

ORDINANCE 2001-01

AN ORDINANCE AMENDING ORDINANCE NO. 72-1 "AN ORDINANCE LEVYING AND IMPOSING LICENSE FEES FOR PRIVILEGE OF ENGAGING IN BUSINESSES, OCCUPATIONS, TRADES AND PROFESSIONS IN THE CITY OF RUSSELLVILLE, KENTUCKY, MEASURED BY ONE AND ONE HALF PERCENT (1 ½%) OF THE AMOUNTS EARNED WITHIN THE CITY OF RUSSELLVILLE, KENTUCKY ON AND AFTER THE SIXTH DAY OF JANUARY, 1972, DEFINING WORDS, PHRASES AND TERMS; PRESCRIBING REGULATIONS AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND COLLECTION OF SUCH LICENSE FEES; REQUIRING THE FILING OF RETURNS AND THE GIVING OF INFORMATION BY ALL THOSE SUBJECT TO SUCH LICENSE TAX; PROVIDING THAT THE LICENSE FEES COLLECTED SHALL BE PAID INTO THE GENERAL FUND OF THE CITY OF RUSSELLVILLE FOR PAYMENT OF GENERAL GOVERNMENTAL EXPENSES AND FOR CAPITAL IMPROVEMENTS AS MAY BE DIRECTED BY THE CITY COUNCIL; PROVIDING PENALTIES FOR THE VIOLATION THEREOF: AND PROVIDING A SEVERABILITY CLAUSE" BY AMENDING THE DATE WHEN LICENSE FEE RETURNS ARE DUE AND FEES ARE PAYABLE; BY ADJUSTING THE DELINQUENT OCCUPATIONAL FEE INTEREST RATE TO EIGHTEEN (18%); BY ADJUSTING THE AMOUNT OF THE DELINQUENT OCCUPATIONAL FEE PENALTY TO TEN (10%); BY AMENDING ORDINANCE AS IT PERTAINS TO INCOME DERIVED FROM REAL ESTATE; BY ADJUSTING THE MINIMUM FEE FOR ALL BUSINESSES TO \$25.00; BY ADJUSTING THE LICENSE REGISTRATION FEE FOR NEW BUSINESS TO \$25.00; BY DELETING THE REQUIREMENT FOR ESTABLISHED BUSINESS TO PURCHASE A NEW LICENSE; BY AMENDING THE ORDINANCE TO REQUIRE TRANSIENT GENERAL CONTRACTORS TO POST A CASH BOND OF \$250.00; AND PROVIDING FOR AN EFFECTIVE DATE, WITH A REPEALER CLAUSE AND SEVERABILITY CLAUSE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RUSSELLVILLE, KENTUCKY, THAT:

WHEREAS, the City has determined that it is necessary to adjust the delinquent Occupational Tax assessment interest rate to eighteen (18%) percent; to change the filing date for License Fees to be paid by April 15<sup>th</sup> of each year; to adjust the penalty for failure to pay license fees to (10%); to amend the Ordinance as it pertains to income received from real estate; to require a minimum fee of \$25.00 from all businesses; to adjust the license registration fee for new businesses to \$25.00; to delete the requirement for established business to purchase a yearly license; and to require Transient General Contractors to post a cash bond of \$250.00 before commencing work in the City of Russellville.

The amendments to this Ordinance are so that they shall read as follows:

#### **SECTION 4. PAYMENT OF LICENSE FEES ---WITHHOLDING AND RETURNS**

- b. Each person subject to a license fee imposed by this Ordinance shall on or before the ~~first~~ fifteenth day of the ~~5<sup>th</sup>~~ 4<sup>th</sup> month following the close of each year, make and file with The Director of Finance, a return, in duplicate, on a form which shall be furnished by or obtained from the Treasurer, setting forth the aggregate amount of salaries, wages, commissions, and other compensations or net profits during the preceding year. Provided, however, that where the fiscal year of said return by the business, profession or other activity differs from the calendar year and licensee files Federal Income Tax returns for such fiscal year, the license tax shall be measured by the net profit of the fiscal year. It is the intent of this ordinance that any license fee paid here under during any calendar or fiscal year is for the right to do business for that calendar or fiscal year.
- c. The Director of Finance shall have the authority to extend the filing of said returns in his discretion. Such extension shall be upon the written request of the licensee. Provided however, that any balance unpaid when payment is due under the terms of this Ordinance shall bear interest at the rate of ~~six (6%)~~ eighteen (18%) percent per annum until paid.

