

**Occupational License Tax
CITY OF PIKEVILLE, KENTUCKY
ORDINANCE NO. 0-2008-002**

AN ORDINANCE REPEALING MAY 14, 1962 THROUGH JUNE 30, 1962, DECEMBER 27, 1971, SEPTEMBER 25, 1991, MAY 22, 2000 AND JANUARY 14, 2008 PERTAINING TO OCCUPATIONAL LICENSES, AND REPLACING SAID ORDINANCE WITH A NEW ORDINANCE RELATING TO THE IMPOSITION AND ADMINISTRATION OF AN OCCUPATIONAL LICENSE REQUIREMENT, AND PAYMENT OF AN OCCUPATIONAL LICENSE TAX BY PERSONS AND BUSINESS ENTITIES CONDUCTING BUSINESSES, OCCUPATIONS AND PROFESSIONS WITHIN THE CITY OF PIKEVILLE, KENTUCKY.

WHEREAS, the Pikeville board of commissioners desires to comply with the requirements of KRS 67.750 to 67.790 and deems it necessary and desirable that certain changes be made to existing ordinances imposing occupational license taxes on persons and businesses entities conducting businesses, occupations, and professions within the City of Pikeville, so that the assessment and payment of Occupational License Taxes can be administered more efficiently.

WHEREAS, the existing ordinance will be in full force and take effect starting January 1, 2008.

Now, therefore, be it ordained by the board of commissioners of the City of Pikeville, Kentucky as follows:

Ordinance No.0-2008-002

is hereby enacted and shall read in full as follows:

CHAPTER 115: OCCUPATIONAL LICENSE FEES

Article I. "Occupational Licenses" of the City of Pikeville, Kentucky Code of Ordinances is hereby repealed in its entirety. In lieu thereof, the following new Article II is hereby enacted and inserted in full into the City of Pikeville, Kentucky Code of Ordinances:

Article II. Occupational Licenses

Sections:

- 1 Definitions
- 2 License Application Required
- 3 Occupational License Tax Payment Required
- 4 Apportionment
- 5 Employers to Withhold
- 6 Returns Required
- 7 Extensions
- 8 Refunds

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- 10 Administrative Provisions
- 11 Information to Remain Confidential
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- 13 Use of Occupational License Tax
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- 16 Construction contractors

§ 115.01 - Definitions

As used in this ordinance, the following terms and their derivatives shall have the following meanings unless the context clearly indicates that a different meaning is intended:

- (1) “Business entity” means each separate corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted;
- (2) “Business” means any enterprise, activity, trade, occupation, profession or undertaking of any nature conducted for gain or profit. “Business” shall not include the usual activities of board of trade, chambers of commerce, trade associations, or unions, or other associations performing services usually performed by trade associations or unions. “Business” shall not include funds, foundations, corporations, or associations organized and operated for the exclusive and sole purpose of religious, charitable, scientific, literary, educational, civic or fraternal purposes, where no part of the earnings, incomes or receipts of such unit, group, or association, inures to the benefit of any private shareholder or other person.
- (3) “City” means the City of Pikeville, Kentucky. Where the context requires, “city” shall also mean the city’s authorized agent for billing and collection of the occupational license tax and enforcement of this ordinance.
- (4) “Compensation” means wages, salaries, commissions, or any other form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted as follows:
 - (a) Include any amounts contributed by an employee to any retirement, profit sharing, or deferred compensation plan, which are deferred for federal income tax purposes under a salary reduction agreement or similar arrangement, including but not limited to salary reduction arrangements under Section 401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal Revenue Code; and
 - (b) Include any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or other payment method which permits employees to elect to reduce federal taxable compensation under the Internal Revenue Code, including but not limited to Sections 125 and 132 of the Internal Revenue Code;

- (5) “Conclusion of the federal audit” means the date that the adjustments made by the Internal Revenue Service to net income as reported on the business entity’s federal income tax return become final and unappealable;
- (6) “Final determination of the federal audit” means the revenue agent’s report or other documents reflecting the final and unappealable adjustments made by the Internal Revenue Service.
- (7) “Fiscal year” means fiscal year as defined in Section 7701(a)(24) of the Internal Revenue Code;
- (8) “Employee” means any person who renders services to another person or any business entity for compensation, including an officer of a corporation and any officer, employee, or elected official of the United States, a state, or any political subdivision of a state, or any agency of instrumentality of any one (1) or more of the above. A person classified as an independent contractor under the Internal Revenue Code shall not be considered an employee.
- (9) “Employer” means the person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that:
- (a) if the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term “employer” means the person having control of the payment of such wages, and
 - (b) in the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term “employer” means such person;
- (10) “Internal Revenue Code” means the Internal Revenue Code in effect on December 31 of the year in which the tax is due, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, of the year in which the tax is due, that otherwise would terminate;
- (11) “Net profit” means gross income as defined in Section 61 of the Internal Revenue Code minus all the deductions from gross income allowed by Chapter 1 of the Internal Revenue Code, and adjusted as follows:
- (a) Include any amount claimed as a deduction for state tax or local tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, local taxing authority in a state, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision thereof;

- (b) Include any amount claimed as a deduction that directly or indirectly is allocable to income which is either exempt from taxation or otherwise not taxed;
 - (c) Include any amount claimed as a net operating loss carryback or carryforward allowed under Section 172 of the Internal Revenue Code;
 - (d) Include any amount of income and expenses passed through separately as required by the Internal Revenue Code to an owner of a business entity that is a pass-through entity for federal tax purposes; and
 - (e) Exclude any amount of income that is exempt from state taxation by the Kentucky Constitution, or the Constitution and statutory laws of the United States;
- (12) “Person” shall mean every natural person, whether a resident or non-resident of the city. Whenever the word “person” is used in a clause prescribing and imposing a penalty in the nature of a fine or imprisonment, the word, as applied to a partnership or other form of unincorporated enterprise, shall mean the partners or members thereof, and as applied to corporations, shall mean the officers and directors thereof;
- (13) “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 city;
- (14) “Sales Revenue” means receipts from the sale, lease, or rental of goods, services, or property;
- (15) “City” means any city of the first to fifth class with the authority to levy net profits, or occupational license taxes;
- (16) “Taxable net profit” in case of a business entity having payroll or sales revenue only within the city means net profit as defined in subsection (11) of this section;
- (17) “Taxable net profit” in case of a business entity having payroll or sales revenue both within and without the city means net profit as defined in subsection (11) of this section, and as apportioned under Section (4) of this Ordinance; and
- (18) “Taxable year” means the calendar year or fiscal year ending during the calendar year, upon the basis of which net profit is computed.
- (19) “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.

