

ORDINANCE NO. 220.22

AN ORDINANCE AMENDING ORDINANCE NO. 220.9, 220.13, & 220.14, RELATING TO THE IMPOSITION AND PAYMENT OF LICENSE FEES ON BUSINESSES, OCCUPATIONS AND PROFESSIONS WITHIN PULASKI COUNTY, KENTUCKY FOR THE HEALTH, EDUCATION, SAFETY, WELFARE AND CONVENIENCE OF THE INHABITANTS OF PULASKI COUNTY, KENTUCKY, PURSUANT TO KRS 68.197.

WHEREAS, THE PULASKI COUNTY FISCAL COURT DESIRES CERTAIN CHANGES TO BE MADE TO THE ORDINANCE IMPOSING LICENSE FEES ON BUSINESSES, OCCUPATIONS AND PROFESSIONS WITHIN PULASKI COUNTY, KENTUCKY SO THAT SAID FEE AND PAYMENT CAN BE ADMINISTERED MORE EFFICIENTLY;

NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF PULASKI COUNTY, KENTUCKY AS FOLLOWS:

THAT ORDINANCE NO. 220.9, 220.13, & 220.14 IS HEREBY REPEALED, AMENDED AND RE-ADOPTED IN FULL TO READ AS FOLLOWS:

SECTIONS:

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SECTION 1.01 DEFINITIONS

The following expressions when used in this chapter shall have the ordinary and accepted meaning ascribed to them in this section, except where the context clearly indicates or requires a different meaning:

(1) "ASSOCIATION" means a partnership or any other form of unincorporated enterprise owned or operated by two or more persons.

(2) "BUSINESS, PROFESSION OR OCCUPATION" means an enterprise, activity, profession or under-taking of any nature conducted for gain or profit within the county, whether conducted by a self-employed person, natural person, a corporation, an S corporation, an association, a partnership, a joint venture, a fiduciary, an itinerant merchant, or any other entity; it shall include specifically but not exclusively the rental of any property, real or personal, but shall not include the usual activities of a board of trade, chamber of commerce, trade association, or union; community chest fund or foundation; a corporation or association organized and operated exclusively for religious, charitable, scientific, literary, educational, or fraternal purposes (IRC Section 501(c)(3)) where no part of the earnings, income or receipts of such unit, group, or association inures to the benefit of any private shareholder or other person.

(3) "CORPORATION" means a corporation or joint stock company including S corporations organized under the laws of the United States, Kentucky, another state, territory or foreign country or a dependency thereof, or otherwise existing under color of law as a corporation including a non profit corporation and a joint stock company and recognized as such for federal income tax purposes.

(4) "COUNTY" means Pulaski County, Kentucky, including the cities of Somerset, Burnside, Ferguson, Eubank and Science Hill, and any other community whether incorporated or not.

(5) "DOMESTIC SERVANT" means an individual employed to drive his employer as a chauffeur or employed on the grounds or in the home of his employer, to cook, clean, wash, garden, transport, or otherwise care for or wait upon the employer, the employer's family and guests or to care for the person, home, grounds, and/or vehicles of the employer, the employer's family and guests, including but not limited to maids, butlers, nurses, nursemaids, gardeners, cooks, launderers and chauffeurs engaged to service the employer, the employer's family and guests, but not including such individuals who are employed by a cleaning service, personal nursing service, chauffeuring service or other entity which offers the services of its employees to the public.

(6) "EMPLOYER" means an individual, partnership, association, corporation, S corporation, joint venture, governmental body or unit of administration or any other entity who (or that) employs one or more persons on the basis of a salary, wage, commission, or other compensation, regardless of whether such employer is engaged in business.

(7) The term "FEDERAL INCOME TAX RETURN" means all

forms filed for Federal Income Tax purposes including all schedules.

(8) "FIDUCIARY" means a guardian, trustee, executor, administrator, receiver, conservator, or any individual or corporation acting in a fiduciary capacity for any other person. This includes all persons required to file under KRS 141.190.

