

CITY OF HIGHLAND HEIGHTS, KENTUCKY

ORDINANCE NO. 25-2003

An Ordinance Amending Ordinance 01-99 An Ordinance Imposing License Fees On Persons Engaging In Occupations, Trades and Professions In the City of Highland Heights, Kentucky, By All Persons Employed By Others Measured By One Percent Of The Gross Receipts Earned On And After The First Day Of January, 2000; Setting Forth And Defining Regulations And Providing For The Administration, Enforcement And Collection Of License Fees; Requiring The filing Of Returns And Submitting Of Information By Employers And Those Subject To Said License Fees; Imposing Upon Employers The Obligation Of Collecting License Fees At Their Source; Exempting Certain Trades And Occupations From The Provisions Hereof; Providing That All Such License Fees Shall Be Paid Into The General Fund Of The City For The Payment Of General Governmental Expense And Capital Improvements As May Be Authorized By The Board Of Council And Providing Penalty For Violation Of The Provisions Hereof.

BE IT ORDAINED BY THE CITY OF HIGHLAND HEIGHTS, KENTUCKY AS FOLLOWS:

SECTION I

That the following words when used in this ordinance shall have the meaning ascribed to them, except where the context clearly indicates or requires a different meaning:

(a) The word "person" shall mean anyevery natural person, Co-Partnership, fiduciary, association or corporation or self-employed person, firm, corporation, or other business entity without employees. Whenever the word "person" is used in any 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.

(b) The words "Business, trade, occupation and profession" shall mean and include the doing of any kind of work, the rendering of any kind of personal services, or the holding of any kind of position or job, within the City of Highland Heights, Kentucky, by any clerk, laborer, tradesman, manager, official or other employee, including any non-resident of the City of Highland Heights, who is employed by any employer as defined in this section, where the relationship between the individual performing the services and the person for whom such services are rendered is, as to those services, the legal relationship of employer and employee, including also a partner, of a firm or an officer of a firm or a corporation if such partner or officer receives a salary for his

personal services rendered in the business of such firm or corporation, except as otherwise exempted herein.

(c) The words "Business, trade, occupations and professions" shall also mean and include the holding of any kind of office or position, either by election or appointment, by any federal, state, county or city officers or employee, or employee of any governmental body of unit or administration or agency or other entity, where the services of such official or employee are rendered within the City of Highland Heights.

(d) The word "employee" shall mean and include any person engaging in or following any trade, occupation or profession within the meaning of sub-section (b) of Section I of this ordinance and/or any person who renders services to another for a financial consideration or its equivalent, under an express or implied contract and who is under the control and direction of the latter, and shall include temporary, provisional, casual or part-time employment.

(e) The word "employer" shall mean and include any person, business, firm, corporation, partnership, association, governmental body or unit or administration or agency or other entity, or any other kind of organization, who or that employs one or more persons in any trade, occupation or profession in the City of Highland Heights within the meaning of sub-section (b) of Section I of this ordinance including a self-employed person.

(f) The word "gross receipts" and "compensation" shall have the same meaning and both words shall mean and include the total gross amount of all salaries, wages, commissions, bonuses, or other money payments of any kind, or any other consideration having monetary value, which a person receives from or is entitled to receive from or be given credit for by his employer for any work, done or personal services rendered in any trade, occupation or profession, including any kind of deductions before "take home" pay is received, but the words "gross receipts" and "compensation" shall not mean or include amounts paid to traveling salesmen or other workers as allowances or reimbursements 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.

(g) The word "licensee" shall mean and include any person required to file a return or to pay a license fee under this ordinance.

(h) The word "city" shall mean the City of Highland Heights, Kentucky.

(i) The singular shall include the plural and vice versa, and the masculine shall include the feminine and neuter.

(j) The word "Fraud" shall mean willful intent to evade

license fees.

(k) Negligence. The intentional disregard of this chapter and timely filing of return deadline.

(l) Tax interest rate. The interest rate as determined by the Kentucky Commissioner of revenue pursuant to KRS 131.183 said tax interest rate shall be changed by regulations promulgated by the ~~license inspector~~ City Treasurer on an annual basis no later than December 31 of each year to become effective for the following year.

