

OCCUPATIONAL AND BUSINESS LICENSE FEES (NET PROFITS)

ORDINANCE 2023-3-28

AN ORDINANCE SETTING OCCUPATIONAL AND BUSINESS LICENSE FEES (NET PROFITS)

NOW, THEREFORE IT BE ORDAINED by the City of Hanson, Kentucky, by and through its City Commission and Mayor, that occupational and business license fees (net profits) for businesses in the City Limits of Hanson, Kentucky shall be assessed and payable as follows:

CHAPTER 5.03: OCCUPATIONAL AND BUSINESS LICENSE FEES (NET PROFITS)

Section

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§ 5.03.01 DEFINITION'S.

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

BUSINESS. Any enterprise, activity, trade, occupation, profession, or undertaking of any nature conducted for gain or profit. **BUSINESS** shall not include the usual activities of board trade, chambers of commerce, trade associations, or unions, or other associations performing services usually performed by trade associations or unions. **BUSINESS** shall not include funds, foundations, corporations, or associations organized and operated for the exclusive and sole purpose of religious, charitable, scientific, literary, educational, civic, or fraternal purposes, where no part of the earnings, incomes, or receipts of the unit, group, or association inures to the benefit of any private shareholder or other person.

BUSINESS ENTITY. Each separate corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted,

CITY. The City of Hanson, Kentucky.

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 as follows:

(1) Include any amounts contributed by an employee to any retirement, profit sharing, or deferred compensation plan, which are deferred for federal income tax purposes under a salary reduction agreement or similar arrangement, including, but not limited to, salary reduction arrangements under §§ 401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal Revenue Code; and

(2) Include any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or other payment method which permits employees to elect to reduce federal taxable compensation under the Internal Revenue Code, including, but not limited to, §§ 125 and 132 of the Internal Revenue Code.

CONCLUSION OF THE FEDERAL AUDIT. The date that the adjustments made by the Internal Revenue Service to net income as reported on the business entity's federal income tax return become final and unappealable.

EMPLOYEE. Any person who renders services to another person or any business entity for compensation, including an officer of a corporation and any officer, employee, or elected official of the United States, a state, or any political subdivision of a state, or any agency of instrumentality of any one or more of the above. A person classified as an independent contractor under the Internal Revenue Code shall not be considered an **EMPLOYEE**, of the person, except that:

EMPLOYER. The person for whom an individual performs or performed any service, of whatever nature, as the employee

(1) If the person for whom the individual performs or performed the services does not have control of the payment of the wages for the services, the term **EMPLOYER** means the person having control of the payment of the wages; and

(2) In the case of a person 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

that person.

FINAL DETERMINATION OF THE FEDERAL AUDIT. The revenue agent's report or other documents reflecting the final and unappealable adjustments made by the Internal Revenue Service.

FISCAL YEAR. An accounting period of 12 months ending on the last day of any month other than December.

INTERNAL REVENUE CODE. The Internal Revenue Code in effect on 12-31-2022, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on 12-31-2022, that would otherwise terminate.

NET PROFIT. Gross income as defined in § 61 of the Internal Revenue Code minus all the deductions from gross income allowed by Chapter 1 of the Internal Revenue Code, and adjusted as follows:

(1) Include any amount claimed as a deduction for state tax or local tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, local taxing authority in a state, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision thereof;

(2) Include any amount claimed as a deduction that directly or indirectly is allocable to income which is either exempt from taxation or otherwise not taxed;

(3) Include any amount claimed as a net operating loss carryback or carryforward allowed under § 172 of the Internal Revenue Code;

(4) Include any amount of income and expenses passed through separately as required by the Internal Revenue Code to an owner of a business entity that is a pass-through entity for federal tax purposes; and

(5) Exclude any amount of income that is exempt from state taxation by the State Constitution, or the Constitution and statutory laws of the United States.

PERSON. Every natural person, whether a resident or nonresident of the city. Whenever **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.

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.

SALES REVENUE. Receipts from the sale, lease, or rental of goods, services, or property.

TAX DISTRICT. Any city, 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 or fees.

