

**TEXT OF RECODIFICATION OF CITY ORDINANCES
UNDER PADUCAH'S "GROSS RECEIPTS LICENSE TAX"
AND PADUCAH'S "LICENSE FEE FOR EMPLOYEES" TO
COMPLY WITH KRS 67.750 THROUGH KRS 67.795**

ARTICLE III. GROSS RECEIPTS LICENSE TAX

DIVISION 1. GENERALLY

Sec. 106-61. Definitions.

For the purpose of this Article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(a) Agent. The term "agent" shall mean and include a person who provides a service or services for and on behalf of another person for a commission under an agreement or arrangement whereby the person receiving the commission is obligated to pay for his own expenses associated with his transaction of business without reimbursement from the other party. Such expenses would include expenses relating to office rent and maintenance, clerical assistance and support staff, associates and agents, advertisement, and other expenses which are typically incurred in carrying on a business. The Finance Director shall be authorized to determine whether a person constitutes an agent under this Article.

(b) Business. The term "business" shall mean and include the carrying on, transacting or exercise, for gain or economic benefit, either directly or indirectly, of any business, trade, profession, occupation, vocation, calling or other type of commercial or mercantile activity of every kind and description, and the rendering of any type of service associated therewith, which is conducted in the city. The term "business" shall not include the usual activities of boards of trade, chambers of commerce, trade associations or unions (or other associations performing the services usually performed by trade associations or unions), United Way; corporations organized and operated exclusively for religious, charitable, scientific, literary, educational, or civic purposes, or for the prevention of cruelty to children or animals; or clubs or fraternal organizations operated exclusively for social, literary, educational or fraternal purposes, where no part of the earnings or income or receipts from such units, groups, or associations inures to any private shareholder or individual; provided, however, that, if any such unit, group, or association shall engage in activities other than the activities in which such units, groups, or associations usually engage, such other activities shall be included in the term "business." Activities conducted for gain or profit by any educational institution, hospital, or any other institution mentioned in this article are included in the term "business."

(c) Business Entity. The term "business entity" shall mean and include all individuals, sole proprietorships and associations, and all legally created entities, including but not limited to corporations, limited liability companies, business development corporations, partnerships, limited partnerships, registered limited liability partnerships, joint stock companies,

receiverships, trusts, professional service organizations, or any other legal entity or organization through which business is conducted. A business entity shall also include an agent as that term is defined under this Article, and an independent contractor or other person who is not an employee as that term is defined under Article IV. A business entity shall not include any employee who is required to pay the license fee on the employee's compensation under Article IV. **(KRS 67.750)**

(d) Fiscal year. This term "fiscal year" shall have the same meaning as defined in Section 7701(a)(24) of the Internal Revenue Code. **(Model Ordinance)**

(e) Gross receipts. The term "gross receipts" shall be defined in accordance with the following provisions:

(1) The term "gross receipts" shall mean and include all revenues or receipts of value derived from the sale, lease, or other disposition of goods, services or property, or the title, use and possession relating thereto, from any business, of any kind conducted in the city, in the form of cash, credits, or other value proceeding from or accruing from the sale of tangible property (real or personal) or the rendering of any services, or both, including and without any deductions therefrom for interest, rentals, royalties, the cost of material used, the cost of goods sold, labor costs, taxes, or any other costs, or any other expenses whatsoever; provided, however, that a deduction from gross receipts shall be authorized for the following amounts, subject to the condition that such deduction is made and scheduled on the return and application which reports the gross receipts:

(i) The amount of state or federal excise, sales and use taxes computed on a basis of the sales prices of commodities sold by a taxpayer;

(ii) The amount of any refund or credit given on a sale price of property sold and returned during the period covered by the return. If the total amount received is refunded or allowed as a credit, the total sales price of the article returned may be deducted from gross receipts. If a part of the total sales price is refunded or allowed as a credit, the amount to be deducted from the gross receipts is the amount refunded or allowed as a credit. **(formerly Sec 106-71)**

(iii) The amount of accounts receivable which have been written off during the period covered by the return, provided that such accounts receivable were reported as gross receipts under the return. **(formerly Sec 106-61, definition of "receipts from sales in trade or business, (7))**

(iv) The amount of gross receipts from the sale of alcoholic beverages licensed under chapter 6 of this Code and laws of the state. **(KRS 67.750(6))**

(2) The term "gross receipts," when used in connection with, or in respect to, financial transactions involving the sale of notes, stocks, bonds, or other securities, or the loan,

collection, or advance of money, or the discounting of notes, bills or other evidence of debt, or the assignment of, or purchase of, municipal, county, or state tax bills, shall be deemed to mean the gross interest, gross discount, gross commission, or other gross receipts earned by means of or resulting from such financial transactions, but the term "gross receipts" shall not include amounts received as repayment of the principal of debts.

(3) The term "gross receipts" when applied to all principals and agents shall include not only the amounts actually received by them but shall also include all commissions paid by them or received for them by brokers, commission merchants, attorneys, or agents in such transactions, as the case may be, and all other expense and discounts incident thereto.

(4) The term "gross receipts" shall not include the gross receipts from sales made by a participant in an event relating to a parade or general assembly for which a permit was issued.

(5) The term "gross receipts" shall not include any gross receipts which are solely attributable to any activity performed outside of the city which would be defined as an activity in interstate commerce which would be protected under the Commerce Clause of the United States Constitution.

(6) The term "gross receipts" as otherwise defined under any classification which is identified and described under Division 2 of this Article shall be as defined in accordance with the specific provisions which are set forth under such classification.

(f) Manufacturing. The term "manufacturing" shall mean and include the process whereby material having no commercial value for its intended use before processing and which has appreciable commercial value for its intended use after processing by machinery. The term shall not include processing or finishing operations which do not change the general design or form of a product. The term shall not include foundries, machine shops or tin shops, blacksmiths or other sheet iron or metal work.

(g) Person. The term "person" shall mean and include an individual, firm, partnership, joint venture, association, corporation (domestic and foreign), trust, estate, assignee, receiver, or any other legal entity or group or combination acting as a unit.

(h) In addition to meaning a sale of property for money, the term also includes any transaction, exchange, or barter or disposal or otherwise, for a consideration. The amount to be reported as receipts from a sale, lease or other disposition in a trade or business is as follows:

(1) If the sale, lease or other disposition was made for a consideration wholly in cash, the total cash received constitutes the receipts.

(2) If the sale, lease or other disposition was made for part in cash, the balance to be paid within a period of time, the amount of cash plus the amount which was to be paid

constitutes the receipts; provided that the subsequent receipt of the deferred payment does not constitute a receipt under this Article.

(3) If the sale or lease or other disposition was made for part in cash and part by note or other evidence of indebtedness, the amount of cash plus the face value of the note of indebtedness constitutes the receipt; provided, however, that the subsequent receipt of payment of such note or evidence of indebtedness does not constitute a receipt within the meaning of this Article.

(4) If a sale, lease or other disposition is made for credit, the amount of such credit constitutes the receipt; provided, however, that subsequent liquidating of such credit does not constitute a receipt within the meaning of this Article.

(5) If the sale, lease or other disposition is on an installment basis, the total amount of the installments paid, or to be paid, constitutes the receipts, including any interest or carrying charges.

(6) If the sale, lease or other disposition is made by exchange of property of any kind, the fair market value of the property received in exchange constitutes the receipts. However, where a used article is accepted in part payment of the purchase price of a new article, such as automobiles, furniture, washing machines, radios, mechanical refrigerators, and the like, the seller of the new article shall report the sales price of the new article less any allowance made for the used article. When such used article is sold, the sales price of the used article shall constitute receipts within the meaning of this Article.

(i) Tax District. The term “tax district” shall mean and include a city of the first to fifth 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. **(KRS 67.750(10))**

(j) Taxable Gross Receipts. The term “taxable gross receipts” shall mean and include the gross receipts realized by a business entity from a business located and conducted in the city, or if a business entity realizes gross receipts from a business located both in the city and another tax district, that portion of the gross receipts which are taxable in accordance with the apportionment made under the apportionment provisions of Section 106.67. **(KRS 67.750(12))**

(k) Wholesale. The term “wholesale” shall mean and include the sale of something for resale or doing a regular business of selling large quantities of goods, wares or merchandise to industries, institutions or other businesses for processing in their operations at markups in prices which are comparable to those of wholesalers selling to retailers.

Sec. 106-62. Administration and enforcement of Article; issuance of additional regulations.

This Article shall be administered and enforced by the Finance Director, under the direction of the City Manager. The Finance Director, with the approval of the City Manager, shall have authority to issue and promulgate such regulations as he may consider necessary for the administration of this Article, provided such regulations are not inconsistent with the provisions of this Article.

Sec. 106-63. License and payment of tax required; exemptions.

(a) It shall be unlawful for any business entity to engage in any business, in the city until that business entity has first obtained a business license certificate for that business and paid the amount of license tax to the Finance Director as required under this Article. Provided, however, that the provisions of this section and Article shall not apply to:

(1) Persons who anticipate and earn less than \$600.00 from a business located in the city for any calendar or fiscal year.

(2) Business entities which are exempt from having to comply with the provisions of this Article by virtue of federal or state law.

(b) If any business entity dissolves or withdraws from the City during any reporting period, or if any business entity surrenders or loses its charter during any reporting period, the dissolution, withdrawal, or loss or surrender of charter shall not relieve the business entity from its obligation to file the annual license tax return and pay the annual license tax on its taxable gross receipts realized during such reporting period as required under this Article, nor shall it be relieved from the liabilities which arise from any failure to perform such obligations which are prescribed under this Article. **(KRS 67.763)**

Sec. 106-64. New business; business entity to file application for business license; payment of minimum annual license tax; payment of annual license tax in following year.

(a) In the event a business entity intends to engage in a new business in the city, the business entity shall first obtain a business license certificate for such business, and pay the minimum annual license fee which is defined under Division 2 of this Article.

(b) To obtain a business license certificate, the business entity shall file an application for a business license certificate with the Finance Director. The application shall be made on a form provided by the Finance Director. The business entity shall report the business entity's legal name, any tradename which will be utilized by the business entity, each business that the

business entity intends to conduct in the city, the address of the location or locations of each business, and any other information which is required by the Finance Director as reflected on the application form. The business entity shall pay the minimum annual license tax to the Finance Director at the time that the application is filed.

