

ORDINANCE NO. 730-2008

AN ORDINANCE OF THE CITY OF DRY RIDGE, GRANT COUNTY, KENTUCKY, AFFIRMING, READOPTING AND RE-ORDAINING CITY OF DRY RIDGE ORDINANCE NO. 604-2000 REGARDING AND CONCERNING THE LEVYING OF AN OCCUPATIONAL LICENSE FEE UPON EMPLOYEES FOR THE PRIVILEGE OF ENGAGING IN WORK ACTIVITIES WITHIN THE CITY OF DRY RIDGE, KENTUCKY; AND ALSO AMENDING SAID CITY OF DRY RIDGE ORDINANCE NO. 604-2000 AND CITY OF DRY RIDGE ORDINANCE NO. 710-2007 AN ORDINANCE AMENDING ORDINANCE NO. 604-2000 REGARDING AND CONCERNING THE CITY'S EMPLOYEE LICENSING FEE DULY ADOPTED AND ENACTED PURSUANT TO AND UNDER THE AUTHORITY OF SECTION 181 OF THE CONSTITUTION OF THE COMMONWEALTH OF KENTUCKY, AND KRS 92.280 (2) SO AS TO SOME PROVISIONS OF THE EXISTING ORDINANCES AND BRING THEM INTO COMPLIANCE TIMELY WITH THE PROVISIONS APPLICABLE OF KRS 67.750 TO AND THROUGH KRS 67.795, ALL FOR THE HEALTH, SAFETY, WELFARE AND CONVENIENCE OF THE INHABITANTS, RESIDENTS AND CITIZENS OF THE CITY OF DRY RIDGE, KENTUCKY.

BE IT HEREBY ORDAINED BY THE CITY OF DRY RIDGE, KENTUCKY, AS FOLLOWS:

GENERAL ARTICLE

(1) City of Dry Ridge Ordinance No. 604-2000 concerning the establishment and levy of an occupational license fee on employees for the privilege of engaging in work activities within the City of Dry Ridge as heretofore ordained and becoming operative on May 1, 2000, together with City of Dry Ridge Ordinance No. 710-2007 enacted on April 2, 2007 and amending Ordinance No. 604-2000, be and the same are each hereby duly reaffirmed, readopted and re-ordained and stated to be initially as to form, content and substance in conformity with the later enacted provisions of KRS 67.750 to 67.795 germane to occupational license fees and taxes levied by tax entities, including city of the fifth class, pursuant to ordinances ordained and in place by July 15, 2008.

(2) That City of Dry Ridge Ordinance No. 604-2000 and Ordinance No. 710-2007 concerning employee occupational licensing fees as heretofore adopted and ordained and herein above reaffirmed, be and the same are hereby amended as follows, to-wit:

SECTION TEN

Penalty and interest for late filings and indenture of debt...

A. ~~An employer's return with payment of the employees' occupational licensing fees not made by the due date here under, shall be assessed a ten percent (10%) penalty against the amount shown due under the remitted return. An and every employer who fails to file a return or pay the employees' tax on or before the due date prescribed herein shall b subject to a penalty in an mount 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).; and 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 tax district. A fraction of a month is counted as an entire month. Further, every tax subject to the provisions herein and KRS 67.750 to 67.790, 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 tax district.~~

Penalties civil or criminal and sanctions for other actions, violations or noncompliance...

B. In addition to the penalties prescribed in this section, any business entity or employer who willfully fails to make a return, willfully makes a false return, or 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.

C. 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 KSR 67.750 to 67.790 of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity of 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.

D. A return for the purposes of this section shall mean and include any return, declaration, or form prescribed by the tax district and required to be filed with the tax district by the provisions of KRS 67.750 to 67.790, or by the rules of the tax district, the herein ordinance, or by written request for information to the business entity by the tax district.

E. No present or former employee of any tax district 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 tax district 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 taxpayer's properly authorized agent with information respecting his or her return. Further, this prohibition does not preclude any employee of the tax district from testifying in any court, or from introducing as evidence returns or reports filed with the tax district, in an action for violation of a tax district laws or in any action challenging a tax district's tax laws.

(1) Any person who violates the above provisions of this subsection 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.

(2) Any person who violates the above provisions of this subsection by divulging confidential taxpayer information shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or both.

SECTION TWELVE

The provisions of Section Twelve of Ordinance No. 604-2000 and amending Ordinance No. 710-2007 concerning 'criminal sanctions and remedies' is hereby repealed but the section number and space is hereby reserved for possible future use.