TAXABLE NET PROFIT,

(1) In case of a business entity having payroll or sales revenue only within the city, means **NET PROFIT** as defined in this section.

(2) In case of a business entity having payroll or sales revenue both within and without the city, means **NET PROFIT** as defined in this section, and as apportioned under § 5.03.04.

TAXABLE YEAR. The calendar year or fiscal year ending during the calendar year, upon the basis of which net income is computed.

(Ord. 2023-3-28, passed 3-28-2023)

§ 5.03.02 OCCUPATIONAL LICENSE APPLICATION REQUIRED.

Every person and business entity engaged in any business in the city shall be required to apply for and obtain an occupational license from the city before the commencement of business or in the event of a change of business status. Licensees are required to notify the city of any changes in address, the cessation of business, or any other changes which render the information supplied to the city in the license application inaccurate.

(Ord. 2023-3-28, passed 3-28-2023) Penalty, see §5.03.16

§ 5.03.03 OCCUPATIONAL LICENSE FEE PAYMENT REQUIRED,

(A) *Generally.* Except as provided in division (B) below, every person or business entity engaged in any business for profit and any person or business entity that is required to make a filing with the Internal Revenue Service or the State Revenue Cabinet shall be required to file and pay to the city an occupational license fee for the privilege of engaging in the activities within the city.

(1) The occupational license fee shall be measured by 1.5% of:

(1) All wages and compensation 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; and/or

(2) The net profits from business conducted in the city by a resident or nonresident business entity.

(2) Each person, association, corporation, or other business engaged in any occupation, trade, profession, or other business activity in the city shall pay a minimum license fee of \$50.00, payable in advance, to the city for each tax year. The minimum fee shall be a credit on the net profit license fee as otherwise provided in this chapter only for the tax year which the minimum fee covers and shall not be a credit for any subsequent year.

(3) It shall be unlawful for any person, association, corporation, or other business to engage in any occupation, trade, profession, or other activity in the city without first having applied for and paid the minimum license fee herein required. If the minimum license fee is not paid prior to engaging in any business activity, a penalty of \$20 per month, or fraction thereof, shall be imposed for the period during which any unlawful business or activity occurred.

(B) *Exceptions.* The occupational license fee imposed in this section shall not apply to the following persons or business entities;

(1) Any bank; trust company; combined bank and trust company; combined trust, banking, and title insurance company organized and doing business in this state; and any savings and loan association, whether state or federally chartered;

(2) Any compensation received by members of the State National Guard for active duty training, unit training assemblies, and annual field training;

(3) Any compensation received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections;

(4) Public service corporations that pay an ad valorem tax on property valued and assessed by the State Department of Revenue pursuant to the provisions of KRS 136.120. Licensees whose businesses are predominantly nonpublic service who are also engaged in public service activity are required to pay a license fee on their net profits derived from the nonpublic service activities apportioned to the city;

(5) Persons or business entities that have been issued a license under KRS Ch. 243 to engage in manufacturing or trafficking in alcoholic beverages. Persons engaged in the business of manufacturing or

trafficking in alcoholic beverages are required to file a return, but may exclude the portion of their gross receipts derived from the manufacturing or trafficking in alcoholic beverages;

(6) Life insurance companies incorporated under the laws of and doing business in the state;

(7) Any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 through 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual Investor;

(8) Any company providing multi-channel video programming services or communications services as defined in KRS 136.602. If only a portion of an entity's business is providing multi-channel video programming services or communications services, including products or services that are related to and provided in support of the multi-channel video programming services or communications services, this exclusion applies only to that portion of the business that provides multi-channel video programming services or communications services, including products or services that are related to and provided in support of the multi-channel video programming services or communications services; and/or

(9) Net income received from the leasing or rental of less than three residential rental units per year.

