

HART COUNTY FISCAL COURT ORDINANCE



AN ORDINANCE RELATING TO THE LICENSE FEES UPON ALL PERSONS WHO ARE ENGAGED OR EMPLOYED IN ANY BUSINESS, TRADE, OCCUPATION OR PROFESSION WITHIN THE COUNTY OF HART, FOR HEALTH, EDUCATION, SAFETY, WELFARE AND CONVENIENCE OF THE INHIBITANTS OF HART COUNTY, KENTUCKY.

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BE IT ORDAINED BY THE FISCAL COURT OF THE COUNTY OF HART, THE COMMONWEALTH OF KENTUCKY AS FOLLOWS:

ARTICLE I

Every person engaged in a business or occupation in Hart County shall be licensed to do so and shall be assessed and shall pay a license fee equal to 0.9 per cent or .009 of the compensation or net profits therefrom.

ARTICLE II

DEFINITIONS.

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

1. Administrator: The employee of the Court designated by the County Judge/Executive to administer this ordinance with approval of the Fiscal Court.

2. Business: Any enterprise, activity, profession, trade or undertaking of any nature conducted for gain or profit, whether conducted by an individual, partnership, limited partnership, corporation, association or any other entity, but shall not include the usual activities of boards of trade, chambers of commerce, trade associations or unions (or other association performing the services usually performed by trade associations or unions); community chest funds or foundations; corporations or associations organized and operated exclusively for religious, charitable, scientific, literary, educational or civic purposes, for the prevention of cruelty to children or animals; or clubs or fraternal organizations operated exclusively for social, literary, education fraternal purposes, or other similar groups or individuals, where no part of the earnings of income or receipts of such groups inures to the benefit of any private shareholder, member or individual.

Business includes the leasing and rental of real or tangible property and a person shall be deemed to be engaged in the business of leasing real property if the person holds by fee, lease, sub-lease, license or otherwise any interest in real estate in Hart County used for residential rental, commercial or industrial purposes or for the extraction of minerals and derives gross receipts therefrom.

3. Compensation: All payments and things of value, excluding things of value which are not taxable as personal income by the state of Kentucky, received by an individual for services rendered to an employer, whether paid in full by the employer or not. This shall include wages, salaries, commissions, tips and other payments which occur as a direct result of the service rendered and shall be deemed to be that gross amount that an individual is responsible for paying Kentucky income tax on without any deductions.

4. Corporation: A corporation or joint stock association organized under the laws of the United States, the State of Kentucky, or any other state, territory or foreign country or dependency.

5. County: Hart County, Kentucky, including the cities of Munfordsville, Horse Cave and Bonnieville and any other community whether incorporated or not.

6. Court: The Hart County Fiscal Court.

7. Employee: Any individual who renders services to an employer for a financial consideration or its equivalent, under an expressed or implied contract, and which is under the control and direction of the latter.

8. Employer: Any person who employs one (1) or more individuals regardless of whether such employer is engaged in business as herein defined, or is excluded by the terms of such definition.

9. Employ: To engage the services of an individual and to pay compensation therefor.

10. Gross receipts: The total payments received for all goods sold and services rendered during a given time period.

11. Individual: A natural person acting in and for their own behalf.

12. Licensee: Any person required hereunder to file a return or to pay a license fee under this ordinance.

13. Net profit: The net income from the operation of a business after provision for all costs and expenses incurred in the conduct thereof and for the purpose of this ordinance shall be deemed to be the same as that gross amount that a person is responsible for paying Kentucky income tax on, without deduction of taxes based on income.

14. Occupation: The activity of an individual providing a service to another entity for which compensation is received.

15. Person: Any individual, governmental unit, partnership, limited partnership, corporation, association, or any other entity conducting a business or occupation in Hart County. Whenever the term "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, shall mean the members thereof, a limited partnership, the managing partners, an association or similar entity, the individuals responsible for making the offending decision and as applied to corporations, the officers and directors.

16. Sales: Net sales of merchandise or of services, or of both, computed by whatever method of accounting is authorized for state income tax purposes.

17. Sales within Hart County: Includes sales of merchandise delivered to a customer within Hart County or service performed within Hart County for customer.

18. Treasurer: Hart County Treasurer.

The singular shall include the plural, the plural shall include the singular, the masculine or feminine shall include both and the neuter genders wherever susceptible to such.

ARTICLE III

COMPUTATION OF FEE.

