

CITY OF LOOKOUT MOUNTAIN, GEORGIA

ORDINANCE NO. 174

An Ordinance to enact an occupation tax and to establish criteria for classification of businesses and practitioners to determine the amount of the occupation tax, and for other purposes

WHEREAS, the State of Georgia has required all Georgia municipalities to enact an ordinance or resolution in compliance with the provisions of O.C.G.A. § 48-13-1, et seq., relating to regulatory fees and occupation taxes; and

WHEREAS, the City has determined that an occupation tax (as hereinafter defined) would promote and serve the public interest; and

WHEREAS, the City intends to exercise its authority to enact an occupation tax;

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LOOKOUT MOUNTAIN, GEORGIA, AND IT IS HEREBY ORDAINED:

Section 1. All Ordinances and portions thereof providing for business licenses are hereby repealed effective December 31, 1995.

Section 2. Definitions. For purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meanings set forth in this Ordinance, unless the context clearly indicates that another meaning is intended. When not inconsistent with the context, words used in the present tense include the future tense, words used in the plural number include the singular number, and words used in the singular number include the plural number.

Section 2.1. "Employee" means an individual whose work is performed under the direction and supervision of the employer and whose employer withholds FICA, federal income tax, or state income tax from such individual's compensation or whose employer issues to such individual for purposes of documenting compensation a form I.R.S. W-2, but not a form I.R.S. 1099.

Section 2.2. "Location or office" shall include any structure or vehicle where a business, profession, or occupation is conducted, but shall not include a temporary or construction work site which serves a single customer or project or a vehicle used for sales or delivery by a business or practitioner of a profession or occupation which has a location or office.

Section 2.3. "Occupation tax" means a tax levied on persons, partnerships, corporations, or other entities for engaging in an occupation, profession, or business.

Section 2.4. "Practitioners of professions and occupations" shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.

Section 3. Occupation Tax. The City hereby enacts an occupation tax on those businesses and practitioners of professions and occupations which have one or more locations or offices within the corporate limits of Lookout Mountain, Georgia. In connection with this occupation tax, all businesses and practitioners of professions and occupations doing business

within the corporate limits of Lookout Mountain, Georgia, shall from time to time submit information regarding the site of any location or office and payment of occupation taxes to other local governments, in any manner deemed necessary by the City.

Section 4. Businesses and Practitioners of Professions and Occupations with no Location or Office in Georgia. The City hereby levies and assesses an occupation tax on those businesses and practitioners of professions and occupations with no location or office in Georgia, provided that the business or practitioner:

Section 4.1. Has one or more employees or agents who exert substantial efforts within the corporate limits of Lookout Mountain, Georgia, for the purpose of soliciting business or serving customers or clients; or

Section 4.2. Owns personal or real property which generates income and which is located in the corporate limits of Lookout Mountain, Georgia.

Section 5. If a business or practitioner subject to this Ordinance provides proof of payment of a local business or occupation tax in another state which purports to tax the business's or practitioner's sales or services in Georgia, the business or practitioner shall be exempt from this local occupation tax.

Section 6. Computation of Tax. The amount of occupation tax to be levied on an individual business or practitioner shall be as follows:

Section 6.1. The City hereby levies on individual businesses or practitioners having less than two employees an occupation tax of \$100.

Section 6.2. The City hereby levies on individual businesses or practitioners having not less than two employees nor more than five employees an occupation tax of \$300.

Section 6.3. The City hereby levies on individual businesses or practitioners having not less than six nor more than twenty employees an occupation tax of \$500.

Section 6.4. The City hereby levies on individual businesses or practitioners having not less than twenty-one nor more than forty employees an occupation tax of \$1,500.

Section 6.5. The City hereby levies on individual businesses or practitioners having more than forty employees an occupation tax of \$6,000.

Section 7. Computation of Number of Employees. For purposes of this Ordinance, the number of employees of an individual business or practitioner shall be computed on a full-time position basis or a full-time position equivalent basis. For the purposes of this computation, an employee who works forty hours or more weekly shall be considered a full-time employee. The average weekly hours of employees who work less than forty hours weekly shall be aggregated, and such aggregated sum shall be divided by forty to produce the number of full-time position equivalents.

Section 8. Election of Tax for Certain Professions. The practitioners of professions and occupations listed in Section 8.3 shall elect as their entire occupation tax one of the following:

Section 8.1. The occupation tax resulting from application of the other provisions of this Ordinance; or

Section 8.2. A fee of \$300 per practitioner who is licensed to provided the service, such tax to be paid at the practitioner's office or location.

Section 8.3. The following practitioners of professions and occupations are entitled to make the election provided under Section 8 of this Ordinance:

- (1) Lawyers;
- (2) Physicians licensed under Chapter 34 of Title 43 of the Georgia Code;
- (3) Osteopaths licensed under Chapter 34 of Title 43 of the Georgia Code;
- (4) Chiropractors;
- (5) Podiatrists;
- (6) Dentists;
- (7) Optometrists;
- (8) Psychologists;
- (9) Veterinarians;
- (10) Landscape architects;
- (11) Land surveyors;
- (12) Practitioners of physiotherapy;
- (13) Public accountants;
- (14) Embalmers;
- (15) Funeral directors;
- (16) Civil, mechanical, hydraulic, or electrical engineers;
- (17) Architects;
- (18) Marriage and family therapists, social workers, and professional counselors;
- (19) Dealers of motor vehicles, as defined in paragraph (1) of O.C.G.A. 10-1-622; and
- (20) Any other business, profession, or occupation for which state licensure or registration is required by state law, unless the state law regulating such business, profession, or occupation specifically allows for regulation by local governments.