(m) Underpayment. The total amount of all deficiencies: if a return was filed on or before the last date prescribed for filing such return or the amount of license fee imposed by this ordinance, prescribed for filing such return or the amount of license fee imposed by this ordinance, if a return was not filed on or before the last date prescribed for filing such return.

(n) Daily Interest Rate. The tax interest rate divided by 365.

SECTION II

License Fee Required.

It shall be unlawful for any person to engage in or follow any trade, occupation or profession within the City on or after the first day of January, 2000, without paying a license fee for the privilege of engaging in or following such trade, occupation or profession which license fee shall be measured by one percent of the first \$100,000.00 of gross receipts earned by such person. ~~the gross receipts of such person after July 1, 2003.~~

SECTION III

In such cases where compensation is earned as the result of work done or services performed both within and without the City, the license fee required under the provisions of this ordinance shall be computed by determining that percentage of the compensation earned from the proportion of the work which was done or performed within the City of Highland Heights. For the purpose of such determination the City Clerk may require the oath of the employee or the employer as to such work done or services performed.

SECTION IV

Employers To Obtain License And To Withhold License Fees & File Returns.

Every employer shall obtain a license from the City Clerk before the commencement of business, the fee for which shall be one hundred (\$100.00) dollars; provided, however, that in such cases

where the employer has a current license from the City for the conduct of such business under this or any other ordinance, this provision shall not apply.

Each employer who employs one or more persons within the City of Highland Heights shall deduct from the pay due any such employee the amount of license fee measured by the salary, wage, commission or other compensation due each employee and by the employer at the time of payment thereof of any such sums earned, due and acquired after the date of January 1, 2000. The payment required to be made on account of such deductions by employers shall be made quarterly to the City Treasurer for the quarterly periods ending on March 31st, June 30th, September 30th and December 31st of each year, on or before the last day of the month next following the end of each such quarterly period, and each employer shall at the same time make a return on a form furnished by the City of Highland Heights which shall include the name of such employee, his social security number, the gross amount due and paid such employee, the amount withheld, or in lieu thereof a true and correct copy of the social security return filed by the employer with the Federal government; provided, however, that the failure or omission by an employer to deduct such license fee shall not relieve such employee from the payment of such license fee and compliance with the requirements for making returns as provided in this ordinance or with any regulation promulgated under this ordinance.

Each such employer shall file with the City Treasurer on forms to be furnished by the City of Highland Heights on or before the 31st day of January, 2001, a return which shall show the gross amount of salary, wage, commission or other compensation of each employee, the amount of license fee deducted and paid by such employer, for all or any part of the period from the 1st day of January, 2000 to the 1st day of January, 2001, and the last known address of each such employee and on or before January 31st in each year thereafter a return showing the gross amount of salary, wage, commission or other compensation of each employee and the amount of the license fee deducted and paid by the employer during all or any part of the preceding calendar year. Such return shall also include such other pertinent information as the City Treasurer may require.

The employer shall on or before January 31st of each year furnish to each employee to whom a salary, wage, commission, or other compensation is due in accordance herewith, a statement showing the gross amount of any such wage, salary, commission, or other compensation, and the amount deducted and paid by the employer during the previous year.

SECTION V

Returns To Be Filed By Employees.

When a return in form and substance satisfactory to the City Treasurer is not filed by an employer and the license fees are not paid to the city by such employer, the employee for whom no return has been filed and no payment has been made shall file a return with the City Treasurer on or before January 31, 2001, showing in said return his gross receipts subject to license fees for the period from January 1, 2000, to January 31, 2001, and shall file a return with the City Treasurer on or before January 31st of each year thereafter, showing in said return his gross receipts subject to license fees during the preceding calendar year. Such return may be made by completing the original copy of the statement furnished him by his employer if such statement shows all of the compensation earned by him, wherever employed during the period for which such return is made. If for any reason all license fees of a person subject to the provisions of this ordinance were not withheld by his employer from his gross receipts, such person shall file the return required by this section on a form obtainable at the office of the City Treasurer. In addition to the gross receipts earned by him, such return shall show such other pertinent information as may be required by the City Treasurer. Each person making a return required by this section shall at the time of filing thereof, pay to the City Treasurer the amount of license fee due under this ordinance; provided, however, that any portion of the license fee deducted at the source shall be deducted 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 fees which were due on October 31st, January 31, April 30th and July 31st, in each year as provided herein shall bear interest from the date the same became due at the tax interest rate of six percent per annum until paid, and the employer failing to pay the same when due shall also pay the penalty imposed under Section 10 of this ordinance.

