

Jack Rose
Mayor



City of Murray



COUNCIL MEETING AGENDA August 10, 2017 6:30 P.M.

- 1) **Call to Order**, welcome guests, and moment of silence
- 2) **Pledge of Allegiance to the Flag** Wesley Bolin
- 3) **Minutes**
Council meeting of July 27, 2017
- 4) **Mayors Report**
 1. BFC Enterprises, LLC v. City of Murray
 2. CERS Separation and Stability Forum
- 5) **Public Comment** (Prior arrangement through the Mayor's Office)
- 6) **Ordinance Number 2017-1743** (first reading) an ordinance creating a new Chapter 75 regarding the imposition and administration of an occupational license tax requirement of one percent (1%) on gross earnings of an employee working and rendering services to an employer or business entity for compensation within the City of Murray. This ordinance shall be effective January 1, 2018.
- 7) **Ordinance Number 2017-1744** (first reading) an ordinance repealing in its entirety Chapter 71, sections 71.01, 71.02, 71.03, 71.04, 71.05, 71.06, 71.07, 71.08, and 71.99 of the City of Murray Code of Ordinances, titled Licensing which relates to City Stickers. This ordinance shall be effective June 1, 2018.
- 8) **Resolution 2017-008** a resolution authorizing the City of Murray to review and execute any and all necessary documents to reduce the ad valorem tax rate on real property, watercraft, motor vehicles and insurance.
- 9) **Municipal Order 2017-023** an order reappointing Joy Waldrop to the Murray Electric Plant Board for a four (4) year term. Said term expires August 10, 2021.
- 10) **Adjournment**

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MINUTES OF COUNCIL

July 27, 2017

6:30 P.M.

The Murray City Council met in regular session Thursday, July 27, 2017, at 6:30 p.m. in the Council Chambers of City Hall with Mayor Jack Rose presiding.

Council Members Present: Jeremy Bell, Robert Billington, Johnny Bohannon, Wesley Bolin, Linda Cherry, Danny Hudspeth, Dan Miller, Jason Pittman, John Mark Roberts, Pat Scott, Jane Shoemaker, Burton Young

Council Member Absent: None

Staff Present: Ron Allbritten, City Attorney Warren Hopkins, Tom Kutcher, Chief Jeff Liles, Bennett Moore, Cathy Morris, Jim Osborne, David Roberts, and Zachary Warren

After a moment of silence, Pat Scott led the Pledge of Allegiance to the Flag.

Mayor Rose welcomed Council members and guests and called the meeting to order.

The Minutes of the Council Meeting of July 13, 2017 were presented for approval. **Mr. Bohannon moved; seconded by Ms. Shoemaker.** All present voted aye.

Mayor Rose recognized Chairman Dan Miller who presented the final report of the Mayors Committee to Review Needs, Expenditures, and Revenue Sources. Dr. Miller explained to the Council how the Committee was formed, and what the original goals were. He went on to state that his goal was to get factual information to the Council this evening.

Dr. Miller then recognized James Gallimore who reported the police department and fire department findings. Mr. Gallimore listed police retention issues, and salary deficiencies as the major problems facing the department. He reported that the Committee recommends that the City of Murray increase the budget to implement a structured pay scale plan within the police department to give officers incentives to continue serving the City of Murray.

Mr. Gallimore then addressed the Committee findings regarding the Murray Fire Department. Mr. Gallimore reported that the Committee found that facility issues were the major problem at the fire department. He went on to state that the Committee recommends increasing the fire department budget to address renovation of these facilities.

Dr. Miller then recognized Don Elias to report the Committee findings on infrastructure within the City of Murray. Mr. Elias spoke about the Committee findings on the City of Murray needs regarding the street department, traffic alleviation, sidewalks, Murray Calloway County Park, code enforcement and street lights. Mr. Elias reported that the Committee recommended budget increases in each of these areas including adding additional personnel to the street department to assist in sidewalk maintenance. The Committee also recommended a traffic alleviation fund be set up to address traffic needs within the City as well as a park enhancement fund to help with capital expenditures at the park.

Dr. Miller then reported the steps that the City had taken to cut expenditures. He went on to address past attempts by the City to address revenue stream issues. These included elevated property tax rates, increased city sticker costs, and the alcohol regulatory tax. Dr. Miller advised the Council as a body, that in order to address the current revenue issues, they had utilized all options available other than an occupational tax. Dr. Miller closed by reporting the Committee recommends a 1% Occupational tax and a 1% Net Profits tax be implemented in conjunction with abolishing the city sticker requirement and lowering ad valorem tax rates.

Public Comment Mayor Rose reported that he had received 4 requests for public comment but one of those had withdrawn the request.

Mayor Rose recognized Greg Taylor who presented the Council with information regarding a petition against the occupational tax. Mr. Taylor advised the Council that there were 2,854 signatures on the petition and the community did

not want the tax. He closed by stating that it was his belief that other solutions were available and the tax would not be a benefit to the community.