1. All individuals engaged in any Occupation within Hart County, when employed by an employer, shall pay a license fee measured by and equal to one 0.9 (0.9%) per cent or .009 of the compensation received for such service.

2. When compensation under (1) above is earned for services rendered partially in Hart County and partially outside of Hart County, then the license fee shall be computed by obtaining the percentage which the compensation for services rendered within Hart County bears to the total compensation.

3. All persons engaged in any Business within Hart County, shall pay a license fee measured by and equal to 0.9 (0.9%) per cent or .009 of the net profit realized from such Business.

4. When the net profits of a Business under (3) above is earned from activities conducted partially in Hart County and partially outside Hart County, then the license fee shall be computed by obtaining the percentage which the gross receipts received from sales within Hart County bears to the total gross receipts received from wherever earned.

5. The maximum amount to be collected from any business in one year shall be set at Two Thousand (\$2,000) Dollars. Any business, corporation or individual electing to pay this maximum amount shall do so by the fifteenth day of the fourth month following the close of each year. Those choosing this method shall not be required to provide any documentation to the Administrator.

ARTICLE IV

USE OF REVENUE

1. The total license fees collected under this ordinance shall be deposited into the General Fund of Hart County and shall be utilized to defray the general expense of county government including but not limited to the following categories:

- a) Law Enforcement
- b) Jails
- c) Economic Development
- d) Roads and Bridges
- e) Health Services
- f) Agriculture
- g) Senior Citizens
- h) Emergency Services

2. The Occupational License Tax Revenues shall be published on a quarterly basis in the Hart County News Herald.

3. Any excess revenue shall apply to servicing any existing debt. Should additional revenue remain, the Finance Commission (Article XII) may hold a public hearing to receive input on usage of these surplus dollars. The Finance Commission shall make a written recommendation to Hart County Fiscal Court on the usage of the surplus funds.

ARTICLE V

EXEMPT ACTIVITIES; CREDITS TO TAX.

1. Because of the undue burden of administration, no license fees under this ordinance shall be required of domestic workers employed in private homes or temporary or casual farm labor.
2. Exempt the first Seven Thousand Five Hundred (\$7,500) Dollars of business and farm net income.
3. Any other business or occupation which is exempted by Kentucky law.

ARTICLE VI

DUTY OF EMPLOYER TO WITHHOLD, REPORT AND PAY LICENSE FEES; RECORDS.

1. It shall be the duty of every person engaged in any trade, occupation or profession within Hart County who employees or engages the services of others in connection there with, to withhold from the compensation of such employee, the license fees herein provided, at the time such compensation is paid or credited; said person shall report and pay the same to the administrator on or before April 30, July 31, October 31 and January 31 of each year, for the license fees accrued during the preceding three months beginning May 1, 1994, except the first payment due July 31, 1994 will only include May and June 1994.
2. A person engaged in agricultural business (raising crops and livestock) who employs less than five (5) employees on a regular time basis (four hundred fifty hours per quarter), may file a return and pay the withholding tax at the end of the taxable year.

3. Each employer who employs one (1) or more individuals within Hart County shall, annually during the month of January of each year, make a return to the Administrator in which it sets forth the name and residence of each employee of such employer employed during the preceding calendar year, giving the amount of compensation earned during such preceding year by such employee together with such other pertinent information as the Administrator may require.

4. The failure or omission by any employer to withhold said license fee shall not relieve the employee from the payment of such license fee or compliance with such regulations with respect to making returns and payments thereof, as may be fixed in this ordinance or established by the Administrator. Upon notification of the employer by the administrator of the license fee which is due, the employer shall have 30 days to remit same to the administrator and shall be assessed a penalty of two (2%) per cent for each month or fraction thereof that the license fee remains unpaid and interest at a rate of ten (10%) per cent per annum so long as the license fee remains uncollected and shall be responsible for payment of the fee if it cannot be collected from the employee.

5. Any employer who fails to withhold the license fee from the wages of employees shall be assessed a penalty of two (2%) per cent per month or fraction thereof that the license fee remains unpaid and interest at a rate of ten (10%) per cent per annum so long as the license fee remains uncollected and shall be responsible for payment of the fee if it cannot be collected from the employee.

6. Any employer who withholds the license fee from the wages of an employee and fails to remit same to the administrator when due shall be assessed a penalty of two (2%) per cent per month or fraction thereof that the fee remains unpaid and interest at the rate of ten (10%) per cent per annum so long as the license fee remains unpaid.