(20) "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.

(21) "Independent Contractor" shall mean a person who provides services who is not subject to the control and direction of another except as to the final result of his work, and not as to means, and who is therefore not an employee, as further defined by Official Treasury Regulation (Federal) 3 1.3401(c)-1, as amended.

(22) "Student" shall mean a person who is enrolled in a qualifying institution of post secondary education on at least a half time basis.

(23) "Gratuities" shall mean payments such as "tips" paid by someone other than the person's employer.

§ 115.02 - Occupational License Application Required

(1) Every person and business entity engaged in any trade, occupation, or profession, or other activity for profit, or anyone required to file a return under this ordinance in the City of Pikeville, 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 change of status, other than change of address. Licensees are required to notify the Occupational Tax Office of changes in address or the cessation of business, and of other changes which render inaccurate the information supplied in the completed questionnaire.

(2) It shall be unlawful for any person to engage in any occupation, trade, profession or other activity in the city without first having completed the occupational license questionnaire herein required.

§ 115.03 - Occupational License Tax Payment Required

(1) Except as provided in subsection (2) and subsection (5) of this section, every person or business entity engaged in any business for profit and any person or business entity that is required to make a filing with the Internal Revenue Service or the Kentucky Revenue Cabinet shall be required to file and pay to the city an occupational license tax for the privilege of engaging in such activities within the city. The occupational license tax shall be measured by two percent (2%) of :

(a) all wages and compensation paid or payable in the city for work done or services performed or rendered in the city by every resident and nonresident who is an employee; and

- (b) the net profit from business conducted in the city by a resident or nonresident business entity.
- (2) All partnerships, S corporations, and all other entities where income is "passed through" to the owners are subject to this ordinance. The occupational license tax imposed in this ordinance is assessed against income before it is "passed through" these entities to the owners.

- (3) If any business entity dissolves, ceases to operate, or withdraws from the city during any taxable year, or if any business entity in any manner surrenders or loses its charter during any taxable year, the dissolution, cessation of business, withdrawal, or loss or surrender of charter shall not defeat the filing of returns and the assessment and collection of any occupational license tax for the period of that taxable year during which the business entity had business activity in the city
- (4) If a business entity makes, or is required to make, a federal income tax return, the occupational license tax shall be computed for the purposes of this ordinance on the basis of the same calendar or fiscal year required by the federal government, and shall employ the same methods of accounting required for federal income tax purposes.
- (5) The occupational license tax imposed in this section shall not apply to the following persons or business entities:
 - (a) Any bank, trust company, combined bank and trust company, or trust, banking and title insurance company organized and doing business in this state, any savings and loan association whether state or federally chartered;
 - (b) Any compensation received by members of the Kentucky national guard for active duty training, unit training assemblies and annual field training;
 - (c) Any compensation received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections;
 - (d) Public Service Corporations that pay an ad valorem tax on property valued and assessed by the Kentucky Department of Revenue pursuant to the provisions of KRS 136.120. Licensees whose businesses are predominantly non-public service who are also engaged in public service activity are required to pay a license tax on their net profit derived from the non-public service activities apportioned to the city;
 - (e) Persons or business entities that have been issued a license under KRS Chapter 243 to engage in manufacturing or trafficking in alcoholic beverages. Persons engaged in the business of manufacturing or trafficking in alcoholic beverages are required to file a return, but may exclude the portion of their net profits derived from the manufacturing or trafficking in alcoholic beverages;
 - (f) Insurance companies incorporated under the laws of and doing business in the Commonwealth of Kentucky, except as provided in KRS 91A.080.
 - (g) Any profits, earnings, distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor;
 - (h) Entities Exempt pursuant to federal Law or the laws of the Commonwealth of Kentucky

- (i) Coal mine employees who enter a mine portal or mine entrance that is located within the corporate city boundaries but whose workplace within the mine is outside of the corporate boundaries shall not be subject to the license fee although some incidental part of their work may occur within the city such as travel through a portion of the mine located within the city; performing routine maintenance or repairs to a portion of the mine within the city; loading, unloading or the staging of supplies or equipment at the mine portal with the City where the coal mining occurs outside the City.
- (6) The occupational license tax imposed in this section shall not apply to the following:
- (a) Periodic payments, commonly recognized as “old age” or “retirement pensions”, made to persons retired from service after reaching a specified age or after a stated period of employment.
 - (b) Unemployment Compensation payments by the Commonwealth of Kentucky, or any other agency.
 - (c) DEATH BENEFITS payable by an employer to the beneficiary of an employee or to his estate, whether payable in a single sum or otherwise.
 - (d) Amounts received by employees under the WORKMEN’S COMPENSATION ACT as compensation for a disability sustained during the course of employment, together with any amount of damages received by suit or agreement on account of such disability.
 - (e) Disability Payments - payments made to an employee under a disability insurance plan which meet one or more of the following criteria:
 - (i) The payments are made by a third-party payer, which bears an insurance risk as determined by IRS Regulation Section 31.3401(a)-1(b).
 - (ii) The payments are for “permanent and total disability” as defined by IRC Section 22(e)(3).
 - (iii) The payments are for the loss of limb or disfigurement of an employee as set forth in IRC Section 105(c)(1) and the payments are made without regard to the amount of time an employee is absent from work.
 - (f) Allowances and reimbursements for expenses - sums allowed and paid by an employer to an employee for expenses necessarily and actually incurred by the employee in the direct performance of his services, including meal and lodging allowances, if the employee is not required to include such receipts as income on his federal income tax return.
 - (g) Fringe benefits not taxable for Federal income tax purposes - non-cash fringe benefits which pursuant to Section 132 of the Internal Revenue Code qualify as (a) no additional cost services, (b) qualified employee discounts, (c) working condition fringes and (d) de minimus fringes and are therefore not taxable for Federal income tax purposes.