Mayor Rose recognized Whitney Bryant. Ms. Bryant advised the Council that she was a resident of the State of Tennessee. Ms. Bryant reported to the Council that the United States Supreme Court had ruled that the occupational tax was unconstitutional. She discussed intrastate and interstate commerce and provided the Council with written information for their review.

Mayor Rose closed the public comment by recognizing Ray Conklin. Mr. Conklin addressed the Council and asked them to consider the concerns of the businesses and residents in the community. Mr. Conklin then reviewed a list of questions that he provided in written format to the Council.

After closing the public comment, Mayor Rose addressed the Committee recommendation. He advised the Council that the City of Murray wanted to be business friendly and he also understood that the net profits tax could prevent businesses from giving employees raises each year. Mayor Rose then recommended that the net profits tax of 1% not be included in the ordinance if drafted.

Mr. Bohannon moved; seconded by Ms. Shoemaker that an ordinance be drafted to implement a 1% occupational tax in the City of Murray. After discussion Mayor Rose called for a roll call vote.

Ayes: Mr. Billington, Mr. Bohannon, Mr. Bolin, Dr. Miller, Mr. Pittman, Ms. Shoemaker

Nays: Mr. Bell, Ms. Cherry, Mr. Hudspeth, Mr. Roberts, Mr. Scott, Dr. Young

Mayor Rose cast a tie breaking vote in favor of the motion

Mr. Pittman moved; seconded by Mr. Bolin that an ordinance be drafted to repeal Chapter 71 of the City of Murray Code of Ordinances which addresses city sticker requirements. During discussion, Dr. Young requested to amend the motion to direct that the proposed tax be put on a ballot referendum. Mayor Rose advised Dr. Young that was not legally possible under Kentucky law. City Attorney Warren Hopkins concurred. After discussion, Mayor Rose called for a roll call vote.

Ayes: Mr. Bell, Mr. Billington, Mr. Bohannon, Mr. Bolin, Dr. Miller, Mr. Pittman, Mr. Scott, Ms. Shoemaker

Nays: Ms. Cherry, Mr. Hudspeth, Mr. Roberts, Dr. Young

Mr. Billington moved; Ms. Shoemaker seconded that a resolution be drafted to express the Council's intention to reduce ad valorem taxes as recommended by the Mayors Committee to Review Needs, Expenditures and Revenue Sources. Mr. Billington clarified that this resolution would reflect the intent of the Council provided the occupational tax proposal passed. After discussion, Mayor Rose called for a roll call vote.

Ayes: Mr. Bell, Mr. Billington, Mr. Bohannon, Mr. Bolin, Dr. Miller, Mr. Pittman, Ms. Shoemaker

Nays: Ms. Cherry, Mr. Hudspeth, Mr. Roberts, Mr. Scott, Dr. Young

Mayor Rose then declared at 8:15 p.m. that Council would recess for 10 minutes.

Mayor Rose called Council back to order at 8:25 p.m.

Mayor Rose recognized Tom Kutcher who gave a brief presentation on the progress of the Wastewater Treatment Plant and the clearwell project at the Water Plant.

Mayor Rose then recognized Personnel and Finance Committee Chairman Johnny Bohannon who reported on the Committee's approval of two bids at the new City Hall. Mr. Bohannon recognized David Roberts who reported that bids were received for construction at the new Murray City Hall for Council Chambers construction. Mr. Roberts advised that the low bidder was W.D. Steele Construction at \$106,400.00. Mr. Roberts advised the Council that the City was

negotiating to get that price more in line with Architect Josh Vernon's estimate. **Motion Mr. Roberts; seconded by Ms. Shoemaker.** Mr. Bohannon called for a voice vote.

All present voted Aye.

Mr. Roberts then discussed the Information Technology bid for the new City Hall. Mr. Roberts reported that the low bidder was System Solutions of Paducah, KY with a bid of \$54,132.32. Mr. Roberts also advised the Council that their was an addendum regarding existing wiring that could prove to be unusable. Mr. Roberts reported to the Council that System Solutions had capped their bid at a cost of \$60,000.00 if wiring was found to be faulty. **Moved by Mr. Roberts; seconded by Ms. Shoemaker**

All present voted aye

Ordinance Number 2017-1741 (second reading) an ordinance amending Ordinance Number 2016-1705, an ordinance which adopted the FY 2017 City of Murray, Kentucky annual budget by restating certain revenues and expenditures for the City of Murray Operations Budget. **Mr. Bohannon moved; seconded by Mr. Pittman.** Mayor Rose called for a roll call vote.

Ayes: Mr. Bell, Mr. Billington, Mr. Bohannon, Mr. Bolin, Ms. Cherry, Mr. Hudspeth, Dr. Miller, Mr. Pittman, Mr. Roberts, Mr. Scott, Ms. Shoemaker, Dr. Young

Nays: None

Ordinance Number 2017-1742 (second reading) an ordinance amending Ordinance Number 2017-1738, an ordinance which adopted the FY 2018 City of Murray, Kentucky annual budget by restating certain revenues and expenditures for the City of Murray Operations Budget. **Mr. Roberts moved; seconded by Mr. Bohannon.** Mayor Rose called for a roll call vote.

