

PULASKI COUNTY FISCAL COURT  
ORDINANCE NO: 220.9

AN ORDINANCE RELATING TO LICENSE FEES UPON ALL PERSONS WHO ARE ENGAGED OR EMPLOYED IN ANY TRADE, OCCUPATION OR PROFESSION WITHIN THE COUNTY OF PULASKI, FOR THE HEALTH, EDUCATION, SAFETY, WELFARE AND CONVENIENCE OF THE INHABITANTS OF PULASKI COUNTY, KENTUCKY

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

SECTION I.

DEFINITIONS: WORDS AND PHRASES USED IN THIS ORDINANCE SHALL HAVE THE ORDINARY AND ACCEPTED MEANING ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT CLEARLY INDICATES OR REQUIRES A DIFFERENT MEANING:

- (a) The phrase "license fee" shall mean a tax imposed for the privilege of exercising the right to engage in trade, occupation or profession for compensation paid by others or the right to engage in trade, occupation or profession for oneself, for profit or gain, within Pulaski County, Kentucky.
- (b) The word "person" shall mean and include all natural persons, partnerships, firms, associations, governmental bodies and agencies, and corporations, and whenever used in any interpretation.
- (c) "Administrator" means an official administrator of the occupational tax, to be appointed by the Pulaski County Fiscal Court.
- (d) The word "County" means Pulaski County, Kentucky, including the cities of Somerset, Burnside, Ferguson, Eubank and Science Hill, and any other community whether incorporated or not.

SECTION II.

EFFECTIVE DATES AND DURATION:

This Ordinance shall apply and be effective from and after January 1, 1987, and shall remain in full force and effect until repealed or modified in a lawful manner.

### SECTION III.

#### LICENSE FEES REQUIRED:

- (a) All persons engaged in any trade, occupation or profession within Pulaski County, when employed by another, shall pay a license fee measured by and equal to one per cent (1%) of gross receipts paid for such service, except those exempted under KRS 68.197.
- (b) All persons engaged in any trade, occupation, or profession, within Pulaski County, for themselves, for profit or gain, shall pay a license fee measured by and equal to one per cent (1%) of the net profit realized from such activity, except those exempted under KRS 68.197.
- (c) "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 applicable on January 1, 1987, in computing income tax liability, but without deductions for taxes based on income.
- (d) It shall be unlawful for any person to engage in any trade, occupation or profession within Pulaski County without withholding, reporting and paying the license fees herein provided and required. Portions of this Ordinance prescribing a penalty in the form of fine or imprisonment, shall mean and include the individual members of a firm, partnership or association and the officers of any governmental body or agency, or any corporation.
- (e) 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 or other remuneration, or 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.
- (f) The phrase "gross receipts" and the word "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, bonuses or 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" provided, however, that any travel

expense's actually incurred and paid by the employer, gratuities such as "tips" paid by someone other than the employer, and wages, salaries or other compensation received by domestic servants employed in a private home, shall be exempt from the operation of this order.

- (g) 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 IV.

##### REGULATION, ADMINISTRATION, ENFORCEMENT AND COLLECTION OF LICENSE FEES AND THE PURPOSE THEREOF:

- (a) It shall be the duty of the Administrator to collect all license fees and deposit the same in the General Fund of Pulaski County, to be disbursed as follows:

- 30% Industrial Development
- 24% Road Development
- 26% To The Five Incorporated Cities
- 20% Revenue Sharing, Not To Exceed \$500,000.00

- (b) The Administrator shall have the power and it shall be his duty to make and publish such rules and regulations as may be necessary to administer this Ordinance and to provide such printed forms as may be required for reporting, paying and receipting for all such license fees and for all other requirements in the proper and efficient administration of this order.

#### SECTION V.

##### DUTY OF EMPLOYER TO WITHHOLD, REPORT AND PAY LICENSE FEES OF EMPLOYEES:

- (a) It shall be the duty of every person engaged in any trade, occupation or profession, within Pulaski County who employs or engages the services of others in connection therewith, to withhold from the compensation of such employee, the license fees herein provided, at the time such compensation is paid or credited; said person shall report and pay the same to the Administrator on or before April 30, July 31, October 31, and January 31 of each year, for the license fees accrued during the preceding three months beginning January 1, 1987, except as provided in (b) and (c). Failure on the part of the employer to withhold, report and pay the license fees shall not relieve the employees from liability therefor.

- (b) 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.
- (c) Any person may elect to estimate and pay in advance, the withholding tax that may become due from compensation to be paid employees for a taxable year. This procedure will exempt the person from filing quarterly returns. The penalty for underpayment will be as provided in subsection (d) below.
- (d) All license fees not paid when due shall draw interest at the rate of eight per cent (8%) per annum from due date until paid, and upon failure to pay any license fee when due, a penalty of ten per cent (10%) is hereby imposed which penalty shall draw interest from due date.

