

CITY OF LINCOLNSHIRE, KENTUCKY
ORDINANCE 1(ONE), SERIES 2019
AN ORDINANCE REPEALING AND REPLACING THE CITY ORDINANCES
CONCERNING THE IMPOSITION OF FEES ON COMPANIES WHO ISSUE
CERTAIN INSURANCE POLICIES IN THE CITY

WHEREAS, KRS 91A.080 through 91A.0810 authorize cities and other local governments to impose license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance within their corporate limits (“local government premiums tax” or “**LGPT**”);

WHEREAS, the City Council of the City of Lincolnshire, Kentucky (“**City**”) adopted ordinances imposing LGPT upon insurance companies engaging in the business of insurance within the City’s corporate limits (the “**Original Ordinance**”);

WHEREAS, Louisville/Jefferson County Metro Government (“**Metro**”) levies LGPT upon insurance companies engaging in the business of insurance within the corporate limits of Jefferson County, including within the corporate limits of the City:

WHEREAS, KRS 91A.080(12) provides that the City LGPT shall be credited against the Metro LGPT, such that all LGPT revenue from engaging in the business of insurance within the City is paid to the City provided the City LGPT is imposed at an amount at least equivalent to the Metro LGPT;

WHEREAS, KRS 91A.080(1) provides that LGPT rate changes take effect July 1 of each year on a prospective basis only and requires that any ordinance changing LGPT rates to be filed with the Kentucky Council of Insurance at least one hundred (100) days prior to the effective date; and

WHEREAS, the City has determined and hereby declares it is necessary, desirable, and in the public interest for the City to repeal and simultaneously replace its Original Ordinance for the purpose of establishing a LGPT equal to the amount that provides the maximum allowable credit against the Metro LGPT;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF LINCOLNSHIRE, KENTUCKY:

Section 1: Any and all ordinances of the City imposing license fees upon insurance companies engaging in the business of insurance within the corporate limits of the City are hereby repealed in its entirety.

Section 2: A new Chapter the City’s ordinances is hereby adopted as follows:

1. Imposition of license fee. There is hereby imposed on each insurance company a license fee (hereinafter referred to as a local government premiums tax, “**LGPT**”), for the privilege of engaging in the business of insurance within the corporate limits of the city, on a calendar-year basis, based upon the following:

a. **“Premiums”** is defined as premiums actually collected by an insurance company within each calendar quarter by reason of the issuance of policies and contracts of insurance on risks located within the City and includes premiums on new policies and contracts of insurance and on renewal business, as well as all other classes of premiums, less all premiums returned to policyholders.

b. Except as otherwise provided in subsection (c) below, the license fee imposed upon each insurance company which issues any insurance policy or contract of insurance shall be the following percentage of Premiums on those classes of insurance which such company is authorized to issue (the **“Base Fee”**):

	Fire and Allied Perils	Casualty Liability Only	Vehicle	Inland Marine	Health	Life	All other Risks Taxed
Initial Rate	5%	5%	5%	5%	0%	5%	5%

The Base Fee shall not apply to Premiums exempted by state or federal law.

c. In addition to the Base Fee, an additional license fee in the amount of 7.5% is hereby imposed by the City upon each insurance company on the premiums for each class of insurance listed in Section (b) above, provided that Louisville Metro has raised its LGPT rate from 5% to 12.5% effective July 1st, 2019 for any of the classes of insurance listed in Section (b) above. In the event the Louisville Metro LGPT effective July 1st, 2019 is raised to an amount different than 12.5%, but more than the City’s Base Fee, the City hereby imposes an additional license fee on each class of insurance listed in Section (b) above, equal to the City LGPT credit allowable under KRS 91A.080(12). In the event the Louisville Metro LGPT effective July 1st, 2019 remains 5% for any class of insurance listed in Section (b) above, the City’s Base Fee shall apply.

2. Fees to be paid to General Revenue Fund. The license fee or tax established by this chapter is imposed and levied for the purpose of general revenue funds and shall be paid into the general fund of the city.
3. The license fee or tax imposed by a city upon each insurance company with respect to life insurance policies may be based upon the first year’s premiums and shall be applied to the amount of the premiums actually collected within each calendar quarter upon the lives of persons residing within the corporate limits of the city.
4. Amount of fee for companies issuing policies other than life insurance:
 - A. The license fee or tax imposed upon each insurance company with respect to any policy which is not a life insurance policy shall be of the premiums actually collected by the insurance company within each calendar quarter on risks located within the corporate limits of the city on those classes of

business which the insurance company is authorized to transact, less all premiums returned to policyholders.