Ayes: Mr. Billington, Mr. Bohannon, Mr. Bolin, Dr. Miller, Mr. Pittman, Mr. Roberts, Ms. Shoemaker

Nays: Mr. Bell, Ms. Cherry, Mr. Hudspeth, Mr. Scott, Dr. Young

With no other business before the Council, **Mr. Billington moved to adjourn; seconded by Mr. Bohannon.** All voted aye. The meeting adjourned at 8:41p.m.

Jack Rose, Mayor

ATTEST

Jim Osborne, City Clerk

LOCAL PENSIONS. LOCAL CONTROL.

All active CERS members and retirees are invited.
Legislators are invited to attend, listen and engage.

CERS SEPARATION & STABILITY FORUM *in Paducah*

WHEN: Tuesday, August 29th | 5:00 p.m. - 7:00 p.m. CDT

WHERE: Robert Cherry Civic Center | 2701 Park Ave, Paducah, KY 42001

CERS SEPARATION & STABILITY: Right now our state leaders are looking into solutions to fix Kentucky's ailing pension systems. The County Employees Retirement System (CERS) is not one of those failing systems, but has instead seen upward growth and is on track to be fully funded. To ensure the long term stability of CERS, we must join together at a local level and learn what steps we all can take to ensure our retirement system remains on a path of growth for years to come. Kentucky League of Cities moderators and other retirement experts will be speaking at this meeting on behalf of active and retired CERS members. These CERS members will discuss the current threats to our fully functioning retirement system and share our plan to separate the CERS pension system, allowing our legislators to focus their energy and resources on fixing the actual problems that face Kentucky's Retirement Systems. The information shared is vitally important for all CERS employees and retirees. Come join the discussion!

THE COALITION OF MEMBERS BELOW SUPPORT THE CONTINUED GROWTH OF CERS:



www.LocalPensionControl.com | Follow us on twitter @freeCERSky or search for #freeCERS

ORDINANCE 2017-1743

AN ORDINANCE CREATING A NEW CHAPTER 75 REGARDING THE IMPOSITION AND ADMINISTRATION OF AN OCCUPATIONAL LICENSE TAX REQUIREMENT OF ONE PERCENT (1%) ON GROSS EARNINGS OF AN EMPLOYEE WORKING AND RENDERING SERVICES TO AN EMPLOYER OR BUSINESS ENTITY FOR COMPENSATION WITHIN THE CITY OF MURRAY. THIS ORDINANCE SHALL BE EFFECTIVE JANUARY 1, 2018.

WHEREAS, the City of Murray desires to impose an occupational license requirement and payment of an occupational license tax of one percent (1%) on gross earnings of employees rendering services to an employer or business entity for compensation within the city;

WHEREAS, the Murray City Council has reviewed and discussed the imposition of an occupational license requirement and the payment of an occupational license tax of one percent (1%) on gross earnings and believe that the imposition of such license requirement and tax is reasonable and necessary.

BE IT ORDAINED by the City Council of the City of Murray, that Chapter 75 Occupational License Tax is created as follows:

CHAPTER 75: OCCUPATIONAL LICENSE TAX.

§75.01 DEFINITIONS.

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

- (A) **APPLICANT.** An Employer or Business Entity required to file an Occupational License Tax Return.
- (B) **BUSINESS ENTITY.** Each separate corporation, limited liability company, business development corporation, partnership, limited partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization or other legal entity through which business is conducted.
- (C) **CITY.** The City of Murray, Kentucky.
- (D) **COMPENSATION.** Wages, salaries, commissions, or any other form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted to include the following.
 - (1) Any amounts contributed by an employee to any retirement, profit sharing, or deferred compensation plan, which are deferred for federal income tax purposes under a salary reduction agreement or similar arrangement, including but not limited to salary reduction arrangements under sections 401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal Revenue Code; and
 - (2) Any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or other payment method which permits employees to elect to reduce federal taxable compensation under the Internal Revenue Code, including, but not limited to, sections 125 and 132 of the Internal Revenue Code.
- (E) **EMPLOYEE.** Any person who renders services to an employer or any business entity for compensation, including, but not limited to, an officer of a corporation and any officer, employee, or elected official of the United States, a state, or any political subdivision of a state, or any agency of instrumentality of any one (1) or more of the above. A person classified as an independent contractor under the Internal Revenue Code shall not be considered an employee.
- (F) **EMPLOYER.** The person or business entity for whom an individual performs or performed any service, of whatever nature, as the employee of such person or business entity, except that:
 - (1) If the person or business entity for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term employer means the person or business entity having control of the payment of such wages, and
 - (2) In the case of a person or business entity paying wages 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 means such person or business entity.