#### SECTION VI.

#### DUTY OF PERSON ENGAGED IN TRADE, OCCUPATION OR PROFESSION FOR ONESELF TO REPORT AND PAY LICENSE FEES:

- (a) It shall be the duty of every person engaged in any trade, occupation or profession for themselves, for gain or profit, within the County, to file with the Administrator a return showing the net profit or gain from such activity realized during the preceding year as determined by the Licensee's method of accounting or keeping books, and shall pay the license herein provided, calculated on the net profit for such preceding fiscal year. Within 105 days after the end of the Licensee's fiscal year following January 1, 1987, such persons shall file a report with the Administrator showing the net profits or gain for the preceding license period.
- (b) The first license period shall extend from January 1, 1987, until the end of the Licensee's fiscal year and the license fee for the period shall be calculated on a pro-rated basis as of the end of the Licensee's fiscal year. The Licensee shall be permitted to adopt any fiscal period which corresponds with his system of accounting or bookkeeping, or the period adopted for income tax purposes.

## SECTION VII

### DUTY OF EMPLOYEE WHEN EMPLOYER FAILS TO WITHHOLD, REPORT OR PAY:

In the event an employer fails to withhold, report or pay license fees for which any employee is liable, then it shall be the duty of the employee to report and pay the same when due and to file reports showing total gross receipts for the period from January 1, 1987, to December 31, 1987, and thereafter annually. Said reports shall be made upon forms furnished by the Administrator and shall be filed not later than April 15th of each year. In the event the Licensee has not paid the full amount of license fees due for any period, the deficit, together with interest and penalties, must be paid when the reports above provided for are filed or the amount legally determined by the Administrator. In the event of over-payment, Pulaski County shall make prompt refund.

## SECTION VIII.

### APPORTIONMENT OF LICENSE FEES WHERE COMPENSATION OR NET PROFIT IS DERIVED FROM ACTIVITY BOTH WITHIN AND WITHOUT THE COUNTY:

- (a) Whenever an employee receives compensation for services or activity performed both within and without the County, the license fee required under this Ordinance shall be computed and paid upon the basis of the proportion of compensation earned for services performed within the County.
- (b) Whenever the net profit or gain from any trade, occupation or profession is derived from activity or business done both within and without the County, the license fee required under this Ordinance shall be computed and paid upon the proportion of net profit or gain derived from activity within the County.
- (c) In all cases of license fees computed upon the basis of apportionment of compensation or net profit or gain, as herein provided, the apportionment may be shown by the sworn statements of the licensee or employer, but shall not be binding upon the County. Said apportionment shall be subject to verification and determination by the Administrator or his agents or employees through examination and audit of the books and records of the licensee or employer, or both, as required by the Administrator.

## SECTION IX.

### RECORDS REQUIRED:

- (a) The reports required by this Ordinance shall be in form prescribed by the Administrator and shall contain all essential information, date and figures, upon which the license fees required by this Ordinance are computed. Every person required to pay any license fee provided by this Ordinance shall be required to make all books, records and accounts upon which information required by this Ordinance is based, available to the Administrator, his agents or employees, for the purpose of examination, audit or verification; provided, however, that if any licensee or employer subject to the provisions of this Ordinance shall voluntarily submit copies of income tax returns for examination, then in such case no further examination or audit will be required until and unless there is re-examination or audit made by the taxing authority to whom the return was made; and provided further, the Administrator may dispense with examination of the books, records, accounts, or tax returns of the licensee in any case where the Administrator is furnished with a certificate of any attorney at law, a licensed public accountant, or the sworn statement of any other accountant or bookkeeper of the licensee stating that the amount of tax reported conforms to the income tax return filed by the licensee for the applicable period.
- (b) Nothing herein shall prevent or preclude the Administrator from conducting an examination and audit of the books, records, and accounts, as herein provided at any time he may have reasonable grounds to believe that the Licensee has not correctly reported and paid the license fees due under the provisions of this Ordinance.
- (c) All information obtained by the Administrator or any of his agents or employees, or any other official or employee of Pulaski County, from any reports, examination or audit of books, records, account, 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 decree or specific provision of law, and shall not be open to inspection by the public.
- (d) 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 \$50.00 nor more than \$500.00 or imprisonment for a period not to exceed twelve (12) months, or both.

- (e) It is further provided that the 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, any of the information protected by Section VIII of this Ordinance, 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 X

##### PENALTIES FOR VIOLATIONS:

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 \$50.00 nor more than \$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 this 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 XI.

##### 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.

SECTION XII.

REPEALING CLAUSE:

All Ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed.

SECTION XIII.

EFFECTIVE DATE:

This Ordinance shall become effective on January 1, 1987.

SECTION XIV.

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

Introduced for first reading on Motion made by Magistrate Wiles and seconded by Magistrate Hargis and passed by majority of vote of the Pulaski County Fiscal Court in duly session assembled on the 12 day of November, 1986, and finally adopted, after due advertisement on Motion made by Magistrate Wiles and seconded by Magistrate Hargis and passed by majority vote of the Pulaski County Fiscal Court in duly session assembled on the 26 day of November, 1986.