(c) In the event the Finance Director determines that the business entity has properly filed the application and paid the appropriate minimum annual license tax, the Finance Director shall issue a business license certificate for the business for which the application was made in accordance with the provisions under section 106-69. **(Former Section 106-63(b))**

(d) In the event any business entity realizes taxable gross receipts from a new business for all or a part of a reporting period as defined under section 106-65, the business entity shall be required to file the annual license tax return and business license application, and pay the annual license tax for such reporting period, as required under said section. The business entity shall be entitled to a credit for the minimum annual license fee paid under this section. **(Former Section 106-70).**

Sec. 106-65 Annual license tax imposed on business entities; filing of annual license tax return and business license application; payment of annual license tax; due date for filing and payment of tax.

(a) Each business entity which conducts business in this city shall be required to pay an annual license tax based upon its taxable gross receipts which are realized by the business entity from such business. The amount of the license tax shall be determined in accordance with this section, and the provisions which are set forth under Division 2 of this Article. The annual license tax imposed under this section shall be for the privilege of doing business in the city, and is utilized as a measure to raise revenue to help fund the costs incurred by the city in providing municipal services which support, protect and promote the business of all business entities

(b) Each business entity shall be required to prepare and file an annual license tax return and business license application.. This return and application shall include the annual license tax return which is required to be filed under this section, and the annual application for a business license certificate which is required to be filed under section 106-69.

(c) The business entity shall file the return and application on or before the due date of 15th day of April of each calendar year. Provided, however, that if the business entity operates on a fiscal year which is not based on the calendar year, the business entity may file the return and application on or before the 15th day of the fourth month following the close of the business entity's fiscal year. The return and application shall be filed with the Finance Director.

(d) The return and application shall be made on a form provided by the Finance Director. Each return and application shall identify the name and address of the business entity as reflected on the business entity's Kentucky state tax return, each kind of business which the

business entity conducted in the city in the reporting period, the address of each location or locations of each business, the gross receipts and taxable gross receipts which are realized from each business during the reporting period, and the annual license tax which is due. The business entity shall attach a copy of its federal tax return, together with all supporting statements and schedules, to its return and application. **(KRS 65.765; KRS 67.768)**).

(e) The business entity shall make its return based on the preceding calendar year period, and shall report all taxable gross receipts realized by the business entity during such reporting period. Provided, however, that if a business entity makes a federal income tax return on a fiscal year basis, the business entity shall make its return based on its fiscal year period, and shall report all taxable gross receipts realized by the business entity during such reporting period. **(KRS 67.765)**

(f) The business entity shall also report the annual license fee which is to be paid by the business entity. The annual license fee shall be based on the business entity's taxable gross receipts realized during the reporting period, and shall be computed in accordance with the classifications and the schedules as set forth under Division 2 of this Article. The business entity shall pay the annual license fee to the Finance Director at the time that the business entity files its return and application. The annual license tax shall be paid without regard to any extension of time for filing of the return and application. **(KRS 67.773)**

Sec. 106-66. Proof of timely filing; weekends and holidays.

(a) Each business entity shall file the return and application, and pay the annual license tax, on or before the close of city business on the due date. A business entity shall be deemed to have complied with this filing requirement if the business entity shall have tendered the return and application and the payment of the annual license tax to the United States Post Office for mail delivery service prior to midnight of the due date. To evidence such tender, the business entity shall be required to obtain proof of such timely tender, which proof may be by post mark or by such other evidence which is acceptable to the Finance Director. Provided, however, that in the event the payment of the annual business tax fails for any reason, whether by insufficient funds, lack of proper execution of form, or other reason, payment of the annual license fee shall be deemed untimely, and shall subject the business entity to the penalties as set forth under this Article. **(formerly Sec 106-81(b))**

(b) Whenever the due date for filing a return and application and payment of the annual license tax falls on a Saturday or Sunday, the business entity shall be given an extension until the following Monday to file the return and application and pay the license tax. In the event the following Monday is a city holiday, the business entity shall be given an additional extension to the city's next business day to file the return and application and pay the license tax. **(formerly Sec 106.81(b))**

(c) Notwithstanding the aforementioned extension, the business entity shall nevertheless comply with the requirements for a timely filing as defined under this section.

Sec. 106-67. Taxable Gross Receipts; Apportionment.

(a) All gross receipts realized by a business entity from a business located in the city shall be deemed taxable gross receipts, except as otherwise provided under this section or under any other provision of this Article.

(b) Except as otherwise provided in subsection (d) of this section, where the business is located both in the city and another tax district, gross receipts shall be apportioned as follows:

(1) For business entities with both payroll and sales revenue in more than one tax district, by multiplying the gross receipts by a fraction, the numerator of which is the payroll factor, which is described in subsection (c) of this section, plus the sales factor, which is described in subsection (d) of this section, and the denominator of which is the number two; and

(2) For business entities with sales revenue in more than one tax district, by multiplying the gross receipts by the sales factor as set forth in subsection (d) of this section.

(c) The payroll factor is a fraction, the numerator of which is the total amount of compensation paid or otherwise payable by the business entity which is attributable to services performed by the business entity's employees in the city, and the denominator of which is the total compensation paid or otherwise payable by the business entity for all of the services performed by the business entity's employees wherever located. Compensation attributable to employees in the city is based on the time that the employees performed services in the city.

(d) The sales factor is a fraction, the numerator of which is the total sales revenue of the business entity in the city during the tax period, and the denominator of which is the total sales revenue of the business entity everywhere during the tax period.

(1) The sale, lease, or rental of tangible personal property is in the city if:

(i) The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within the city regardless of the f.o.b. point or other conditions of the sale; or

(ii) The property is shipped from an office, store, warehouse, factory, or other place of storage in the city and the purchaser is the United States government.

(iii) Sales made from a place of business within the city, both to persons within the city and to persons outside the city, including sales made by contracts entered into in the city or sales, where deliveries of commodities are made within the city.

(iv) In the case of a business entity owning or operating a business located both in and outside of the city for the sale of goods, wares or merchandise, the sales of goods, wares, or merchandise which are located in the city at the time of sale or delivery of such goods, wares, or merchandise.

(2) Sales revenues, other than revenues from the sale, lease or rental of tangible personal property or the lease or rental of real property, are apportioned to the city based upon a fraction, the numerator of which is the time spent in performing such income-producing activity within the city and the denominator of which is the total time spent performing that income-producing activity.

(3) Sales revenues from the sale, lease, or rental of real property is allocated to the tax district where the property is located.

(e) If the apportionment provisions of this section do not fairly represent the extent of the business entity's activity in the city, the business entity may petition the Finance Director or the Finance Director may require, in respect to all or any part of the business entity's business activity, if reasonable:

(1) Separate accounting;

(2) The exclusion of any one or more of the factors;

(3) The inclusion of one or more additional factors which will fairly represent the business entity's business activity in the city; or

(4) The employment of any other method to effectuate an equitable allocation and apportionment of gross receipts. **(KRS 67.753)**

(f) In the event a business entity makes a petition with the Finance Director under subsection (e) of this section, and the Finance Director agrees to accord to the business entity a reasonable alternate method of apportionment, the Finance Director shall have the authority to require the business entity to continue the utilization of the alternate method of apportionment in future returns and applications made by the business entity.

Sec. 106.68 Extension of time for filing return and application.

(a) In the event a business entity is unable to file its final return and application on or before the due date, the business entity may request the Finance Director to accord the business entity an extension to file its final return and application, provided that the business entity shall have complied with the following filing and payment requirements, all of which filings shall be made with the Finance Director on or before the due date:

- (1) The business entity shall have filed a written request for an extension:
- (2) The business entity shall have filed its estimated return and application on its estimated taxable gross receipts realized during the reporting period;; and
- (3) The business entity shall have paid the annual license tax on the estimated taxable gross receipts.

(b) The Finance Director shall have the authority to grant a business entity an extension of not more than six (6) months. In the event the Internal Revenue Service has granted the business entity an extension period which exceeds six (6) months, the Finance Director shall accord to the business entity the same extension period, provided that the business entity shall have complied with the requirements as set forth under subsection (a) of this section.

(c) In the event an extension is granted by the Finance Director, the business entity shall pay any additional license tax which may be due at the time that the business entity files its amended return and application. As part of the additional license tax to be paid hereunder, the business entity shall also be required to pay an amount equal to twelve percent (12%) per annum simple interest on the additional license tax from the time of the original due date for filing the return and application to the time that the additional annual license tax is actually paid to the city. A fraction of a month is counted as an entire month. **(KRS 67.770)**

Sec. 106-69 Business License certificate.

(a) Issuance and contents. Upon a business entity's proper filing of its return and application and the payment of the proper annual license tax as defined under this Article, the Finance Director shall issue a business license certificate to the business entity for each of its qualified businesses. The license certificate shall be valid from the date of issuance to the date when the business entity is next required to file its annual return and application as defined under section 106-65. Each license certificate shall state the name of the business entity to whom the certificate is issued, the business for which the certificate is being issued, and the address or location of the place of business being licensed and the expiration date of the certificate. If a business entity has more than one place of business, the business entity shall be required to obtain a license certificate for each place of business.

(b) Refusal. No license certificate shall be issued under this Article for any unlawful activity or for any business that the Finance Director, with the approval of the City Manager, shall consider to be detrimental to the public welfare or contrary to the public welfare or contrary to the public interest, but any such decision to refuse to issue a license may be appealed to the Board of Commissioners in accordance with the provisions of this section.

(c) Display. Each business entity shall display the license certificate issued under this Article in a conspicuous place in each licensed place of business.

(d) Revocation or suspension of license certificate.

(1) The license tax imposed under this Article is for the privilege of doing business in the city and to help defray the costs incurred by the city in providing municipal services to its citizens, including each business entity. By reason of same, each business entity doing business in the city is presumed to have agreed to fully comply with and satisfy all of the obligations and duties as prescribed under this Article, and all other city ordinances which regulate or restrict the use and enjoyment of the business entity's premises which are licensed under this Article. Each business entity is further presumed to have agreed that in the event the business entity fails to comply with and satisfy any of the obligations prescribed under this Article, or with any other city ordinance which regulates or restricts the use and enjoyment of such premises, the city shall have the right to revoke or suspend the business entity's license certificate for those premises.