- (h) Employer contributions to qualified retirement, profit sharing and deferred compensation plans except as expressly provided in another section of this ordinance.
- (i) Amounts paid from Qualified and Non-Qualified Retirement, Profit Sharing and Deferred Compensation Plans - amounts paid from retirement plans, profit sharing plans and deferred compensation plans, whether or not such plans are "qualified" plans pursuant to the Internal
- (j) Students – payments received by persons described in section (1) subsection (22) in the form of stipends, honorariums, grants and other payments made to students to the extent that such payments are conditioned upon the recipient's pursuit of studies and/or participation in athletic or other intercollegiate competition, and scholarships and other non-cash fringe benefits received by duly registered students from the post secondary school, college or university in which they are enrolled.
- (k) Compensation received for domestic services rendered by those persons classified as domestic servants by Section (1) subsection (19);
- (l) Gratuities – compensation received by employee's described under section (1) subsection (23).
- (m) Federal Donor Leave Program - leave time is donated by fellow employees to persons who are on leave (medical/disability). The recipients must have used all leave they had personally available. The amount paid under this program is exempt.
- (n) Wages, salaries or other compensation received while performing live entertainment, acts, shows, concerts or performances performed before a live audience or the employees of said act, show or concert or performer while setting up or assisting in the performance. Concession vendors, maintenance or service contractors are not subject to this exemption.

§ 115.04 – Apportionment

- (1) Except as provided in subsection (4) of this section, net profit shall be apportioned as follows:
 - (a) For business entities with both payroll and sales revenue in more than one (1) City, by multiplying the net profit by a fraction, the numerator of which is the payroll factor, described in subsection (2) of this section, plus the sales factor, described in subsection (3) of this section, and the denominator of which is two (2); and
 - (b) For business entities with sales revenue in more than one (1) City, by multiplying the net profit by the sales factor as set forth in subsection (3) of this section.

- (c) For purposes of paragraph (1) of this section, the business entity shall file an apportionment form provided by the Occupational Tax Office.
- (2) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in the city during the tax period by the business entity for compensation, and the denominator of which is the total compensation paid or payable by the business entity everywhere during the tax period. Compensation is paid or payable in the city based on the time the individual's service is performed within the city.
- (3) The sales factor is a fraction, the numerator of which is the total sales revenue of the business entity in the city during the tax period, and the denominator of which is the total sales revenue of the business entity everywhere during the tax period.
- (a) The sale, lease, or rental of tangible personal property is in the city if:
- (i) The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within the city regardless of the f.o.b. point or other conditions of the sale; or
- (ii) The property is shipped from an office, store, warehouse, factory, or other place of storage in the city and the purchaser is the United States government. Sales revenues, other than revenues from the sale, lease or rental of tangible personal property or the lease or rental of real property, are apportioned to the city based upon a fraction, the numerator of which is the time spent in performing such income-producing activity within the city and the denominator of which is the total time spent performing that income-producing activity.
- (iii) Sales revenue from the sale, lease, or rental of real property is allocated to the City where the property is located.
- (4) If the apportionment provisions of this section do not fairly represent the extent of the business entity's activity in the city, the business entity may petition the city or the city may require, in respect to all or any part of the business entity's business activity, if reasonable:
- (a) Separate accounting;
- (b) The exclusion of any one (1) or more of the factors;
- (c) The inclusion of one (1) or more additional factors which will fairly represent the business entity's business activity in the city; or
- (d) The employment of any other method to effectuate an equitable allocation and apportionment of net profit.
- (5) When compensation is paid or payable for work done or services performed or rendered by an employee, both within and without the city, the license tax shall be measured by that part of the compensation paid or payable as a result of work done or service performed or rendered within the city. The license tax shall be computed by obtaining the percentage which the compensation for work performed or services rendered within the city bears to the total wages and compensation paid or payable. In order for the city to verify the accuracy of a

taxpayer's reported percentages under this subsection, the taxpayer shall maintain adequate records.

§ 115.05 - Employers to Withhold

- (1) Every employer making payment of compensation to an employee shall deduct and withhold upon the payment of the compensation any tax imposed against the compensation by the city. Amounts withheld shall be paid to the city in accordance with Section (3) of this ordinance.
- (2) Every employer required to deduct and withhold tax under this section shall, for the quarter ending after January 1 and for each quarter ending thereafter, on or before the end of the month following the close of each quarter, make a return and report to the city, and pay to the city, the tax required to be withheld under this section, unless the employer is permitted or required to report within a reasonable time after some other period as determined by the city.
- (3) Every employer who fails to withhold or pay to the city any sums required by this ordinance to be withheld and paid shall be personally and individually liable to the city for any sum or sums withheld or required to be withheld in accordance with the provisions of this section.
- (4) The city shall have a lien upon all the property of any employer who fails to withhold or pay over to the city sums required to be withheld under this section. If the employer withholds, but fails to pay the amounts withheld to the city, the lien shall commence as of the date the amounts withheld were required to be paid to the city. If the employer fails to withhold, the lien shall commence at the time the liability of the employer is assessed by the city.
- (5) Every employer required to deduct and withhold tax under this section shall annually on or before February 28 of each year complete and file on a form furnished or approved by the city a reconciliation of the occupational license tax withheld where compensation is paid or payable to employees. Either copies of federal forms W-2 and W-3, transmittal of wage and tax statements, or a detailed employee listing with the required equivalent information, as determined by the city, shall be submitted.
- (6) Every employer shall furnish each employee a statement on or before January 31 of each year showing the amount of compensation and occupational license tax deducted by the employer from the compensation paid to the employee for payment to the city during the preceding calendar year.
- (7) An employer shall be liable for the payment of the tax required to be deducted and withheld under this section.
- (8) The president, vice president, secretary, treasurer or any other person holding an equivalent corporate office of any business entity subject to this section shall be personally and individually liable, both jointly and severally, for any tax required to be withheld from compensation paid or payable to one or more employees of the business entity, and neither the corporate dissolution or withdrawal of the business entity from the city, nor the cessation of holding any corporate office, shall discharge that liability; provided that the personal and individual liability shall apply to each and every person holding the corporate office at the time the tax becomes or became obligated. No person shall be personally and individually liable under this subsection unless such person had authority to collect, truthfully account for,

or pay over the tax imposed by this ordinance at the time that the taxes imposed by this ordinance become or became due.