- (G) **FINANCE DEPARTMENT.** The City of Murray Finance Department.
- (H) **FISCAL YEAR.** An accounting period of twelve (12) months ending on the last day of any month other than December.
- (I) **INTERNAL REVENUE CODE.** The Internal Revenue Code in effect on December 31, 2008, as amended exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2017, that would otherwise terminate.
- (J) **GROSS EARNINGS.** The amount of wages earned prior to the application of any tax deductions or adjustments.
- (K) **PERSON.** Person means every natural person, whether a resident or non-resident of the city. Whenever the word "person" is used in a clause prescribing and imposing a penalty in the nature of a fine or imprisonment, the word, as applied to a partnership or other form of unincorporated enterprise, shall mean the partners or members thereof, and as applied to corporations, shall mean the officers and directors thereof.
- (L) **REAL PROPERTY.** All types of real estate including commercial property, residential property and farm property.
- (M) **RETURN OR REPORT.** Any properly completed and, if required, signed form, statement, certification, declaration, or any other document permitted or required to be submitted or filed with the city.
- (N) **TAX DISTRICT.** Any city of the home rule 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.
- (O) **TAXABLE YEAR.** The calendar year or fiscal year ending during the calendar year, upon the basis of which net profit is computed.

§75.02 OCCUPATIONAL LICENSE TAX APPLICATION AND CERTIFICATE REQUIRED.

- (A) Every employer with employees engaged in working and rendering services to another person or business entity for compensation shall be required to file a return under this ordinance and further shall be required to complete and execute the application prescribed by the Finance Department. The applicant shall complete and execute the City of Murray's Application for Occupational License Tax and remit a one-time payment of twenty-five dollars (\$25.00) to cover administrative costs associated herewith unless exempt under §75.04. Upon acceptance of the application, the city will issue to the licensee an Occupational License Certificate, which shall contain an identifying number for tax reporting purposes. Licensees are required to notify the city of any changes in address, the cessation of employment of an employee, or any other changes that render the information supplied to the city in the license application inaccurate.
- (B) Each year, the city shall issue an occupational license certificate to each Employer licensed under this chapter. The certificate shall show the year, for which it is issued, the name of the Employer to which it is issued, and the address or location of the Employer being licensed. Each Employer shall maintain the license certificate at its principal place of employment in the city, if located in the city.

§75.03 OCCUPATIONAL LICENSE TAX PAYMENT REQUIRED.

- (A) Except as provided in §75.04, every person (employee) working and rendering services to an employer or business entity and any person that makes a filing with the Internal Revenue Service or the Kentucky Revenue Cabinet shall be required to file and pay to the city an annual occupational license tax for the privilege of engaging in such activities within the city.
 - (1) The occupational license tax shall be measured by one percent (1%) of all gross earnings paid or payable in the city for work done or services performed or rendered in the city by every resident and nonresident who is an employee.
- (B) If any Employer dissolves, ceases to operate, or withdraws from the city during any taxable year, the dissolution, cessation of business, withdrawal, or loss or surrender of charter shall not defeat the filing of returns and the assessment and collection of any occupational license tax for the period of that taxable year during which the Employer was required to withhold such tax.

§75.04 EXEMPTED ACTIVITIES.

- (A) The occupational license tax requirement shall not apply to the following persons:

- (1) Persons whose sole wages, salaries, commissions, or other wages and other compensations earned in the city are derived from service as members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training.
- (2) Compensation received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections.
- (3) Periodical payments, commonly recognized as old-age or retirement pensions, including Social Security payments, made to persons retired from service after reaching a specified age or after a stated period of employment, are not subject to the license tax.
- (4) Income and dividend payments are not subject to the license tax.
- (5) Payments made to employees under a disability, sickness or accident plan are not subject to the license tax. Unemployment compensation payments by the state or other agency are not subject to the license tax. This provision does not include federally taxed sick leave paid to employees.
- (6) Amounts received by employees under the Workers' Compensation Act as compensation for a disability sustained during the course of employment, together with any amount of damages received by suit or settlement on account of such disability, are not subject to the occupational license tax.
- (7) No occupational license tax shall be required of domestic servants engaged as independent contractors in private homes. However, business and occupational license fees shall be required for businesses conducting cleaning services and for employees of such cleaning services.
- (8) Any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings or distributions would not be taxable to an individual investor.

§75.05 APPORTIONMENT.

This section applies only to persons receiving compensation both inside and outside the city. Because the Occupational License Tax is due only for gross wages earned inside the city limits, this section provides the formulas to calculate what fraction of a person's gross wages are subject to the Occupational License Tax.

The payroll factor is a fraction, the numerator of which is the total amount paid or payable in the city during the tax period by the employer or business entity for compensation, and the denominator of which is the total compensation paid or payable by the employer or business entity everywhere during the tax period. Compensation is paid or payable in the city based on the time the employee performs work or renders services within the city.

