

**CITY OF RUSSELLVILLE, KENTUCKY  
ORDINANCE 2006-07**

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AN ORDINANCE AMENDING ORDINANCE 2001-13, "AN ORDINANCE LEVYING AND IMPOSING LICENSE FEES FOR PRIVILEGE OF ENGAGING IN BUSINESS, OCCUPATIONS, TRADES AND PROFESSIONS IN THE CITY OF RUSSELLVILLE, KENTUCKY, MEASURED BY TWO PERCENT (2%) 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, REPEALER CLAUSE AND AN EFFECTIVE DATE" BY AMENDING DEFINITIONS, REPORTING REQUIREMENTS, CREATING ADDITIONAL PROVISIONS TO PROVIDE FOR ENFORCEMENT OF THE ORDINANCE, WITH A REPEALER CLAUSE, SEVERABILITY CLAUSE, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Russellville has previously enacted Ordinance 2001-13 as captioned above; and

WHEREAS, City Council of Russellville, Kentucky, deems it necessary and proper for Ordinance 2001-13 to be amended in order to further the health, safety and welfare of the citizens of the City of Russellville;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL IN AND FOR THE CITY OF RUSSELLVILLE, KENTUCKY, AS FOLLOWS:

**I. THE AMENDMENTS:**

**A. Section III(p) is hereby created to read as follows:**

"Return" or "Report" means any properly completed and, if required, signed form, statement, certification, declaration, or any other document permitted or required to be submitted or filed with the City.

**B. Section IV(a) is hereby amended as follows:**

Each employer who employs one or more persons within the city shall deduct monthly,

or more often than monthly, at the time of payment thereof, the license fee so deducted. Beginning with the January - March, 1972, quarter, the payment required to be made on account of deduction by employers shall be made to the Treasurer monthly, on or before the last day of the month next following the month of said deduction, or quarterly, for the quarterly periods ending March 31, June 30, September 30 and December 31 of each year, on or before the last day of the month next following the quarter of said deduction, to the Treasurer. ~~Employers withholding \$100.00 or more per month shall pay same monthly for the first two months of the quarter and pay the balance due including the third month of the quarter with the quarterly return.~~ Said employer shall annually during the month of January, make a return to the Director of Finance in which is set forth the name and residence address of each employee of said employer during the preceding calendar year, giving the amount of salaries, wages, commissions or other compensations earned during the preceding year, by each such employee. Provided, however, that the failure or omission of any employer to deduct each license fee shall not relieve the employee from the payment of such license fee in compliance with such regulations with respect to making returns and payment thereof, as may be fixed in this ordinance or established by the Director of Finance. Copies of W-2 statements are acceptable for this annual return. Persons or businesses using contract laborers are to provide the City with a copy of the 1099 form for each contract laborer. Persons or business entities that are not required to file the 1099 forms with the federal government must send federally-acceptable equivalent documentation. 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 \$600.00, they are still required to remit the equivalent information to the City. The information required to be reported by said licensee shall include:

- Payer's name, address, social security number and/or Federal identification number
- Recipient's name and address
- Recipient's social security and/or Federal identification number
- Amount of non-employee compensation paid in the calendar year
- Amount of non-employee compensation earned in the City for the calendar year

**C. Section IV(b) is hereby amended as follows:**

Each person subject to a license fee imposed by this ordinance shall, on or before the fifteenth day of the 4th month following the close of each year, make and file with the Director of Finance, a return, 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 entire license due under this ordinance has been withheld under the provisions here of, the Director of Finance may waive the filing of said return by said licensee; provide, further, that where the fiscal year of said return~~

~~by business, profession or other activity differs from the calendar year and licensee files federal income tax returns for such fiscal years, 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.~~

In all cases where the employer does not withhold the tax levied under this ordinance from the employee, such employee or employees shall be responsible for filing with the City each quarter in the same manner as if they were the employer. If an employer, fails to or is not required to withhold, report, or pay the License Fee it shall become the duty of the employee to file with the City. 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. Employees of the Federal Government are not required to obtain a business license from the City. The payment required to be made by an employee, can be made quarterly, for the periods ending March 31th, 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 is voluntary or involuntary.

**D. Section IV(d) is hereby amended as follows:**

The Director of Finance shall have the authority to extend the filing of said returns in his discretion. The extension must be requested on or before the date prescribed for payment of the occupational license tax. Such extension shall be upon the written request of the licensee. ~~Provided, however, that~~ and shall be accompanied by a copy of the federal extension request and payment IN FULL of the estimated total due. Any balance unpaid when payment is due under the terms of this ordinance shall bear interest at the rate of eighteen (18%) simple percent per annum until paid on the tax shown due on the return, but not previously paid, from the time the tax was due until the return is actually filed and the tax paid to the City. A fraction of a month is counted as an entire month.

**E. A new Section IV(e) is hereby created as follows:**

Licensees over the age of 65, who do not have to file a federal return because they do not meet the minimum income requirements are still required to pay City net profits

taxes. However, the City hereby waives the requirement that the licensee file a copy of their federal return; a signed affidavit stating that the licensee is not required to file a federal return will be sufficient documentation.

**F. A new Section IV(f) is hereby created as follows:**

Payment for current taxes owed will not be accepted unless prior period taxes have been paid. Payments of this sort will be returned, and will accrue penalty and interest, as set forth in this Ordinance, if paid late.

