

City of Stanton, Kentucky
Ordinance No. 16-008

An Ordinance Levying a Restaurant Tax
Pursuant to KRS 91A.400 Effective January 1, 2017

WHEREAS, the City of Stanton desires to fund marketing and development of tourism and related activity within and around the City of Stanton; and

WHEREAS, KRS 91A.400 provides that a city such as Stanton may levy a restaurant tax not to exceed 3% of the retail sales of all restaurants doing business in the city limits of the municipality; and

WHEREAS, the City of Stanton is in the process of creating a City of Stanton Tourism and Convention Commission per KRS 91A.350 and otherwise; and

WHEREAS, the City of Stanton believes the imposition of a restaurant tax pursuant to KRS 91A.400 in order to fund the aforementioned City of Stanton Tourism and Convention Commission to be prudent and in the best interests of the City of Stanton and the residents thereof;

BE IT ORDAINED BY THE CITY OF STANTON, KENTUCKY AS FOLLOWS:

Section 1. For the purposes of this Ordinance the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(a) "Restaurant" shall be defined as any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including, but not limited to: grills; service stations; grocery stores; restaurants; coffee shops; cafeterias; short order cafes; sandwich shops; roadside stands; street vendors; delicatessens; or similar places in which food is prepared for sale for consumption on the premises or elsewhere. It does not include

schools, food vending machines or establishments serving beverages only in single service or original containers. Temporary food stands and street concessions, operated by non-profit organizations are exempt from this tax. Any clarification of the applicability of this ordinance shall be referred to the City Council of the City of Stanton for a legal interpretation or final decision.

(b) "Commission" shall be defined as the City of Stanton Tourism and Convention Commission.

Section 2. Pursuant to KRS 91A.400, there is hereby levied upon the retail sales of all food and beverages by restaurants in the municipal limits of Stanton, Kentucky, a tax of three percent, (3%), of the gross amount of such sales; which shall be passed on to the customer or ultimate consumer.

Section 3. On or before the twentieth day of each calendar month, each restaurant operator, (to include any person, group, partnership, company, corporation, or similar legal entity doing business as a restaurant or similar business as described above in the definitions section), located inside the city limits of Stanton, Kentucky shall report to the Treasurer of the City of Stanton Tourism and Convention Commission, on forms provided by the Commission, the gross sales of that restaurant from food and beverages for the preceding calendar month, and calculate the tax due for that month by computing three percent, (3%) of its gross sales from food and beverages, and the operator shall remit with the form the tax due to the Commission. All payments due under this ordinance shall be remitted by the business owner to the City of Stanton Tourism and Convention Commission.

Section 4. Any tax imposed by this ordinance which shall remain unpaid when

it becomes due, as set forth herein, shall have added to it a penalty of ten percent, (10%), of the unpaid balance. Interest in the amount of twelve percent per annum shall also be applied on any tax imposed by this ordinance which is unpaid when timely due per this ordinance. Said rate of interest, (12% per annum), shall also be applied to the penalty assessed on the unpaid balance. In the event the Commission or the City of Stanton is required to file suit or take other civil legal action to collect the sums due pursuant to this Ordinance, the entity filing said litigation, (whether it be either the City of Stanton or the Commission), shall be entitled to recover its costs and reasonable attorney fees actually incurred.

Section 5. A lien is hereby granted unto the City of Stanton upon all property, real and personal of any restaurant facility, to secure the unpaid tax receipts due from that restaurant, which lien shall be perfected by filing a notice of the estimated amount due and a statement of lien in the office of the Powell County Court Clerk, describing the property on which the lien is asserted. The costs of preparing and filing said lien with the County Clerk's Office by the Commission shall be added to the amount due.

Section 6. The City of Stanton Tourism and Convention Commission shall only expend the money collected under this ordinance within the specific guidelines of KRS 91A.350.

Section 7. The tax imposed herein by this Ordinance shall be in addition to other general taxes and the occupational or business licenses payable to the City of Stanton.

Section 8. The City of Stanton and the City of Stanton Tourism and Convention Commission, (individually or jointly), shall be entitled to injunctive relief in

the Powell Circuit Court, both temporary and permanent, against any person or entity that fails to pay the tax imposed by this ordinance, ordering said person or entity to stop doing business and close to the public for a judgment revoking any business license held by such person or entity

Section 9. No present or former employee of the Commission or any other person connected with the Commission shall divulge any information acquired by him of the affairs of any person, or information regarding tax schedules, returns or reports required to be filed with the Commission, 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. The prohibition does not extend to information required in prosecutions for making false reports or any other infraction of this ordinance, nor does it extend to any matter, which is in any way made a matter of public record, nor does it preclude furnishing any taxpayer or her properly authorized agent with information respecting his own report. Further, this prohibition does not preclude the Commission or any employee of the Commission from testifying in any court, or from introducing as evidence returns or reports filed with the Commission, in an action for violation of state or federal laws.

Section 10. Every restaurant, as defined in this ordinance, shall keep such records, receipts, invoices, and other pertinent papers in such form as the Commission may require, for not less than five (5) years from the making of such records unless the Commission in writing authorizes their destruction at an earlier date. The Commission may have access to all of the above records to the extent necessary to determine proper compliance with this ordinance.

Section 11. Any person who violates this ordinance shall be deemed to have committed a violation and shall be fined not less than twenty dollars, (\$20.00) and not more than fifty dollars, (\$50.00), for each offense. Each day the tax is past due shall constitute a separate offense.

Section 12. The tax provided for in this Ordinance and enacted by the City of Stanton per KRS 91A.400 is levied and shall commence on the first day of January, 2017. The first report and remittance pursuant to this Ordinance shall be due on February 20, 2017.

Section 13. The provisions of this Ordinance are severable. Should one or more provision be found to be invalid, said invalidity shall not effect the validity or enforcement of the other portions of the Ordinance.

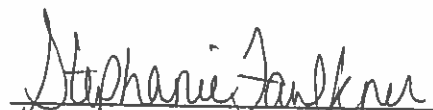
Section 14. This Ordinance shall take effect following passage and upon publication.

Enacted this 26th day of October, 2016.



DALE ALLEN, MAYOR
City of Stanton

Attest:


STEPHANIE FAULKNER,
City Clerk - City of Stanton

First Reading: 10-13-16
Second Reading: 10-26-16
Signed by Mayor: 10-26-16
Published: 11-3-16