  
PULASKI COUNTY JUDGE EXECUTIVE

ATTEST:

  
PULASKI COUNTY COURT CLERK

PULASKI COUNTY FISCAL COURT  
ORDINANCE NO: 220.13

AN ORDINANCE AMENDING SECTIONS  
III AND IV OF THE OCCUPATIONAL TAX  
ORDINANCE NO: KOC 220.9, IMPOSING A LICENSE  
TAX UPON CERTAIN BUSINESSES, OCCUPATIONS,  
TRADES AND PROFESSIONS

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

That **Section III (b)**, relating to License Fees Required is  
amended as follows:

**SECTION III**

**LICENSE FEES REQUIRED:**

- (b) All persons engaged in any trade, occupation, or profession, within Pulaski County, for themselves, for profit or gain, shall pay a license fee measured by and equal to one per cent (1%) of the net profit realized from such activity, except those exempted under KRS 68.197.

Further subject to this ordinance is income derived from the hire, rental or leasing of personal property, except those persons engaged in farming who leases tobacco for less than one thousand pounds, and all wages, salaries, commissions or other income earned or received by persons, firms, partnerships, corporations or any other entity engaged in the business of renting real estate. A person, firm, partnership, corporation or other entity shall be deemed to be engaged in the business of renting or leasing real estate if said person, firm, partnership, corporation 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.

"Rental Unit" shall mean any room or rooms connected together or other structure or portion thereof constituting a separate, independent establishment or premises for rent, lease or sublease to the occupant thereof.

That Section IV, relating to Regulation, Administration, Enforcement and Collection of License Fees and Purpose Thereof, is amended as follows:

#### SECTION IV

It shall be the duty of the Administrator to collect all license fees and deposit the same in the General Fund of Pulaski County, to be disbursed as per the County's fiscal year, as follows:

- (a) All expenses, including salaries, incurred in the operation of the Occupational Tax Administrator's Office; the 911 Emergency Program; the Somerset-Pulaski County Ambulance Service.
- (b) After the aforementioned disbursements have been made, the remaining funds shall be disbursed as follows:
  - 30% Industrial Development
  - 24% Road Development
  - 26% Among the Five Incorporated Cities based on population
  - 20% To the General Fund, to replace funds lost from Revenue Sharing, Not to Exceed \$500,000.00 each fiscal year. Any excess monies over \$500,000.00 shall be applied to the County's Road Fund.
- (c) Any interest earned on Occupational Tax monies being held on deposit by the County shall be divided in the same manner as Item B, above.
- (d) The Administrator shall have the power and it shall be his duty to make and publish such rules and regulations as may be necessary to administer this Ordinance and to provide such printed forms as may be required for reporting, paying and receipting for all such license fees and for all other requirements in the proper and efficient administration of this order.
- (e) The Administration of the Occupational Tax Administrator's office shall be based upon a calendar year.

All other sections of said Ordinance KOC 220.9 shall remain in full force and effect and said ordinance is adopted and incorporated herein by reference the same as if fully copied herein at length.

This Amended 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 Mag. J.P. Wiles and seconded by Aldo Clifford Jasper and passed by majority of vote of the Pulaski County Fiscal Court in duly session assembled on the 17 day of August, 1988.

Donnell Baskin  
PULASKI COUNTY JUDGE EXECUTIVE

ATTEST:

Willard Hausford  
PULASKI COUNTY COURT CLERK

Introduced for the second reading on Motion made by Mag. J.P. Wiles, and seconded by Mag. Clifford Jasper and passed by majority of vote of the Pulaski County Fiscal Court in duly session assembled on the ~~17~~ day of August, 1988.

31

Donnell Baskin  
PULASKI COUNTY JUDGE EXECUTIVE

ATTEST:

Willard Hausford  
PULASKI COUNTY COURT CLERK

Introduced for the first reading on Motion made by  
Mag Jasper and seconded by  
Mag Hargis and passed by majority of vote of  
the Pulaski County Fiscal Court in duly session assembled on the  
10 day of May, 1989. And finally adopted, after due  
advertisement on Motion made by Mag Jasper Sec by by Mag Wiles  
and passed by majority vote of the Pulaski County Fiscal Court in duly  
session assembled on 24 day of May 1989.

James B. H.  
PULASKI COUNTY JUDGE EXECUTIVE

ATTEST:

Willard Hansford  
PULASKI COUNTY COURT CLERK

PULASKI COUNTY FISCAL COURT  
ORDINANCE NO: 220.14

AN ORDINANCE AMENDING SECTION III OF THE OCCUPATIONAL TAX ORDINANCE NO: KOC 220.9 AND 220.13, EXEMPTING PERSONS OF THE AGE OF SIXTY-FIVE (65) AND OLDER FROM PAYMENT OF THE OCCUPATIONAL LICENSE FEE AS TO THE FIRST \$2,000.00 OF SALARIES, WAGES, COMMISSIONS, AND THE FIRST \$2,000.00 OF NET PROFITS OF ANY BUSINESS, PROFESSION, OR OCCUPATION, CONDUCTED IN PULASKI COUNTY.

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

That **Section III (b)**, relating to License Fees Required is amended as follows:

**SECTION III**

**LICENSE FEES REQUIRED:**

- (b) All persons engaged in any trade, occupation, or profession, within Pulaski County, for themselves, for profit or gain, shall pay a license fee measured by and equal to one per cent (1%) of the net profit realized from such activity, except those as exempted hereinafter.