ARTICLE VII

REGULATION, ADMINISTRATION, ENFORCEMENT AND COLLECTION OF LICENSE FEES.

1. It shall be the duty of the Administrator to collect all license fees and deliver such revenue to the Treasurer. The Administrator shall be bonded in an amount sufficient to cover revenues handled.

2. The Administrator shall have the power and it shall be his duty to make and publish such rules and regulations as are approved by the Court as may be necessary to administer this ordinance and to provide such printed forms as may be required to reporting, paying and receipting for all such license fees and for all other requirements in the proper and efficient administration of this ordinance.

3. The Administrator or any agent or employee designated in writing by him 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 ordinance. Each such employer or supposed employer or licensee or supposed licensee is hereby directed and required to give to the Administrator or his duly authorized agent or employee the means, facilities and opportunity for such examination and investigation as are hereby authorized.

4. The Administrator is hereby authorized to examine any person under oath concerning any wages, salaries, commissions or other compensation or net profits which were or should have been returned; and to this end he may compel the productions of books, papers, records and the attendance of all persons before him, whether as parties or witnesses, whom he believes to have knowledge of such wages, salaries, commissions, sales or other compensation, net profits or other activities affecting the license fee owed hereunder, to the extent that any officer empowered to administer oaths in this state is permitted to so order.

5. The Administrator shall be hired in accordance with Hart County Fiscal Court's Personnel and Administrative Code Procedures.

ARTICLE VIII

PAYMENT OF LICENSE FEE.

1. Each person subject to a license fee imposed by this ordinance shall pay such fees on a schedule which is coincidental with the schedule for paying Kentucky State Income Tax, including payments for estimated income tax.

2. On or before the Fifteenth day of the fourth month following the close of each year, each person subject to a license fee imposed by this ordinance shall make and file with the Administrator a return, in duplicate, on a form furnished by or obtainable from the Administrator, setting forth the aggregate amount of compensation or net profits earned during the preceding year, the license fee imposed by this ordinance and such other pertinent information as the Administrator may require; however, where the entire license fee due under this article has been withheld under the provisions hereof, the Administrator may waive the filing of such return by such licensee.

3. When the fiscal year of the person differs from the calendar year and the person filed a state income tax return for such other fiscal period, the license fee shall be measured by the net profits of the fiscal year.

4. When the return is made for a fiscal year, such return shall be made on or before the Fifteenth day of the fourth month following the end of such fiscal year.

5. The person making the return shall, at the time of the filing thereof, pay to the Court the amount of license fees shown as due thereon; however, where any portion of the license fee so due shall have been deducted at the source or previously paid, then credit for such amount shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of the filing of such return, as hereinabove provided. If excess license fees have been paid they shall be refunded to the person within ninety (90) days of the filing of the return unless the Administrator notifies the person in writing of the delay and the reason therefor.

6. It shall be the duty of each employer who has deducted the license fee from the compensation paid to any employee to furnish such license fee deducted and paid by such employer during the preceding calendar year, on or before the Fifteenth day of February of each year.

7. The Administrator shall have the authority to extend the filing of such return at his discretion. Such extension shall be upon the written request of the person; however, any balance unpaid when payment is due under the terms of this ordinance shall bear interest at the rate of ten (10%) per cent per annum until paid.

ARTICLE IX

MUTUAL ASSISTANCE AGREEMENTS.

1. The Administrator may, with the approval of the Court, enter into a mutual collection and administrative agreement with any governmental unit in Hart County which is assessing a similar Business and Occupation License Fee.

2. The Administrator may, with the approval of the Court, enter into a mutual exchange of information agreement with the Commonwealth of Kentucky or the United States of America or other governmental unit for the purpose of obtaining information about net profits or individual compensation in an effort to verify the correctness of returns filed with the Administrator or to identify persons who are filing improper returns, or are not filing returns when license fees are due the Court. The agent of any such agency must be sworn to confidentially no less stringent than required by this ordinance.

ARTICLE X

CONFIDENTIALITY.

1. Any information gained by the Administrator or any other official or agent or employee of the Court or any other individual as result of any returns, investigations, hearings or verifications required or authorized by this article shall be confidential, and shall not be disclosed except to a sworn employee of the Court or except in accordance with proper judicial order, or as otherwise provided by law.