Section 9. Exclusions. The following businesses or practitioners shall be excluded from the occupation tax, but shall be subject to taxation and regulation as otherwise provided by general law and other ordinances:

Section 9.1. Those businesses regulated by the Georgia Public Service Commission;

Section 9.2. Those electrical service businesses organized under Chapter 3 of Title 46 of the Georgia Code; and

Section 9.3. Any farm operation for the production from or on the land of agricultural products, but not including any agribusiness.

Section 10. Real Estate Brokers. The occupation tax for real estate brokers shall be levied only at the place where such real estate brokers maintain a principal or branch office.

Section 11. Due Date. All occupation taxes authorized by this Ordinance shall be due and payable annually on January 1. In the event that any person commences business on any date after January 1, the tax shall be due and payable on the date of the commencement of the business.

Section 12. Proration After July 1. When any person commences business on or after July 1 in any year, the business or occupation tax for the remaining portion of the year shall be 50% of the tax imposed for the entire year.

Section 13. Penalties. Should any occupation tax imposed by this Ordinance remain due and unpaid for ninety days from the due date of the tax, the person liable for the tax shall be subject to and shall pay a penalty of ten percent of the tax due.

Section 14. Interest. Delinquent occupation taxes shall bear interest at the rate of 1.5% per month.

Section 15. State Licenses. Each person subject to an occupation tax who is also licensed by the State of Georgia shall post the state license in a conspicuous place in the licensee's place of business and shall keep the license there at all times while the license remains valid.

Section 16. Officer Charged with Collection. The City Clerk is hereby designated as the officer charged with the levy and collection of occupation taxes.

Section 17. Other Remedies. In addition to any other remedies available under general law for the collection of occupation taxes from persons subject to the occupation tax who fail or refuse to pay the tax, the City Clerk shall issue executions against the delinquent taxpayers for the amount of the taxes due when the taxes become due.

Section 18. When a nulla bona entry has been entered by a proper authority upon an execution issued by the City Clerk against any person defaulting on an occupation tax, the person against whom the entry is made shall not be allowed or entitled to have or collect any fees or charges whatsoever for services rendered after the entry of the nulla bona. If, at any time after the entry of nulla bona has been made, the person against whom the execution issues pays the tax in full together with all interest and costs accrued on the tax, the person may collect any fees and charges due him or her as though he or she had never defaulted in the payment of the tax.

Section 19. Criminal Prosecution. Notwithstanding any other remedies available under this Ordinance or general law, the City may also criminally prosecute persons violating this Ordinance by failing to pay the occupation tax or by refusing to register. All remedies in this Ordinance, general law, or any other law, shall be cumulative.

Section 20. The occupation taxes provided by this Ordinance shall first become due on January 1, 1996.

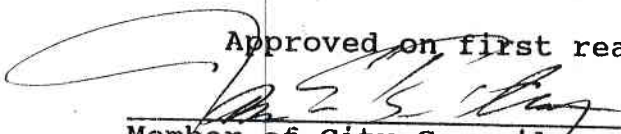
Section 21. Savings Clause. If any of the sections, subsections, sentences, clauses or phrases of this Ordinance are for any reason held to be unconstitutional or invalid, the validity of the remaining portions of this Ordinance shall not be thereby affected since it is the express intent of the Council of the City to pass each section, phrase, paragraph and word separately.

Section 22. Part of Code of Ordinances. It is the intention of the Council of the City that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City, and the Sections of this Ordinance may be renumbered to accomplish such intention.


Section 23. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 24. Effective Date. This Ordinance shall be effective ten (10) days after its adoption and approval by at least three (3) members of the City Council after two (2) readings at least one (1) week apart.

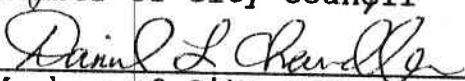
Approved on first reading on November 16, 1995.




Member of City Council



Member of City Council




Member of City Council



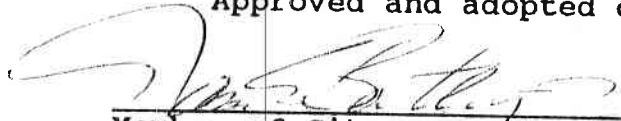
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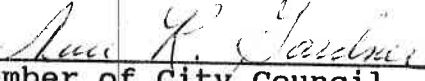


Mayor of Lookout Mountain,
Georgia

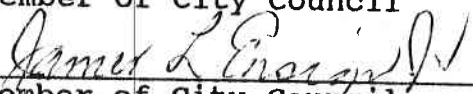
Approved and adopted on Second Reading on December 21, 1995.



Member of City Council




Member of City Council




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Member of City Council




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Mayor of Lookout Mountain,
Georgia

ATTEST:



City Clerk