SECTION THIRTEEN

The provisions of Section Thirteen of Ordinance No. 604-2000 and amending Ordinance No. 710-2007 concerning the definitions of words and terms 'employee', 'employer', 'person' and 'compensation' is hereby repealed but the section number and space is hereby reserved for possible future use.

SECTION FOURTEEN

Definitions...

As used herein or as set forth within KRS 67.750 to 67.795 and used concerning matters of and germane to occupational licensing and occupational license taxes, unless the context requires otherwise, the following words or terms shall have the following meanings:

(1) **"PERSON"** "Person" means every natural person, proprietorship, firm, organization, association, congregation, undertaking, venture, joint venture, company, corporation, administration, agency, governmental body or unit, or other entity. Whenever the term "person" is used in any clause prescribing or imposing a sanction or penalty, in the nature of a fine, or confinement, or imprisonment, the word, as applied to any association or entity, shall mean the partners, members thereof, and as applied to a corporation, the officers and directors thereof.

(2) **"BUSINESS ENTITY"** "Business entity" means each separate corporation, limited liability company, business development corporation, partnership, limited partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted.

(3) **"COMPENSATION"** "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 arrangement under Section 401(a), 401(k), 402(e), 403(a), 403(b)(1), 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.

(4) **"FISCAL YEAR"** "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code.

(5) **"EMPLOYEE"** "Employee" means any person who renders services to another person or business entity for compensation or its equivalent, 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 or instrumentality of any one (1) or more of the above and so including temporary, provisional, casual, or part-time or out-sourced employees, workers or employment. A person classified as an independent contractor under the Internal Revenue Code shall not be considered as an employee.

(6) **"EMPLOYER"** "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code.

(7) **"GROSS RECEIPTS"** "Gross receipts" means all revenues or proceeds derived from the sale, lease, or rental of goods, services, or property by a business entity reduced by the following: (a) Sales and excise taxes paid; and (b) Returns and allowances.

(8) **"INTERNAL REVENUE CODE"** "Internal Revenue Code" means the Internal revenue Code in effect on December 31, 2006, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2006, that would otherwise terminate.

(9) **"NET PROFIT"** "Net profit" means gross income as defined in Section 61 of the Internal Revenue Code minus all 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.

(10) "SALES REVENUE"
lease, or rental of goods, services, or property.

"Sales revenue" means receipts from the sale,

(11) "TAX DISTRICT"
class, county, urban-county, charter county, consolidated local government, school district, special taxing district, or any other statutorily created entity with the authority to levy net profits, gross receipts, or occupational license taxes.

"Tax district" means a city of the first to fifth

(12) "TAXABLE GROSS RECEIPTS"
entity having payroll or sales revenues both within and without a tax district, means gross receipts as defined in subsection (7) of this section, as apportioned under KRS 67.753.

"Taxable gross receipts" in case of a business

(13) "TAXABLE GROSS RECEIPTS"
entity having payroll or sales revenue only in one district, means gross receipts as defined in subsection (7) of this section.

"Taxable gross receipts" in case of a business

(14) TAXABLE NET PROFIT"
having payroll or sales revenue only in one (1) tax district, means net profit as defined in subsection (9) of this section.

"Taxable net profit" in case of a business entity

(15) "TAXABLE NET PROFIT"
having payroll or sales revenue both within and without a taxing district as defined in subsection (9) of this section, as apportioned under KRS 67.753.

"Taxable net profit" in case of a business entity

(16) "TAXABLE YEAR"
fiscal-year ending during the calendar-year, upon the basis of which net income is computed.

"Taxable year" means the calendar-year or

SECTION FIFTEEN

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.

KRS 83A.060(7) Emergency Declaration Inclusion: Due to illness of counsel effecting the preparation of this ordinance and publication/enactment deadline, an emergency was found and declared by the affirmative vote of two-thirds (2/3) of the membership of the Dry Ridge City Council and the requirement of a second reading of the herein ordinance at a separate meeting for an ordinance to become effective was suspended with said ordinance being given two, separate readings at a single meeting only.

First Reading: July 7, 2008

Second Reading: July 7, 2008

PASSED, ADOPTED, ORDAINED, AND ORDERED PUBLISHED ON THIS THE 7TH DAY OF JULY, 2008.

Clay Crupper Mayor
CLAY CRUPPER, MAYOR

ATTEST:

Cindy L. Harris
CINDY L. HARRIS, CITY CLERK