Further subject to this ordinance is income derived from the hire, rental or leasing of personal property, and all wages, salaries, commissions or other income earned or received by persons, firms, partnerships, corporations or any other entity engaged in the business of renting real estate. A person, firm, partnership, corporation or other entity shall be deemed to be engaged in the business of renting or leasing real estate if said person, firm, partnership, corporation 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.

"Rental Unit" shall mean any room or rooms connected together or other structure or portion thereof constituting a separate, independent establishment or premises for rent, lease or sublease to the occupant thereof.

THERE IS EXEMPTED FROM THE ABOVE:

Those persons qualifying under KRS 68.197;

Those persons engaged in farming who leases tobacco of less than one thousand pounds.

All natural persons of the age of sixty-five (65) and older shall be exempt from the provisions of the occupational license fee as to the first Two Thousand (\$2,000.00) 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, and exempt as to the first Two Thousand (\$2,000.00) Dollars of net profits of any business, profession or occupation conducted in Pulaski County. It shall be the duty of employers to withhold on all wages. The Occupational Tax Office will review an employee's withholding records and W-2's and then issue a refund for the amount of the exclusion.

Partnerships and Corporations are not allowed the deduction, however, partners sixty-five (65) and over are allowed the exclusion in regard to their share of profits and losses.

THESE EXCLUSIONS DO NOT ALLEVIATE A TAX PAYOR'S RESPONSIBILITY TO FILE A REQUIRED RETURN.

All other sections of said Ordinance KOC 220.9 and 220.13 shall remain in full force and effect and said ordinance is adopted and incorporated herein by reference the same as if fully copied herein at length.

This Amended 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.

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:

1.01	DEFINITIONS
1.02	OCCUPATIONAL LICENSE FEE GENERALLY
1.03	RETURNS REQUIRED
1.04	EXTENSION OF DATE FOR RETURNS - INTEREST
1.05	PENALTIES - INTEREST
1.06	EXEMPTIONS
1.07	ADMINISTRATIVE PROVISIONS
1.08	COLLECTION OF TAX - RECORDS
1.09	RULES AND REGULATIONS
1.10	EXAMINATION OF RECORDS
1.11	ONLY LAWFUL TAX IMPOSED
1.12	INFORMATION CONFIDENTIAL
1.13	CRIMINAL PENALTIES
1.14	SEVERABILITY

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

PULASKI COUNTY FISCAL COURT  
ORDINANCE NO: 220.24

AN ORDINANCE AMENDING SECTION 1.08 (COLLECTION OF TAX - RECORDS) OF THE OCCUPATIONAL TAX ORDINANCE NO: 220.22.

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

THAT SECTION 1.08 COLLECTION OF TAX - RECORDS IS AMENDED AS FOLLOWS:

SECTION 1.08 COLLECTION OF TAX - RECORDS

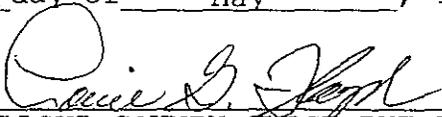
It shall be the duty of the Occupational Tax Administrator to collect and account for all license fees imposed by this chapter and deposit the same in the Occupational Tax Fund of Pulaski County. These monies and all interest earned on these monies being held on deposit by the County are to be disbursed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

- (1) 13% Ambulance Fund  
13% 911 Emergency Program
- (2) All expenses, including salaries, incurred in the operation of the Occupational Tax Administrator's Office;
- (3) After the aforementioned disbursements have been made, the remaining funds shall be disbursed as follows;  
20% General Fund  
20% Industrial Fund  
30% Road Development  
30% 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.

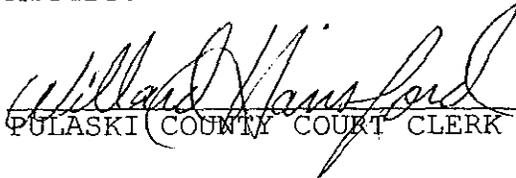
This ordinance shall become effective retroactive to May 16, 1996.

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

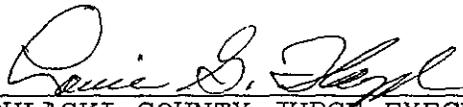
Introduced for the first reading on Motion made by Ralph Troxtell  
and seconded by Howard Hansford  
and passed by majority of vote of the Pulaski County Fiscal Court  
in duly session assembled on the 14th day of May, 1996.

  
PULASKI COUNTY JUDGE EXECUTIVE

ATTEST:

  
PULASKI COUNTY COURT CLERK

Introduced for the second reading on Motion made by James Cothron  
and seconded by Phillip McClendon and  
passed by majority of vote of the Pulaski County Fiscal Court in  
duly session assembled on the 28th day of May,  
1996.

