ORDINANCE NO. 4 - 2016

AN ORDINANCE AMENDING ORDINANCE NO. 14-2007 RELATING TO THE IMPOSITION AND ADMINISTRATION OF AN OCCUPATIONAL LICENSE REQUIREMENT, AND PAYMENT OF AN OCCUPATIONAL LICENSE TAX BY PERSONS AND BUSINESS ENTITIES CONDUCTING BUSINESSES, OCCUPATIONS AND PROFESSIONS WITHIN FRANKLIN COUNTY, KENTUCKY, SECTION 2 – OCCUPATIONAL LICENSE APPLICATION REQUIRED AND SECTION 3 – OCCUPATIONAL LICENSE TAX PAYMENT REQUIRED

BE IT ORDAINED by the Fiscal Court of the County of Franklin, Commonwealth of Kentucky:

That Ordinance No. 14-2007 relating to the Imposition and Administration of an Occupational License Tax by Persons and Business Entities Conducting Businesses, Occupations and Professions within Franklin County, Kentucky, be amended and readopted as follows:

§ 2 - Occupational License Application Required

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 Franklin County shall be required to complete and execute the questionnaire prescribed by the Occupational Tax Office, before the commencement of such business, the fee for which shall be ~~Ten Dollars ($10.00)~~ Forty Dollars ($40.00). 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 that render inaccurate the information supplied in the completed questionnaire.

§ 3 - Occupational License Tax Payment Required

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

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

(b) ~~the~~ The net profit from business conducted in Franklin County by a resident or nonresident business entity is imposed an annual license fee being the greater of $40.00 or 1% of the net profits of the occupation, trade, professional or other business activity conducted in or derived from activity within the unincorporated area of Franklin County.

(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) Business License Required Before Building Permit is Issued. Every person listed as a contractor or subcontractor on an application for a building permit shall have a business license, No building permit shall be issued until all contractors or subcontractors have a business license.

(4) Zoning Approval Required. No business license for businesses physically located in Franklin County shall be issued until the application is approved by the Department of Planning, Zoning & Building Codes Enforcement for compliance with the Franklin County Zoning Ordinance.

(5) If any business entity dissolves, ceases to operate, or withdraws from the Franklin County during any taxable year, 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 Franklin County.

(6) 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.

(7) 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, Franklin 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 between the City of Frankfort and Franklin 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 by ministers taxable for federal income tax purposes pursuant to the Internal Revenue Code is exempt from the license fee on wages imposed by the County. Compensation received by ministers not taxable for federal income tax purposed pursuant to the Internal Revenue Code is not subject to any license fee

imposed by Franklin County. For purposed of this section, a minister is defined as a natural person who is ordained in accordance with the ceremonial ritual or discipline of a recognized church, religious sect, or other religious organization, to teach and preach its doctrine or to administer rites in public worship, and who regularly performs one or more of these duties, provided that no such person is exempt from the payment of an employee license on compensation earned in activities not connected with the regular functions of a religious organization, Thus, compensation earned by ordained persons employed as chaplains, teachers, administrators, musicians, or counselors whose employment is connected with the regular functions of a religious organization is exempt. Compensation earned by persons who are not ordained is not exempt regardless of the religious nature of such individual's work.

(i) Compensation received by domestic servants is exempt from the license fee on wages imposed by the County. For purposes of this section a domestic servant is defined as 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.

(j) All state, county, city, and district officers directly named and designated in the text of the constitution to the extent of their salaries, wages, or other compensation received for work or services rendered in the performance of the duties and obligations of their respective offices,

(k) Legally Blind. The legally blind shall be exempt from the provisions of the Franklin County Fiscal Court occupational license tax, and no license fee shall be due from them to the extent of their net annual salaries, wages or other compensation. "Legally blind" as used herein, shall mean that the individual claiming exception has (a) central visual acuity of not better then 20/200 in the better eye with corrective lenses, or (b) such individual's visual acuity is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends to an angle no greater than twenty degrees.

(1) Rental Income-

a. A structure or mobile home located within the corporate limits of the county, which is regularly offered for occupancy, either wholly or in part in return for the payment of rent.

b. Corporations and associations, as defined herein, which receive income from rental real estate located within the county are presumed to be in the business of renting real estate and therefore subject to the license fee imposed by this subchapter on Net Profits derived therefrom and the other provisions of this subchapter.

c. Individuals and fiduciaries who receive income from real estate located in Franklin County is rebuttably presumed to be in the business of renting real estate and therefore subject to the license fee imposed on Net Profits derived therefrom and the other provisions of this subchapter if they receive more than $50,000 Net Profits annually from the rental of real estate located in Franklin County.

This Ordinance will become effective July 1, 2016.

INTRODUCED AND GIVEN FIRST READING IN SUMMARY at a duly convened meeting of the Fiscal Court of Franklin County, Kentucky, held on the 8 day of March, 2016.

GIVEN SECOND READING AND APPROVED at a duly convened meeting of the Fiscal Court of Franklin County, Kentucky, held on the 31 day of March, 2016 and of record in Fiscal Court Order Book 27, Page 157.

Huston Wells
Franklin County Judge/Executive

ATTESTED TO:

Shirley Brown
Fiscal Court Clerk