SECTION VI

Duties Of City Treasurer.

(a) It shall be the duty of the City Treasurer to collect and receive all license fees imposed by this ordinance and to keep records showing the amounts received by her from each employer.

(b) The City Treasurer shall, in his/her discretion, have the authority to extend the time of filing and returns required by this ordinance. Such extension shall be upon the written request of the licensee. Provided, however, that any balance unpaid when payment is due under the terms of this ordinance shall bear interest at the tax interest rate of six (6%) percent per annum until paid.

SECTION VII

Investigative Powers Of The City Treasurer

The City Treasurer or any agent or employee designated by him/her is hereby authorized to examine the books, papers and records of any employer or supposed employer or of any licensee or supposed licensee in order to determine the accuracy of any return was made to ascertain the amount of license fee due under the terms of this ordinance by such examination. Each such employer or supposed employer or licensee or supposed licensee, shall give to the City Treasurer or to his duly authorized agent or employee, the means, facilities, and opportunities for the making of such examination and investigation. The City Treasurer is hereby authorized to examine any person under oath concerning any gross receipts which were or should have been shown in a return and to this end he/she may compel the production of books, paper, records, and the attendance of all persons before him, whether as parties or as witnesses, whom he believes to have knowledge of such gross receipts or compensation, to the extent that any officer empowered to administer oaths in this Commonwealth is permitted to so order.

SECTION VIII

Regulations May Be Promulgated.

The City Treasurer acting under the direction of the City Council is hereby charged with the enforcement of the provisions of this ordinance, and, subject to the approval of the City Council, is hereby empowered to prescribe, adopt, promulgate and enforce regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this ordinance including but not limited to provisions for the re-examination and correction of returns as to which an overpayment or underpayment is claimed or found to have been made, and the regulations so promulgated shall be binding upon all licenses and employers.

SECTION IX

Information To Be confidential.

Any information gained by the City Treasurer or any other official or agent or employee of the City as a result of any returns, investigations, hearings or verifications required or authorized by this ordinance shall be confidential, except for official purposes and except in accordance with proper judicial order, or as otherwise provided by law, and any persons or agent divulging such information shall upon conviction, be subject to a fine of not less than \$50.00 nor more than \$500.00 or to

imprisonment of not exceeding 30 days, or to both such fine and imprisonment, at the discretion of the court or jury. Provided, however, the City Treasurer may disclose to the Commissioner of Revenue of the State of Kentucky or his duly authorized agent, all such information and right to inspect any of the books and record of the City Treasurer if said Commissioner of Revenue of the State of Kentucky or his duly authorized agent so requests, all such information and right to inspect any of the books and records of the City Treasurer if said Commissioner of Revenue of the State of Kentucky grants to the City Treasurer the reciprocal right to obtain information from the files and records of the Department of Revenue of the State of Kentucky and maintains the privileged character of the information so furnished to him. Provided, further, that the city may publish statistics based on such information in such a manner as not to reveal data respecting the gross receipts of any person.

SECTION X

§110.65 EXEMPTION FOR RELIGIOUS LEADERS.

(A) No occupational license shall be imposed on a minister of religion who has been ordained in accordance with the ceremonial ritual or discipline of a recognized church, religious sect, or religious organization, to teach and preach its public worship in the performance of one or more of those duties. However, it is not intended to exempt such ordained ministers of religion from the necessity of paying occupational license fees for work done or services performed in the city in activities not connected with his/her regular duties as a minister of religion.