(9) "ITINERANT MERCHANT" means an individual who does not have a permanent business location in the County and who sells items of merchandise.

(10) The term "KENTUCKY STATE INCOME TAX RETURN" means all forms filed for Kentucky State Income Tax purposes including all schedules.

(11) The phrase "LICENSE FEE" shall mean a tax imposed on (a) salaries, wages, commissions and other compensation earned by persons within the county for work done and services performed or rendered in the county; and (b) the net profits of self-employed persons, corporations, S corporations, associations, partnerships, joint ventures, fiduciaries, itinerant merchants, or any other entity resulting from businesses, trades, occupations, professions, or activities conducted in the county.

(12) "LICENSEE" means any person required to file a separate return or to pay a license fee thereon under this chapter.

(13) "NET PROFIT" as used herein shall mean gross receipts less ordinary business deductions, recognized as such, and allowed by the laws of the Commonwealth of Kentucky, in computing income tax liability, but without deductions for (1) taxes based on income and (2) Net Operating Losses.

(14) "NEXUS" shall mean a minimum connection between a person/business entity and the taxing jurisdiction brought about when the person/business entity purposefully avails itself of the privileges and protection of the jurisdiction while engaging in business or practicing a trade, occupation, or profession, without excluding by implication other activities which may create a nexus.

(15) "OCCUPATIONAL TAX ADMINISTRATOR" means the official collector and administrator of the occupational tax, to be appointed by the Pulaski County Fiscal Court.

(16) "PARTNERSHIP" means the relationship between two or more who join together to carry on a trade or business. Each partner contributes money, property, labor, or skills, and each expects to share in the profits and losses. A partner can be an

individual person, corporation, trust, estate, or another partnership.

(17) "PERSON" shall mean and include every natural person, partnership, fiduciary, association, or corporation. Whenever this term is used in any clause prescribing and imposing a penalty in the nature of a fine or imprisonment, it, as applied to partnerships and associations, shall mean the partners or members thereof and as applied to corporations, the officers.

(18) "QUESTIONNAIRE" means the registration form required by the Occupational Tax Office to be completed before the commencement of business within Pulaski County.

(19) "RENTAL UNIT" shall mean any room or rooms connected or other structure or portion thereof constituting a separate, independent establishment of premises for rent, lease, or sublease to the occupant thereof.

(20) "RETURN" or "REPORT" means any properly completed and, if required, signed form, statement, certification, declaration, or any other document permitted or required to be submitted or filed with the Occupational Tax Office.

(21) "SALARIES," "WAGES," "COMMISSIONS" and other "COMPENSATION" when applied to a person employed by others shall have the same meaning and shall include the gross amount of all salaries, wages, commissions, fees (including director fees), bonuses or any other money payments of any kind, or other considerations having a monetary value, which a person receives or becomes entitled to, or is given credit for by an employer, without deduction for withholding taxes, social security benefits, any form of insurance or retirement benefits, or other deductions made by an employer in calculating "take home-pay".

(22) "SOLE PROPRIETOR" means a natural person engaged in any business, profession or occupation, but not as an employee.

(23) "TAXPAYER" means any person or business made liable for taxation or for the payment of amounts withheld from employees under the terms of this chapter.

(24) The words and phrases "TRADE, OCCUPATION, or PROFESSION" shall include any and all activities and the rendering of any and all services of all kinds for net profit or gain of any kind when applied to persons so engaged for themselves whether the person be a resident of Pulaski County or not.

(25) "YEAR" means the calendar year or the fiscal year

(employed by a business subject to the license fee imposed by this chapter) if the taxpayer reports for state income tax purposes on the basis of a period other than a calendar year.

(26) The singular shall include the plural, the plural shall include the singular, the masculine or feminine shall include both and the neuter genders whenever susceptible to such.