(2) In the event the Finance Director has probable cause to believe that a business entity has failed to timely file any application for a business license or any annual return and application as required under this Article, or has intentionally provided false information on any application or return and application, or has failed to operate the licensed premises in accordance with any applicable federal or state law, or in accordance with any city ordinance, or has authorized or permitted a nuisance to exist on the licensed premises, the Finance Director shall file written charges against the business entity with the City Manager. The written charges shall identify the name and address of the business entity, the address of the licensed premises, a narration of the facts upon which the charges are brought, and the legal grounds upon which the charges are made.

(3) Upon the City Manager's receipt of the written charges, the City Manager shall review the written charges, and in the event the City Manager concurs with the Finance Director's finding of probable cause of the grounds stated in the written charges, the City Manager shall cause a written notice to be issued to the business entity informing the business entity of the written charges, and advising the business entity that it has a period of seven (7) days to cure and resolve the grounds which are stated in the written charges. The City Manager shall attach a copy of the written charges to the notice. In the event the business entity fails to cure and resolve the grounds as stated in the written charges within the seven (7) day period, the City Manager shall then file the written charges with the City Clerk, and thereafter, the matter shall be referred to the City Commission for hearing.

(4) Upon the City Clerk's receipt of said written charges, the City Clerk shall schedule a hearing on the charges before the City Commission. The City Clerk shall cause a notice of the charges and the date of the hearing to be served upon the business entity, together with a copy of the written charges which were filed by the Finance Director, to be served

on the business entity, by certified mail or by service made by any city police officer. Any service made upon the president of the business entity, or the registered agent of the business entity, or the manager of the licensed premises shall be deemed proper and adequate service upon the business entity.

(5) The City Commission shall conduct a hearing on the charges within thirty (30) days following the date that the written charges were filed with the City Clerk, provided however, that the business entity has been served with the notice and the written charges at least ten (10) days before the hearing date. At the hearing, the Finance Director and the business entity shall have the right to legal counsel, the right to present witnesses and evidence, and the right to cross examine witnesses and rebut evidence. The hearing shall be transcribed in verifiable form.

(6) At the conclusion of the hearing, the City Commission shall deliberate in closed session, and thereafter, shall enter its findings and decision on the written charges into the record. The City Commission shall render its decision based upon the preponderance of the evidence. In the event that the City Commission determines that the business entity has failed to comply with and satisfy its obligations as imposed under this Article, or has authorized or permitted a nuisance or a violation of law to exist on the licensed premises, the City Commission shall have the right to suspend or revoke the business entity's license certificate for the licensed premises for a period not to exceed one (1) year. In the event the business entity's license certificate is revoked by reason of the business entity's failure to comply with or satisfy any of the business entity's obligations under this Article, the City Commission shall have the right to reinstate the business entity's license certificate for the licensed premises within a defined period of time following the business entity's full compliance with or satisfaction of the obligations which gave rise to the written charges. In the event the City Commission suspends or revokes a business entity's license certificate for a licensed premises, the business entity shall immediately cease and desist from operating any business at or on such licensed premises.

(7) The business entity shall have the right to appeal the decision of the City Commission to the McCracken Circuit Court. Such appeal shall be made within thirty (30) days following the entry of the City Commission's decision. In the event of a timely appeal, the City Clerk shall deliver the written charges and a transcript of the hearing together with all exhibits which were presented at the hearing to the clerk of the Court. The court shall decide the matter on the record, unless the Court shall order otherwise.

(8) Notwithstanding the provisions of this section, the city shall have all other rights and remedies as provided by law, including the right to enforce the provisions of this Article through any legal or equitable proceedings with a court of competent jurisdiction, including injunctive relief, and the right to refer this matter to the county attorney for prosecution. The remedies provided under this section are in addition to all other remedies which the city may have under law.

Sec. 106-70 68. Report of receipts when businesses consolidate.

If a business entity liable for tax under this Article acquires the assets of, or merges or consolidates his business with the business of any other business entity during any reporting period, the acquiring business entity shall be obligated to report the gross receipts and taxable gross receipts of the other business entity for such reporting period, together with its own gross receipts and taxable gross receipts during such period, and shall be liable for the payment of the annual license tax on the combined taxable gross receipts. In the event the acquiring business entity is required to pay an additional annual license tax under this section, the acquiring business entity shall have the right to seek reimbursement of the additional license taxes from the other business entity.

Sec. 106-71. Business subject to different taxes.

If a business entity owns, operates or manages a business which is comprised of two or more separate classifications which are subject to a different tax schedule as defined under Division 2 of this Article, the business entity shall pay the annual license tax prescribed for each different type of business, provided records are maintained by the business entity to show the gross receipts and the taxable gross receipts of each type of business subject to a different license tax. If separate records on each type of business are not maintained by the business entity as provided in this section, the entire gross receipts of the business entity shall be subject to the highest license tax prescribed for any one type of business engaged in by the business entity as defined under Division 2 of this Article.

Sec. 106-72. Business entity to maintain and produce records; Finance Director's authority to investigate.

(a) In the event the Finance Director desires to examine the federal income tax return of any business entity in order to audit the business entity's return and application, the Finance Director shall have the right to compel the business entity to produce for inspection a copy of all statements, schedules and other records which were utilized by the business entity in preparing its federal income tax return that were not previously filed with the Finance Director, and any other records which the Finance Director deems necessary to determine the truth and accuracy of a business entity's return and application. The Finance Director shall also have the authority to require copies of all reports or adjustments made by the Internal Revenue Service. **(KRS 67-768(2))**

(b) Every business entity shall be required to keep records of its businesses which are pertinent or relevant to determining the gross receipts and taxable gross receipts which are realized from each of its businesses. The Finance Director shall have the authority to require a business entity to make a return, render statements under oath, or keep records as the Finance

Director deems necessary to determine the tax liability of such business entity. The Finance Director shall also have the authority to require the attendance of a representative of the business entity, or any other person having relevant information concerning a business entity's gross receipts or taxable gross receipts, for the purpose examining such person, or deposing such person under oath, to ascertain the truth and accuracy of any information which is provided in the business entity's return and application, or to ascertain the truth and accuracy of any other matter which is relevant to determine whether the return and application is in compliance the provisions under this Article. Ancillary thereto, the Finance Director shall also have the right to compel such person to produce the records of the business entity which are pertinent or relevant to the business entity's gross receipts or taxable gross receipts, and any other records which the Finance Director deems necessary to determine the business entity's compliance with the provisions of this Article. **(KRS 67.760)**

Sec. 106-73. Audit of Return; Assessment for additional license taxes due; Notice of additional tax due or that no tax paid; Enforcement and collection of assessments; Limitation periods.

(a) The Finance Director shall have the right to examine and audit any return and application which is filed by a business entity. If upon a review of a return and application, the Finance Director determines that the annual license tax due under the return is greater than the amount reported as due by the business entity, the Finance Director shall assess an additional license tax against the business entity based upon the difference, together with any applicable penalties and interest as defined under section 106-78. The Finance Director shall mail a notice of the additional assessment and other charges to the business entity at the business entity's address as reflected on the return and application. The city shall have the right to enforce and collect the additional assessment, together with any penalty and interest, within a period of five (5) years after the date the return and application was filed, except as otherwise extended in accordance with the following provisions:

- (1) In the event a business entity fails to file a return and application, or files a fraudulent return and application, the city shall have the right to assess and enforce the additional license tax, plus any applicable penalties and interest, at any time.
- (2) In the event the business entity has understated its taxable gross receipts or omitted to report all of its taxable gross receipts, and the understatement or omission, or both, is in excess of twenty-five percent (25%) of the amount of taxable gross receipts stated in the return and application, the city shall have the right to assess and enforce the additional license tax, plus any applicable penalties and interest, at any time within a period of six (6) years after the date that the return and application was filed.
- (3) In the event that adjustments are made to a business entity's return and application which result from a final and nonappealable determination made under a federal audit, the city shall have the right to assess and enforce the additional license tax, plus any

applicable penalties and interest, within a period of five (5) years after the date the return and application were filed, or within six (6) months following the date that the Finance Director receives the final determination made under the federal audit, the later date to apply. It shall be the obligation of a business entity to file a copy of the final determination made under the federal audit with the Finance Director within thirty (30) days of the issuance of same.

(b) The times provided in this section may be extended by agreement between the business entity and the Finance Director. For the purposes of this section, a return and application filed before the last day prescribed by law for filing the return and application shall be considered filed on the last day. Any extension granted by the Finance Director for filing the return and application shall extend the last day prescribed for filing the return and application to the last day of the extension. **(KRS 67.775); (KRS 67.790)**

Sec. 106-74. Refund of taxes.

(a) A business entity shall have the right to file an application for a refund of any portion of an annual license tax which it paid under a return and application by reason of an error committed in the computation of the annual license tax, or by reason of incorrect data utilized in the computation of the annual license tax or by reason of a misunderstanding of any of the provisions which are set forth under this Article. The application shall be made on a form provided by the Finance Director, and shall be filed with the Finance Director within the periods of time as defined under subsection (c) of this section.

(b) To qualify for a refund, the business entity shall state the specific grounds which support its entitlement to a refund in its application, and shall attach to the application any evidence which substantiates such grounds. Thereafter, the Finance Director shall evaluate the application and the documentation submitted in support of the application. In evaluating the application, the Finance Director shall have the right to conduct an inquiry as to the matters set forth in the application as accorded the Finance Director under section 106-72_in reviewing a return and application. Upon completion of his evaluation of the application and submitted documentation, the Finance Director shall issue a written response which shall set forth his findings of fact and final determination. In the event the Finance Director determines in his reasonable discretion that the business entity has presented probative evidence which establishes one or more of the grounds defined under subsection (a) of this section, the Finance Director, with the approval of the City Manager, is authorized to make a refund to the business entity in an amount which is supported by the evidence, which refund shall be issued to the business entity at the time that the Finance Director sends his written response to the business entity . In lieu of a cash refund, the Finance Director shall have the right to issue a credit to the extent of the refund, which credit shall be applied against the business entity's annual license taxes which the business entity owes or will owe to the city as defined under this Article.