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

§75.06 EMPLOYERS TO WITHHOLD.

- (A) Every employer making payment of compensation to an employee shall deduct and withhold from the compensation, an occupational license tax calculated herein under §75.03 and §75.05, whichever is applicable. Amounts withheld shall be paid to the city in accordance with this section.
- (B) Each employer shall deduct from the pay due any employee the amount of the license fee measured by the compensation due each employee. The amounts so deducted shall be paid by the employer to the department of finance of the city as follows:
 1. Every employer, whose total occupational license fee withholding is less than five hundred dollars (\$500.00) per quarter, shall remit such fees to the department of finance of the city (on a quarterly basis) for the periods ending March 31, June 30, September 30, and December 31, on or before the last day of the month next following said period.
 2. Every employer, whose total occupational license fee withholding is greater than five hundred dollars (\$500.00) per quarter, shall remit such fees to the department of finance of the city (on a monthly basis) for the month ending January 31 and for each month thereafter, on or before the 15th day of the month following the close of the prior month.
- (C) Every employer who fails to withhold or pay to the city any sums required to be withheld by this ordinance shall be personally and individually liable to the city for any sum or sums withheld or required to be withheld in accordance with the provisions of this section.

- (D) The city shall have a lien upon all the property of any employer who fails to withhold or pay over to the city sums required to be withheld under this section. If the employer withholds, but fails to pay the amounts withheld to the city, the lien shall commence as of the date the amounts withheld were required to be paid to the city. If the employer fails to withhold these sums, the lien shall commence at the time the liability of the employer is assessed by the city.
- (E) Every employer required to deduct and withhold tax under this section shall annually, on or before February 28 of each year, complete and file on a form furnished or approved by the city a reconciliation of the occupational license tax withheld where compensation is paid or payable to employees. Either copies of federal forms W-2 and W-3, transmittal of wage and tax statements, or a detailed employee listing with the required equivalent information, as determined by the city, shall be submitted.
- (F) Every professional employer organization ("PEO") and every employer with an employee leasing arrangement shall include a separate annual report of earnings for each client or co-employer listing the client's or co-employer's name, address, and telephone number.
- (G) Every employer shall furnish each employee a statement, on or before January 31 of each year, showing the amount of compensation and occupational license tax deducted by the employer from the compensation paid to the employee for payment to the city during the preceding calendar year.
- (H) An employer shall be liable for the payment of the tax required to be deducted and withheld under this section.
- (I) The president, vice president, secretary, treasurer, or other person holding an equivalent corporate office of any business entity subject to this section shall be personally and individually liable, both jointly and severally, for any tax required to be withheld from compensation paid or payable to one (1) or more employees of the business entity, and neither the corporate dissolution or withdrawal of the business entity from the city, nor the cessation of holding any corporate office, shall discharge that liability, provided that the personal and individual liability shall apply to each and every person holding the corporate office at the time the tax becomes or became obligated. No person shall be personally and individually liable under this subsection unless such person had authority to collect, truthfully account for, or pay over the tax imposed by this ordinance at the time that the taxes imposed by this ordinance become or became due.
- (J) Notwithstanding anything to the contrary herein, every employee receiving compensation in the city subject to the tax imposed herein under §75.03 and §75.05, whichever is applicable, shall be personally liable for any amount due. In all cases where the employer does not withhold the tax levied under this ordinance from the employee, such employee shall be responsible for filing with the city each quarter in the same manner as if they were the employer.

§75.07 RETURNS REQUIRED.

- (A) All employer or employee returns for the preceding taxable year shall be made by April 15 of each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for returns shall be supplied by the city.
- (B) Whenever, in the opinion of the city, it is necessary to examine the federal tax return of any employer or employee in order to audit the return, the city may compel the employer or employee to produce for inspection, a copy of the tax return, along with any statements and schedules in support thereof. The city may also require copies of reports of adjustments made by the federal government.
- (C) Every employer or employee subject to an occupational license tax governed by the provisions of this ordinance shall keep records, render under oath statements, make returns, and comply with rules as the city from time to time may prescribe. Whenever the city deems it necessary, the city may require an employer or employee, by notice served to the employer or employee, to make a return, render statements under oath, or keep records, as the city deems sufficient to determine the tax liability of the employer or employee.
- (D) The city may require additional information, for the purpose of ascertaining the correctness of any return or for the purposes of making an estimate of the taxable income from any person having knowledge of the return.
- (E) The full amount of the unpaid tax payable by any employer or employee, as appears from the face of the return, shall be paid to the city at the time prescribed for filing the occupational license tax return, determined without regard to any extension of time for filing the return.
- (F) When a return in form and substance satisfactory to the city finance department is not filed by an employer or employee and/or the license taxes are not paid to the city by such employer or employee, the employee for whom no return has been filed and/or no payment has been made shall file a request for refund of earnings tax or additional payment due with the city finance department on or before January 31, annually, showing in the return his or her compensation subject to the license tax during the preceding calendar year. The employee submitting the form shall provide the

