

**ORDINANCE 2018-10**

**AN ORDINANCE TO PROVIDE FOR AN OCCUPATIONAL LICENSE FEE FOR PERSONS ENGAGED IN TRADES, OCCUPATIONS AND PROFESSIONS, AND THE METHOD OF REPORTING AND COLLECTING THE SAME**

**BE IT ORDAINED** by the Council of the City of Irondale, Alabama, as follows:

Sec. 1 - Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*City* means the City of Irondale, Alabama.

*City clerk and treasurer* means the city clerk and treasurer of the city.

*Employee* means and includes any person engaging in or following any trade, occupation or profession within the meaning of term "trade, occupation and profession" as defined in this section.

*Employer* means and includes any person, business firm, corporation, partnership, association or any other kind of organization who employs any person in any trade, occupation or profession in the city within the meaning of the term "trade, occupation and profession" as defined in this section.

*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 payment of any kind, or any other considerations 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 terms "gross receipts" and "compensation" do not mean or include amounts paid to traveling salesmen or other workers as allowance or reimbursement for traveling or other expenses incurred in the business of the employer, except to the extent of the excess of such amounts over such expenses actually incurred and accounted for by the employee to the employer.

*Licensee* means and includes any person required to file a return or to pay a license fee under this ordinance.

*Person* means any natural person. Whenever the term "person" is used in any clause prescribing and imposing a penalty in the nature of a fine or imprisonment, the work 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.

*Trade, occupation and profession* means and includes:

- (1) The doing of any kind of work, the rendering of any of professional services, or the holding of any kind of position or job within the city, by any clerk, laborer, tradesman, manager, official or other employee, including any nonresident of the city 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, 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 corporation, if such partner or officer receives a salary for his personal services rendered in the business of such firm or corporation, but they shall not mean or include domestic servants employed in private homes or businesses, professions or occupations for which license fees are required to be paid under any general license code of the city.

- (2) The holding of any kind of office or position, either by election or appointment, by any federal, state, county or city officer or employee where the services of such official or employee are rendered within the city.

Sec. 2 - License fees required.

It shall be unlawful for any person to engage in or follow any trade, occupation or profession, as defined in section 1, within the city on and after August 1, 2018, without paying license fees for the privilege or engaging in or following such trade, occupation or profession, which license fees shall be measured by one percent of the gross receipts of each such person.

Sec. 3 - Where work done or services performed both within and without the city.

In cases where compensation is earned as a result of work done or services performed both within and without the city, the license fees required under this ordinance shall be computed by determining upon the oath of the employer or if required by the city clerk and treasurer upon the oath of the employee, that percentage of the compensation earned from the proportion of the work which was done or performed within the city.

Sec. 4. - Employers to withhold license fees and file returns.

- (a) Each employer shall deduct from each payment due each employee the amount of this license fees measured by one percent of the compensation due each employee, beginning August 1, 2018.
- (b) The payments required to be made on account of each deduction by employers shall be made monthly to the city each year, on or before the 20th day of the month next following the end of each such monthly period, and each employer shall at the same time make a return in connection therewith on a form made available to such employer by the city clerk and treasurer at the office of the city clerk and treasurer; provided, however, that the failure or omission by any employer to deduct such license fees shall not relieve an employee from the payment of such license fees and compliance with the requirements for making returns as provided in this ordinance, or with any regulations promulgated under this ordinance.
- (c) Each employer shall file in the office of the city clerk and treasurer on or before January 31, 2019, a return on a form made available by said city clerk and treasurer, at the office of said city clerk and treasurer, which return shall show the gross amount of compensation of each employee, the amount of license fees deducted and paid by such employer for all or any part of the period from and including August 1, 2018, and the last known address of each such employee, and on or before January 31 of each year thereafter a return showing the gross amount of compensation of each employee and the amount of the license fees deducted and paid by the employer, during all or any part of the preceding calendar year.

- (d) Each employer shall keep accurate records of all such compensation, deductions, license fees, payments, and returns. Such records shall be kept and maintained by each such employer for not less than five years subsequent to the date such compensation was earned.

Sec. 5 - Returns to be filed by employees.

- (a) When a monthly return, as required by section 4, is not filed by an employer and the license fees are not paid to the city by such employer monthly as herein provided, the employee for whom no return has been filed and no payment has been made shall file a return with the city clerk and treasurer on or before the first day of the second month next following the end of each such monthly period, showing in said return his gross receipts subject to license fees for each month, and he shall also file a return with the city clerk and treasurer on or before January 31 of each year thereafter in which his employer has failed to file any monthly return required in the preceding calendar year, showing on said return the gross receipts subject to license fees during the preceding calendar year.
- (b) 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 each return required by this section on a form obtainable at the office of the city clerk and 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 clerk and treasurer. Each person making a return required by this section shall, at the time of filing thereof, pay to the city the amount of license fees due under this article; provided, however, that any portion of the license fees 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.
- (c) Each employee shall keep accurate records of all such compensation, deduction, license fees, payments and returns. Such records shall be kept and maintained by each such employee for not less than five years subsequent to the date such compensation was earned.