(C) *Minimum fees,*

(1) The Mayor and City Commission hereby find that the following occupations are of such a nature as to require special regulation and supervision, and, therefore, the following minimum license fees are imposed on every person engaged in the business, occupation, calling, or profession, or using, holding, or exhibiting articles named in this section who shall pay in advance to the city for each calendar year or fiscal year, or fraction thereof, in accordance with the yearly basis the licensee uses in making a return under the terms of this chapter, the license fee or fees herein set forth, which payment shall be a credit on the license fee as otherwise provided in this chapter; however, where minimum fees are set forth in the following table for periods less than one year, the same shall be considered the minimum fee due for the period as set forth in the table and shall be paid in advance of engaging in the activity.

(2) In the event that a licensee engages in more than one type of activity in one business entity, the highest minimum license fee shall apply. Under column head "Date Due" in the following table, the words **BEFORE SHOWING** mean that the license fee per showing is due prior to the date of each showing,

Subject Fee	Minimum Fee	Due Date
Event Venues (any place of business held open to general public for private gatherings)	\$100	Yearly
Entertainment exhibitions, ride concessions, carnivals, or circuses, regardless of sponsorship, per day	\$25	Before showing or operation
Fortune telling	\$500	Yearly
Parades, commercial (this shall not include Christmas parades and the like, charitable or patriotic demonstrators, or school)	\$100	Yearly
Pawnbrokers	\$100	Yearly
Auction Houses	\$100	Yearly

(D) *Transient-itinerant merchants or businesses.*

(1) *Definitions.* For the purpose of this division (D), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

TEMPORARILY. Not of a permanent nature or stay or involving regular or routine visits to the city.

TRANSIENT-ITINERANT MERCHANT OR BUSINESS. Includes any person, partnership, corporation, or other entity not specifically provided for in this chapter which passes through the city temporarily for the purpose of conducting a trade, occupation, or profession in general for gain or profit which involves buying, selling, or exchanging of goods or services.

(2) *Scope.*

(a) Those subject to this chapter includes, but are not limited to:

1. Photographers;
2. Appliance salespersons;
3. Household furnishings salespersons;
4. Magazine salespersons;
5. Novelties and confections salespersons;
6. Home improvements salespersons:
 - a. Storm windows;
 - b. Insulation;
 - c. Painters;
 - d. Roofers; and
 - e. Awnings.
7. Vendors of service or merchandise;
8. Hawkers; and
9. Solicitors.

(b) All of the above persons are included unless specifically employed by local wholesale or retail merchants.

(3) *Exception.* Any person, partnership, corporation, or other entity who regularly services, delivers, buys, or sells goods and services to retail, wholesale, or other permanent businesses in the city shall not constitute a transient-itinerant business, but rather shall be subject to the provisions and requirements of this chapter.

(4) *Permit required.* It shall be unlawful for any transient-itinerant business or representative thereof to engage in any activity in the city without the representatives thereof having first obtained a permit to do so as provided herein and having otherwise complied with the terms and provisions of this section.

(5) *Issuance of permit; duration and identification.*

(a) Each and every representative of a transient-itinerant business desiring to engage in business within the city shall first make an application in writing to the Finance Director through the finance office provided by the

city before the applicant shall be authorized to do business. The application shall state the name, permanent address, and telephone number of the business; entity type and federal identification number of the business; the name, address, telephone number, social security number, and other personal data of the business representative to be engaging in activity in the city; and the type or nature of the goods or services to be provided.

(b) The City Clerk, upon receipt of a completed application and payment of the license fee, shall issue a permit to the representative of the business. The permittee shall have his or her permit in his or her immediate possession at all times when engaging in business in the city, and shall display it upon demand to an official of the city,

(6) *Fees.* Those subject to this division (D) shall pay to the city a fee of \$100 prior to the issuance of a permit and prior to engaging in business in the city. The fee shall be payable in advance and valid for the remainder of the tax year (or fraction thereof), which tax year is to be for the period commencing on April 1, and ending on the last day of March of each year.

(Ord, 2023-3-28, passed 3-28-2023) Penalty, see 5.03.16

§ 5.03.04 APPORTIONMENT.