SECTION 1.02 OCCUPATIONAL LICENSE FEE GENERALLY

(A) Every person or business engaged in any trade, occupation, or profession, or other activity or anyone required to file a return under this ordinance in Pulaski County shall be required to complete and execute the questionnaire prescribed by the Occupational Tax Office. Each person shall be required to complete a separate questionnaire for each separate business before the commencement of business or in the event of a status change, other than change of address. Licensees are required to notify the Occupational Tax Office of changes of address, or the cessation of business activity, and of other changes which render inaccurate the information supplied in the completed questionnaire.

(B) Every natural person and every entity defined in Section 1.01 (2) and/or 1.01 (24), engaging in any activity for profit, or filing Kentucky Income Tax forms 740, 741, 765, 720 or 720S, shall be required to file and pay to the Occupational Tax Administrator an annual Occupational License Fee resulting from engaging in each said activity. Said license fee shall be measured by one percent (1%) of compensation defined in Section 1.01 (21) and one percent (1%) of the net profits defined in Section 1.01 (13) for each separate business or entity, except those exempted under KRS 68.197.

- (1) Each person, business, and entity above operating for profit entirely within Pulaski County shall attach a copy of their appropriate Kentucky Income Tax Return (form 720 or 720S along with 720L, 740, 741, or 765) and supporting schedules (e.g. Federal Schedule C, E, or F).
- (2) Persons and entities above operating for profit both within and without Pulaski County shall determine income taxable to Pulaski County by an allocation process similar to the one used by the Commonwealth of Kentucky in determining income taxable to it. Three factors, gross receipts, property, and payroll, are used in the calculation as follows:

GROSS RECEIPTS

The total of all monies received or due from sales or services within Pulaski County operations is to be divided by the total of all monies received or due from sales or services in all locations. This quotient is to be carried to four decimal places.

PROPERTY

The total original cost of all real and tangible personal property sited in Pulaski County is to be divided by the total original cost of all real and tangible personal property in all locations. Leased and rented property is valued at eight times the annual rental rate. This quotient is to be carried to four decimal places.

PAYROLL

The total amount of payroll as reported to the tax Administrator is to be divided by the total annual payroll in all locations. This quotient is to be carried four decimal places.

If any of the three factors equals zero, that factor is dropped from further calculations. The remaining factors are then averaged to obtain the weighted apportionment factor. The weighted apportionment factor is then multiplied by the net income shown on the entity's Kentucky Income Tax Return.

- (3) Where Salaries, Wages, Commissions or other Compensation are earned for work done or services performed or rendered both within and without the county, said license fee shall be measured by such part of the salaries, wages, commissions or other compensation as is earned as a result of work done or services performed or rendered in the county. Said license fee shall be computed by obtaining the percentage which the salaries, wages, commissions or other compensation within the county bears to the total salaries, wages, commissions or other compensation earned. Adequate records must be kept in order for the Occupational Tax Administrator to ascertain the accuracy of percentages reported.
- (4) All partnerships (not their partners) and S Corporations (not their shareholders) are subject to this ordinance, that is, the Occupational License Fee is not "passed through" these entities.

In the case of guaranteed payments to partners, the partners are subject to the Occupational License Fee on any such payments. The partnership will be subject to the Occupational License Fee on any income shown on Schedule K, page 3 of Kentucky Form 765, less said guaranteed payments.

(C) Subject to this ordinance is all income derived from the hire, rental or leasing of personal property, including those persons engaged in farm activity. All wages, salaries, commissions, or other income earned or received by persons, associations, partnerships, corporations, S corporations, joint ventures or any other entity shall be deemed to be engaged in the business of renting or leasing real estate if said person, association, partnership, corporation, S corporation, joint venture or other entity owns any interest in:

- (1) real estate in Pulaski County used for commercial or industrial purposes, or
 - (2) more than two (2) residential rental or leasable units in Pulaski County.
- (see SECTION 1.06 (C))

Persons, associations, partnerships, corporations, joint ventures or any other entity will be subject to the Occupational License Fee on any income shown on Federal Schedule E.

(E) Every person or business engaged in farm activity for profit will be subject to the Occupational License Fee on any income shown on Federal Schedule F.