(c) To qualify for a refund, the business entity must file an application for a refund within a period of two (2) years after the date that the subject return and application was filed, or the date the annual license tax was paid to the city, whichever is the later to apply, provided, however, that :

(1) In the event the date of filing was extended by an agreement between the business entity and the Finance Director under Section 106-66, the limitation period shall be extended for the extended period as defined under the extension agreement.

(2) In the event the refund arises by reason of adjustments resulting from a federal audit, the limitation period shall be extended, if applicable, for a period of six (6) months following the date of the issuance of the federal audit.

(d) For the purpose of this section, a return and application filed before the last day prescribed by law for filing the return and application shall be considered as filed on the last day. **(KRS 67.788)**

Sec. 106-75. Disposition of taxes.

All money derived from license taxes under the provisions of this Article shall be paid to the Finance Director and placed to the credit of the general revenue fund of the city and shall be used and expended in defraying the current and incidental expenses of the city.

Sec. 106-76. Tax additional to other license taxes.

The license taxes prescribed in this article are not in lieu of, but are in addition to, the license taxes required to be paid under any other ordinance of the city.

Sec. 106-77 . Information to be kept confidential.

Any information which is submitted to the Finance Director by any person in accordance with the provisions of this Article shall be held confidential, and shall only be made available to officers, employees, and designated agents of the city whose official duties require the use and knowledge of such information, and to the duly authorized employees of the Kentucky Commission of Revenue and McCracken County, who are responsible for verifying information which has been reported to and retained by the city in reciprocation for access to the confidential files held by such entities, as permitted under KRS 131.190, and to any person as directed pursuant to any valid court order. Each authorized officer, employee, and designated agent who is assigned any duty which requires access to or use of such information shall hold all of such information made known to them on a strictly confidential basis. Each authorized officer, employee and designated

agent shall, upon the assignment of such duties, take an oath that he or she shall hold all of such information on a confidential basis, and in strict compliance of the provisions of this section. No unauthorized person, including an unauthorized officer, employee, or agent of the city, shall intentionally inspect any information submitted under this Article, nor shall such person intentionally divulge or disclose such information to any third party, except as permitted under this section, or under KRS 67.790(8)(a). Any person who intentionally inspects any information to be held confidential hereunder or who intentionally divulges such information to a third party in violation of this section, shall be subject to the penalty provisions as provided under section 106-195. Provided, however, that the city shall have the right to publish statistics based on information received by the city so long as such publication does not identify or reveal the person from whom the information was obtained. **(KRS 67.790(8)(a))**

Sec. 106-78 . Penalty and interest for late payment.

(a) In addition to the annual license tax imposed upon a business entity under this Article, a business entity shall also pay a penalty equal to five percent (5%) of the annual license tax due for each calendar month or fraction thereof in the event that the business entity :

- (1) Fails to file any return and application on or before the due date for filing the return and application, or if extended by agreement approved by the Finance Director, fails to file the return and application on or before the due date under the extension agreement; or
- (2) Fails to pay the annual license tax reflected on the return and application on or before the due date prescribed for the payment of the license tax;

Provided, however, the total penalty imposed under this section shall not exceed twenty-five percent (25%) of the total annual license tax due nor shall it be less than twenty-five dollars (\$25).

(b) In addition to the penalties prescribed in this section, such business entity shall also pay, as part of the license tax, an amount equal to twelve percent (12%) per annum simple interest on any unpaid annual license tax which was due and payable to the city under this Article from the time that the license tax was due until the license tax is finally paid to the city. A fraction of a month is counted as an entire month.

(c) The annual license tax imposed on a business entity under this Article, together with any penalties and interest which are imposed on a business entity under this section, shall be deemed the personal debt and liability of the business entity. The city shall have the right to enforce the collection of the annual license tax imposed under this Article, and the penalties and interest imposed under this section, by civil action in a court of competent jurisdiction. To the extent authorized by law, the city shall be also entitled to recover all court costs and reasonable attorney fees incurred by it in enforcing any provision of this Article.

(d) Any person who willfully fails to make an return and application or who willfully makes a false return and application, or who willfully fails to pay the annual license tax imposed under this Article, with the intent to evade payment of the annual license tax or any part thereof, shall be guilty of a Class A misdemeanor, and shall be subject to a fine of up to five hundred dollars (\$500) or imprisonment of not more than thirty (30) days, or both.

(e) 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 Article 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, and shall be subject to a fine of up to five hundred dollars (\$500) or imprisonment of up to thirty (30) days, or both.

(f) Any person who willfully operates a business in the city without first obtaining a license certificate as required under this Article, or who willfully operates a business at a licensed premises following the revocation or suspension of the license certificate for those premises, shall be guilty of a Class A misdemeanor, and shall be subject to a fine of up to five hundred dollars (\$500.00) or imprisonment of up to thirty (30) days, or both.

(g) Any person who violates the provisions under Section 106-77 by intentionally inspecting confidential information of a business entity as defined under said section without proper authorization shall be guilty of a Class A Misdemeanor, and shall be subject to a fine of up to five hundred dollars (\$500) or imprisonment of up to thirty (30) days, or both.

(h) Any person who violates the provisions under section 106-77 by intentionally divulging confidential information of a business entity as defined under said section without proper authorization shall be guilty of a Class A misdemeanor, and shall be subject to a fine of not more than five hundred dollars (\$500) or imprisonment up to thirty (30) days, or both.
(KRS 67.790)

DIVISION 2. TAX SCHEDULES

Sec. 106-101. General license tax schedule; minimum annual license tax.

(a) A business entity shall pay an annual license tax according to the classification or classifications that apply to the business or businesses which the business entity conducts in the city, subject to the minimum annual license tax as defined in subsection (b) of this section. A description of each classification under this Article is set forth in the following sections. The annual license tax which is to be paid under each classification shall be computed in accordance with the rate schedule which is referenced in the classification, unless otherwise specified in the classification. The rate schedules which are to be utilized in computing the annual license tax under this Article are as follows:

(1) The amount of tax payable under Schedule A shall be determined by multiplying taxable gross receipts up to \$3,500,000.00 times 0.00045 and multiplying all gross receipts in excess of \$3,500,000.00 times 0.00005.

(2) The amount of tax payable under Schedule B shall be determined by multiplying taxable gross receipts up to \$3,500,000.00 times 0.00075 and multiplying all gross receipts in excess of \$3,500,000.00 times 0.00005.

(3) The amount of tax payable under Schedule C shall be determined by multiplying taxable gross receipts up to \$3,500,000.00 times 0.0015 and multiplying all gross receipts in excess of \$3,500,000.00 times 0.00005.

(4) The amount of tax payable under Schedule D shall be determined by multiplying taxable gross receipts up to \$3,500,000.00 times 0.003 and multiplying all gross receipts in excess of \$3,500,000.00 times 0.00005.

(5) The amount of tax payable under Schedule E shall be determined by multiplying taxable gross receipts up to \$3,500,000.00 times 0.0045 and multiplying all gross receipts in excess of \$3,500,000.00 times 0.00005.

(b) The minimum annual license tax for each classification shall be \$35.00, except as otherwise provided in the classifications as hereinafter defined. Any minimum annual license tax that is paid by a business entity for any reporting period shall be allowed as a credit against the annual license tax which the business entity is required to pay for that reporting period as required under this Article.

Sec. 106-102. Advertising and sign painting.

Any business entity engaging in the business of an advertising agent and advertising the business of other persons, or furnishing or leasing advertising space to other persons on

billboards, fences, exteriors of buildings, or in or on any other place, and any business entity doing business as a sign painter, shall pay an annual license tax under Schedule D of section 106-101.

Sec. 106-103. Amusements and entertainment.

Any business entity owning, operating, or managing a theater, amusement park, skating rink, baseball park, dance hall or other place where admissions are charged for dancing, excluding dances held by private clubs or civic or veterans' organizations; show or exhibition on a boat; or any other kind of place of amusement or entertainment, shall pay an annual license tax under Schedule D of section 106-101.

Sec. 106-104. Automobile dealers.

Any business entity selling or offering for sale at retail new or used automobiles or trucks shall pay an annual license tax under Schedule B of section 106-101. This classification shall include the sale of accessories, supplies and repairs, and the rental of space for parking vehicles, which are incidental to or a part of such retail business.

Sec. 106-105. Barbers; beauticians.

Any business entity owning, operating or managing a barbershop, beauty parlor or beauty school, or engaging in the business of a complexion specialist, hairdresser, manicurist or masseur, shall pay an annual license tax under Schedule D of section 106-101.

Sec. 106-106. Reserved.

Editor's note: Ord. No. _____, adopted _____, 2007, repealed section 106-107 which pertained to boardinghouses and roominghouses, and amended section 106-124, to include boardinghouses and roominghouses under that section.

Sec. 106-107. Bondsmen. Reserved.

Editors note: Ord. No. _____, __, adopted _____, 2007, repealed Section 106-107 which pertained to bondsmen.

Sec. 106-108. Brokers.

(a) Any business entity, commonly known as or called a broker, who, for the account of any other person, buys, sells, offers for sale, procures, solicits, receives, delivers, disposes of, deals in, rents, leases, or collects rentals, or real estate, money, insurance, credits, commercial paper, commodity futures, bonds, notes, securities, stocks, monetary metals, lumber, merchandise, tobacco or any other thing, article or property of value, shall pay an annual license tax under Schedule E of section 106-101. In calculating the gross receipts under this classification, gross receipts shall be limited to and shall only include gross commissions received, the gross trading profit on transactions involving buying and selling, and the gross interest income on marginal accounts. Amounts received by brokers as proceeds from the sale of real estate shall not be gross receipts within the meaning of this Article, but commissions paid real estate brokers on sales, leases, or on collections of rents, or for the procurement of loans, shall be gross receipts within the meaning of this Article.

Sec. 106-109. Builders/contractors/trades-men.

(a) Any business entity engaging in the business of a builder/contractor/tradesman shall pay an annual license tax under Schedule D of section 106-101; provided, however, that such business entity shall be required to pay a minimum annual license tax of \$150.00. The terms "builder/contractor/tradesman" as used in this section shall mean any business entity who does any work, or who assumes authority or control, or who supervises, manages, coordinates or directs the work of others, whether he is paid for his work or the work of others on an hourly, daily or other time period basis, or on a piecework basis, or by a flat sum or on a commission basis under contract, in the erection, construction, alteration, wrecking, razing, moving, painting, improvement or repair of any building, structure or construction project of any character or nature, or any part thereof, or who is delegated by the owner to do so, but these terms do not include employees of licensed builders/contractors/tradesmen.