(A) Except as provided in division (D) below, net profits shall be apportioned as follows:

(1) For business entities with both payroll and sales revenue in more than one tax district, by multiplying the net profits by a fraction, the numerator of which is the payroll factor, described in division (B) below, plus the sales factor, described in division (C) below, and the denominator of which is two; and

(2) For business entities with sales revenue in more than one tax district, by multiplying the net profits by the sales factor as set forth in division-(C) below,

(B) 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 business entity for compensation, and the denominator of which is the total compensation paid or payable by the business entity everywhere during the tax period. Compensation is paid or payable in the city based on the time the individual's service is performed within the city.

(C) 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 sales, lease, or rental of tangible personal property is in the city if:

(a) 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 tax point or other conditions of the sale; or

(b) 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.

(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 the income-producing activity within the city and the denominator of which is the total time spent performing that income-producing activity.

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

(D) 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 city or the city 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.

(E) 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 fee 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 fee 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 division (E), the taxpayer shall maintain adequate records.

(F) All partnerships, S corporations, and all other entities where income is "passed through" to the owners are subject to this chapter. The occupational license fee imposed in this chapter is assessed against income before it is "passed through" these entities to the owners.

(G) If any business entity dissolves, ceases to operate, or withdraws from the city during any taxable year, or if any business entity in any manner surrenders or loses its charter during any taxable year, the dissolution, cessation of business, withdrawal, or loss or surrender of charter shall not defeat the filing of returns and the assessment and collection of any occupational license fee for the period of that taxable year during which the business entity had business activity in the city.

(H) If a business entity makes, or is required to make, a federal income tax return, the occupational license fee shall be computed for the purposes of this chapter on the basis of the same calendar or fiscal year required by the federal government, and shall employ the same methods of accounting required for federal income tax purposes.

(Ord. 2023-3-28, passed 3-28-2023)

§ 5.03.05 EMPLOYERS TO WITHHOLD.

(A) Every employer making payment of compensation to an employee shall deduct and withhold from the compensation an occupational license fee calculated under § 5.03.03. Amounts withheld shall be paid to the city in accordance with this section.

(B) Every employer required to deduct and withhold fees under this section shall, for the quarter ending after January 1 and for each quarter ending thereafter, on or before the end of the month following the close of each quarter, make a return and report to the city, and pay to the city the fees required to be withheld under this section, unless the employer is permitted or required to report within a reasonable time after some other period as determined by the city. Notwithstanding the foregoing, any taxpayer whose gross payroll exceeds \$150,000 per three-month quarter shall file returns on a monthly basis and shall pay to the city the tax liability due hereunder on a monthly basis for receipt on or before the fifteenth day of each month, rather than on a quarterly basis.

(C) Every employer who fails to withhold or pay to the city any sums required by this chapter to be withheld and paid 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 chapter. 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, 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 fees under this chapter 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 fee 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 employer shall furnish each employee a statement on or before January 31 of each year showing the amount of compensation and occupational license fee deducted by the employer from the compensation paid to the employee for payment to the city during the preceding calendar year.

(G) An employer shall be liable for the payment of the fees required to be deducted and withheld under this section.

(H) The president, vice president, secretary, treasurer, or any 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 fee required to be withheld from compensation paid or payable to one or more employees of the business entity, and neither the corporate dissolution nor 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 fee becomes or became obligated. No person shall be personally and individually liable under this division (H) unless the person had authority to collect, truthfully account for, or pay over the fee imposed by this chapter at the time that the fees imposed by this chapter become or became due.

(I) Notwithstanding divisions (G) and (H) above, every employee receiving compensation in the city subject to the fee imposed under § 5.03.03 shall be personally liable for any amount due. In all cases where the employer does not withhold the fee levied under this chapter from the employee, the employee or employees shall be responsible for filing with the city each quarter in the same manner as if they were the employer.

(Ord. [2023-3-28](#), passed 3-28-2023) Penalty, see

§5.03.16

§ 5.03.06 RETURNS REQUIRED.