#### **SECTION 7: PENALTIES**

All license fees imposed by this Ordinance which remain unpaid after they become due shall bear interest at the rate of ~~six~~ eighteen (18%) percent per annum and any person who fails to pay such license fee within thirty days after the due date, except as provided in Section 4 (d), shall also be charged a penalty of ~~one (1%)~~ ten (10%) percent per month or fraction thereof ~~not to exceed ten (10%) percent of the amount of such unpaid-license fee~~ of the unpaid balance or \$25.00 whichever shall be greater. "Any person who shall fail, neglect, or refuse to make any return required by this Ordinance or any employer who shall fail to withhold said license fee or to pay over to the City those so withheld under the terms of this ordinance or any person who shall refuse to permit the Director of Finance or any agent, or employee designated by him in writing, to examine books, records and papers pertaining to information required under this Ordinance, or who shall knowingly make any incomplete, false or fraudulent return, or shall attempt to do anything whatever to avoid the full disclosure of the amount of earnings in order to avoid the payment of the whole or any part of the license fee shall become liable to the City for such fees as well as the interest and penalty thereon and shall in addition, upon conviction, be subject to a fine or not less than \$25.00 nor more than \$100.00, or imprisonment for not more than 30 days, or to both such fines and imprisonment, for each offense". Such criminal penalties shall be in addition to the interest and penalties imposed above.

~~The minimum civil penalty for failure to file any tax return required under this Ordinance or for late filing without written extension having been granted by the Director of Finance shall be five dollars (\$5.00) regardless of the time or the amount involved.~~

**SECTION 9: COMPUTATION OF PERCENTAGE WHICH THE SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION AND NET PROFITS FOR WORK PERFORMED OR SERVICES RENDERED WITHIN THE CITY BEARS TO THE TOTAL COMPENSATION EARNED, EXCEPTIONS AND RULES AS TO SPECIFIC INCOME.**

3. Income Received from Real Estate.

b. Rent from single dwellings or single apartments or other rental Property not specifically set out above shall ~~not~~ constitute a subject activity and the net income there from is ~~not~~ subject to the fee imposed by this Ordinance, ~~unless the person owning said property is engaged in managing said property for at least 20% of his activity time or the net rents amount to at least 20% of his taxable income under this Ordinance, then he will be presumed to be engaged in the real estate business.~~

**SECTION 11: EQUAL IMPOSITION OF LICENSE TAX, MINIMUM NET PROFIT LICENSE TAX FEE AND REFUND OF OVERPAYMENT.**

Subsection 2. Persons, associations, corporations or other business entities involved in any business, occupation, trade, profession or other business activity within the City subject to the net profit tax hereunder shall on or before ~~January 15, 1972~~ April 15 file a Net Profit License Fee Return and pay the greater of one and one-half percent ( $1\frac{1}{2}\%$ ) of their net profit, gross wages and gross salaries or a minimum fee of \$25.00, ~~purchase an occupational license from the office of the Director of Finance for a tax fee of fifteen dollars (\$15.00) for the remainder of the calendar year 1972, and shall on or before the first day of January thereafter purchase an occupational license from said office for a tax fee of twenty dollars (\$20.00) for the following calendar year. No business subject to the net profit tax hereunder shall operate on or after January 15, 1972, without first purchasing the new occupational license as set out above. The tax fee for said license shall be considered a minimum fee and no part of same will be refunded or credited toward the purchase of an occupational license for another business, but credit for the entire amount paid for said occupational license will be allowed on line three (3) of the Licensee's annual Net Profit License Fee Return. Clergymen, officers and employees of public agencies shall not be required to purchase an occupational license or pay the minimum fee therefore, unless they are engaged in governmental duties; however, this provision shall not be construed to relieve ministers or public officers and employees of the payment of one percent (1%) tax on all amounts earned within the City of Russellville.~~

All new businesses will be required to file an application with the Director of Finance and pay a one-time License Registration Fee of \$25.00 before commencing business in the City of Russellville. A business changing names shall notify the License

Division of the name change, but will not be required to pay a new license registration fee. This applies to a true name change only. Any change in entity or ownership requires the completion of a new application and registration fee.

#### BOND REQUIREMENT (TRANSIENT GENERAL CONTRACTOR)

In addition to the Registration Fee, General Contractors that do not meet the definition of a local business shall be required to post a cash bond of two hundred fifty (\$250.00) with the City at the time of registration. This bond will be held until all Net Profit License Fee Returns and Employee Withholding requirements have been deemed met by the City.

#### **SECTION 12: SEVERABILITY.**

The provisions of this Ordinance are severable. If any sentence, clause or part of this Ordinance or the application thereof to any particular state of case is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or repeal any of the remaining provisions, sentences, clauses or sections or parts of the Ordinance, it being the legislative intent of this body to ordain and enact each provision, paragraph, sentence and part hereof separately and independently of each other.

This ordinance shall be effective upon its passage and publication as required by law.

FIRST READING CONDUCTED ON JANUARY 16th, 2001.

SECOND READING AND PASSAGE by roll call vote this 6th day of February, 2001.

AYES	NAYES	ABSTAINING	ABSENT
Howard Wren Gerald Chapman Russell Jones Morris L. Kisselbaugh	NONE	Jean Hankins Ken Smith	NONE

CITY OF RUSSELLVILLE

By: Shirlee Yassney  
SHIRLEE YASSNEY, MAYOR

ATTEST:

Peggy Jenkins  
PEGGY JENKINS, CITY CLERK