(b) In calculating gross receipts under this classification, the following provisions shall apply:

(1) The award of a contract, bidding or solicitation for any of the types of work mentioned in this section or the performance of such work within the city shall be deemed to be doing business in the city within the meaning of this Article.

(2) The term "gross receipts," with respect to builders/contractors/tradesmen, shall mean the gross amount of money, credits or property of any kind from contracts entered into for work in the city or for work done and materials furnished in connection with construction work within the city which is performed under the direction or control of the builder/contractor/tradesman under this section and the amount received from the sale of

buildings owned by builders/contractors/tradesmen after the same have been constructed by them.

(3) Any business entity engaging in the business of builder/contractor/tradesman under this section, who was not licensed as such for the preceding calendar year, shall pay a tentative license tax based upon the total amount of contracts held by him and shall furnish detailed information to the Finance Director as to such amount. On or before April 15 of the following year, the business entity shall furnish information to the Finance Director as to the exact amount of his gross business receipts for the preceding year and the final license tax for such preceding year shall be based on such amount under Schedule D of section 106-101. If such final license tax is less than the tentative license tax, the excess amount shall be refunded to the business entity, but, if it is more than the tentative fee, the business entity shall pay the excess amount on or before April 15. Before issuing such tentative license, the Finance Director may, in his discretion, require the applicant to execute bond to the city with good and sufficient surety to the effect that the final annual license fee will be paid in full.

(c) The Building and Electrical Inspector of the city shall not issue a permit for the erection, construction, alteration, wrecking, razing, moving, painting, improvement or repair of a building, or a permit for any other operation for which a permit is required, to a builder/contractor/tradesman who has not paid the license tax prescribed by this section, nor shall any officer, agent or employee of the city execute any contract with or purchase any material from a builder/contractor/tradesman who has not paid the license tax prescribed by this section. The Building and Electrical Inspector shall not issue any permit without first securing an affidavit of the cost from the builder/contractor/tradesman and this affidavit or a copy of it shall be made available by the Building and Electrical Inspector to the Finance Director. General contractors and builders shall be required to give to the Building and Electrical Inspector a list of all subcontractors/tradesmen and the amount of their gross contracts when they are issued a building permit for a job and a copy of the list shall be furnished to the Finance Director. In the event all subcontractors/tradesmen and the amounts of their contracts have not been determined at the time the building permit is first issued, it shall be the duty of the general contractor or builder to furnish such information immediately as it becomes available. General contractors and builders shall also be liable for ensuring that all subcontractors/tradesmen have purchased a current business license.

(d) No license under this section shall be required of a business entity doing business in the city under another form of business for which a license has been issued, if the business entity does not assume the role of general contractor and contracts with a builder/contractor/tradesman for the building, improving, repairing or expanding of its own business property, nor shall a license be required if the work is being performed solely by employees regularly employed by the business entity and from which city payroll tax is withheld.

(e) Nothing in the foregoing exceptions shall eliminate any requirement of obtaining permits or having inspections. All builders'/contractors'/tradesmen's licenses shall state the type of work to

be performed, whether general or specific, and, if specific, the exact type, and any builder/contractor/tradesman applying for a license to perform work in any trade for which licenses or certificates of qualification are required by the city or the state, such as electrical or plumbing work, shall display to the Finance Director or Business License Inspector a valid license or a certificate of qualification before being issued any occupational license under this section.

Sec. 106-110. Building material dealers.

Any business entity selling or offering for sale at retail gravel, sand, cement, lime, lumber, bricks, concrete or cinder blocks, cement bricks, products of a planning mill, or any other building supplies or materials shall pay an annual license tax under Schedule C of section 106-101.

Sec. 106-111. Circuses and carnivals.

(a) Any business entity owning, operating or managing a circus or carnival exhibition within the city shall pay an annual license tax of \$500.00.

Sec. 106-112. Coal haulers.

Editor's Note: Ord. No. _____ adopted _____, 2007, repealed Section 106-112 which pertained to coal haulers.

Sec. 106-113. Collection agencies.

Any business entity engaging in the business of collecting or attempting to collect accounts, bills or debts for other persons shall pay an annual license tax under Schedule E of section 106-101.

Sec. 106-114. Commission merchants.

Editor's Note: Ord. No. adopted _____, 2007, repealed Sec. 106-114 which pertained to commission merchants.

Sec. 106-115. Credit agencies.

Any business entity owning, operating or managing a credit reporting agency shall pay an annual license tax under Schedule C of section 106-101.

Sec. 106-116. Express, transfer, trucking and other warehouses.

Any business entity engaging in any express, transfer or trucking business and any person engaging in the business of a grain elevator, storage house or warehouse, shall pay an annual license tax under Schedule D of section 106-101.

Sec. 106-117. Filling stations, convenience stores and motor vehicle repair shops.

Any business entity owning, operating or managing a business for the retail sale of gasoline, oil and other petroleum products for the use in automobiles and other like types of vehicles, or a business for providing repairs or services to automobiles and other like vehicles, shall pay an annual license tax under Schedule C of section 106-101. This classification shall also include the sale of accessories, merchandise, sundry food and drink items, and repairs, and the rental of space for parking vehicles, which are incidental to or a part of such retail business.

Sec. 106-118. Finance and loan companies.

Any business entity engaging in the business of buying or discounting notes and commercial paper, or making loans, or advancing money for the purchase of any kind of property, shall pay an annual license tax under Schedule D of section 106-101; provided, however, that the minimum annual license tax of such a person shall be \$225.00.

Sec. 106-119. Flea markets.

Any business entity engaging in the business of operating a flea market, or any business by any other name except trade shows, which is conducted by leasing or renting booths or space to two or more individuals on a day-to-day, week-to-week or month-to-month basis, shall pay an annual license tax under schedule D of section 106-101. Any person renting a booth or space in the flea market shall obtain a separate business license and pay the annual license tax under section 106-147.

Sec. 106-120. Foundries, machine shops, tin shops, sheet iron or metal work and blacksmiths.

Any business entity owning, operating, or managing a foundry, machine shop, or tin shop, or engaging in the business of a blacksmith, or doing sheet iron or metal work, shall pay an annual license tax under Schedule D of section 106-101.

Sec. 106-121. Fuel dealers.

Any business entity selling, offering for sale, or delivering coal, gas, oil, or other fuel for fuel purposes to retail customers, who possesses unloading, storage, delivery, sales or service facilities, and maintains an office accessible to the public at which fuel may be ordered, shall pay an annual license tax under Schedule B of section 106-101.

Sec. 106-122. Funeral director, funeral home, undertaker, mortician or embalmer.

Any business entity engaging in the business of a funeral director, funeral home, undertaker, mortician or embalmer shall pay an annual license tax under Schedule D of section 106-101.

Sec. 106-123. Garage and rummage sales.

Any business entity maintaining or operating garage or rummage sales within the corporate limits of the city shall be deemed to be engaged in a business, and shall pay an annual license tax of \$35.00; provided, however, that no person shall be deemed to be engaged in business nor required to purchase a business license for one garage or rummage sale, not to exceed three consecutive days in duration, per year, held on the person's premises, in which the merchandise disposed of is exclusively the property of the occupant of the premises, but all such persons and exempt organizations shall be required to register with the Finance Director the date and location of the proposed sale.

Sec. 106-124. Hotels, motels, tourist cabins boardinghouses, roominghouses, and bed and breakfasts.

Any business entity owning, holding, operating or managing a hotel, motel, tourist cabin, boardinghouse, roominghouse or bed and breakfast shall pay an annual license tax under Schedule C of section 106-101; provided however, if such business entity also operates a

restaurant or serves food and nonalcoholic drinks in conjunction with the hotel, motel and tourist cabins, the business entity shall be required to pay an annual license tax on the taxable gross receipts realized from the sale of food and beverages under section 106-146.

Sec. 106-125. Insurance agents and solicitors.

Any business entity engaging in business as an insurance agent or insurance solicitor shall pay an annual license tax under Schedule E of section 106-101. In calculating gross receipts under this classification, the following provisions shall apply:

- (1) Gross receipts shall mean net commissions received by the insurance agent or insurance solicitor.
- (2) Net commissions shall not include any moneys collected and forwarded to the insurance companies by said agents or solicitors, except as such money represents actual commissions earned by the insurance agents or insurance solicitors.
- (3) Net commissions shall not include commissions paid to another insurance agent or insurance solicitor who possesses a valid business license.
- (4) Net commissions shall not include commissions earned on risks located outside the city or upon lives of persons residing outside the corporate limits of the city.

Sec. 106-126. Insurance companies.

(a) Time of payment of tax. All license fees imposed by this section shall be due no later than 30 days after the end of each calendar quarter. License fees which are not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6).

(b) Life insurance. Each life insurance company doing business in the city shall pay a license tax based upon the first year's premiums actually collected from policies written within the preceding calendar quarter upon the lives of persons residing within the corporate limits of the city in the amount of six percent.

(c) Other forms of insurance. Each insurance company, other than those specified in subsection (b), doing business in the city shall pay a license tax based upon a percentage of the premiums received by the company within the preceding calendar quarter for insurance on risks located within the corporate limits of the city on those classes of business which such company is authorized to transact, less all premiums returned to policyholders, at a rate of six percent of the premiums actually collected within each calendar quarter; provided, however, that the license tax shall not include premiums for insuring employers against liability for personal injuries to their employees, or death caused thereby, under the provisions of the Workmen's Compensation Act of

Kentucky, and shall not include premiums received on policies of group health insurance provided for state employees under KRS 18A.225(2).

(d) Collection fee. All insurance companies paying a license tax under this section may collect a reasonable fee to be retained by the insurance company, or its agent, as compensation for collecting such license tax as provided by the Department of Insurance; however, the collection fee shall not be more than 15 percent of the fee or tax collected and remitted to the city, or two percent of the premiums subject to tax, whichever is less. This collection fee shall be in addition to the license tax provided for in this section. To facilitate computation, collection and remittance of the fees and collection fee provided herein, the fees set out herein, together with the collection fees herein, may be rounded off to the nearest dollar amounts.