(A) All business entity returns for the preceding taxable year shall be filed by April 15 of each year, except returns made on the basis of a fiscal year, which shall be filed 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) Every business entity shall submit a copy of its federal income tax return and all supporting statements and schedules at the time of filing its occupational license fee return with the city. Whenever, in the opinion of the city, it is necessary to examine the federal income tax return of any business entity in order to audit the return, the city may compel the business entity to produce for inspection a copy of any statements and schedules in support thereof that have not been previously filed. The city may also require copies of reports of adjustments made by the federal government.

(C) Every business entity subject to an occupational license fee governed by the provisions of this chapter 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 a business entity, by notice served to the

business entity, to make a return, render statements under oath, or keep records, as the city deems sufficient to determine the fees owed by the business entity pursuant to this chapter.

(D) The city may require, for the purpose of ascertaining the correctness of any return or for the purposes of making an estimate of the taxable income of any business entity, the attendance of a representative of the business entity or of any other person having knowledge in the premises.

(E) The full amount of the unpaid fees payable by any business entity, as appears from the face of the return, shall be paid to the city at the time prescribed for filing the occupational license fee return, determined without regard to any extension of time for filing the return.

(Ord. 2023-3-28, passed 3-28-2023)

Penalty, see §5.03.16

§ 5.03.07 EXTENSIONS.

(A) The city may grant any business entity an extension of not more than six months, unless a longer extension has been granted by the Internal Revenue Service or is agreed to by the city and the business entity, for filing its return, if the business entity, on or before the date prescribed for payment of the occupational license fee, requests the extension and pays the amount properly estimated as its fee.

(B) If the time for filing a return is extended, the business shall pay, as part of the fee, an amount equal to 12% per annum simple interest on the fee shown due on the return, but not been previously paid, from the time the fee was due until the return is actually filed and the fee paid to the city. A fraction of a month is counted as an entire month.

(Ord. 2023-3-28, passed 3-28-2023)

§ 5.03.08 PAYMENT OF ESTIMATED FEE QUARTERLY.

(A) Every business entity, other than a sole proprietorship, subject to this chapter shall make quarterly estimated fee payments on or before the fifteenth day of the fourth, sixth, ninth, and twelfth month of each taxable year if the fees due for the taxable year exceeds \$5,000.

(B) The quarterly estimated fee payments required under division (A) above shall be based on the lesser of:

- (1) Twenty-two and one-half percent of the current taxable year fee liability;
- (2) Twenty-five percent of the preceding full year taxable year fee liability; or

(3) Twenty-five percent of the average fee liability for the three preceding full taxable years' fee liabilities if the fee liability for any of the three preceding full taxable years exceeded \$20,000.

(C) (1) Any business entity that fails to submit the minimum quarterly payment required under division (B) above by the due date for the quarterly payment shall pay an amount equal to 12% per annum simple interest on the amount of the quarterly payment required under division (B) above from the earlier of:

(a) The due date for the quarterly payment until the time when the aggregate quarterly payments submitted for the taxable year equal the minimum aggregate payments due under division (B) above; or

(b) The due date of the annual return.

(2) A fraction of a month is counted as an entire month,

(D) The provisions of this section shall not apply to any business entity's first full or partial taxable year of doing business in the city or any first taxable year in which a business entity's fee liability exceeds \$5,000,

(E) At the election of the business entity, any installment of the estimated fees may be paid prior to the date prescribed for its payment,

(Ord. 2023-3-28, passed 3-28-2023)

§ 5.03.09 REFUNDS.

(A) Where there has been an overpayment of the fees due pursuant to this chapter, 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 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, whose employer has withheld and remitted to this city, the occupational license fee on the compensation attributable to activities performed outside the city, may file for a refund within two years of the date prescribed by law for the filing of a return. The employee shall provide a schedule and computation 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.

(C) Where there has been an overpayment of net profits fees upon business levied pursuant to this chapter, a refund or credit shall be made to any person or business entity to the extent of overpayment only upon a written application for refund or credit to the city within two years from the date that overpayment was made,

(D) In the case where the fee computed under the provisions of this chapter is less than the amount which has been declared and paid as estimated fee for the same taxable year, a refund or credit, if a credit is requested, shall be made upon the filing of a return.