original copy of the statement furnished him or her by his or her employer. This statement must show all of the compensation earned by him or her, wherever employed, during the period for which such return is made. In addition to the compensation earned by him or her, such return shall show such other pertinent information as may be required by the city finance department. Each person making a return required by this section shall at the time of filing the appropriate form pay the city the amount of license tax due under this subchapter; provided, that any portion of the license tax deducted by the employer shall be credited on the return and only the balance, if any, shall be due and payable at the time of filing said return. The amount of any license taxes that were due in each year, as provided in this subchapter, shall bear interest from the date the same became due at the rate of one percent (1%) per month, or fraction thereof for partial months, until paid, and the employer failing to pay the same when due shall also pay the penalty imposed under §75.99.

- (G) Every employer making payments of six hundred dollars (\$600.00) or more to persons other than employees for services performed within the city are responsible for maintaining the records of those payments and for completing Form 1099 SF, Statement of Non-Employee Compensation, on or before February 28 of the year following the close of the calendar year in which such compensation was paid. Persons or Employers not required to remit a Form 1099 remain liable to the city to remit equivalent information for any compensation made to persons that are not employees. Form 1099 SF, or equivalent information, shall be filed with the city on or before February 28 of each year.

§75.08 EXTENSIONS.

- (A) The city may grant an employer or employee an extension of not more than six (6) months, unless a longer extension has been granted by the Internal Revenue Service or is agreed to by the city and the employer or employee for filing its return, if the employer or employee, on or before the date prescribed for payment of the occupational license tax, requests the extension and pays the amount properly estimated as its tax. The employer or employee must submit to the city a copy of the extension with evidence showing that the IRS has accepted and approved the requested extension.
- (B) If the time for filing a return is extended, the employer or employee shall pay, as part of the tax, an amount equal to twelve percent (12%) per annum simple interest on the tax shown due on the return, but not been previously paid, from the time the tax was due until the return is actually filed and the tax paid to the city. A fraction of a month is counted as an entire month.

§75.09 REFUNDS.

- (A) Where there has been an overpayment of tax under §75.03 or §75.05, a refund or credit shall be made to the employer to the extent of overpayment only if a written application for refund or credit is received by the city from the employer within two (2) years from the date the overpayment was made.
- (B) An employee who has compensation attributable to activities performed outside the city, based on time spent outside the city, and whose employer has withheld and remitted to this city the occupational license tax on the compensation attributable to activities performed outside the city, may file for a refund within two (2) years of the date prescribed by law for the filing of a return. The employee shall provide a schedule and computations sufficient to verify the refund claim and the city may confirm with the employer the percentage of time spent outside the city and the amount of compensation attributable to activities performed outside the city prior to approval of the refund.

§75.10 FEDERAL AUDIT PROVISIONS.

- (A) As soon as practicable after each return is received, the city may examine and audit the return. If the amount of tax computed by the city is greater than the amount returned by the Employer or Person, the additional tax shall be assessed and a notice of assessment mailed to the Employer or Person by the city within five (5) years from the date the return was filed, except as otherwise provided in this subsection.
- (1) In the case of a failure to file a return or of a fraudulent return, the additional tax may be assessed at any time.
 - (2) In the case of a return where an employer or employee understates gross earnings, or omits an amount properly includable in gross earnings, which understatement or omission, or both, is in excess of twenty-five percent (25%) of the amount of gross earnings stated in the return, the additional tax may be assessed at any time within six (6) years after the return was filed.
 - (3) In the case of an assessment of additional tax relating directly to adjustments resulting from a final determination of a federal audit, the additional tax may be assessed before the expiration of the times provided in this subsection, or six (6) months from the date the city receives the final determination of the federal audit from the employer or employee, whichever is later.
 - (4) The times provided in this subsection may be extended by agreement between the employer or employee and the city. For the purposes of this subsection, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day. Any extension

granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

- (B) Every employer or employee shall submit a copy of the final determination of the federal audit within thirty (30) days of the conclusion of the federal audit.
- (C) The city may initiate a civil action for the collection of any additional tax within the times prescribed in subsection (A) of this Section.

§75.11 ADMINISTRATIVE PROVISIONS.

- (A) No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this ordinance.
- (B) Any tax collected pursuant to the provisions of this ordinance may be refunded or credited within two (2) years of the date prescribed by law for the filing of a return or the date the money was paid to the city, whichever is the later, except that:
 - (1) In any case where the assessment period contained in §75.06 of this ordinance has been extended by an agreement between an employer or employee and the city, the limitation contained in this subsection shall be extended accordingly.
 - (2) If the claim for refund or credit relates directly to adjustments resulting from a federal audit, the employer or employee shall file a claim for refund or credit within the time provided for in this subsection or six (6) months from the conclusion of the federal audit, whichever is later. For the purposes of this subsection and subsection (b)(1), a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.
- (C) The authority to refund or credit overpayments of taxes collected pursuant to this Chapter 75 is vested exclusively in the city.