(F) Sole proprietors engaged in any business activity for profit will be subject to the Occupational License Fee on any income shown on Federal Schedule C.

(G) Wages earned either within or outside Pulaski County may not be used as a credit against the Net Profits of a business.

(H) A person practicing a business, profession, trade or occupation shall be deemed to be subject to the net profits license fee if the person has a nexus with Pulaski County sufficient to justify the imposition of the license fee in a manner consistent with the commerce clause and the due process clause of the Fourteenth Amendment to the Constitution of the United States and other applicable federal law. If the person has a sufficient nexus with Pulaski County, but also has a sufficient nexus with other counties of Kentucky, other states of the United States, and/or other nations, then the net profits derived from activities conducted within Pulaski County shall be determined by the

apportionment formula set out in Section 1.02 (B) (2). It shall not be necessary that there be an independently established nexus between Pulaski County and each activity from which the licensee has derived income subject to apportionment. Consequently, the "net profit" of the corporation, fiduciary, partnership or other association shall be subject to apportionment and taxation based on unitary business principles. To the extent that the licensee submits satisfactory proof that any income is not from a unitary source, such income may be excluded.

(I) Establishing "Nexus"

Without excluding by implication other activities which may create a nexus, one or more of the following connections between a person/business entity in Pulaski County shall normally establish a sufficient nexus:

- (a) Location of a place of business in the County;
- (b) Frequent and continuing entry into the County in the course of business by an officer or employee of a business;
- (c) Delivery of goods to residents in the County other than through the mails or by common carrier;
- (d) Contracting to sell goods in the County;
- (e) Conducting substantial business activity in the County leading to a contract to buy or sell goods.

SECTION 1.03 RETURNS REQUIRED

(A) It shall be the duty of every person engaged in any trade, occupation, or profession (1.01 (24)) for themselves, or any business (1.01 (2)), for gain or profit, within the County, to file with the Administrator a return showing the net profit or net loss from such activity realized during the preceding year as determined by the Licensee's method of accounting or keeping books, along with copies of appropriate forms filed with Federal and Kentucky State Income tax returns, and shall pay the license herein provided, calculated on the net profit for such preceding fiscal year. Within one hundred-five (105) days after the end of each of the Licensee's fiscal year following January 1, 1987, such persons shall file a report with the Administrator showing the net

profit/loss for the preceding license period. All returns not received within one hundred-five (105) days after the year end shall then be deemed delinquent, unless a Federal or State Extension has been granted (see Section 1.04), and may be assessed a penalty of one hundred (\$100) dollars in addition to any license fee, penalty, and/or interest owed to the Occupational Tax Administrator even in the event that the licensee has incurred a net loss. A Net Profits License Fee Return must be filed on each individual business regardless of profit or loss status on a form furnished by or obtainable from the Tax Administrator.

(B) WITHHOLDING AND PAYMENT OF TAX BY EMPLOYERS

Each employer who employs one or more persons within the county shall deduct at the time of the payment thereto, the license fee due from each employee measured by the amount of salaries, wages, commissions, or other compensation due by the employer to the employee and shall pay to the Occupational Tax Administrator the amount of the license fee so deducted. The payment required to be made on account of deductions by employers shall be made quarterly, for the periods ending March 31st, June 30th, September 30th, and December 31st of each year, on or before the last day of the month next following the quarter of the deduction to the Occupational Tax Administrator. Payment shall be remitted along with a form furnished or obtainable from the Administrator and shall contain all essential information, dates and figures, upon which the license fees required by this Ordinance are computed. The employer must, annually during the month of January of each year, make a return to the Occupational Tax Administrator, in which is set forth the name and social security number of each employee of the employer during the preceding calendar year, giving the amount of salaries, wages, commissions or other compensation earned during such preceding year by each such employee and the amount of Occupational License Fees withheld pursuant to this chapter, together with a copy of the W-2 form for each employee for said preceding calendar year. In lieu of W-2 forms a detailed reconciliation statement with name, social security number, amount of salaries, wages, commissions or other compensation for each employee of the employer may be remitted for said preceding calendar year. Each employer must reconcile the sum total of compensation paid and taxes withheld as disclosed by the information return with the aggregate amount previously reported on the quarterly returns and with aggregate remittances paid for the calendar year, and any other pertinent information as the Occupational Tax Administrator may require. Provided, however, that the failure or omission by any employer to deduct such license fee shall not relieve the employee from the payment of such license fee and compliance with such regulations with respect to making returns and payments thereof, as may be fixed in this chapter or established by the Occupational Tax Administrator.