  
PULASKI COUNTY JUDGE EXECUTIVE

ATTEST:

  
PULASKI COUNTY COURT CLERK

**Occupational License Fee**

COUNTY OF PULASKI

ORDINANCE No. 220.28

AN ORDINANCE RELATING TO THE IMPOSITION AND ADMINISTRATION OF AN OCCUPATIONAL LICENSE REQUIREMENT, AND PAYMENT OF AN OCCUPATIONAL LICENSE FEE BY PERSONS AND BUSINESS ENTITIES CONDUCTING BUSINESSES, OCCUPATIONS AND PROFESSIONS WITHIN PULASKI COUNTY, KENTUCKY.

WHEREAS, the Pulaski County Fiscal Court desires to comply with the requirements of KRS 68.197 and 67.750 to 67.795 and deems it necessary and desirable that certain changes be made to existing ordinances imposing occupational license fees on persons and business entities conducting businesses, occupations, and professions within Pulaski County, so that the assessment and payment of Occupational License Fees can be administered more efficiently.

Now, therefore, be it ordained by the Pulaski County Fiscal Court of Pulaski County, Kentucky that Ordinance No. 220.22 is hereby amended and re-adopted in full to read as follows:

~~+220.24~~

Ordinance No. 220.28 is hereby enacted and shall read in full as follows:

Sections:

- 1 Definitions
- 2 License Application Required
- 3 Occupational License Fee Payment Required
- 4 Apportionment
- 5 Employers to Withhold
- 6 Returns Required
- 7 Extensions
- 8 Refunds
- 9 Federal Audit Provisions
- 10 Administrative Provisions
- 11 Information to Remain Confidential
- 12 Penalties
- 13 Use of Occupational License Fee
- 14 Severability
- 15 Adoption

## § 1 - 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) “County” means the county of Pulaski County, Kentucky;
- (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 would otherwise 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 county. 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 county;
- (14) “Sales Revenue” means receipts from the sale, lease, or rental of goods, services, or property;
- (15) “Tax district” means any county 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 county 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 county means net profit as defined in subsection (11) of this section, and as apportioned under Section (4) of this Ordinance;
- (18) “Taxable year” means the calendar year or fiscal year ending during the calendar year, upon the basis of which net income 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; and
- (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.

## **§ 2 - Occupational License Application Required**

- (1) Every person or 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 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.

### § 3 - Occupational License Fee Payment Required

- (1) Except as provided in 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 county an occupational license tax for the privilege of engaging in such activities within the county. The occupational license tax shall be measured by 1% of:
  - (a) all wages and compensation paid or payable in the county for work done or services performed or rendered in the county by every resident and nonresident who is an employee;
  - (b) the net profit from business conducted in the county 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 county 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 county.
- (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, combined trust, banking and title business 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 fee on their net profit derived from the non-public service activities apportioned to the county;
- (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) Compensation received for domestic services rendered by those persons classified as domestic servants by Section (1) subsection (19) of this ordinance;
- (i) All natural persons aged 65 and older shall be exempt from the provisions of the Occupational License Tax as to the first two thousand (\$2,000) dollars of compensation earned by such persons in the county for work done or services performed or rendered in the county, or exempt as to the first two thousand (\$2,000) dollars of net profits of any business entity of business conducted in the 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 entity. This said exemption may be used on either personal wages or net profits. At no time can a Net Profits License Fee Return be filed using more than one exemption;
- (j) 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. Any monies reported on Federal Schedule F as labor hired, contract labor, miscellaneous labor or any other form of labor is considered as labor and shall be paid upon. If contract labor or any other labor was paid upon and treated as 1099 labor, then a copy of the 1099 for said labor shall be submitted to the county. If the amount is less than that which is required by the Internal Revenue Service then a listing as set forth in Section (6) subsection (6) of this ordinance, can be used in lieu of 1099's;

- (k) Compensation received for the renting or leasing of two (2) residential rental units as classified by Section (1) subsection (20) of this ordinance.
- (l) 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.

#### § 4 - 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) tax district, 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) tax district, by multiplying the net profit by the sales factor as set forth in subsection (3) of this section.

(c) For the purposes of subsections (1) thru (4) 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 county 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 county based on the time the individual's service is performed within the county.

(3) The sales factor is a fraction, the numerator of which is the total sales revenue of the business entity in the county 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 sales, lease, or rental of tangible personal property is in the county if:
1. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within the county regardless of the f.o.b. point or other conditions of the sale; or
  2. The property is shipped from an office, store, warehouse, factory, or other place of storage in the county and the purchaser is the United States government.
- (b) Sales revenues, other than revenue from the sale, lease or rental of tangible personal property or the lease or rental of real property, are apportioned to the county based upon a fraction, the numerator of which is the time spent in performing such income-producing activity within the county and the denominator of which is the total time spent performing that income-producing activity.
- (c) Sales revenue from the sale, lease, or rental of real property is allocated to the tax district 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 county, the business entity may petition the county or the county 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 county; or
  - (d) The employment of any other method to effectuate an equitable allocation and apportionment of net profit.
- (5) For the purposes of payroll apportionment, compensation is paid or payable for work done or services performed or rendered by an employee, both within and without the county, 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 county. The license tax shall be computed by obtaining the percentage which the compensation for work performed or services rendered within the county bears to the total wages and compensation paid or payable. In order for the county to verify the accuracy of a

taxpayer's reported percentages under this subsection, the taxpayer shall maintain adequate records to establish apportionment. For the purposes of this section, the employer or employee as specified in Section (5) of this ordinance, shall file a payroll apportionment form as supplied by the Occupational Tax Office.