(B) Nothing in division (A) of this section shall be construed to mean that employees of churches, religious congregations, or religious societies of all creeds (except duly ordained ministers) shall be relieved from the payment of occupational license fees in compliance with all regulations of the City of Highland Heights.

Section XI

Interest And Penalties.

(a) All license fees imposed by this ordinance which remain unpaid after they become due shall bear interest at the tax interest rate of six per cent per annum and any person who has failed to pay such license fees when the same became due shall also be charged a penalty of ten five (10%)(5%) per cent of the amount

of such unpaid license fees, if the delay is not more than one month, or fraction thereof, with an additional 5% for each additional month or fraction thereof, but not over a total of 25% of the amount of such unpaid license fees. Any person or employer who fails or refuses to withhold any license fee payable under this ordinance, or who fails to pay such fees, after withholding the same, to the City Treasurer at the time it is due as provided under the terms of Section 4 hereof, shall become liable to the city for such fees, as well as for the interest thereon at the tax interest rate of six per cent per annum and for the aforesaid penalty. provided, however, that the minimum penalty imposed against such person or employer shall be \$500. interest shall be charged at the daily interest rate on a per day basis for each day that said fees remain unpaid under Section 4.

(b) Any person or employer who shall fail, neglect or refuse to make any return required by this ordinance or any licensee who shall fail, neglect or refuse to secure or pay a license fee, or any employer who shall fail to withhold said license fees or to pay over to the city such license fees, penalties or interest imposed by this ordinance, or any employer who withholds any such interest imposed by this ordinance, or any employer who withholds any such fee of any employee who shall not pay same to the City Treasurer or any agent person or employer who shall refuse to permit the City Treasurer or any agent or employee designated by him, in writing, to examine his books, records and make any incomplete, false or fraudulent return, or who shall attempt to do anything whatsoever to avoid the full disclosure of the amount of gross receipts or compensation in order to avoid the payment of the whole, or any part of a license fee shall, upon conviction, be subject to a fine or penalty of not less than \$25.00 nor more than \$100.00, or imprisonment of not more than 30 days, or to both such fine or imprisonment, for each offense. Such criminal penalties shall be in addition to the penalties imposed under sub-section (a) of this section.

(c) Negligence Penalty. If any part of any underpayment of any tax imposed by this ordinance is due to negligence or intentional disregard of this subchapter (but without intent to defraud) there shall be added to the tax an amount equal to 25% of the tax.

(d) Fraud Penalty. If any part of any underpayments of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 50% of the tax.

SECTION XII
Use Of License Fees.

All money derived from license fees under the provisions of this ordinance shall be paid to the City Treasurer and placed to the credit of the General Revenue Fund of the City of Highland Heights and shall be used and expended in defraying the (a) current, general and incidental expenses of the City, and/or (b) Capital improvements.

SECTION XIII
Severability

The provisions of this ordinance are severable. If any provision, section, paragraph, sentence or part thereof, or the application thereof to any employer or license or class of persons shall be held unconstitutional or invalid, such decision shall not affect or impair the remainder of the ordinance, it being the legislative intent to ordain and enact each provision, section, paragraph, sentence and part thereof, separately and independently of each other.

SECTION XIV

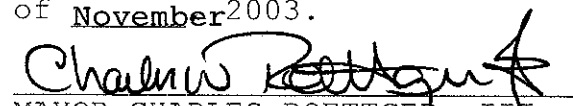
This Ordinance shall take effect and be in force on and after January 1, 2000.

SECTION XV

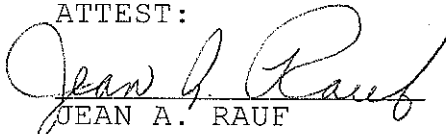
That this Ordinance shall be signed by the Mayor, attested by the City Clerk/Treasurer, recorded and published. Same shall be in effect at the earliest time provided by law.

First reading this 4th day of November, 2003.

Second reading this 18th day of November 2003.


MAYOR CHARLES ROETTGER, III

ATTEST:


JEAN A. RAUF
CITY CLERK/TREASURER

Ord03. 25

PUBLISH CCR: 12-11-2003