(C) Each employer who employs one or more persons within the county shall furnish each employee a statement on or before January 31 of each year showing the amount of compensation earned and the license fee deducted and paid by the employer during the preceding calendar year.

(D) Each employer who employs one or more persons within the county, in the event of overpayment by the employer of the employee license fee, shall upon request of the employee and may on its own initiative apply to the Occupational Tax Administrator for a refund on behalf of the employee, correcting the previously submitted return which had shown the excess withholding, and submitting those records of the payments made and amounts withheld from the employee on whose behalf a refund is sought (including proof or certification of the employees time spent inside and outside the county) as the Occupational Tax Administrator or her designee may reasonably require. Any employee, on his own initiative who wishes to file for a refund for overpayment of license fees withheld and reported by employer may do so by contacting the Occupational Tax Administrator and filing FORM-ERC% (including proof or certification of time spent inside and outside the county) and submitting any other pertinent information as the Tax Administrator may require.

(E) If an employer fails to or is not required to withhold, report, or pay the License Fee it shall become the duty of the employee to file with the Occupational Tax Administrator. The only employer that is not required to withhold, report, and pay the License Fee is the Federal Government including the United States Postal Service. The payment required to be made by an employee, can be made quarterly, for the periods ending March 31st, June 30th, September 30th, and December 31st of each year, or at any time the employee wishes to make an estimated payment for the year in which wages are earned. All license fees must be received by February 28th for the preceding calendar year, together with a copy of the employee's W-2 form. Employers not required to withhold, report, or pay the license fee must annually during the month of January of each year, make a return to the Occupational Tax Administrator, in which is set forth the name and social security number of each employee of the employer during the preceding calendar year, giving the amount of salaries, wages, commissions or other compensation earned during such preceding year by each such employee. This list shall include all current full time employees, part time employees, temporary employees, and terminated employees whether it be voluntary or involuntary.

(F) It shall be the responsibility of persons who make Federal 1099 "non employee compensation" payments to natural persons other than employees for services performed within Pulaski

County Kentucky, to maintain records of such payments and to report such payments to the Occupational Tax Administrator. Said payments must be reported on Form 1099-OT or its equivalent by February 28 of the year following the close of the calendar year in which the non employee compensation was paid. Form 1099-OT requires that non employee compensation payments of \$600.00 or more be reported. The information required to be reported by said licensee shall include:

(1) Payer's name, address, social security and/or Federal identification number.

(2) Recipient's name and address.

(3) Recipient's social security and/or Federal identification number.

(4) Amount of non employee compensation paid in the calendar year.

(5) Amount of non employee compensation earned in Pulaski County for the calendar year.

All licensee's and all corporations, partnerships, and sole proprietors whether or not deemed licensee's hereunder who make payments of \$600.00 or more to natural persons other than employees are required to file Form 1099-OT.

(G) For the preceding clauses (A), (B), (D), (E) and (F), the records required by this Ordinance shall be on a form furnished or obtainable from the Administrator and shall contain all essential information, dates and figures, upon which the license fees required by this Ordinance are computed.

SECTION 1.04 EXTENSION OF DATE FOR RETURNS - INTEREST

An extension beyond the date for filing of any return shall be granted if either the Federal or State Government grants such an extension and said copy of extension is received by the Occupational Tax Office by the original due date. Provided, however, that any balance unpaid when payment is due under the terms of this chapter shall bear interest at the rate of eight percent (8%) per annum until paid. No extension shall be granted for more than six (6) months, and in no case for more than one (1) year.