#### § 5 - 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 county. Amounts withheld shall be paid to the county 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 county, and pay to the county, 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 county.
- (3) Every employer who fails to withhold or pay to the county any sums required by this ordinance to be withheld and paid shall be personally and individually liable to the county for any sum or sums withheld or required to be withheld in accordance with the provisions of this section.
- (4) The county shall have a lien upon all the property of any employer who fails to withhold or pay over to the county sums required to be withheld under this section. If the employer withholds, but fails to pay the amounts withheld to the county, the lien shall commence as of the date the amounts withheld were required to be paid to the county. If the employer fails to withhold, the lien shall commence at the time the liability of the employer is assessed by the county.
- (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 county 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 county, 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 county 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 ordinance shall be personally and individually liable, both jointly and severally, for any tax required to be withheld from compensation paid to one or more employees of any business entity, and neither the corporate dissolution or withdrawal of the business entity from the county, nor the cessation of holding any corporate office, shall discharge that liability of any person; provided that the personal and individual liability shall apply to each or 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 who had no authority to collect, truthfully account for, or pay over any tax imposed by this ordinance at the time that the taxes imposed by this ordinance become or became due.
- (9) Notwithstanding subsections (7) and (8) of this section, every employee receiving compensation in the county subject to the tax imposed under Section (3) of this ordinance shall be personally liable for any amount due. 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 county 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 Fee it shall become the duty of the employee to file with the county. The only employer that is 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 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.

## § 6 - 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 county.
- (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 county. Whenever, in the opinion of the county, it is necessary to examine the federal income tax return of any business entity in order to audit the return, the county 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 county may also require copies of reports of adjustments made by the federal government.
- (3) Every business entity subject to a 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 county from time to time may prescribe. Whenever the county deems it necessary, the county 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 county deems sufficient to determine the tax liability the business entity.
- (4) The county 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 county at the time prescribed for filing the occupational license tax return, determined without regard to any extension of time for filing the return.
- (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 county, to maintain records of such payments and to report such payments to the county. 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 payments less than \$600, they are still liable to remit the equivalent information to the county. The information required to be reported by said licensee 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.
- (e) Amount of non employee compensation earned in the county for the calendar year.

### § 7 - Extensions

- (1) The county 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 county 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.
- (2) If the time for filing a return is extended, the business entity 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 county. A fraction of a month is counted as an entire month.
- (3) Every business entity, other than a sole proprietorship, subject to a net profits or occupational license tax levied by the county shall make quarterly estimated tax payments on or before the fifteenth day of the fourth, sixth, ninth and twelfth month of each taxable year if the tax liability for the taxable year exceeds five thousand dollars (\$5,000).
- (4) The quarterly estimated tax payments required under subsection (3) of this section shall be based on the lesser of:
  - (a) Twenty-two and one-half percent (22.5%) of the current taxable year tax liability;
  - (b) Twenty-five percent (25%) of the preceding full year taxable year tax liability; or
  - (c) Twenty-five percent (25%) of the average tax liability for the three (3) preceding full year taxable years' tax liabilities if the tax liability for any of the three (3) preceding full taxable years exceeded twenty thousand dollars (\$20,000).
- (5) Any business entity that fails to submit the minimum quarterly payment required under subsection (4) of this section by the due date for the quarterly payment shall pay an

amount equal to twelve percent (12%) per annum simple interest on the amount of the quarterly payment required under subsection (4) of this section from the earlier of:

(a) The due date for the quarterly payment until the time when the aggregate quarterly payments submitted for the taxable year equal the minimum aggregate payments due under subsection (4) of this section; or

(b) The due date of the annual return.

A fraction of a month is counted as an entire month.

(6) The provisions of this section shall not apply to any business entity's first full or partial taxable year of doing business in the county or any first taxable year in which a business entity's tax liability exceeds five thousand dollars (\$5,000).

(7) At the election of the business entity, any installment of the estimated tax may be paid prior to the date prescribed for its payment.

#### **§ 8 - 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 county 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 county, based on time spent outside the county, whose employer has withheld and remitted to this county, the occupational license tax on the compensation attributable to activities performed outside the county, 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 county may confirm with the employer the percentage of time spent outside the county and the amount of compensation attributable to activities performed outside the county prior to approval of the refund.

(4) In the case where the tax computed under this ordinance is less than the amount which has been declared and paid as estimated tax for the same taxable year, a refund shall be made upon the filing of a return.

- (5) (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 non payment 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.
- (6) At the election of the business entity, any installment of the estimated tax may be paid prior to the date prescribed for its payment.

### **§ 9 - Federal Audit Provisions**

- (1) As soon as practicable after each return is received, the county may examine and audit the return. If the amount of tax computed by the county 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 county 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 county 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 county. 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 county may initiate a civil action for the collection of any additional tax within the times prescribed in subsection (1) of this section.

### **§ 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 county, 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 county, 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.