- (9) Every employee receiving compensation in the city subject to the tax imposed under Section (3) of this ordinance shall be personally liable for the tax notwithstanding the provisions of subsections (7) and (8) of this section. In all cases where the employer does not withhold the tax levied under this ordinance from the employee, such employee or employees shall be responsible for filing with the city each quarter in the same manner as if they were the employer. If an employer fails to or is not required to withhold, report, or pay the license tax, it shall become the duty of the employee, to file with the city. The only employer not required to withhold, report, and pay the occupational license tax 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 or the year in which wages are earned. All license taxes must be received by April 15 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 tax 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.

§ 115.06 - Returns Required

- (1) All business entity returns for the preceding taxable year shall be made by April 15 of each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for returns shall be supplied by the city or its designated agent.
- (2) Every business entity shall submit a copy of its federal income tax return and all supporting statements and schedules at the time of filing its occupational license tax return with the city. Whenever, in the opinion of the city, it is necessary to examine the federal income tax return of any business entity in order to audit the return, the city may compel the business entity to produce for inspection a copy of any statements and schedules in support thereof that have not been previously filed. The city may also require copies of reports of adjustments made by the federal government.
- (3) Every business entity subject to an occupational license tax governed by the provisions of this ordinance shall keep records, render under oath statements, make returns, and comply with rules as the city from time to time may prescribe. Whenever the city deems it necessary, the city may require a business entity, by notice served to the business entity, to make a return, render statements under oath, or keep records, as the city deems sufficient to determine the tax liability the business entity.

- (4) The city may require, for the purpose of ascertaining the correctness of any return or for the purposes of making an estimate of the taxable income of any business entity, the attendance of a representative of the business entity or of any other person having knowledge in the premises.
- (5) The full amount of the unpaid tax payable by any business entity, as appears from the face of the return, shall be paid to the city at the time prescribed for filing the occupational license tax return, determined without regard to any extension of time for filing the return. The taxpayer, at his/her option, may prepay any license tax due.
- (6) It shall be the responsibility of persons who make Federal Form 1099 "non employee compensation" payments to natural persons other than employees for services performed within the city, to maintain records of such payments and to report such payments to the city. Said payments must be reported on by remitting Federal Form 1099 by February 28 of the year following the close of the calendar year in which the non employee compensation was paid. If a business entity or person is not required to remit Federal Form 1099 to the IRS, including but not limited to those making non-employee payments of less than 600, such entity or person is nevertheless required to remit the equivalent information to the city. The information required to be reported by such entities or persons shall include:
 - (a) Payer's name, address, social security and/or federal identification number,
 - (b) Recipient's name and address;
 - (c) Recipient's social security and/or federal identification number;
 - (d) Amount of non-employee compensation paid in the calendar year; and
 - (e) Amount of non-employee compensation earned in the city for the calendar year.

§ 115.07 - Extensions

- (7) The city, or its authorized agent, may grant any business entity an extension of not more than six (6) months, unless a longer extension has been granted by the Internal Revenue Service or is agreed to by the city and the business entity, for filing its return, if the business entity, on or before the date prescribed for payment of the occupational license tax, requests the extension and pays the amount properly estimated as its tax.
- (8) If the time for filing a return is extended, the business shall pay, as part of the tax, an amount equal to twelve percent (12%) per annum simple interest on the tax shown due on the return, but not been previously paid, from the time the tax was due until the return is actually filed and the tax paid to the city. A fraction of a month is counted as an entire month.

§ 115.08 - Refunds

- (1) Where there has been an overpayment of tax under Section (5) of this ordinance, a refund or credit shall be made to the employer only to the extent that the amount of the overpayment was not deducted and withheld under Section (5) by the employer.

- (2) Unless written application for refund or credit is received by the city from the employer within two (2) years from the date the overpayment was made, no refund or credit shall be allowed.
- (3) An employee who has compensation attributable to activities performed outside the city, based on time spent outside the city, whose employer has withheld and remitted to this city, the occupational license tax on the compensation attributable to activities performed outside the city, may file for a refund within two (2) years of the date prescribed by law for the filing of a return. The employee shall provide a schedule and computation sufficient to verify the refund claim and the city may confirm with the employer the percentage of time spent outside the city and the amount of compensation attributable to activities performed outside the city prior to approval of the refund.
- (4) In the case where the tax computed under the provisions of this ordinance is less than the amount which has been declared and paid as estimated tax for the same taxable year, a refund or credit, if a credit is requested, shall be made upon the filing of a return.
 - (a) Overpayment resulting from the payment of estimated tax in excess of the amount determined to be due upon the filing of a return for the same taxable year may be credited against the amount of estimated tax determined to be due on any declaration filed for the next succeeding taxable year or for any deficiency or nonpayment of tax for any previous taxable year;
 - (b) No refund shall be made of any estimated tax paid unless a complete return is filed as required by this ordinance.

§ 115.09 - Federal Audit Provisions

- (1) As soon as practicable after each return is received, the city may examine and audit the return. If the amount of tax computed by the city is greater than the amount returned by the business entity, the additional tax shall be assessed and a notice of assessment mailed to the business entity by the city within five (5) years from the date the return was filed, except as otherwise provided in this subsection.
 - (a) In the case of a failure to file a return or of a fraudulent return the additional tax may be assessed at any time.
 - (b) In the case of a return where a business entity understates net profit, or omits an amount properly includable in net profits, or both, which understatement or omission, or both, is in excess of twenty-five percent (25%) of the amount of net profit stated in the return, the additional tax may be assessed at any time within six (6) years after the return was filed.
 - (c) In the case of an assessment of additional tax relating directly to adjustments resulting from a final determination of a federal audit, the additional tax may be assessed before the expiration of the times provided in this subsection, or six (6) months from the date the city receives the final determination of the federal audit from the business entity, whichever is later.