(E) Overpayment resulting from the payment of estimated fee in excess of the amount determined to be due upon the filing of a return for the same taxable year may be credited against the amount of estimated fee determined to be due on any declaration filed for the next succeeding taxable year or for any deficiency or nonpayment of fees for any previous taxable year. No refund shall be made of any estimated fee paid unless a complete return is filed as required by this chapter.

(Ord. 2023-3-28, passed 3-28-2023)

§ 5.03.10 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 fee computed by the city is greater than the amount returned by the business entity, the additional fee shall be assessed and a notice of assessment mailed to the business entity by the city within five years from the date the return was filed, except as otherwise provided in this division (A).

(1) in the case of a failure to file a return or of a fraudulent return, the additional fees may be assessed at any time.

(2) In the case of a return where a business entity understates net profit, or omits an amount properly includable in net profits, or both, which understatement or omission, or both, is in excess of 25% of the amount of net profit stated in the return, the additional fees may be assessed at any time within six years after the return was filed.

(3) In the case of an assessment of additional fees relating directly to adjustments resulting from a final determination of a federal audit, the additional fee may be assessed before the expiration of the times provided in this division (A), or six months from the date the city receives the final determination of the federal audit from the business entity, whichever is later.

(4) The times provided in this division (A) may be extended by agreement between the business entity and the city. For the purposes of this division (A), 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 business entity shall submit a copy of the final determination of the federal audit within 30 days of the conclusion of the federal audit.

(C) The city may initiate a civil action for the collection of any additional fee within the times prescribed in division (A) above.

(Ord. 2023-3-28, passed 3-28-2023)

§ 5.03.11 ADMINISTRATIVE PROVISIONS.

(A) No suit shall be maintained in any court to restrain or delay the collection or payment of the fee levied by this chapter.

(B) (1) Any fee collected pursuant to the provisions of this chapter may be refunded or credited within two 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:

(a) In any case where the assessment period contained in §5.03.09 has been extended by an agreement between the business entity and the city, the limitation contained in this division (B) shall be extended accordingly; and

(b) If the claim for refund or credit relates directly to adjustments resulting from a federal audit, the business entity shall file a claim for refund or credit within the time provided for in this division (B) or six months from the conclusion of the federal audit, whichever is later.

(2) For the purposes of this division and division (A) above, 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 fees collected pursuant to this chapter is vested exclusively in the city.

(Ord. 2023-3-28, passed 3-28-2023)

§ 5.03.12 INFORMATION TO REMAIN CONFIDENTIAL

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

violation of a tax district tax laws or in any action challenging a tax district's tax laws.

(B) The city reserves the right to disclose to the State Commissioner of Revenue, or his or her duly authorized agent, all the information and rights to inspect any of the books and records of the city if the State Commissioner of Revenue grants to the city the reciprocal right to obtain information from the files and records of the State Department of Revenue and maintains the privileged character of the information so furnished. Provided, further, that the city may publish statistics based on the information in such a manner as not to reveal data respecting net profits or compensation of any person.

(C) In addition, the city is empowered to execute similar reciprocity agreements as described in division (B) above with any other taxing entity, should there be a need for exchange of information in order to effect diligent enforcement of this chapter.

(Ord. 2023-3-28, passed 3-28-2023)

§ 5.03.13 USE OF OCCUPATIONAL LICENSE FEE.

All money derived from the license fees under the provisions of this chapter shall be paid to the city and placed to the credit of the City General Fund.

(Ord. 2023-3-28, passed 3-28-2023)

§ 5.03.14 ENFORCEMENT.

(A) *Enforcement.* The City Clerk is hereby charged with the enforcement of the provisions of this chapter and he or she is hereby 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, 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 him or her shall be binding upon the licensee and the employers. Provided, however, all the rules, regulations and decisions shall be subject to the consent and approval of the City Administrative Officer.

(B) *Audit.* The City Clerk, or any agent or employee designated in writing by him or 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 made, or, if no return was made, to ascertain the amount of license fee imposed by the terms of this chapter. Each employer or supposed employer or licensee or supposed licensee is hereby directed and required to give to the City Clerk or his or her duly authorized agent or employee the means, facilities, and opportunity for the examination and investigation as are hereby authorized. Upon dispute, the City Clerk may enforce this right by application to the appropriate court having jurisdiction over these matters.