SECTION 1.05 PENALTIES - INTEREST

(A) Any person who fails to file the annual Net Profits License Fee Return on or before the due date shall be deemed delinquent and shall have added thereto a penalty of ten percent, and shall thereafter bear interest at the rate of eight percent per annum on the amount of the unpaid license fee which the return, if properly completed and filed, would have shown to be due. However, the penalty provisions of Section 1.04 shall govern licensees who have received an extension of time for filing pursuant to Section 1.04.

(B) Any person who fails to pay on or before the date due (including any extension under Section 1.04 hereof) the amount of the Occupational License Fee as shown on the prescribed return shall be assessed a penalty of ten (10%) percent of the unpaid amount of the license fee whether or not the return has been timely filed. Any person who pays the full amount shown on the return but who fails to pay the amount of any additional Occupational License Fee due as finally assessed by the Occupational Tax Administrator within fifteen (15) days after the assessment becomes final shall be assessed a penalty of ten (10%) percent of the unpaid amount of the license fee. However, the aforesaid ten (10%) percent penalty on the amount due may be assessed without notice of final assessment of additional license fee due if the amount shown on the return is based on fraud or gross negligence. In all events the unpaid amounts of any license fee shall bear interest at the rate of eight (8%) percent per annum from the date originally due until paid in full.

(C) Any employer who fails or refuses to withhold monthly the license fee measured by a percent of salaries, wages, etc., or who fails to pay said money, after withholding the same, to the Occupational Tax Administrator at the time it is due as provided under the terms of Section 1.03 (B) shall become liable for the amount due and the same shall have added thereto a penalty of ten (10%) percent and shall thereafter bear interest at the rate of eight (8%) percent per annum until paid.

(D) For the preceding clauses (A), (B), and (C), the interest and penalty provisions shall be applied cumulatively and the imposition of these interest and administrative penalty provisions shall not prevent the assessment of any additional penalties under Section 1.13.

SECTION 1.06 EXEMPTIONS

Compensation for the following classes of persons shall be exempt to the extent herein set forth from the provisions of the Pulaski County Fiscal Court Occupational License Fee. Said exemptions do not alleviate a tax payor's responsibility to file a required return:

(A) All natural persons aged 65 and older shall be exempt from the provisions of the Occupational License Fee as to the first two thousand (\$2,000) dollars of salaries, wages, commissions, or other compensation earned by such persons in Pulaski County for work done or services performed or rendered in Pulaski County, or exempt as to the first two thousand (\$2,000) dollars of net profits of any business, trade, occupation or profession conducted in Pulaski County. It shall be the duty of all employers to withhold on all wages. Each individual person entitled to this refund must file FORM-ERC65 provided by or obtainable from the Occupational Tax Office. A W-2 and proof of age must be provided to receive said refund. No more than one exemption will be allowed per person or business. This said exemption may be used on either personal wages or net profits.

(B) Compensation received for the raising or leasing of tobacco of less than one thousand (1,000) pounds shall be exempt from the Occupational License Fee.

(C) Compensation received for the renting or leasing of two or less residential rental units shall be exempt from the Occupational License Fee.

(D) A person engaged in agriculture business (raising crops and livestock) who employs less than five (5) employees on a regular time basis, (four hundred fifty [450] hours during a quarter), may file a return and pay the withholding tax at the end of the taxable year.

(E) Compensation received for domestic services rendered by those persons classified as domestic servants by Section 1.01 (5).

(F) Those persons qualifying under KRS 68.197.