For the purposes of this subsection and subsection (3) 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.

- (3) The authority to refund or credit overpayments of taxes collected pursuant to this ordinance is vested exclusively in the county.

### **§ 11 - Information to Remain Confidential**

- (1) No present or former employee of the county 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 county 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 county from testifying in any court, or from introducing as evidence returns or reports filed with the county, in an action for violation of a the county tax laws or in any action challenging the county laws.

- (2) The county 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 county if the Commissioner of Revenue of the Commonwealth of Kentucky grants to the county 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 county 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 county 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. Said agreements shall require all other taxing entities to keep all information exchanged confidential.

#### **§ 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 county; or
  - (b) Fails to pay the tax computed on the return or report on or before the due date prescribed for payment.

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 date prescribed under Section (5) of this ordinance may be subject to a penalty in an 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 county. 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 county.
- (5) The county 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 county 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 person, business entity or employer who willfully fails to make a return, 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 county and required to be filed with the county by the provisions of this ordinance, or by the rules of the county or by written request for information to the business entity by the county.
- (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 (\$1000) or imprisoned for not more than one (1) year, or both.

### **§ 13- Use of Occupational License Tax**

It shall be the duty of the Occupational Tax Administrator to collect and account for all Occupational 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:

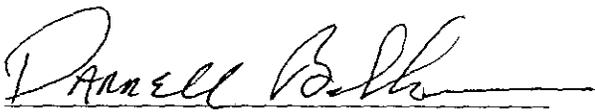
- (1) 8.75% - Jail Fund  
13% - Ambulance Fund  
13% - 911 Emergency Program
- (2) All expenses, including salaries, incurred in the operation of the Occupational Tax Administrators office;
- (3) After the aforementioned disbursements have been made the remaining funds shall be disbursed as follows:  
  
20% - General Fund  
20% - Industrial Fund  
30% - Road Development  
30% - 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.

### **§ 14 - Severability**

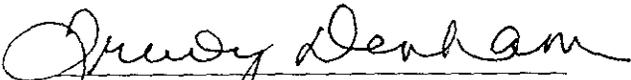
Each section and each provision of each section of this ordinance are severable, and if any provision, section, paragraph, sentence or part thereof, or the application thereof to any person licensee, class or group, is held by a court of law to be unconstitutional or invalid for any reason, such holding 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.

§ 15 - Adoption

Introduced for first reading, on a motion by Ralph Troxtell,  
seconded by Howard Hansford, and passed by a majority vote of the  
Pulaski County Fiscal Court, meeting in a duly assembled session of the 14<sup>th</sup> day of  
December, 2004, and finally adopted, after due advertisement, on a motion by  
Mike New, seconded by Howard Hansford, and passed by a majority  
vote of the Pulaski County Fiscal Court meeting, in a duly assembled session on the 28<sup>th</sup> day of  
December, 2004.

  
Darrell BeShears  
County Judge Executive

ATTEST:

  
Trudy Denham  
Pulaski County Court Clerk

**DRAFT**  
**8/28/07**

ORDINANCE NO. 220.29

AN ORDINANCE AUTHORIZING THE OCCUPATIONAL TAX OFFICE TO IMPLEMENT A ONE-TIME OCCUPATIONAL LICENSE FEE AMNESTY PROGRAM WAIVING PENALTIES AND INTEREST FOR DELINQUENT OCCUPATIONAL LICENSE FEES OWED BY APPLICANTS TO THE PROGRAM WHO HAVE FAILED TO FILE RETURNS AND/OR PAY OCCUPATIONAL LICENSE FEES WHICH ARE DELINQUENT AS OF SEPTEMBER 30, 2007, AND WHO VOLUNTARILY FILE RETURNS AND REMIT FULL PAYMENT OR PAY TWENTY FIVE PERCENT (25%) OF THE DELINQUENCY AND ENTER INTO ACCEPTABLE AGREEMENTS TO PAY ALL DELINQUENT TAXES, SAID PROGRAM TO RUN FROM OCTOBER 1, 2007 THROUGH NOVEMBER 15, 2007.

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BE IT ORDAINED BY THE PULASKI COUNTY FISCAL COURT, on behalf of Pulaski County Government:

Section 1 - This ordinance shall be known as and may be cited as the "Pulaski County, Kentucky 2007 Occupational License Fee Amnesty Ordinance"

Section 2 - The Occupational Tax Office shall develop and administer a one-time occupational license fee amnesty program as provided in the following sections with respect to the occupational license fee imposed by Ordinance 220.28. on net profits and payroll withholdings.

Section 3 - As used in this Ordinance, unless the context requires otherwise:

- ( a ) "Applicant" means any individual, business entity, trustee, guardian, executor, administrator or fiduciary, subject to the occupational license fee imposed by Ordinance Number 220.28, who applies for the benefits of this Ordinance.
- ( b ) "Delinquent OLF" means any occupational license fee amount remaining unpaid after the original due date of the return, whether said return has been filed or not.
- ( c ) "Occupational Tax Office" means the Pulaski County Occupational Tax Office.
- ( d ) "OLF" means occupational license fees as imposed by Ordinance Number 220.28 on net profits and payroll withholdings.
- ( e ) "Year" means the twelve-month accounting period used by the applicant for purposes of calculating the OLF due on annual returns.