(Ord, 2023-3-28, passed 3-28-2023) Penalty, see §5.03.16

§ 5.03.15 INJUNCTIVE RELIEF.

In the event any person, firm, corporation, partnership, or other entity fails or refuses for any reason to pay when due any fee imposed or required by this chapter, the city may upon application to a court of competent jurisdiction, seek injunctive or other extraordinary relief to require the person, firm, corporation, partnership, or other entity to cease and desist from operating or conducting in any respect within the corporate limits of the city the business enterprise for which the fee is due, until the time as the fee, plus appropriate penalties and interest, have been paid in full. Should the city be required to pursue the extraordinary relief, the person, firm, corporation, partnership, or other entity liable for payment of the fee shall be liable for all court costs incurred by the city, including reasonable

attorney's fees.

(Ord. 2023-3-28, passed 3-28-2023)

§5.03.16 PENALTY.

(A) A business entity subject to a fee on gross receipts may be subject to a penalty equal to 5% of the fee due for each calendar month or fraction thereof if the business entity fails to file any return or report on or before the due date prescribed for filing or as extended by the city, or fails to pay the fee computed on the return or report on or before the due date prescribed for payment. The total penalty levied pursuant to this division (A) shall not exceed 25% of the total fees due; however, the penalty shall not be less than \$25.

(B) Every employer who fails to file a return or pay the fee on or before the time prescribed by this chapter may be subject to a penalty in amount equal to 5% of the fee due for each calendar month or fraction thereof. The total penalty levied pursuant to this division (B) shall not exceed 25% of the total fees due; however, the penalty shall not be less than \$25,

(C) In addition to the penalties prescribed in this section, any business entity or employer shall pay, as part of the fee, an amount equal to 12% per annum simple interest on the fees shown due, but not previously paid, from the time the fee was due until the fee is paid to the city. A fraction of a month is counted as an entire month,

(D) Every fee imposed by this chapter, and all increases, interest, and penalties thereon, shall become, from the time the fee is due and payable, a personal debt of the taxpayer to the city.

(E) The city may enforce the collection of the occupational fees due under this chapter and any fees, penalties, and interest as provided in divisions (A), (B), (C), and (D) above 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.

(F) In addition to the penalties prescribed in this section, any business entity or employer who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay fees owing or collected, with the intent to evade payment of the fee or amount collected, or any part thereof, shall be guilty of a Class A misdemeanor.

(G) 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 chapter 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.

(H) 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, or by the rules of the city or by written request for Information to the business entity by the city.

(I) Any person violating the provisions of §5.03.11 by intentionally inspecting confidential taxpayer information without authorization shall be fined not more than \$600 or imprisoned for not longer than six months, or both.

(J) Any person violating the provisions of §5.03.11 by divulging confidential taxpayer information shall be fined not more than \$1,000 or imprisoned for not more than one year, or both,

(Ord. 2023-3-28, passed 3-28-2023)

The foregoing ordinance was read to and presented to a special called meeting of the City Commission of Hanson, Kentucky, for first reading on the 21st day of March 2023 and the second reading on the 28th day of March 2023. Motion was made by Commissioner Williams and seconded by Commissioner Oakley that the ordinance be adopted as the law of the City of Hanson, Kentucky effective date of this ordinance shall be March 28, 2023, and upon publication thereof as required by law. Upon vote being taken as follows:

Mayor Jimmy Epley Yes


Commissioner Felicia Greer Yes

Commissioner Carlis Oakley Yes

Commissioner Emily Williams Yes

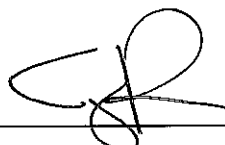
Commissioner Carroll Oakley Yes

DONE THIS 28TH DAY OF MARCH 2023



Mayor, Jimmy Epley

ATTEST:



City Clerk, Casey Pearson