The times provided in this subsection may be extended by agreement between the business entity and the city. For the purposes of this subsection, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day. Any extension granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

- (2) Every business entity shall submit a copy of the final determination of the federal audit within thirty (30) days of the conclusion of the federal audit.
- (3) The city may initiate a civil action for the collection of any additional tax within the times prescribed in subsection (1) of this section.

§ 115.10 - Administrative Provisions

- (1) No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this ordinance.
- (2) Any tax collected pursuant to the provisions of this ordinance may be refunded or credited within two (2) years of the date prescribed by law for the filing of a return or the date the money was paid to the city, whichever is the later, except that:
 - (a) In any case where the assessment period contained in Section (9) of this ordinance has been extended by an agreement between the business entity and the city, the limitation contained in this subsection shall be extended accordingly.
 - (b) If the claim for refund or credit relates directly to adjustments resulting from a federal audit, the business entity shall file a claim for refund or credit within the time provided for in this subsection or six (6) months from the conclusion of the federal audit, whichever is later.
- (3) For the purposes of this subsection and subsection (1) of this section, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.
- (4) The authority to refund or credit overpayments of taxes collected pursuant to this ordinance is vested exclusively in the city.

§ 115.11 - Information to Remain Confidential

- (1) No present or former employee of any City shall intentionally and without authorization inspect or divulge any information acquired by him or her of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the City or other proper officer, 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. This prohibition does not extend to information required in prosecutions for making false reports or returns for taxation, or any other infraction of the tax laws, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or the taxpayer's properly

authorized agent with information respecting his or her own return. Further, this prohibition does not preclude any employee of the City from testifying in any court, or from introducing as evidence returns or reports filed with the City, in an action for violation of a City tax law or in any action challenging a City tax laws.

- (2) The city reserves the right to disclose to the Commissioner of Revenue of the Commonwealth of Kentucky or his or her duly authorized agent all such information and rights to inspect any of the books and records of the city if the Commissioner of Revenue of the Commonwealth of Kentucky grants to the city the reciprocal right to obtain information from the files and records of the Kentucky Department of Revenue and maintains the privileged character of the information so furnished. Provided, further, that the city may publish statistics based on such information in such a manner as not to reveal data respecting net profits or compensation of any person or business entity.
- (3) In addition, the city is empowered to execute similar reciprocity agreements as described in subsection (2) of this section with any other taxing entity, should there be a need for exchange of information in order to effect diligent enforcement of this ordinance.

§ 115.12 - Penalties

- (1) A business entity subject to tax on net profits may be subject to a penalty equal to five percent (5%) of the tax due for each calendar month or fraction thereof if the business entity:
 - (a) Fails to file any return or report on or before the due date prescribed for filing or as extended by the city; or
 - (b) Fails to pay the tax computed on the return or report on or before the due date prescribed for payment.
 - (c) The total penalty levied pursuant to this subsection shall not exceed twenty- five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars (\$25).
- (2) Every employer who fails to file a return or pay the tax on or before the time prescribed under Section (5) of this ordinance may be subject to a penalty in amount equal to five percent (5%) of the tax due for each calendar month or fraction thereof. The total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars (\$25).
- (3) In addition to the penalties prescribed in this section, any business entity or employer shall pay, as part of the tax, an amount equal to twelve percent (12%) per annum simple interest on the tax shown due, but not previously paid, from the time the tax was due until the tax is paid to the city. A fraction of a month is counted as an entire month.

- (4) Every tax imposed by this ordinance, and all increases, interest, and penalties thereon, shall become, from the time the tax is due and payable, a personal debt of the taxpayer to the city.

- (5) The city may enforce the collection of the occupational tax due under section (3) of this ordinance and any fees, penalties, and interest as provided in subsections (1), (2), (3), and (4) of this section by civil action in a court of appropriate jurisdiction. To the extent authorized by law, the city shall be entitled to recover all court costs and reasonable attorney fees incurred by it in enforcing any provision of this ordinance.
- (6) In addition to the penalties prescribed in this section, any business entity or employer who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with the intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class A misdemeanor.
- (7) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with, any matter arising under this ordinance of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, shall be guilty of a Class A misdemeanor.
- (8) A return for the purpose of this section shall mean and include any return, declaration, or form prescribed by the city and required to be filed with the city by the provisions of this ordinance, or by the rules of the city or by written request for information to the business entity by the city.
- (9) Any person violating the provisions of section (11) of this ordinance by intentionally inspecting confidential taxpayer information without authorization, shall be fined not more than five hundred dollars (\$500) or imprisoned for not longer than six (6) months, or both.
- (10) Any person violating the provisions of section (11) of this ordinance by divulging confidential taxpayer information shall be fined not more than one thousand dollars (\$1000) or imprisoned for not more than one (1) year, or both.

§ 115.13- Use of Occupational License Tax

All money derived from the license taxes under the provisions of this ordinance shall be paid to the city and placed to the credit of the city's general revenue fund.

§ 115.14 – 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, is held by a court of law to be 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 the rest.

§ 115.15 – Minimum Liability

In the event the tax payment required under section (3) is less than an amount sufficient to yield an annual license tax calculated at two percent (2%) of net income, equal to or in excess of the minimum license taxes set forth below, then the tax provided by said occupational license tax ordinance applicable to the licensee’s trade, occupation or profession shall apply and be charged as a minimum license tax hereunder.