Sec. 6 - Duties of the city clerk and treasurer.

It shall be the duty of the city clerk and treasurer or the designee of the city clerk and treasurer (“designee”) to collect and receive all license fees imposed by this ordinance and to keep records showing the amounts received by him from each employer. All monies received by the city clerk and treasurer shall be deposited in a duly approved depository and credited to the general fund of the city. The city clerk and treasurer or designee shall prescribe printed forms for use by the persons subject to the provisions of this ordinance and shall make such forms available for use by such person.

Sec. 7 - Investigative powers of the city clerk and treasurer.

The city clerk and treasurer or any agent or employee designated by him is hereby authorized to examine the books, papers and records of any employer or supposed employer, or any licensees or supposed licensees in order to determine the accuracy of any return made, or if no return was made to ascertain the amount of license fees 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 clerk and treasurer or to his duly authorized agent or employee, the means, facilities and opportunity for the making of such examination and investigation. The city clerk and treasurer or designee 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 may compel the production of books, papers, 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.

Sec. 8 - Regulations may be promulgated.

The city clerk and treasurer or designee may prescribe, adopt, promulgate and enforce reasonable rules and regulations not in conflict with this ordinance 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 overpayment or underpayment is claimed or found to have been made, and the regulations so promulgated shall be binding upon all licensees and employers.

Sec. 9 - Information to be confidential.

Notwithstanding any ordinance to the contrary, any information gained by the city clerk and 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, or in accordance with proper judicial order, or the enforcement of this ordinance and any person or agent divulging such information, except as herein permitted, shall, upon conviction, be subject to a fine of not more than \$100.00 or to imprisonment of not exceeding 30 days, or to both such fine and imprisonment.

Sec. 10 - Interest and penalties.

- (a) All license fees imposed by this ordinance which are delinquent, that is, which remain unpaid after they become due, shall be subject to the provisions hereinafter set out and shall bear interest at the rate of 12 percent per annum, and any person who has failed to pay such license fees when the same became due shall be subject to the provisions hereinafter set out, and shall also be charged a penalty of ten percent of the amount of such unpaid license fees. Any person or employer who fails or refuses to withhold any license fees payable under this ordinance, or who fails to pay such fees after withholding the same to the city at the time it is due, as provided under the provisions of section 4, shall become liable to the city for such fees, as well as for the interest thereon at the rate of 12 percent per annum and for the aforesaid penalty; provided, however, that the minimum penalty imposed against such person or employer shall be \$3.00, provided the city clerk and treasurer or designee, if a good and sufficient reason is shown for the failure to pay the tax within the time required, and may waive or remit the penalty and interest, or a portion of either, upon payment of the tax due.
- (b) Any person or employee who shall fail, neglect or refuse to pay a license fee as by this ordinance required, 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 person required to file a return under the provisions of section 5, who shall fail, neglect or refuse to file such return, or any person or employer who shall refuse to permit the city clerk and treasurer or any agent or employee designated by him, in writing, to examine his books, records and papers for any purpose authorized by this ordinance, or who shall knowingly make any incomplete, false or fraudulent return, or who shall attempt to do anything whatever to avoid the full disclosure of the amount of gross receipts or compensation in order to avoid the payment of this whole or any part of a license fee, shall be guilty of a misdemeanor and upon conviction shall be punishable by a fine not to exceed the sum of \$100.00 for each offense and by imprisonment not to exceed six months, or both, at the discretion of the court trying the same and each day shall constitute a separate offense. Such punishment shall be in addition to the penalties imposed under subsection (a) of this section.

Sec. 11 - Extension of time for making return.

The city clerk and treasurer or designee, for good cause, may extend the time for making any return required under the provisions of this ordinance, but the time for filing any such return shall not be extended for a greater period than 30 days from the day such return is due to be made and shall not prevent penalty and interest from accruing during the period of such extension. Any person desiring a specific ruling should submit to the city clerk and treasurer or designee a written statement of pertinent facts involved and a concise statement of the point or points in question.

Sec. 12 - Use of license fees.

All money derive from license fees under the provisions of this ordinance shall be paid to the city and placed to the credit of the general fund of the city, and shall be used and expended as authorized by law.

ADOPTED AND APPROVED, this the \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Charles Moore, Mayor

**CERTIFICATION**

I, James D. Stewart Jr., City Clerk of the City of Irondale, Alabama, hereby certifies the above to be a true and correct copy of a resolution adopted by the City Council of the City of Irondale at its regular meeting held on May 15, 2018, as same appears in the minutes of record of said meeting.

ATTESTED BY:

\_\_\_\_\_  
James D. Stewart Jr., City Clerk