

**CITY OF OAK GROVE KENTUCKY  
ORDINANCE 2009- 05**

**AN ORDINANCE BY THE CITY OF OAK GROVE, KENTUCKY AMENDING ORDINANCE NO. 2007-16 RELATING TO THE COLLECTION OF A THREE PERCENT (3%) RESTAURANT TAX TO PROVIDE FUNDS FOR THE CITY OF OAK GROVE RECREATIONAL, TOURIST AND CONVENTION COMMISSION ON A MONTHLY BASIS**

**WHEREAS**, on July 17, 2007, the Oak Grove City Council passed Ordinance No. 2007-16 which provided for the imposition and collection of a three percent (3%) restaurant tax to provide funds for the City of Oak Grove Recreational, Tourist and Convention Commission; and

**WHEREAS**, Section 91a.400 of the Kentucky Revised Statutes allows a local government to impose a restaurant tax not to exceed three (3%) percent; and

**WHEREAS**, the Oak Grove Recreational, Tourist and Convention Commission is currently expanding the Oak Grove War Memorial Walking Trail to include an amphitheater, picnic pavilion, playground and a convention/multi-purpose events center.

**WHEREAS**, monthly collection of the taxes would be more consistent to provide for repayment of the necessary funding of the aforementioned projects.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF OAK GROVE, KENTUCKY:**

**SECTION I – DEFINITIONS**

As used in this Ordinance, unless the context requires otherwise:

- (a) "Tax" means the restaurant tax levied and imposed by this Ordinance as authorized by Section 91A.400 of the Kentucky Revised Statutes.
- (b) "Taxpayer" means any person, firm, partnership or corporation (including governmental entities and agencies) who are required by this Ordinance to collect and remit the tax or upon whom the tax is levied and imposed.
- (c) "Commission" means the City of Oak Grove Recreational, Tourist and Convention Commission established by Ordinance No. 1986-3 of the City of Oak Grove, Kentucky.

## **SECTION II – IMPOSITION OF TAX**

There is hereby imposed on and after the first day of August, 2007, a restaurant tax of three percent (3%) of the food sales charged by all persons, companies, corporation or other like or similar persons, groups or organizations doing business as restaurants, cafes, fast food business or food vendors or like or similar business where food is prepared for human consumption in the City of Oak Grove, Kentucky. At the option of the Taxpayer, said Tax may be added to the cost of food sold. Whether or not the Tax is added to food sold, it shall be the property of the City of Oak Grove, Kentucky, and the Commission from and after the time the food sales is collected. The purpose for which this Tax is imposed and levied is to provide funds for the lawful operations of the Commission.

## **SECTION III – PAYMENT OF TAX**

- (a) The Tax shall be paid monthly by taxpayers to the Oak Grove Recreational, Tourist and Convention Commission aka "Tourism Commission" on or before the 30<sup>th</sup> day of each month for the previous month or, if such date is a Saturday, Sunday or legal holiday, on or before the next succeeding day which is not a Saturday, Sunday or legal holiday. Each monthly payment shall be the total of Taxes due from the Taxpayer based on food sales for the immediate preceding month. The remittance of the Tax shall be accompanied by a report. The report shall contain such information as the Commission determines is necessary to ensure proper enforcement of the Tax, shall be in such form as prescribed by the Commission, and shall be signed and certified as correct by or on behalf of the Taxpayer.
- (b) The information contained in the report shall be confidential. However, the information contained in all reports received by the Commission may be set down separately in statistical form, which statistical compilation shall not be confidential so long as it contains no information by means of which it would be possible to determine the gross receipts or other business information for an individual Taxpayer. Such statistical report may list the names of all Taxpayers as a group, if there are more than three (3) such Taxpayers in the group.

## **SECTION IV – WEEKLY TAX PAYMENT BY DELINQUENT TAXPAYERS**

If a Taxpayer fails to file the quarterly report when due or to make the quarterly remittance of the Tax when due, then the Commission in its discretion may require the Taxpayer to make weekly reports and weekly remittance of the Tax. Such Taxpayer shall continue to make weekly reports and weekly remittance of the Tax until the Commission is reasonably satisfied

that there will be no further delinquency in the filing of a quarterly report and the quarterly remittance to the Tax. When weekly reports and remittances of the Tax are required by the Commission, they shall be due on Thursday of each week for the immediately preceding week ending on and including Saturday.

## **SECTION V – PENALTY AND INTEREST ON DELINQUENT TAXES**

Any Taxes which are not paid by the date they are due shall be subject to a penalty of ten percent (10%) of the amount when due; and the total of such Taxes and penalty shall bear interest at the rate of twelve percent (12%) per annum from the first day of the month in which such Taxes were due until paid (or, in the case of the Taxpayer required to make weekly Tax remittances, from the first day of the week in which such Taxes were due until paid).

## **SECTION VI – CRIMINAL PENALTIES**

- (a) Any Taxpayer who fails to timely file the report required by this Ordinance shall be subject to the same penalty for a Class A Misdemeanor as provided in the Kentucky Penal Code (Chapter 500 et seq. of the Kentucky Revised Statutes).
- (b) The failure to make timely remittance and payment of the Tax to the Oak Grove Tourism Commission is, and shall be considered to be, a theft by failure to make required disposition of property as proscribed by Section 514.070 of the Kentucky Revised Statutes.
- (c) If said account remains unpaid Sixty (60) days after its due date, the Oak Grove Tourism Commission may seek enforcement and collection through Christian County's Court of proper jurisdiction.
- (d) Any owner, manager, corporate officer, director, or agent in charge of any facility subject to this Ordinance is deemed responsible for seeing that said monies are paid to the Commission. Sixty (60) days delinquency on the part of any establishment charged with collecting and paying this tax shall be prima facie evidence of willful intent not to pay same.
- (e) Upon conviction for willful intent not to pay said tax, any person mentioned in sub-Section (d) above, shall be guilty of a Class A misdemeanor as defined in KRS Chapter 500 et seq. and upon conviction may be fined not less than \$100.00 nor more than \$500.00.
- (d) An authorized form for use in reporting the tax levied and remitted is attached hereto.

## SECTION VII - AUTHORITY TO AUDIT

The Commission and/or Finance Director/Treasurer of Oak Grove is authorized to examine the books, papers, and records of any facility subject to this Ordinance in order to determine the accuracy of any return made, or, if no return was made, to ascertain the amount of tax imposed by the terms of this chapter. Each facility subject to this Ordinance is hereby directed and required to give the Commission or its duly authorized agent the means, facilities, and opportunity for an examination and investigation as authorized.

## SECTION VIII - SEVERABILITY

If any provision of this Ordinance is held to be unconstitutional or otherwise invalid by any Court of competent jurisdiction, the remaining provisions of this Ordinance shall not be invalidated.

## SECTION IX – REPEAL ORDINANCES

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

## SECTION X – EFFECTIVE DATE


The effective date of this Ordinance shall be July 1, 2009.

Approved on First Reading this 21<sup>st</sup> day of April, 2009

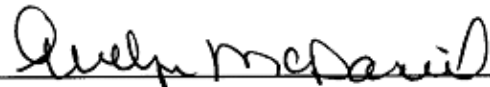
Approved on Second Reading this 28<sup>th</sup> day of April, 2009

APPROVED:

ATTEST:



Dan Potter, Mayor  
City of Oak Grove, Kentucky



Evelyn McDaniel, CAO/City Clerk  
City of Oak Grove, Kentucky

*PUBLISHED: In the Kentucky New Era, the 6th day of May, 2009.*