

**ORDINANCE NO. 644**

**AN ORDINANCE LEVYING A RESTAURANT TAX PURSUANT TO KRS 91A.400 ON THE RETAIL SALES BY ALL RESTAURANTS DOING BUSINESS IN THE CITY OF BRANDENBURG. ALL MONEYS COLLECTED FROM THE TAX AUTHORIZED BY THIS ORDINANCE SHALL BE TURNED OVER TO THE BRANDENBURG TOURISM & CONVENTION COMMISSION.**

WHEREAS, the BRANDENBURG city council desires to ensure additional funding for the BRANDENBURG Tourism & Convention Commission,

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

I. DEFINITIONS

(A) “City” means City of BRANDENBURG, Kentucky.

(B) “Restaurant” means any fixed or mobile business or portion thereof that engages in the preparation and serving of ready-to-eat food or beverage to a consumer.

This term includes, but is not limited to, any: restaurant; coffee shop; ice cream shop; café; tea room; sandwich shop; street vendor that prepares and serves ready-to-eat food; peddler, food truck; itinerant merchant, or solicitor that prepares and serves ready-to-eat food; or portion of grocery store, convenience store, or other business that prepares and serves ready-to-eat food.

This term does not include any school cafeteria or temporary food service operation operated by a nonprofit organization.

(C) “Tourism and Convention Commission” means the BRANDENBURG Tourism & Convention Commission.

## II. LEVY, COLLECTION, AND REMITTANCE OF RESTAURANT TAX

(A) A restaurant tax in the amount of two percent (2%) of the retail sales by all restaurants doing business in the city is hereby levied.

(B) Every restaurant doing business in the city and having purchased an annual business license from the city shall:

(1) collect the restaurant tax levied pursuant to this Ordinance at the time of sale of ready-to-eat food or beverage to a consumer; and

(2) by the fifteenth (15th) day of every month remit to the City Clerk all restaurant tax collected pursuant to this Ordinance during the preceding calendar month along with a completed restaurant tax return on a form obtained from the City Clerk.

(C) Every restaurant doing business in the city and purchasing an itinerant merchant, peddler, or solicitor license shall at the time of purchasing said license estimate all of its retail sales to be made in the city during the term of said license, complete a restaurant tax return on a form obtained from the City Clerk, and pay to the City Clerk all restaurant tax that will be owed pursuant to this Ordinance.

## III. ALL RESTAURANT TAX MONEYS TO BE TURNED OVER TO TOURISM AND CONVENTION COMMISSION PURSUANT TO KRS 91A.400

Pursuant to KRS 91A.400, on or before the last day of each calendar month, all moneys collected from the tax authorized by this Ordinance shall be turned over by the City Clerk to the tourism and convention bureau. The city's tourism and convention bureau shall reimburse the city 5% of the tax collected as reimbursement for the costs of collections, including, but not limited to, the cost of reporting forms, postage, court cost, attorney's fees and all other expenses incurred in collection of this tax by the fifth day following the monthly transfer of funds.

#### IV. INVESTIGATIVE POWERS OF CITY CLERK

To determine the accuracy of any return filed or, if no return was filed when due, to determine the amount of tax due pursuant to this Ordinance, the City Clerk or his designee shall be permitted to examine the books, papers, and records of any restaurant doing business in the city. The City Clerk may compel the production of any restaurant's books, papers, records, and vendors' contact information. Any restaurant shall, upon receipt of a written request from the City Clerk or his designee, authorize its vendors to disclose to the City Clerk or his designee the goods and services, including the quantity and price thereof, furnished to the restaurant. In the event an investigation is conducted and it is determined this Ordinance has been violated, the violator shall be responsible for all costs of the investigation and collection in addition to any tax, interest, or penalties otherwise owed.

#### V. 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 restaurant, information regarding the tax returns or remittances required to be filed with or remitted to the city, or any information produced by a hearing or investigation insofar as the information may have to do with the affairs of the restaurant'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. Furthermore, this prohibition does not preclude furnishing any restaurant or the restaurant's properly authorized agent with information respecting its own return. Furthermore, 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 any action for violation of a city tax law or in any action challenging a city tax law.

#### VI. PENALTIES

(A) Any restaurant that fails to file a restaurant tax return or remit the required restaurant tax when due shall be subject to a penalty equal to five percent (5%) of the restaurant tax due. The total penalty levied pursuant to this subsection shall not be less than twenty-five dollars (\$25.00).

(B) 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 restaurant tax. A fraction of a month is counted as an entire month.

(C) The city shall be entitled to recover from the violating restaurant all costs and reasonable attorney's fees incurred by the city in enforcing any provision of this Ordinance.

(D) Pursuant to KRS 83A.065(2), a violation of Section V of this Ordinance is expressly made a Class A misdemeanor subjecting the offender to imprisonment for a term not to exceed twelve (12) months and a criminal fine not to exceed five hundred dollars (\$500.00).

#### VII. TOURISM AND CONVENTION COMMISSION TO PROVIDE ANNUAL BUDGET TO CITY COUNCIL

The tourism and convention commission shall each year within thirty (30) days of adopting its annual budget provide a copy of its budget to the city council.

#### VIII. 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 declared by the Commonwealth to be null, void, or unenforceable or held by a court of law to be unconstitutional or invalid for any reason, such declaration or holding shall operate to repeal any such null, void, unenforceable, unconstitutional, or invalid section or provision but 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.

IX. EFFECTIVE DATE

This ordinance shall be effective January 1, 2025.

Date of First Reading: December 4, 2024

Date of Second Reading: \_\_\_\_\_

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David W. Pace, Mayor

Attest:

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Amy Haynes, City Clerk