Ordinance to impose and require any occupational license tax prohibited by law.

**SECTION XV: Information Deemed Confidential; Penalty for Disclosure; Exceptions.** Any information, including returns, documents or payments made pursuant hereto and any other information gained by the treasurer, Collector or any other official, agent or employee of the City as a result of any return, investigation, hearing or verification required or authorized by this ordinance shall be confidential except in accordance with proper judicial order, and any person or agent divulging such information shall, upon conviction, be subjected to a fine of not less than fifty dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) or imprisonment not to exceed thirty (30) days, or both, at the discretion of the court, and upon conviction shall be dismissed from employment by the City. Provided, however, such person may disclose to the Commissioner of Revenue of the state or his duly authorized agent, or to the Commissioner of the Internal Revenue Service, or his duly authorized agent, all such information and extend the right to inspect any of the books and records of the City to said Commissioner of Revenue of the state and to said Commissioner of the Internal Revenue Service who must grant to the City the reciprocal right to obtain information from the files and records of the Department of Revenue of the state and from the files and records of the Internal Revenue Service and maintains the privileged character of the information so furnished to them.

**SECTION XVI: Collector's Duties.** The Collector shall have the following duties in connection with the occupational license tax:

- a. Keep accurate records of all returns and of all sums received for occupational license taxes. Such records shall contain the names and addresses of each taxpayer, and the dates and amounts of payments. The nature of installment payments shall be indicated on the records. The Collector shall keep the original returns on file for a period of not less than three years after filing.



- b. Enforce the provisions of this Ordinance, all in accordance with any policies set forth in any ordinance, municipal order, or executive order.
- c. Prepare forms and instructions for the returns and payments required by this Ordinance. All instructions shall be clear and shall be as short as possible.
- d. Examine returns and, for any returns appearing to be incorrect, make inquiries, investigations and adjustments in the amount of tax due.
- e. Where necessary to determine accurate figures for determining the amount of tax due, examine books, records, and information stored in computers of any taxpayer, provided that each city officer or employee acting under this Ordinance shall identify himself or herself and request the information desired. If the officer or employee is refused admission to any place of business or refused access to any records or computer memory, the Collector or employee shall leave the premises and shall seek an appropriate court order, with the assistance of the city attorney, to obtain access to the information needed.
- f. The Collector may delegate duties assigned to the Collector in this Ordinance to any officer or employee under the Collector's supervision, provided that the Collector shall approve the form of all returns and written instruments.
- g. The Collector shall prepare pamphlets for distribution to the public, clearly explaining the occupational license tax and the returns and payments required.
- h. The Collector shall perform all of the other duties assigned to the Collector by this Ordinance.

**SECTION XVII: Procedure for Applying for Refund of Overpayment.**

- a. Any person, employer, employee, licensee who truly believes that he has made or permitted an overpayment of his liability for any occupational license tax required by this Ordinance may apply for refund of said overpayment provided that he files an amended return, verified under oath and setting forth in detail the full explanation of the reason of the said claimed overpayment of his liability, within one year of the date of said overpayment is made or the date his said occupational license tax payment was due, whichever occurs first.
- b. If a refund has been properly claimed according to the provisions of subparagraph (a) above, then the Collector shall have the authority to honor and refund any such overpayment actually made above actual liability upon the occupational license tax required under this Ordinance which he determines within his sole discretion was made through honest mistake or inadvertence.

- c. In no event shall any refund be made for any payment upon any occupational license tax unless the refund claim is submitted and filed in strict compliance with the foregoing provisions of this section upon such refund claim forms or amended return forms as hereafter be promulgated by the Collector from time to time.

SECTION XVIII: Failure to File Return; Failure to Pay; Underpayments.

The following rules shall apply when an employer fails to file a return, fails to pay the occupational license taxes withheld when due or pays less than the amount due:

- a. If the person (employer) liable for withholding the occupational license tax and filing a return fails to make a return, the Collector shall prepare an estimate of the amount of occupational license taxes due based on the best information available to the Collector. The Collector may make investigations to assist in making the estimate. The Collector may consider the number of employees, the wages or other compensations customarily paid in the type of business, the volume of business done and customary commissions or bonuses paid to employees in the same type of business, and any other relevant matters. The Collector may estimate the compensation customary in the business or similar businesses. When the collector estimates the occupational license taxes, the amount of interest and late charges provided by this Ordinance shall be added to the taxes due. The Collector shall notify the person (employer) of the amount due. Such notification shall be in writing and shall contain a brief description of the method and estimated figures used in arriving at the estimated tax. Any person (employer) may dispute the amount of the estimated tax by filing within thirty (30) days of notification of the estimated taxes a return accompanied by payment of the entire balance due together with the interest and late charges due. Such return shall be processed like any late return, and shall establish the occupational license tax liability of the person (employer) in place of the estimated amount prepared by the Collector. The Collector may, however, later determine that the amount shown in the return is insufficient so there is a deficiency, in the same manner as in the case of other returns.
- b. If the Collector determines, by examining available evidence, that the amount of occupational license taxes paid over by the employer is less than the amount required by this Ordinance, the collector shall notify the employer of the deficiency. The Collector may use any of the methods authorized in paragraph (a) of this section to determine whether a deficiency exists and to determine the amount of such deficiency. The collector shall thereupon notify the employer of the deficiency. Such notice shall be in writing and shall state not only the amount of the deficiency but also the methods and estimates used in arriving at the amount of the deficiency. If the employer does not object within thirty (30) days of the date of receiving such notice, the employer shall be deemed to have accepted the revised figures for the occupational license tax liability. If the employer does file written objection within the time specified, the employer shall pay the fees, together with penalties and interest, under protest and may thereupon pursue administrative and judicial remedies as provided by ordinance and by state law to seek a refund.


- c. If the collector finds that any employer has overpaid, the collector shall notify him of his overpayment and shall refund the amount of the overpayment to him.
- d. When the collector notifies any employer of any estimated amount due, alleged overpayment or refund, the collector shall include in the notice clear instructions on how, when and where the employer may protest or appeal the decision.
- e. If an employer or any person, firm, association or corporation required by this Ordinance to pay an occupational license tax or to file a return shall fail to file any return for any year, such failure to file shall constitute a continuing offense against the City and the Collector may proceed to estimate and collect the occupational license taxes at any time. In all other cases, no increases shall be made in the employer's occupational license tax liability unless the first notice of such increase is received by the employer within three years of the time the annual return was first due.

SECTION XIX: Severability. The provisions of this Ordinance are severable. If any sentence, clause or section or part of this Ordinance or the application thereof to any particular case is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or repeal any of the remaining provisions, sentences, clauses, or section or parts of this Ordinance, it being the legislative intent of the city council to ordain and enact each provision, section, paragraph, sentence and part hereof separately and independently of each other.

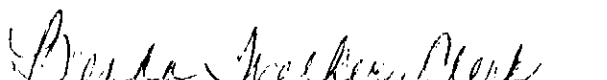
SECTION XX: Other Ordinances Not Repealed. Nothing contained herein shall be deemed to repeal or modify any other ordinance heretofore enacted and in force in the City of Pioneer Village, unless specifically repealed by separate ordinance.

SECTION XXI: Effective Date. This Ordinance shall become effective upon publication.

First Reading: June 15, 1992  
Second Reading: July 20, 1992

  
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JAMES WELKER, Mayor

Attested by:

  
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BRENDA WELKER, City Clerk