The minimum license taxes provided by the occupational license tax ordinance are listed:

A.	1. <u>Advertising</u>			
	a. <u>Bill Boards</u>		\$	<u>100.00</u>
	b. <u>Solicitors</u>		\$	<u>100.00</u>
	c. <u>Distributors (2 Per day)</u>		\$	<u>50.00</u>
	2. <u>Agents, representatives or solicitor not otherwise specifically provided for, taking or soliciting orders or making sales.</u>			
		<u>Per day</u>	\$	<u>25.00</u>
		<u>per year</u>	\$	<u>100.00</u>
	3. <u>Antique Dealer</u>		\$	<u>50.00</u>
	4. <u>Auctioneer</u>	<u>per day</u>	\$	<u>25.00</u>
		<u>per year</u>	\$	<u>100.00</u>
	5. <u>Automobile Dealers</u>		\$	
	<u>a. Automobile Dealer, selling automobiles and trucks, or conducting an automobile sales agency for new or used cars or trucks at a regular fixed place of business in the city, including the privilege of operating in connection therewith a repair shop and the sales of accessories and parts for the kind of cars for which he is a dealer.</u>	<u>Per year</u>	\$	<u>100.00</u>
	<u>b. Automobile dealers selling automobiles and trucks or conducting, an automobile sales agency for new and used cars and trucks without a regular fixed place of business in the City.</u>		\$	<u>100.00</u>
	<u>c. Automobile Dealers without permanent place of business</u>		\$	<u>100.00</u>
	<u>d. Automobile Dealer, selling used trucks or automobiles not in connection with any regular garage, with permanent location.</u>	<u>Per year</u>	\$	<u>1000.00</u>
	<u>e. Automobile Repair Garage, including all branches of the business, except the privilege of selling automobiles new or used, or gasoline or oils, or operating an automobile storage garage.</u>		\$	<u>50.00</u>
	<u>f. Automobile Storage Garage or Parking Lot commercial whether or not operated in connection with any other</u>	<u>per year</u>	\$	<u>50.00</u>

business

			\$	
	<u>g. Automobile Laundry where automobiles are washed, cleaned or polished, not in connection with automobiles garage or dealership.</u>		\$	<u>50.00</u>
	<u>h. Automobile Parts and Accessories Awnings—Repair or Installation</u>		\$	<u>50.00</u>
6.	<u>Awnings – Repair or Installation</u>	<u>2 per day</u>	\$	<u>50.00</u>
B.	1. <u>Bakery</u>		\$	<u>100.00</u>
	2. <u>Bakery Products—Agent or dealer selling or distributing except retail merchants licensed as such.</u>		\$	<u>50.00</u>
	3. <u>Barber Shop</u>		\$	<u>50.00</u>
	<u>a. one chair</u>		\$	<u>50.00</u>
	4. <u>Beauty Shop</u>		\$	<u>50.00</u>
	<u>a. one operator</u>		\$	<u>50.00</u>
	5. <u>Billiard or Pool Room</u>		\$	<u>50.00</u>
	<u>a. one table</u>		\$	<u>25.00</u>
	<u>b. each additional table</u>		\$	<u>25.00</u>
	6. <u>Bowling Alley</u>	<u>per alley</u>	\$	<u>25.00</u>
	7. <u>Book or Magazine canvassing ---</u>	<u>per day</u>	\$	<u>25.00</u>
		<u>per year</u>	\$	<u>100.00</u>
C.	1. <u>Carbonated etc., -- Carbonated beverages, bottlers, manufacturers, wholesalers, resident or nonresident, operating within the City.</u>		\$	<u>100.00</u>
	2. <u>Candy etc., --- Candy, potato chips, chewing gum and peanuts delivered and sold from trucks.</u>		\$	<u>100.00</u>
	3. <u>Carnivals or Circuses</u>	<u>per day</u>	\$	<u>100.00</u>
		<u>per week</u>	\$	<u>700.00</u>
	4. <u>Cigarettes- Cigarettes, selling at retail in addition to any other license.</u>		\$	<u>100.00</u>
	5. <u>Cleaning and dyeing plant or laundry operating in the City</u>		\$	<u>50.00</u>
	6. <u>Cleaning etc.—Cleaning, dyeing and laundry agents, soliciting the business of cleaning, dyeing and laundry, either of clothes or of any other materials, without the operation of a plant within the city limits</u>		\$	<u>100.00</u>
	7. <u>Coal Industries:</u>		\$	
	<u>a. Coal ramp or dock owner, for each 50:ton railroad carload capacity each day.</u>	<u>Per year</u>	\$	<u>50.00</u>
	<u>b. Coal haulers: Truck with single axle, each truck.</u>	<u>Per year</u>	\$	<u>50.00</u>
	<u>c. Tandems, each truck, per year</u>		\$	<u>50.00</u>
	8. <u>Cobbler or Shoe Repair Shop</u>		\$	<u>50.00</u>
	9. <u>Cold Storage Locker Plant</u>		\$	<u>50.00</u>

	10.	<u>Contractors, builders, construction company, etc. plus ¼ of 1% of all contract prices (see section 16)</u>	\$	<u>50.00</u>
D.	1.	<u>Dairy (50 gallons or over) operating a plant in or out of the city in connection with milk products</u>	\$	<u>100.00</u>
	a.	<u>50 gallons or under a day, delivering</u>	\$	<u>25.00</u>
	b.	<u>Selling or delivering ice cream to wholesale or retail customers in the city, in addition to. Dairy products</u>	\$	<u>50.00</u>
E.	1.	<u>Exterminator, or pest control,</u>	per year	\$ <u>100.00</u>
	2.	<u>Exhibitions, given on the streets or in any building in the City, to which admission is charged.</u>	Per day	\$ <u>25.00</u>
F.	1.	<u>Finance or Loan Company. To conduct or engage in loan agency business other than banks, or to engage in, or conduct the business of lending money on the, deferred payment or installment plan other than banks.</u>	\$	<u>300.00</u>
	2.	<u>Florist Shop</u>	\$	<u>50.00</u>
	3.	<u>Florist Agent, where shop is not located in the City</u>	\$	<u>50.00</u>
	4.	<u>Fruit Stands. Sale of fruits, melons, and vegetables where not operating under another license.</u>	\$	<u>25.00</u>
	5.	<u>Furniture Repair Shop</u>	\$	<u>50.00</u>
G.	1.	<u>Gasoline dealers, wholesale, selling and delivering to customers in the City whether by truck or otherwise.</u>	\$	<u>100.00</u>
	2.	<u>Gasoline filling stations, whether operated separately or in connection with a garage or other business, 2 pumps.,</u>	per year	\$ <u>50.00</u>
		<u>each additional pump,</u>	per year	\$ <u>25.00</u>
		<u>(Does not include soft drinks, cigarettes, or confections.)</u>		
	3.	<u>Gift and Novelty Shop</u>	\$	<u>50.00</u>
H.	1.	<u>Hotels</u>	\$	<u>100.00</u>
		<u>Each additional room over 25</u>	\$	<u>15.00</u>
	2.	<u>Herb Houses</u>	\$	<u>50.00</u>
I.	1.	<u>Ice cream, selling at retail</u>	\$	<u>50.00</u>
	2.	<u>Ice Cream dealer, wholesale, selling or distributing ice cream for resale, at retail</u>	\$	<u>50.00</u>
L.	1.	<u>Laundry</u>	\$	<u>100.00</u>
	2.	<u>Livestock Dealer</u>	\$	<u>100.00</u>
	3.	<u>Lumber and Building Supply companies, selling or delivering within the City</u>	\$	<u>100.00</u>
	4.	<u>Lumber Yard or Mill for sawing lumber</u>	\$	<u>100.00</u>