(G) No public service company that pays an ad valorem tax is required to pay a license tax, and no license tax shall be imposed upon or collected from any insurance company except as provided in KRS 91A.080, bank, trust company, combined bank and trust company, combined trust, banking and title business in this state, or any savings and loan association whether state or

federally chartered, or in other cases where the county is prohibited by law from imposing a license tax because this is forbidden by KRS 68.197. As of January 1, 1984 bus line companies, regular and irregular route common carrier trucking companies and taxicab companies are expressly excluded from the definition of "public service corporation" at KRS 136.120 (1). Such companies therefore are now and since January 1, 1984 have been subject to the net profit license fee. To be entitled to this exemption, companies are required to show that they are actually assessed as public service companies by the Kentucky Revenue Cabinet and that they in fact pay an ad valorem tax based on this assessment. Licensees whose business is predominantly non-public service who are also engaged in public service activity are required to pay a license fee on their net profit derived from the non-public service activities apportioned to the County.

SECTION 1.07 ADMINISTRATIVE PROVISIONS

(A) Fractional parts of a dollar - Licensees are permitted to report items on all returns and accompanying schedules in whole dollar amounts. To do so, licensees should drop any amount less than fifty (50) cents and increase any amount from fifty (50) cents to ninety-nine (99) cents to the next highest dollar.

(B) Automatic Extension if due date falls on Saturday, Sunday or County of Pulaski Holiday - Any return required to be filed hereunder shall be considered to have been timely filed if it is postmarked or hand-delivered to the Occupational Tax Office on or before the due date or, in the event the due date is a Saturday, Sunday or County of Pulaski legal Holiday, if it is postmarked or hand-delivered to the Occupational Tax Office on the next day which is not a Saturday, Sunday or a County of Pulaski legal holiday.

(C) Limitations on credit, refund - Any request for a refund, or for credit for an overpayment of any occupational license fee paid to the Tax Administrator, unless paid under protest, must be filed within one year from the date of the filing of the completed return, if timely filed. In a case where the return involved was not timely filed, the request for refund must be made within one year from the original due date of the return. For the purpose of this regulation, a return shall be considered as timely filed if it is received at the Occupational Tax Office, or postmarked, by the due date specified in any duly approved extension of time for filing granted upon the request of the licensee.

SECTION 1.08 COLLECTION OF TAX - RECORDS

It shall be the duty of the Occupational Tax Administrator to collect and account for all license fees imposed by this chapter and deposit the same in the Occupational Tax Fund of Pulaski County. These monies and all interest earned on these monies being held on deposit by the County are to be disbursed as follows:

(1) All expenses, including salaries, incurred in the operation of the Occupational Tax Administrator's Office;

(2) All budgeted expenses incurred in the operation of the 911 Emergency Program; and the Somerset/Pulaski County Ambulance Service in excess of revenues generated by said service;

(3) After the aforementioned disbursements have been made, the remaining funds shall be disbursed as follows;

20% General Fund, to replace funds lost from Revenue Sharing, not to exceed \$500,000 each fiscal year. Any excess monies over \$500,000 (dollars) beginning May 16, 1996 and ending May 16, 1999 shall be disbursed in the following manner. Excess monies not to exceed \$128,000 (dollars) shall be divided on a per capita ratio to the five (5) incorporated cities with any remaining excess monies to be applied to the County Road Fund (Road Development).

30% Industrial Fund

24% Road Development

26% City Development, to be disbursed to the five incorporated cities based on population.

(4) The administration of the Occupational Tax Administrators office shall be based upon a calendar year.

SECTION 1.09 RULES AND REGULATIONS

The Occupational Tax Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations, relating to any matter or thing pertaining to the administration and enforcement of the provisions of this chapter, including but not limited to provisions for the re-examination and correction of returns as to which an overpayment or underpayment is claimed or found to have been made, and the rules and regulations promulgated by her shall be binding upon the licensee and the employers.