§75.12 REGULATIONS.

The finance department is charged with the enforcement of the provisions of this Chapter 75 and is empowered to prescribe, adopt, promulgate, and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this Chapter 75, including, but not limited to, provisions for the reexamination and correction of returns as to which an overpayment or underpayment is claimed or found to have been made, and the rules and regulations promulgated by it shall be binding on all licensees and employers affected.

§75.13 BOARD OF APPEALS.

The mayor, with the approval of the city council, shall appoint a board of occupational license appeals, comprised of three (3) members as follows: One (1) city council member, and two (2) citizen members who are residents of the city. The term of one (1) citizen member shall be three (3) years, and the term of one (1) citizen member shall be four (4) years. There shall also be an alternate citizen member appointed by the mayor, with the approval of the city council, who shall serve in the transaction of the board's business whenever a regular board member as named above is absent or unable to serve for whatever reason. The alternate member shall be a resident of the city and appointed for a term of three (3) years and shall possess the full authority of a regular board member when he or she is serving in the absence of a regular member. Whenever a vacancy occurs, an appointment shall be made for the remainder of the unexpired term. The board of occupational license appeals shall be empowered to hear appeals from licensees or supposed licensees and shall decide each appeal on evidence provided by the licensee and the city. The board may, based upon such evidence, render decisions on questions of interpretation of this article, on questions of allocation of gross earnings, on proceedings of delinquent tax collections, and on the waiver of penalties assessed. The decisions of the board of occupational license appeals shall be final.

§75.14 INFORMATION TO REMAIN CONFIDENTIAL.

- (a) No present or former employee of the city shall intentionally and without authorization inspect or divulge any information acquired by him or her of the affairs of any employer or employee, or information regarding the tax schedules, returns, or reports required to be filed with the city or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the employer or employee. This prohibition does not extend to information required in prosecutions for making false reports or returns for taxation, or any other infraction of the tax laws, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or the taxpayer's properly authorized agent with information respecting his or her own return. Further, this prohibition does not preclude any employee of the city from testifying in any court or from introducing evidence in any court, or from introducing as evidence, returns or reports filed with the city, in an action for violation of a tax law of the city or other tax district or in any action challenging the city's tax laws or in any action in which the income of an employer or employee is a relevant issue at trial.

- (b) The city reserves the right to disclose to the Commissioner of Revenue of the Commonwealth of Kentucky or his or her duly authorized agent all such information and rights to inspect any of the books and records of the city if the Commissioner of Revenue of the Commonwealth of Kentucky grants to the city the reciprocal right to obtain information from the files and records of the Kentucky Department of Revenue and maintains the privileged character of the information so furnished. Provided, further that the city may publish statistics based on such information in such a manner as not to reveal any identifying data regarding a specific employer or employee's gross earnings.
- (c) In addition, the city is empowered to execute similar reciprocity agreements as described in subsection (b) of this section with any other taxing entity should there be a need for exchange of information to effect diligent enforcement of this ordinance.

§75.15 USE OF OCCUPATIONAL LICENSE TAX.

All money derived from the license tax under the provisions of this Chapter 75 shall be paid to the city and placed to the credit of the city's general revenue fund.

§75.16 SEVERABILITY.

Each section and each provision of each section of this ordinance is severable, and if any provision, section, paragraph, sentence or part thereof, or the application thereof to any person licensee, class or group, is held by a court of law to be unconstitutional or invalid for any reason, such holding shall not affect or impair the remainder of this ordinance, it being the legislative intent to ordain and enact provision, section, paragraph, sentence and part thereof, separately and independently of the rest.

§75.17 BEGINNING DATE.

The provisions of this Chapter 75 shall be effective on January 1, 2018.

§75.99 PENALTIES.

- (A) Every employer who fails to withhold or pay to the city any sums of tax required by this subchapter to be withheld and paid shall be personally and individually liable to the city for all sums required to be withheld.
- (B) The city shall have a lien upon all the property of any employer who fails to withhold or pay over to the city sums required to be withheld under this subchapter. If the employer withholds but fails to pay the city the amount withheld, the lien shall commence as of the date the amounts withheld were required to be paid to the city. If the employer fails to withhold, the lien shall commence at the time the liability of the employer is assessed by the city.
- (C) Every tax imposed by this Chapter 75, and all increases, interest, and penalties thereon, shall become, from the time the tax is due and payable, a personal debt of the taxpayer to the city.
- (D) The city may enforce the collection of the occupational tax due, under this ordinance and any fees, penalties, and interest, as provided herein, by civil action in a court of appropriate 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 Chapter 75.
- (E) In addition to the penalties prescribed in this section, any employer or employee who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with the intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class A Misdemeanor.
- (F) Any person who willfully aids or assists in, or procures, counsels, or advises in the preparation or presentation of a return, affidavit, claim, or other document required under or submitted in connection with this Chapter 75, 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.
- (G) A return, for the purpose of this section, shall mean and include any return, declaration, or form prescribed by the city and required to be filed with the city by the provisions of this Chapter 75 or by the rules of the city or by written request for information to the Employer or Person by the city.
- (H) Any person who violates the provisions of this Chapter 75 by intentionally inspecting confidential taxpayer information without authorization shall be fined not more than five hundred (\$500.00) or imprisoned for not longer than six (6) months, or both.
- (I) Any person who violates the provisions of this Chapter 75 by divulging confidential taxpayer information shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or both.