(e) Surety bond companies. Each fidelity, trust, surety, guaranty or other company or corporation engaged in furnishing bonds or surety of any kind, which bonding companies are not otherwise provided for in this article, shall pay a license tax of \$60.00 for each agent having an office or doing business in the city.

(f) Statement regarding amount of premiums received. No license mentioned in this section shall be issued until the company applying for the same has filed with the Finance Director a written breakdown of the amount of premiums received by the insurance company on persons residing or property located within the corporation limits of the city during the preceding calendar year ending December 31.

Sec. 106-127. Reserved.

Editor's note: Ord. No. 2001-2-6327, § 1, adopted Feb. 27, 2001, repealed § 106-127, which pertained to itinerant merchants. See the Code Comparative Table.

Sec. 106-128. Kiosks.

Any business entity engaging in the business of operating a kiosk within the city shall pay a license tax in the amount of \$35.00, for a period not to exceed 90 days. The term "kiosk" as used in this section shall mean a separate independent selling area within a covered mall which has no solid walls and which is located within the concourse of a mall. In the event the business entity operates a kiosk for a period in excess of ninety (90) days, the business shall not be classified under this section, but rather, shall be classified under the other sections as set forth under Division 2 of this Article.

Sec. 106-129. Laundries, Laundromats, and cleaners.

Any business entity owning, operating or managing a business of cleaning, laundering, dyeing, renovating, pressing, blocking or storing hats, clothes, carpets, rugs, draperies, or fabrics or materials used for the furnishing or decorating of interiors of homes or places of business shall pay an annual license tax under Schedule C of section 106-101.

Sec. 106-130. Linen, towel or uniform supply services.

Any business entity engaging in the business of a linen, towel, or uniform supply service shall pay an annual license tax under Schedule D of section 106-101.

Sec. 106-131. Livestock dealers.

Any business entity buying, offering to buy, selling, or offering for sale cattle, sheep, hogs, or other livestock shall pay an annual license tax under Schedule B of section 106-101.

Sec. 106-132. Manufacturers.

(a) Any person engaged in the business of manufacturing shall pay an annual license tax under Schedule D of Section 106-101.

(b) A manufacturer selling at retail from a place of business within the city shall also pay a license tax measured by such sales under the schedules set out in section 106-101 for the type of business engaged in by the manufacturer.

Sec. 106-133. Milk dealers.

Any business entity selling, offering for sale, or delivering milk to retail customers shall pay an annual license tax under Schedule A of section 106-101.

Sec. 106-134. Motor vehicle parking or storage.

Any business entity engaging exclusively in a business of renting space for the parking or storage of automobiles, trucks or other motor vehicles shall pay an annual license tax under Schedule E of section 106-101.

Sec. 106-135. Reserved.

Editor's note: Ord. No. _____, adopted _____, 2007, repealed section 106-135 which pertained to music machines, pinball machines, and other amusement devices.

Sec. 106-136. Newspaper and periodical distributors, and publishers, job printers, and book binders.

Any business entity engaging in the business of distributing or publishing newspapers or periodicals, or in the business of job printing and/or book binding, shall pay an annual license tax under Schedule C of section 106-101.

Sec. 106-137. Reserved.

Editor's note: Ord. No. _____, adopted _____, 2007, repealed section 106-137 which pertained to newspaper publishers, job printers and book binders and amended section 106-136 to include newspaper publishers, job printers and book binders under that section.

Sec. 106-138. Nurseries and florists.

Any business entity owning, operating or managing a nursery, or growing flowers, plants or shrubbery for sale, or soliciting orders, selling, offering for sale, or delivering flowers, plants or shrubbery within the city shall pay an annual license tax under Schedule C of section 106-101.

Sec. 106-139. Nursing homes and rest homes.

Any business entity owning or operating or managing a nursing home or rest home shall pay an annual license tax under Schedule C of section 106-101.

Sec. 106-140. Pawnbrokers.

Any business entity commonly known as or called a pawnbroker, who engages in the business of receiving, by way of pledge, pawn or exchange, any goods, wares, or merchandise or any personal property of any kind, as security for the repayment of money loaned thereon, shall

pay an annual license tax under Schedule D of section 106-101; provided, however, that the minimum annual license tax of such a person shall be \$225.00.

Sec. 106-141. Peddlers, distributors, solicitors, and pickup and delivery services.

(a) Any person peddling goods, wares, merchandise, products, articles, items, things, and other personal property of any kind, or services of any kind, shall pay an annual license tax under Schedule E of section 106-101. The term “peddler” under this section shall mean a person who sells or offers for sale any type of property or service through contacting prospective customers by going place to place, and includes but is not limited to the selling or offering for sale of property; or distributing handbills, posters, samples, or other advertising matter for commercial advertising purposes; or canvassing or soliciting and selling or taking orders for the sale of goods, wares, merchandise, products, articles, items, things, or personal property of any kind where such sales are made conditionally, or orders are accepted conditionally, or delivery is to be made later, or the title is retained by the seller in order to secure the payment of the purchase money; or soliciting trade or business for any type of work, service, processing or production not covered by other provisions of this article; or picking up or delivering goods, wares, merchandise, products, articles, items, things or personal property of any kind; provided, however, that this section shall not apply to employees of a business licensed under this article.

A peddler shall not carry on his business within 600 feet of the city market house. A peddler's license shall authorize only one person to conduct a peddling business, and a person to whom such a license is issued shall not sell by agents or clerks, but each agent or clerk shall procure a separate license. Each peddler while engaging in peddling shall carry his license and exhibit the same whenever required to do so by a police officer or other employee of the city. A peddler's license shall not be transferable.

Sec. 106-142. Personal and real property lessors.

Any business entity owning or holding title to personal or real property and engaging in the business of leasing or renting such property to other persons shall pay an annual license tax under Schedule D of section 106-101.

Sec. 106-143. Personal services and computer network services.

(a) Any person engaging in the business of furnishing or rendering computer services and information shall pay an annual license tax under Schedule D of section 106-101.

(b) Any business entity engaging in the business of furnishing or rendering personal services not enumerated in or covered by other sections of this Article shall pay an annual license tax under Schedule D of section 106-101.

Sec. 106-144. Photographers.

Any business entity owning, operating or managing a studio or picture gallery, shall pay an annual license tax under Schedule D of section 106-101. This classification shall include the soliciting of orders for photographic work which is incidental to or a part of such retail business.

Sec. 106-145. Professions.

Any business entity practicing or engaging in the profession of accountant, architect, attorney-at-law, chiropractor, chiropodist, chiro-surgeon, civil engineer, dentist, detective, electrical engineer, exodontist, insurance adjuster, magnetic healer, masseur, oculist, optician, optometrist, osteopath, pension agent, periodontist, physician, practical chemist, surgeon, surveyor, title guarantor, title abstractor, veterinarian, or any other profession or calling for which a certificate or license is required before a person can enter such a profession or calling, shall pay an annual license tax under Schedule E of section 106-101.

Sec. 106-146. Restaurants, grocery stores and other food establishments.

(a) Any business entity owning, operating or managing a restaurant, cafeteria, tearoom, lunchroom, lunch stand, or other place of business where food is served in the form of meals, sandwiches or other prepared form shall pay an annual license tax under Schedule C of section 106-101.

(b) Any business entity selling or offering for sale at retail groceries, bakery products, fruits, meats, poultry, fish, butter, eggs, vegetables or other similar produce shall pay an annual license tax in an amount equal to 0.112 percent of the first \$3,500,000.00 and times .005 percent in excess of \$3,500,000.00 of his gross receipts during the preceding fiscal year.

Sec. 106-147. Retail merchants generally.

Any business entity engaging in any permanent, temporary or transient business of selling, at retail, any kind of goods, wares, merchandise, products, articles, items, things or other personal property not enumerated in or covered by other sections of this Article, such as drugs, books, dry goods, electric light fixtures and supplies, furniture, hardware, jewelry, millinery, paint, shoes, wallpaper, tents, awnings, furniture repairs, installation of furniture and furnishings,

radios, pianos, other musical instruments, musical supplies and office equipment, shall pay an annual license tax under Schedule D of section 106-101.

Sec. 106-148. Scrap material.

Any business entity buying or selling scrap material, such as rags, jewelry, scrap iron, copper, zinc, bones, hides, feathers, furs, wool, tin, paper, or anything having any salvage value, shall pay an annual license tax under Schedule B of section 106-101.

Sec. 106-149. Shoe repairs.

Any business entity engaging in the business of repairing shoes shall pay an annual license tax under Schedule C of section 106-101.

Sec. 106-150. Soft drinks and sundries.

Any business entity selling or offering for sale soft drinks and sundries which is not otherwise covered under section 106-146, shall pay an annual license tax under Schedule D of section 106-101.

Sec. 106-151. Tailors.

Any business entity owning, operating or managing a tailor shop, or making clothes to order, or taking orders for the sale of clothes or for clothes to be made, or repairing or pressing clothes shall pay an annual license tax under Schedule D of section 106-101. This classification shall include repairing and pressing clothes which is incidental to or part of such business.

Sec. 106-152. Taxicabs.

Any business entity owning, operating or managing a business of providing motor vehicles for the conveyance of persons for hire, from place to place, and furnishing a driver or chauffeur for each such motor vehicle, shall pay an annual license tax under Schedule D of section 106-101.

Sec. 106-153. Reserved.

Editor's note: Ord. No. _____, adopted _____, repealed Sec. 106-153 which pertained to temporary merchants and amended 106-147 to include temporary merchants under that section.

Sec. 106-154. Trade shows.

Any business entity sponsoring a trade show, temporary motor vehicle off-site sale, or any other business by any other name which is conducted by supplying display area to two or more persons on a day-to-day, week-to-week or month-to-month basis, and which any one displayer shall have property for display or sale in excess of \$2,500.00 retail value, shall pay an annual license fee of \$500.00. If the operator of the trade show secures a business license under this section, it will not be necessary for any person operating a display area in the trade show to secure a separate business license unless that person is otherwise regularly engaged in business within the city. If all of the displayers have current city business license, as set out in other sections of the business license code, the operator of the trade show will not be required to secure a license under this section.