	5.	<u>Lunch Counters, Custard Stands, or wagons, no tables</u>	\$	<u>50.00</u>
			\$	
M.	1.	<u>Medicine Vendor, selling medicines or nostrums on the streets or house to house</u>	\$	<u>500.00</u>
	2.	<u>Mercantile Establishments. All retail mercantile establishments not specifically covered under license elsewhere in this ordinance shall be assessed in accordance to the volume of business, said assessment to be arrived at from the amount of business done the preceding calendar year, or if said establishment has not been in business for the full calendar year, previous to this date, to be arrived at from the proportionate part of the year, said establishment has been in said business, within the City and to be assessed according to the following scale, with no deductions allowable from gross sales receipts except for Federal excise Taxes:</u>		
		<u>All establishments having gross sales receipts of:</u>		
		<u>\$ 50,000.00 or less</u>	\$	<u>50.00</u>
		<u>\$ 50,000.01 to \$100,000.00</u>	\$	<u>60.00</u>
		<u>\$100,000.01 to \$150,000.00</u>	\$	<u>80.00</u>
		<u>\$150,000.01 to \$200,000.00</u>	\$	<u>90.00</u>
		<u>\$200,000.01 to \$250,000.00</u>	\$	<u>100.00</u>
		<u>All such establishments having gross sales receipts in excess of \$250,000.00 shall be taxed per \$1,000.00 or fractional part thereof an additional \$0.50 (fifty cents) for each \$1,000.00 or fractional part thereof.</u>		
	3.	<u>Monument. Dealers in monuments or tombstones and each agent soliciting same</u>	\$	<u>50.00</u>
	4.	<u>Motion Picture House, each such house</u>	\$	<u>100.00</u>
	5.	<u>Motels</u>	\$	<u>10.00</u>
		<u>Each additional unit over 10</u>	\$	<u>10.00</u>
N.	1.	<u>Newspaper, publishing: weekly, semi-weekly or tri-weekly</u>	\$	<u>100.00</u>
	2.	<u>News Stand, selling newspapers, books, magazines only.</u>	\$	<u>50.00</u>
	3.	<u>Nursery. To engage in the sale of, or disposition of nursery products, trees, evergreens, shrubbery, etc., whether raised or produced in the City or not</u>	\$	<u>50.00</u>
P.	1.	<u>Packing House, or company, delivering or unloading meats within the City</u>	\$	<u>100.00</u>
	2.	<u>Packing Houses, or company, delivering or unloading meats within the City, together with other provisions delivered on a wholesale basis</u>	\$	<u>100.00</u>

	3.	<u>Peddlers</u>	2 per day	\$	<u>50.00</u>
	4.	<u>Photographer, itinerant</u>		\$	<u>50.00</u>
	5.	<u>Photograph gallery or studio, or photographer maintaining or operating such within the City</u>		\$	<u>50.00</u>
	6.	<u>Popcorn, peanut and candy stand, or either</u>		\$	<u>50.00</u>
	7.	<u>Printing Shop, job, not connected with newspaper</u>		\$	<u>50.00</u>
	8.	<u>Produce dealers wholesale or retail, maintaining a place of business in the City or buying or selling poultry, eggs, butter, hides and wool, or any of these</u>		\$	<u>50.00</u>
	9.	<u>Professions:</u>			
		<u>a. Architects, Attorneys, Accountants</u>		\$	<u>100.00</u>
		<u>b. Civil Mining and Electrical Engineers</u>		\$	<u>100.00</u>
		<u>c. Nurses, RN</u>		\$	<u>50.00</u>
		<u>d. Chiropodists, Chiropractors, Osteopaths</u>		\$	<u>100.00</u>
		<u>e. Dentists, D.M.D. & D.D. 'S</u>		\$	<u>100.00</u>
		<u>f. Electricians, Plumbers, Painters, Masons, etc., not connected with a licensed business</u>		\$	<u>50.00</u>
		<u>g. Oculists, Opticians, Optometrists</u>		\$	<u>100.00</u>
		<u>h. Physicians, MD</u>		\$	<u>100.00</u>
		<u>i. Surveyors, Veterinarians</u>		\$	<u>50.00</u>
		<u>j. Dental Technicians</u>		\$	<u>50.00</u>
R.	1.	<u>Radio broadcasting station, or studio, soliciting advertising</u>		\$	<u>100.00</u>
	2.	<u>Real Estate Agents, to engage in the business of real estate agent, or agency</u>		\$	<u>50.00</u>
	3.	<u>Repair Shops, not connected with other licensed business.</u>		\$	<u>50.00</u>
	4.	<u>Restaurant</u>		\$	<u>50.00</u>
	5.	<u>Rooming House</u>		\$	<u>50.00</u>
	6.	<u>Rental Real Estate, residential and commercial</u>		\$	<u>50.00</u>
S.	1.	<u>Sewing Machine Agent. For each agent or office in the City</u>		\$	<u>50.00</u>
	2.	<u>Shoe Shine Parlor</u>		\$	<u>50.00</u>
	3.	<u>Skating Rinks</u>		\$	<u>100.00</u>
	4.	<u>Sound cars or trucks used for commercial advertising, when not operated in connection with another business.</u>	2 per day	\$	<u>50.00</u>
	5.	<u>Soft Drinks</u>		\$	<u>50.00</u>
T.	1.	<u>Taxicab, each operated</u>		\$	<u>100.00</u>
	2.	<u>Tire recapping establishments or shod</u>		\$	<u>50.00</u>
U.	1.	<u>Undertakers to conduct or engage in the business of undertaking by embalming, selling or furnishing burial</u>		\$	<u>100.00</u>