Nothing in this Ordinance hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this Ordinance; nor shall any just or legal right or remedy of any character be lost impaired or affected by this Ordinance.

All other sections and provisions of the Ordinances for the City of Murray, not specifically amended herein, shall remain in full force and effect and shall not be considered amended and shall be incorporated by reference as if fully stated herein.

JACK D. ROSE, MAYOR

ATTEST:

JAMES OSBORNE, CITY CLERK

Introduced by the City Council on _____, 2017.

Adopted by the City Council on _____, 2017.

Published in the Murray Ledger and Times on _____, 2017.

ORDINANCE 2017-1744

AN ORDINANCE REPEALING IN ITS ENTIRETY CHAPTER 71, SECTIONS 71.01, 71.02, 71.03, 71.04, 71.05, 71.06, 71.07, 71.08 AND 71.99 OF THE CITY OF MURRAY CODE OF ORDINANCES, TITLED LICENSING WHICH RELATES TO CITY STICKERS. THIS ORDINANCE SHALL BE EFFECTIVE JUNE 1, 2018.

WHEREAS, the City wishes to eliminate its requirement for persons living and/or working within the city limits to purchase a License a/k/a a City Sticker each year.

WHEREAS, the City wishes to repeal Chapter 71 and shall replace same with an Occupational License Requirement for Employees working and rendering services to Employers and/or Business Entities for compensation in the City of Murray.

NOW THEREFORE, Be it Ordained by the Murray City Council that, effective June 1, 2018, Chapter 71, Sections 71.01, 71.02, 71.03, 71.04, 71.05, 71.06, 71.07, 71.08 and 71.99 of the City of Murray Code of Ordinances is hereby repealed.

Nothing in this Ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost impaired or affected by this Ordinance.

JACK D. ROSE, MAYOR

ATTEST:

JAMES OSBORNE, CITY CLERK

Introduced by the City Council on _____, 2017.

Adopted by the City Council on _____, 2017.

Published in the Murray Ledger and Times on _____, 2017.

RESOLUTION 2017-008

A RESOLUTION AUTHORIZING THE CITY OF MURRAY TO REVIEW AND EXECUTE ANY AND ALL NECESSARY DOCUMENTS TO REDUCE THE AD VALOREM TAX RATE ON REAL PROPERTY, WATERCRAFT, MOTOR VEHICLES AND INSURANCE.

WHEREAS, the Murray City Council met on July 27, 2017 for a regularly scheduled meeting.

WHEREAS, the Mayor appointed a committee to review needs, expenditures and revenue of the City.

WHEREAS, the Mayor's committee recommended the City levy an occupational license and net profits tax.

WHEREAS, the Mayor stated that a net profits tax would affect employer's ability to give raises and business friendliness and that the Council should consider an occupational license tax on gross earnings only, which is the amount of wages earned prior to the application of any tax deductions or adjustments.

WHEREAS, the Mayor further stated that in the event an occupational license tax on gross earnings is levied upon the City, it would allow the City to repeal the current city sticker tax and further would allow the City to lower the ad valorem tax rate on real property, watercraft, motor vehicles and insurance.

WHEREAS, the Council voted 6-6, with the Mayor breaking the tie to proceed in allowing the Mayor, along with the City Attorney to draft a proposed ordinance levying an occupational license tax on gross earnings.

NOW THEREFORE, Be it hereby resolved, that it is the intent of the Murray City Council, in the event the proposed ordinance levying an occupational license tax on gross earnings, which is the amount of wages earned prior to the application of any tax deductions or adjustments, is passed, to review and reduce the ad valorem tax rate on real property, watercraft, motor vehicles and insurance, while working to achieve the recommendations of the Mayor's Committee.

ADOPTED by the City Council on this the _____ day of AUGUST, 2017.

CITY OF MURRAY, KENTUCKY

JACK D. ROSE, Mayor

ATTEST:

JAMES OSBORNE, City Clerk

Jack Rose
Mayor



City of Murray



MUNICIPAL ORDER NUMBER 2017-023

Be it hereby ordered by the Murray City Council, duly assembled this date, that Joy Waldrop is hereby reappointed to the Murray Electric Plant Board for a four (4) year term. Said term expires August 10, 2021.

ADOPTED BY THE MURRAY CITY COUNCIL ON THE 10th DAY OF August, 2017.

Jack Rose, Mayor

ATTEST:

Jim Osborne, City Clerk

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