Sec. 106-155. Trading stamps.

Any business entity selling or distributing what are known as trading stamps or rebate stamps, including sales to merchants or other persons for issuance to customers, shall pay an annual license tax under Schedule E of section 106-101.

Sec. 106-156. Trailer and boat dealers.

Any business entity selling or offering for sale at retail new or used trailers, house trailers, mobile homes or any form of trailers to be attached to motor vehicles, or boats of any kind, shall pay an annual license tax under Schedule B of section 106-101. This classification shall include the sale of accessories, supplies and repairs which are incidental to or a part of such retail business.

Sec. 106-157. Wholesalers.

(a) Except as otherwise provided herein, any business entity selling or offering for sale at wholesale seeds, dry goods, drugs, automobile parts, soft drinks, sashes and doors, mill and boat supplies, industrial and institutional supplies and equipment, gasoline, oil, other petroleum

products, or any other kind of goods, wares, merchandise, products, articles, items, things or personal property, except food for human consumption, shall pay an annual license tax under Schedule B of section 106-101.

(b) Except as otherwise provided herein, any person selling or offering for sale at wholesale fruits, meats, poultry, fish, butter, eggs, vegetables, other produce, bakery products, groceries, ice, milk, or other foods for human consumption, and any person delivering or distributing ice, shall pay an annual license tax under Schedule A of section 106-101.

(c) In the event a business entity who is a wholesaler under this section sells products to retail customers, the business entity shall be required to pay an annual license tax on those taxable gross receipts realized from such sales under the schedule of section 106-101.

Sec. 106-158. Parades and general assemblies.

Any business entity organizing or sponsoring a parade or general assembly under a permit issued from the city shall pay an annual license fee of \$500.00 for each permitted event during any calendar year; provided, however, that in the event the parade or general assembly and all activities thereunder do not constitute a business under section 106-61, or in the event all activities thereunder are conducted by persons who have current appropriate business licenses issued by the city, no license fee shall be required. If such business entity secures a business license under this section, it will not be necessary for any person participating in any activity in the permitted area of the event to secure a separate business license for such activity unless otherwise provided by ordinance.

Sec. 106-159. General classification.

Any business entity engaging in a business not enumerated in or covered by other sections of this article shall pay an annual license tax under Schedule D of section 106-101. This section shall apply to any business entity engaging in or transacting any permanent or any temporary or transient business in the city.

ARTICLE IV. LICENSE FEE FOR EMPLOYEES

Sec. 106-180. Definitions.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

a. Employee. The term “employee” shall mean and include any person who renders services as an employee to an employer or for the benefit of an employer for compensation, including any person who renders such services in an occupation, profession, trade, labor or other type of service. The term “employee” shall include any person who renders services for the benefit of any type of legal entity or government as an employee for compensation, including an officer of a legal entity incorporated under law, 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 or more of the above. The term “employee” shall not include a person who is an independent contractor or other type of business entity that is subject to business license taxes as defined under Article III of this chapter. **(KRS 67.750(4))**

b. Employer. The term “employer” shall mean and include any person who employs, contracts or otherwise engages an employee to provide a service for compensation, of any kind and description, as the employee of such person, except that:

(1) If the person for whom the individual performs or performed the services does not have control of the payment of the compensation for such services, then in such case, the term “employer” shall then mean the person having control of the payment of such compensation; and

(2) In the case of a person paying compensation 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” shall mean the person who pays such compensation. **(KRS 67.750; Section 3401(d) of IRC; Model Ordinance)**

c. Compensation. The term “compensation” shall mean and include the total gross amount of all salaries, wages, commissions, bonuses, gross receipts or other monetary payments of any kind, and any other considerations having monetary value, which an employee receives from or is entitled to receive from or has the right to charge his employer for any services rendered by such employee in the city, including any kind of deductions before take home pay is received. The term “compensation” shall include any amounts contributed by an employee to any retirement, profit sharing or deferred compensation plan, and any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan, which are made by salary reductions or other payment methods, and shall also include all other amounts defined as compensation under KRS 67.750. The term “compensation” shall not include amounts paid to traveling salesmen or other workers as allowances or reimbursement for traveling or other expenses incurred in the business of the employer, except to the extent of the excess of such

amounts over such expenses actually incurred and accounted for by the employee to his employer. (KRS 67.750(2))

Sec. 106-181. Administration and enforcement of article; issuance of additional regulations.

This Article shall be administered and enforced by the Finance Director, under the direction of the City Manager. The Finance Director, with approval of the City Manager, shall have authority to issue and promulgate such regulations as he may consider necessary for the administration of this Article, provided such regulations are not inconsistent with the provisions of this Article.

Sec. 106-182. License fee imposed on employees.

There is hereby levied a license fee of two percent (2%) against the compensation earned by all employees who provide services in the city for the benefit of an employer, which license fee shall be effective from and after October 1, 2005. This license fee is imposed upon each employee for the privilege of engaging in or rendering such services in the city.

Sec. 106-183. Computation of tax license fee when employee works both within and outside city.

In cases where compensation is earned as a result of services performed both within and outside of the city, the license fee required under this Article shall be computed by determining, upon the oath of the employer, and, if required by the Finance Director, upon the oath of the employee, the amount of the compensation earned from the services which were done or performed by the employee outside of the city. For purposes of this computation, in the event any service is done or performed outside of the city at the election or request of the employee and such service could have been done or performed within the city, such service shall constitute a service performed within the city.

Sec. 106-184. Deductions and withholding of license fees by employer; Employer to file returns and pay license fees to city; due date to file returns and pay license fees .

(a) Each employer shall deduct and withhold from the compensation due any employee the amount of the license fee imposed by this Article measured against the compensation due each employee. The payments required to be made on account of such deductions and withholdings by employers shall be paid quarterly to the Finance Director, for the quarterly periods ending September 30, December 31, March 31 and June 30 of each year, on or before the last day of the month next following the end of each such quarterly period. At the time of each payment, the employer shall file a return which shall report the compensation paid to the employee, and the amount which was deducted and withheld from such compensation to pay the license fees imposed under this Article. The return shall be made on a form provided by the Finance Director. The failure or omission by an employer to deduct and withhold such license fee shall not relieve an employee from the liability to make the payment of such license fee to the city and from to otherwise complying with the requirements for making a return as provided in Section 106-188.

(b) If any employer dissolves or withdraws from the City during any taxable year, or if any employer in any manner surrenders or loses its charter during any taxable year, the dissolution, withdrawal, or loss or surrender of charter shall not relieve the employer from the obligation of deducting and withholding the licensee fees from the compensation paid to his employees and paying the licensee fees as required under this Article, nor shall the employer be relieved from the liabilities which arise from the employer's failure to comply with these obligations as prescribed under this Article.. **(KRS 67.763)**

Sec. 106-185. Proof of timely filing; weekends and holidays

(a) Each employer shall file the return, and pay the license fees required under this Article, on or before the close of city business on the due date. An employer shall be deemed to have complied with this filing requirement if the employer tenders the return together and the payment of the license fees to the United States Post Office for mail delivery service prior to midnight of the due date. To evidence such tender, the employer shall be required to obtain proof of such timely tender, which proof may be by post mark or by such other evidence which is acceptable to the Finance Director. Provided, however, that in the event the payment of the license fees fails for any reason, whether by insufficient funds, lack of proper execution of form, or other reason, payment of the license fees shall be deemed late, and shall subject the employer to the penalties as set forth under this Article. Finance Director. **(formerly Section 106-192)**

(b) Whenever the due date for filing a return and payment of the license fees falls on a Saturday or Sunday, the employer shall be given an extension until the following Monday to file the return and pay the tax. In the event the following Monday is a city holiday, the business entity shall be given an additional extension to the following business day to file the return and pay the license tax.

(c) Notwithstanding the aforementioned extension, the employer shall comply with the requirements for timely filing as defined under this section.

Sec. 106-186 Employer to issue statement certifying compensation paid to employee and deductions for license fees.

(a) Every employer shall furnish each employee a statement on or before January 31 of each year showing the amount of compensation the employer paid to the employee, and the license tax deducted and withheld by the employer which is to be paid to the to the city as required under this Article, during the preceding calendar year.

(b) Upon request of the Finance Director, an employer shall also be required to file a copy of each statement issued to an employee with the Finance Director. **(KRS 67.783 (5))**

Sec. 106-187. Employer liability; lien; officers liability.

(a) An employer shall be liable to the city for the payment of all license fees which are required to be deducted and withheld from the compensation paid to employees. Any employer who fails to pay such license fees to the city shall be personally and individually liable to the city to the full extent of such license fees, together with all penalties and interest and other charges which are imposed against the employer for such failure as defined under this Article.

(b) The city shall have a lien upon and against all real and personal property of an employer to the full extent of the employer's liability to the city as defined under this section. If the employer withholds the license fees, but fails to pay the license fees to the city, the lien shall commence as of the date when the license fees were to be paid to the city. If the employer fails to withhold the license fees, the lien shall commence on the date that the employer is assessed for such fees by the city.

(c) Any manager, authorized agent, representative, comptroller or officer of an employer, including but not limited to the president, vice president, secretary, treasurer, managing member, managing partner, chief financial officer, member or any other person holding an equivalent corporate office of any employer, who has the authority to direct, control or carry out and implement the deduction and withholding of the employee license taxes, and the payment of those taxes to this city, is hereby deemed personally and individually liable, jointly and severally, to the city for any license fees which were not withheld and paid to the city as required under this Article while under their authority and control. The corporate dissolution of the employer, or the withdrawal of the employer from the city, or the cessation of holding any corporate office or equivalent office shall not relieve or discharge the personal liability of such officers or persons. **(KRS 67. 783; KRS 67. 784)**

Sec. 106-188. Employee's return.

(a) Every employee receiving compensation which is subject to the license tax imposed under this Article shall be personally liable for the payment of the licensee fees imposed under this Article. When a return in form and substance satisfactory to the Finance Director is not filed by an employer for the employee, the employee for whom no return has been filed shall be obligated to file a return with the Finance Director on or before April 15 of each year, showing in such return his total compensation earned from the services rendered for the benefit of his employer during the preceding calendar year, the amount of such compensation earned from services provided in the city, and the total amount of license fees owed by the employee as imposed under this Article.