	<u>outfits, caskets for the dead, etc.</u>		
2.	<u>Unloading, or loading, all commercial trucks using the streets of Pikeville for parking while loading or unloading and not operating under another license</u>	\$	<u>50.00</u>
W. 1.	<u>Wrestling</u>		
	<u>(2) per match or exhibition</u>	\$	<u>50.00</u>
	<u>All Others</u>	\$	<u>50.00</u>

NOTE: For any business or activity not listed above, the minimum license tax is \$50.00. If the tax shown on a taxpayer's return for any tax period exceeds the minimum license tax paid the taxpayer shall be credited with the amount of minimum license tax paid. Only minimum license taxes paid during and for the tax year for which the return is being filed can be claimed as a credit.

§ 115.16 – CONSTRUCTION CONTRACTORS

General contractors must pay minimum license tax in the amount of one quarter (1/4) of one (1) percent of the total contract consideration stated in the contract or agreement for labor, services or materials agreed to be provided by the contractor, his employees, subcontractor, agents, etc., including amendments, change orders or additions thereto.

No minimum license tax will be due from any contractor whose taxes or compensation is included as a part of a general contractor's total contract consideration. The contractor will be required to file a net profits license tax return and to withhold occupational license tax from any employees performing work in the City.

In the event that any contractor's tax or compensation is not included as part of the general contractor's total contract consideration for which a minimum license tax has been paid, the contractor's total contract consideration will be subject to the minimum license tax, and will be payable by the contractor.

Property owners (Owner) who act as general contractor on their construction projects must pay the minimum license tax on the total estimated cost of construction before they will be issued a building permit. As the Owner contracts with others to perform parts of the construction, those contractors will be required to pay the minimum license tax on the contract that they receive. It is the Owner's responsibility to inform each contractor that they are liable for the minimum license tax. Each subcontract will be considered a general contract for the purpose of the minimum license tax. The Owner should obtain the contractor's City license number, name, address, and taxpayer identification number (TIN) and maintain a record of all contractors and the total compensation paid. When construction is completed, the record of contractors is submitted to the City, and if all the contractors have paid the required minimum license tax as described above, the Owner will be refunded minimum license tax. If all contractors have not

paid the required minimum license tax, the minimum license tax will be retained to the extent that the minimum has not been collected on the total cost of construction.

Minimum license tax paid by contractors may be claimed as a credit against tax due on the contractor's net profits return. Contractors may, at their option, apply minimums on a contract by contract basis, thus allowing them to carry a portion minimum tax paid in one year to subsequent years as the contract is completed. When a contract is completed all minimums remaining will be applied in that tax year. The contractor must apply minimum tax based on the percentage of completion of each contract and on appropriate forms supplied by the Occupational Tax Administrator. No refund shall be made if the minimum tax exceeds the license tax calculated on the net profits return.

§ 115.99 PENALTY.

(A) In addition to being civilly responsible for payment of any tax, interest, and penalty due hereunder, any person who violates any of the provisions of this chapter, by failing to pay 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 chapter or in any other manner fails or refuses to comply with any of the terms or provisions of this chapter, or any of these rules and regulations, shall be guilty of a misdemeanor and upon conviction, be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) or imprisoned at hard labor for not more than thirty (30) days, or both so fined and imprisoned. Such penalties shall be in addition to other penalties imposed by this chapter. Each failure or refusal to comply with any of the provisions of this chapter, or these rules and regulations, shall constitute a separate offense, and each day that such failure or refusal continues without compliance shall constitute a separate offense.

(B) The failure of an employer to deliver, when due, license fee withholding from employees shall be considered a "failure to make required disposition of property" -- a felony under the laws of the Commonwealth of Kentucky.

(C) The failure of any licensee or person to receive or procure a return or other required form shall not excuse him from making any return, from filing such form, or from paying the license fee.

(D) If the Administrator grants an extension of time for filing a return, any balance unpaid when payment is due, without regard to extension granted, shall bear interest at the rate of eight percent (8%) per annum until paid. Provided, further that all license fees remaining unpaid after the original due date, or approved extension date, whichever shall be later, shall be subject to a ten percent (10%) penalty of the amount of such unpaid license fees.

The ordinance shall be in full force and effect after it is passed and published as required by law. The above ordinance was given first reading this 3 day of Jan, 2008, the ordinance was given a second reading on the 14 day of Jan, 2008.

Passed this 14 day of Jan, 2008.

Commissioner Layne moved for the adoption of the forgoing ordinance.

Commissioner Chaney seconded the motion.

Upon roll call, the votes were as follows:

	Yes	No
FRANK JUSTICE, MAYOR	<u>X</u>	_____
GENE DAVIS, COMMISSIONER	<u>X</u>	_____
DALLAS LAYNE, COMMISSIONER	<u>X</u>	_____
JIMMY CARTER, COMMISSIONER	<u>X</u>	_____
BARRY CHANEY, COMMISSIONER	<u>X</u>	_____

The Mayor declared the within ordinance adopted.

(s) Franklin D. Justice

FRANKLIN D. JUSTICE. II MAYOR

ATTEST:

(s) Serena Stiltner

SERENA STILTNER, CITY CLERK