**DRAFT**  
**8/28/07**

Section 4 - Notwithstanding the provisions of any other law to the contrary, the OLF amnesty program shall be conducted by the Occupational Tax Office for a limited period beginning on October 1, 2007 and continuing through NOVEMBER 15, 2007. A complete application for amnesty under this program, including any required payment, must be postmarked or received in the office on or before November 15, 2007.

Section 5 - For any applicant who meets the requirements of this ordinance.

- ( a ) For all OLF which are delinquent as of September 30, 2007, the Pulaski County Fiscal Court shall waive criminal prosecution and all civil penalties and interest which may be assessed under any section of the Occupational Tax Ordinance for the years for which OLF amnesty is requested as provided in Section 6.
- ( b ) With the exception of instances in which the applicant and the Occupational Tax Office enter into an installment payment agreement authorized under Section 8, the failure to pay all OLF as shown on the applicants amnesty return shall invalidate any amnesty granted pursuant to this ordinance.
- ( c ) This section shall not apply to any applicant who is subject to a criminal order of restitution.

Section 6 - The provisions of this Ordinance shall apply to any eligible applicant who files an application for amnesty within the time prescribed by this Ordinance and does the following:

- ( a ) Files completed returns for all years as stated on the application for which returns have not previously been filed except in cases in which the OLF liability has been established through audit; and
- ( b ) Either pays in full the OLF due for the years for which amnesty application is made at the time the application or amnesty returns are filed or pays the required twenty - five percent (25%) in accordance with Section 8 below; and
- ( c ) If, upon review of the application and forms, the Occupational Tax Office determines that additional OLF is due, pays the additional amount within thirty (30) days of notification by the Occupational Tax Office.

Section 7 - Participation in the program shall be conditioned upon the applicants agreement that the right to protest or initiate an administrative or judicial proceeding or to claim any refund of monies paid under the program is barred with respect to the amounts paid with the application of amnesty returns.

Section 8 - The applicant may enter into an installment payment agreement in lieu of the complete payment required under Section 6. In such cases, twenty-five percent (25%) of the amount due shall be paid with the application or amnesty return with the balance to be paid in monthly installments not to exceed twelve (12 months). Failure of the applicant to make timely payments shall void the terms of the amnesty program. All such agreements shall include interest as provided under Ordinance 220.28, Section 12 to be calculated on any unpaid balance as of November 16, 2007.

Section 9 - If, following the termination of the OLF amnesty period, the Occupational Tax Office issues a delinquency notice based upon information independent of that shown on a return filed pursuant to Section 6, the Occupational Tax Office shall have the authority to impose penalties and interest and criminal and/or civil action may be brought where authorized by law only with respect to the difference between the amount shown on the amnesty return and the correct amount of the OLF due.

Section 10 - The Occupational Tax Office shall promulgate administrative regulations as necessary, issue forms and instructions and take all actions necessary to implement the provisions of this Ordinance. The Occupational Tax Office shall publicize the OLF amnesty program in order to maximize the public awareness of and participation in the program.

Section 11 - That this Ordinance shall become effective upon second reading and adoption.

**Pulaski County, Kentucky**

By: Barty Bullock  
Barty Bullock  
Pulaski County Judge/Executive

Given first reading at Pulaski County Fiscal Court meeting on the 28<sup>th</sup> day of August, 2007, and directed to be advertised as required by law.

Ralph Tiptell  
CLERK  
PULASKI COUNTY FISCAL COURT

Given second reading and duly adopted at a Fiscal Court Meeting of the Pulaski County Fiscal Court on the 25<sup>th</sup> day of September, 2007.

Ralph Tiptell  
CLERK  
PULASKI COUNTY FISCAL COURT

**PULASKI COUNTY FISCAL COURT  
ORDINANCE NO: 220.30**

**\*\* \*\* \* \*\* \***

**AN ORDINANCE AMENDING SECTION 1.08 (COLLECTION  
OF TAX RECORDS) OF THE OCCUPATIONAL TAX  
ORDINANCE NO. 220.22**

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

**THAT SECTION 1.08 COLLECTION OF TAX-RECORDS IS  
AMENDED AS FOLLOWS:**

**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) 13% Ambulance fund
- 13% 911 Emergency Program
- 5.5% Jail
- 2.0% Somerset-Pulaski County Airport

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

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

- 20% General Fund
- 20% Industrial Fund
- 30% Road Development
- 30% 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.

The above Ordinance was given first reading by the Pulaski County Fiscal Court at a regular meeting held on 25<sup>th</sup> day of May, 2010.

After being duly advertised, the above Ordinance was given second reading and duly adopted by the Pulaski County Fiscal Court on 8<sup>th</sup> day of June, 2010.

Bart Bullock  
PULASKI COUNTY JUDGE EXECUTIVE

ATTEST:

Ralph Trostell  
PULASKI COUNTY COURT CLERK

PUBLISHED THIS 13<sup>th</sup> DAY OF June, 2010.