(b) If a return is filed by the employer, but such return fails to report all of the compensation paid to or earned by the employee, or in the event the employer fails to pay to the city all license fees to be withheld by the employer and paid to the city, such employee shall be required to file a supplemental return with the Finance Director on or before April 15 of each year, showing in such return his total compensation earned from services rendered for the benefit of his employer during the preceding calendar year, the amount of such compensation earned from services provided in the city, the total amount of the license fees owed by the employee as imposed under this Article, the amount of the license fees which were paid by his employer, and the difference which the employee is to pay to the city.

(c) Each employee making a return required by this section shall, at the time of filing the return, pay to the Finance Director the amount of the license fee due under this Article, subject, however, to a deduction equal to the amount actually withheld from the employee by the employer, regardless of whether the employer paid such withholding to the city.

Sec. 106-189. Refund of license fees.

(a) An employer or employee under this Article shall have the right to file an application for a refund of any license fees paid under a return which were not required to be paid under the provisions of this Article by reason of an error committed in the computation of the license fees, or by reason of incorrect data utilized in the computation of the license taxes, or by reason of a misunderstanding of any of the provisions of this Article. The application shall be filed on a form provided by the Finance Director, and shall be filed with the Finance Director within the period of time as defined under subsection (c) of this section.

(b) To qualify for a refund, the employer or employee shall state the specific grounds which support their entitlement to a refund in the application, and shall attach to the application any evidence which substantiates such grounds. Thereafter, the Finance Director shall evaluate the application and the documentation submitted in support of the application. In evaluating the application, the Finance Director shall have the right to conduct an inquiry as to the matters set forth in the application as accorded the Finance Director under section 106-190. Upon

completion of his evaluation of the application and submitted documentation, the Finance Director shall issue to the employer or employee, as the case may be, a written response which sets forth his findings of fact and final determination. In the event the Finance Director determines in his reasonable discretion that the employer or employee has presented probative evidence which establishes one or more grounds defined under subsection (a) of this section, the Finance Director, with the approval of the City Manager, is authorized to make a refund in an amount which is supported by the evidence, which refund shall be issued to the person who is entitled to the refund as defined in subsection (d) of this section.

(c) To qualify for a refund, the application for refund must be filed within a period of two (2) years after the date when the subject return was to have been filed as defined under this Article.

(d) In the event the amount of the refund relates to an overpayment which had been withheld from compensation of an employee and paid by the employer, the employee shall be entitled to receive the refund. In the event the amount of the refund relates to an overpayment which was not withheld from compensation of an employee, the employer shall be entitled to receive the refund

(e) In the event an employer improperly withheld and paid license fees on compensation earned by an employee for services actually earned and performed outside the city, the employee may file for a refund of such license fees, provided that the employee files for the refund within two (2) years of the date when his employer was to have filed the return which improperly withheld and paid the license fees for which a refund is sought. The employee shall provide a schedule and computation sufficient to verify the refund claim. The Finance Director shall have the authority to confirm and verify the information contained in the schedule and computation with the employer, and to obtain and review any records of the employer and to interview any witnesses as deemed necessary by the Finance Director. The Finance Director, with the consent of the City Manager, shall pay to the employee such amount of the refund which the Finance Director reasonably deems that the employee is entitled to receive as defined by the provisions under this Article. **(KRS 67.788)**

(f) The Finance Director shall have the right to refund the overpaid license fees in the form of a cash refund or in the form of a credit to be applied against any license fees of the affected employee which is owed or may be owed under this Article.

Sec. 106-190. Employer to maintain and produce records; Finance Director's authority to investigate.

(a) In the event the Finance Director desires to examine a return filed under this Article, the Finance Director shall have the right to compel the employer or the employee, as the case

may be, to produce for inspection a copy of all schedules, federal reporting forms including W-2 statements, form1099 statements, and other records which were utilized by the employer or employee in preparing the return. In addition thereto, the Finance Director shall have the right to compel the employer or employee, as the case may be, to produce for inspection any other record maintained by the employer or employee which assists the Finance Director in determining the truth and accuracy of the information provided in the return as determined by the Finance Director in his discretion. **(KRS 67-768(2))**.

(b) Every employer subject to this Article shall be required to keep adequate and sufficient records which are pertinent or relevant to determining compensation which is paid to its employees and the services provided by employees which are rendered outside of the city. The Finance Director shall have the authority to require an employer to make a return, render statements under oath, or keep records as the Finance Director deems necessary to ensure the employer's compliance with the provisions under this Article. The Finance Director shall also have the authority to require the attendance of a representative of the employer, the employee, or any other person having relevant information concerning the preparation of and information provided in the employer's return, or for the purpose of examining such person, or deposing such person under oath, to ascertain the truth and accuracy of any information which is provided in the employer's return, to ascertain the truth and accuracy of any other matter which is relevant to determine whether the return was made in compliance with the provisions of this Article. Ancillary thereto, the Finance Director shall also have the right to compel such person to produce the records of the employer which are pertinent or relevant to the employer's return, and any other records which the Finance Director deems necessary to determine that the employer's return was made in compliance with the provisions of this Article. **(KRS 67-760)**.

(c) The city shall have the right to enforce and collect any license fees which were required to be reported to the city under a return within a period of five (5) years after the date that a return was to be filed by an employer or employee as required under this Article.

Sec. 106-191. Employers and other contracting parties to file records which reflect payments made to persons not deemed employees; independent contractors; filing as business entity.

(a) Any employer or other contracting party who pays compensation to a person for services rendered, and does not make withholdings for reason that such person does not constitute an employee under federal law or under the provisions of this Article, shall be required to file a written report with the Finance Director which shall state the name, address and social security number or employer identification number of the employer or other contracting party, the name, address and social security number of the person who performed such services, and the amount of compensation paid to such person as defined herein. The report shall be made on a form provided by the Finance Director. The report shall be filed on or before March 1 in the year following the year in which the services were performed, and shall report the compensation which was paid to the person in the previous calendar year. The employer or contracting party shall have the right to file the federal 1099 statement in lieu of the written report.

(b) Any person who receives compensation that is not subject to withholdings under federal law or this Article, such as an independent contractor, shall be deemed to have rendered such services as a business entity, and accordingly, such person shall be required to file a return and application and pay the annual license tax on such compensation as required under Article III. **(Model Ordinance)**

Sec. 106-192. Information to be kept confidential.

Any information which is submitted to the Finance Director by any person in accordance with the provisions of this Article shall be held confidential, and shall only be made available to officers, employees, and designated agents of the city whose official duties require the use and knowledge of such information, and to the duly authorized employees of the Kentucky Commission of Revenue and McCracken County, who are responsible for verifying information which has been reported to and retained by the city in reciprocation for access to the confidential files held by such entities, as permitted under KRS 131.190, and to any person as directed pursuant to any valid court order. Each authorized officer, employee, and designated agent who is assigned any duty which requires access to or use of such information shall hold all of such information made known to such officer, employee, and designated agent on a strictly confidential basis. Each authorized officer, employee and designated agent shall, upon the assignment of such duties, take an oath that he or she shall hold all of such information on a confidential basis, and in strict compliance of the provisions of this section. No unauthorized person, including an unauthorized officer, employee, or agent of the city, shall intentionally inspect any information submitted under this Article, nor shall any such person intentionally divulge or disclose such information to any third party, except as permitted under this section, or under KRS 67.790(8)(a). Any person who intentionally inspects any information to be held confidential hereunder or who intentionally divulges such information to a third party in violation of this section, shall be subject to the penalty provisions as provided under section 106-195. Provided, however, that the city shall have the right to publish statistics based on information received by the city so long as such publication does not identify or reveal the person from whom the information was obtained. **(KRS 67.790(8)(a))**

Sec. 106-193. Disposition and use of fees.

All money derived from license fees under the provisions of this Article shall be paid to the Finance Director and placed to the credit of the general revenue fund of the city and shall be used and expended in defraying the current, general and incidental expenses of the city.

Sec. 106-194. Intent regarding unlawful occupations and professions.

It is not the intention of the city or of this Article to impose and require a license fee for any occupation, trade or profession prohibited by law or ordinance.

Sec. 106-195. Penalty for violation of Article.

(a) Any employer who fails to file a return or pay the license fees on or before the time prescribed under this Article shall be subject to a penalty in amount equal to five percent (5%) of the license taxes due for each calendar month or fraction thereof that the employer:

- (1) Fails to file the return on or before the due date for filing the return;
- (2) Fails to pay the license taxes reflected on the return.

Provided, however, the total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total license fees due nor shall it be less than twenty-five dollars (\$25).

(b) In addition to the penalties as prescribed in this section, the employer shall also pay, as part of the license fees, an amount equal to twelve percent (12%) per annum simple interest on any unpaid license fees which were due until the license fees are finally paid to the city. A fraction of a month is counted as an entire month.

(c) Every license fee imposed under this Article, together with any penalties and interest which are assessed in relation thereto, shall become a personal debt of the person who is liable for same as defined under this Article, from and after the date that the license fees were to be paid to the city. The city shall have the right to enforce the collection of the license fees, and all related penalties and interest, by a civil action in a court of competent jurisdiction. To the extent authorized by law, the city shall be entitled to recover all court costs and reasonable attorney fees incurred by it in enforcing any provision of this Article.

(d) Any person who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay any license fees due and owing under this Article, with the intent to evade payment of the license fee imposed under this Article, or any part thereof, shall be guilty of a Class A misdemeanor, and shall be subject to a fine of not more than five hundred dollars (\$500), or imprisonment of up to thirty (30) days, or both.

(e) 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 Article 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, and shall be subject to a fine of no more than five hundred dollars (\$500), or imprisonment of up to thirty (30) days, or both.

(f) Any person who violates the provisions of Section 106-192 by intentionally inspecting confidential information as defined under said section without proper authorization shall be subject to a fine of no more than five hundred dollars (\$500), or imprisonment of up to thirty (30) days, or both.

(g) Any person who violates the provisions of Section 106-192 by intentionally divulging confidential information as defined under said section without proper authorization shall be subject to a fine of no more than five hundred dollars (\$500), or imprisonment up to thirty (30) days, or both. (**KRS 67.790**)

Section 106-196. Effective Date. The effective date of this ordinance shall be the ____ day of _____, _____.