**G. Section VI(b) is hereby amended as follows:**

Delinquent Accounts – The Director of Finance will mail a delinquent notice to any account that is past due. This notice will give the delinquent account ten (10) days in which to respond to the Director of Finance. If taxes are not paid within the 10 business days, the account will be turned over to the City Attorney. The business license is immediately revoked, and fines imposed on the violation. The account will not be considered cleared until all taxes have been paid, all documentation for the taxes received, and all fines and administrative costs, including mailing costs, have been paid to the City. Court costs and attorney's fees, if any, incurred by the City are to be reimbursed by the licensee as well. The license will not be reinstated and until all requirements have been met, and renewal of the license will include penalty and interest, based upon the length of time of license revocation. Licensees, in addition penalties outlined above, who fail to remit payroll withholdings are subject to criminal prosecution; if convicted, the licensee will be guilty of a misdemeanor, and will be subject to an additional fine, as set forth in this Ordinance, and are subject to possible imprisonment, for not more than thirty (30) days, FOR EACH OFFENSE. The City has the option to publish a list of accounts which are delinquent, and to publish a list of those with revoked licenses [without publishing specifics as to monies due]. after first being afforded a due process hearing before the City Council.

**H. Section IX(11) is hereby amended as follows:**

PEDDLERS: Persons or groups who sell items door-to-door, roadside stands, or from a truck or automobile will be required to purchase a license. The charge for the license will be ~~\$25.00~~ 100.00 per year for any year in which they solicit sales in the City of Russellville. Notwithstanding any other penalty to the contrary provided elsewhere in this Ordinance, one who fails to obtain a Peddler's (Solicitor's) License, shall be subject to a fine of not less than \$25.00 nor more than \$150.00.

**I. Section IX(13) is hereby amended as follows:**

COMPUTATION OF PERCENTAGES that the Net Profits for work performed or services rendered within the City bears to the Total Compensation Earned.

- a. The net profits of businesses and professions from activities conducted in the City shall be computed as follows:

~~Multiply the entire net profit from all sources by a business allocation percentage to be determined by:~~

- ~~1. Determine the percent of sales and services by — dividing receipts of sales and services rendered within the City by Total Sales and Services rendered.~~
- ~~2. Determine the percent of wages, salaries and other personal service compensation by dividing wages, salaries and other personal service compensation earned within the City by total wages, salaries and other personal service compensation.~~
- ~~3. Add together the percentage determined in accordance with subparagraphs (1) and (2) above and divide the total so obtained by two.~~

When compensation is paid or payable for work done or services performed or rendered by an employee, both within and without the City, the license tax shall be measured by that part of the compensation paid or payable as a result of work done or service performed or rendered within the City. The license tax shall be computed by obtaining the percentage which the compensation for work performed or services rendered within the City bears to the total wages and compensation paid or payable. In order for the City to verify the accuracy of a taxpayer's reported percentages under, this subsection, the taxpayer shall maintain adequate records.

**J. Section X(2) is hereby amended as follows:**

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 here under shall file a Net Profit License Fee Return and pay the greater of two percent (2%) of their net profit, gross wages, and gross salaries in addition to the annual licensing fee of \$25.00. Persons, associations, corporations or other business entities which sustain a loss will be required to pay the minimum fee, are required to submit a net profit return showing said loss, as well as their federal schedule as documentation of the loss. All calendar year taxpayers must file the Return by April 15; Fiscal year taxpayers must file the Return within three and one-half months after the close of their year. ~~All new businesses will be required to file an application with the Director of Finance.~~ 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 the City of Russellville 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, and shall pay a one-time License Fee of \$25.00 the annual \$25.00 License Fee before commencing business in Russellville. The business license must be renewed annually, on or before the anniversary date of the license. The license will not be renewed until all outstanding occupational license fees and withholdings have been paid; renewals sent in via mail will be returned if license fees are outstanding. Late license renewals will incur a penalty of 5% of the license fee. If the license is not renewed within 30 days of its due date, the license will be revoked, and the penalty incurred will be 10% of the license fee per month or portion of a month that renewal is late. 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 shall require the completion of a new application and registration fee.

**K. Section XI is hereby amended as follows:**

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 ~~\$250.00~~ in the amount equal to the cost of the building permit 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. If the licensee fails to make any tax payment, the bond will be forfeitable in its entirety. All general contractors must supply the City with a written list of all project subcontractors and suppliers before a project's building permit will be issued.

Net operating losses (NOL) are not allowable deductions from income to arrive at taxable income. Each year is autonomous.

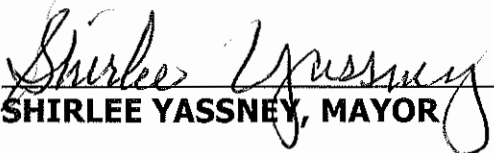
**II. SEVERABILITY CLAUSE:** The provisions of this Ordinance are severable. If any sentence, clause or part of this Ordinance or the application there of to any particular state of case is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or repeal any of the remaining provisions, sentences, clauses or sections or parts of this Ordinance, it being the legislative intent of this body to ordain and in act each other.

**III. REPEALER CLAUSE:** All ordinances or parts of ordinances in conflict here with now in effect, requiring the payment of a license fee for the privilege of engaging in any trade, occupation or profession to the extent of said conflict, are hereby repealed. Nothing in this section is intended to relieve any licensee of any fee or portion of a fee which has accrued and is owed to the City under existing ordinance before their repeal by the terms hereof.

**IV. EFFECTIVE DATE:** This ordinance shall become effective upon passage and publication as required by law.

**FIRST READING** conducted the 21<sup>st</sup> day of March, 2006.

**SECOND READING AND PASSAGE** on the 4<sup>th</sup> day of April, 2006.

  
SHIRLEE YASSNEY, MAYOR

ATTEST:

  
BOB RIGGS, CITY CLERK

**Ayes:** Jones, Russell; McPherson, Lanny; Phillips, Chuck; Stratton, Mark; Whipple, Jack.

**Nays:** none

**Absent:** Zick, Eugene

**Abstaining:** none