- B. The license fee or tax shall also not apply to premiums:
 - 1. Received on policies of group health insurance provided for state employees under KRS 18A.225;
 - 2. Received on policies insuring employers against liability for personal injuries to their employees or the death of their employees caused thereby, under the provisions of KRS chapter 342;
 - 3. Received on health insurance policies issued to individuals;
 - 4. Received on policies issued through Kentucky Access created in Subtitle 17B of KRS chapter 304;
 - 5. Received on policies for high deductible health plans as defined in 26 U.S.C. 223(c)(2);
 - 6. Received on multi-state surplus lines, defined as non-admitted insurance as provided in Dodd-Frank Wall Street Reform and Consumer Protection Act Pub. L. no. 113-203; or
 - 7. Paid to insurance companies or surplus lines brokers by non-profit self-insurance groups or self-insurance entities whose membership consists of cities, counties, charter county government, urban-county government, consolidated local government, unified local government, school districts, or any other political subdivisions of the Commonwealth.

- C. No License fee or tax imposed under this section shall apply to premiums paid to insurers of municipal bonds, leases, or other debt instruments issued by or on behalf of a city, county, charter county government, urban-county government, consolidated local government, special district, nonprofit corporation, or other political subdivision of the Commonwealth. However, this exemption shall not apply if the bonds, leases, or other debt instruments are issued for profit or on behalf of for-profit or private organizations.

- 5. Due date; Interest and Refunds:
 - A. All license fees imposed by this chapter shall be due no later than 30 days after the end of each calendar quarter;

 - B. Any insurance company or agent that overpays any license fee or tax to a city shall be refunded the amount overpaid. If it is determined that an insurance company or agent paid a license fee or tax to a city based upon premiums collected upon lives or risks which are discovered to be located outside the legal corporate limits of the city which was paid the license fee or tax, the insurance company or agent shall be refunded those license fees and taxes within 90 days' notice to the city paid.

- C. License fees which are not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid.

- 6. **Written Breakdown of Collections.** Every insurance company subject to the license fees imposed by this chapter shall annually, by March 31st, furnish the city with a written breakdown of all collections in the preceding calendar year for the following categories of insurance:
 - A. Casualty;
 - B. Automobile;
 - C. Inland Marine;
 - D. Fire and allied perils;
 - E. Health; and
 - F. Life.

- 7. **Inspection of records and accounts.** Every insurance company subject to license fees or tax shall maintain records adequate to support the reports required to be filed under this chapter. Authority is given to the City of Plantation or a representative thereof to make inspection of the books, accounts and records of the agent or insurance company to verify the correctness of any report or breakdown of collections.

- 8. **Liability of Agents.** This section applies to insurance agents and surplus lines brokers to the extent they are responsible for collection, reporting, and payment of license fees or taxes pursuant to KRS 91A.080.

- 9. **Severability.** If any provision of this chapter as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect the other provisions that can be given effect without the invalid provision or application

- 10. **Penalty.** Pursuant to KRS 91A.080, willful failure to properly collect and remit the license fees or taxes imposed by this chapter may constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304 or may result in other penalties being imposed by the State Office of Insurance.

Section 3: This ordinance shall be effective upon adoption and publication. **ADOPTED BY THE CITY COUNCIL OF THE CITY OF LINCOLNSHIRE, KENTUCKY**, upon second reading at a meeting held on the _____ day of _____, 2019, following first reading at a meeting held on the _____ day of _____, 2019; and following such adoption signed by the Mayor as evidence of his approval, ordered to be published in summary form according to law, and declared to be in full force and effect according to law.

APPROVED:

Mayor

Attest:

City Clerk

CERTIFICATION

The undersigned, City Clerk of the City of Lincolnshire, Kentucky (the "**City**"), hereby certifies that the foregoing is a true, complete, and correct copy of an Ordinance finally adopted upon second reading by the City Council of the City at a properly convened meeting of the City Council held on the _____ day of _____, 2019, signed by the Mayor and attested by me as City Clerk, all as shown by the official records in my custody and under my control.

WITNESS, my hand this the _____ day of _____ 2019.

City Clerk