SECTION 1.10 EXAMINATION OF RECORDS

The Occupational Tax Administrator or any agent or employee designated in writing by her is hereby authorized to examine the books, papers, and records of any employer or supposed employer or any licensee or supposed licensee in order to determine the accuracy of any return made, or, if no return was made, ascertain the amount of license fee imposed by the terms of this chapter. Each such employer or supposed employer or licensee or supposed licensee is hereby directed and required to give to the Occupational Tax Administrator or her duly authorized agent or employee the means, facilities and opportunity for such examination and investigation as are hereby authorized. The Occupational Tax Administrator is hereby authorized to examine any person under oath concerning any wages, salaries, commissions or other compensation or net profits which were or should have been returned and to this end she may compel the production of books, papers, records and the attendance of all persons before her, whether as parties or witnesses, whom she believes to have knowledge of such wages, salaries, commissions or other compensation or net profits, to the extent that any officer empowered to administer oaths in this Commonwealth is permitted to so order. If as a result of an investigation conducted by the Occupational Tax Administrator a return is found to be incorrect, the Occupational Tax Administrator is authorized to assess and collect any underpayment of employee license fee withheld at the source or any underpayment of Occupational or Net Profit License Fee due by any licensee. If no return has been filed and an Occupational License Fee is found to be due, the license fee actually due may be assessed and collected and penalties and interest added thereto.

SECTION 1.11 ONLY LAWFUL TAX IMPOSED

It is not the intention of the county by this chapter to impose and require an occupational license fee prohibited by law.

SECTION 1.12 INFORMATION CONFIDENTIAL

(A) All information obtained by the Occupational Tax Administrator or any of her agents or employees, or any other officials or employees of Pulaski County, from any reports, examination or audit of books, records, accounts, income tax returns, or any other source, in the administration of this Ordinance, shall be treated and considered as confidential and privileged except for official purposes, unless otherwise treated by judicial degree of specific provisions of law, and shall not be open to inspection by the public. Further, any official, agent or

employee of Pulaski County who divulges any information obtained under the provision of this ordinance, except for the purposes of administering this Ordinance as herein provided, shall be guilty of a misdemeanor and upon conviction, shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) or imprisonment for a period not to exceed twelve (12) months, or both.

(B) It is further provided that the Occupational Tax Administrator or any County Official or employee shall have the right to disclose to the Commissioner of Revenue of the State of Kentucky, or his duly authorized agent or employee, provided reciprocal right to information concerning any person liable for license fees under the provisions of this ordinance is made available to the County by such State Authorities; and provided further, that the County may publish statistics based upon information obtained in the administration of this Ordinance so long as such published statistics do not reveal the identity of any licensee.

SECTION 1.13 CRIMINAL PENALTIES

It shall be unlawful for any person to engage in any business, trade, occupation or profession within Pulaski County without withholding, reporting and paying the license fees herein provided and required. Any person who violates any of the provisions of this ordinance, by failing to pay any license fee when due, or failing to withhold and pay any license fee when due, or failing to file any report or submit to any examination required by this Ordinance, or in any other manner fails or refuses to comply with any of the terms or provisions of this Ordinance, shall be guilty of a misdemeanor and upon conviction shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), or imprisonment for a period not to exceed twelve (12) months, or both. Such penalties shall be in addition to other penalties imposed by the Ordinance. Each failure or refusal to comply with any of the provisions of this Ordinance shall constitute a separate offense, and each day that such failure or refusal continues without compliance shall constitute a separate offense.

SECTION 1.14 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, be held unconstitutional or invalid for any reason,

such holding 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 every other.

This Amended and Re-adopted Ordinance shall be in full force and effect from and after its adoption.

This Amended Ordinance shall be published in full in the Commonwealth Journal, Somerset, Kentucky.

Introduced for the first reading on Motion made by Phillip McClendon and seconded by James Cothron and passed by majority of vote of the Pulaski County Fiscal Court in duly session assembled on the 13th day of February, 1996.


PULASKI COUNTY JUDGE EXECUTIVE

ATTEST:


PULASKI COUNTY COURT CLERK

Introduced for the second reading on Motion made by James Cothron and seconded by Earl Hicks and passed by majority of vote of the Pulaski County Fiscal Court in duly session assembled on the 12th day of March, 1996.


PULASKI COUNTY JUDGE EXECUTIVE

ATTEST:


PULASKI COUNTY COURT CLERK