2. Information may be disclosed to the duly authorized agent of any governmental agency with which the Court has a mutual exchange of information agreement. Such agent shall have the right to inspect any of the books and records of the Court relating to the payment or reporting of license fees.

3. Information relative to license fees collected may be disclosed if assembled in such a way as to not reveal information specific to any one person.

4. All employees of the Court with access to confidential information concerning the license fee shall be sworn to confidentially in open Court by an appropriate oath.

5. The number of employees with access to confidential information shall be kept to a minimum.

ARTICLE XI

INTEREST AND PENALTIES.

1. All license fees imposed by this ordinance remaining unpaid after they become due shall bear interest at the rate of the (10%) per cent per annum, and the person from whom such license fees are due shall further be charged a penalty of two (2%) per cent of the amount of the unpaid license fee for each month or fraction of a month such license fees remain unpaid.

2. Any person or employer who fails or refuses to withhold the license fee due under this ordinance, or who fails to pay such money, after withholding the same, to the Administrator at the time it is due as provided under the terms of Article VI shall become liable for the amount due to Hart County and the same shall bear interest at the rate of ten (10%) per cent per annum in addition to which a penalty of two (2%) per cent of such amount shall be added thereto for each month or fraction of a month said license fees remain unpaid.

ARTICLE XII

COMMENCEMENT DATE AND DURATION.

1. The license fees imposed by this Ordinance shall be effective beginning May 1, 1994, and shall remain in force and effect until June 30, 1995. However, if the Kentucky General Assembly votes to allow County government alternative forms of taxation, Hart Fiscal Court will consider repealing this tax in favor of a more equitable form of taxation.

2. There shall be a Finance Commission consisting of seven persons. There shall be one representative from each Magisterial District and two at-large members. This Commission shall be a part of the budget process and review revenues and expenditures and recommend a tax rate to the Fiscal Court. The members shall be appointed by the Hart County Judge/Executive. The first meeting of the Commission shall be held on or before March 1, 1995 and the Commission shall make a written report of its recommendation to the Fiscal Court by April 24, 1995.

ARTICLE XIII

CRIMINAL PENALTIES FOR VIOLATIONS.

1. It shall be unlawful for any person to engage in any Business or Occupation within Hart County without withholding, reporting and paying the license fees herein provided and required.

2. Any person who shall fail to make any return required by this Ordinance, or any employer who shall fail to withhold such license fees under the terms of this Ordinance, or to pay over to the Hart County Fiscal Court fees so withheld under the terms of this Ordinance, or any person who shall refuse to permit the Administrator or any agency or employee designated by him, in writing, to examine his books, records, papers, 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 earnings or profits in order to avoid the payment of the whole or any part of the license fee shall, upon conviction, be subject for each offense to a fine or penalty not to exceed Five Hundred (\$500) Dollars, and/or imprisonment for a period not to exceed one (1) year. Every year that a return is not filed, or falsely filed, will be deemed a separate offense. The defendant shall, upon conviction, pay all court costs for each offense.

3. Any person who shall engage in the occupations without first obtaining the required license therefor, or who shall fail to pay the required license fee when the same shall be due shall, upon conviction, be subject for each offense to a fine or penalty of not less than Ten (\$10) Dollars nor more than Five Hundred (\$500) Dollars and/or imprisonment for a period not to exceed twelve (12) months; and each day that any person continues to operate without the required license shall be deemed a separate offense.

4. Any employee of the Court who knowingly discloses to any other individual any information about the affairs of any person filing a return required by this ordinance or as a result of any investigation conducted under the authority granted by this Ordinance, or any other individual into whose possession such confidential information may come, who discloses such information, shall be subject, upon conviction, to a fine not to exceed One Thousand (\$1,000) Dollars or imprisonment not to exceed one (1) year or both. The defendant shall, upon conviction, pay all court costs for each offense.

ARTICLE XIV

SEVERABILITY.

Each section and each provision of each section of this ordinance are severable, and if any provision, section, paragraph, sentence or part hereof, or the application thereof to any person, licensee, class or group, be held 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 each provision, section, paragraph, sentence and part hereof, separately and independently of every other.

ARTICLE XV

REPEALING CLAUSE.

All Orders, Resolutions or Ordinances or any parts thereof in conflict with the Provisions of this Ordinance are hereby repealed.

ARTICLE XVI


PUBLICATION.

A summary of this Ordinance shall be published in full in the Hart County News/Herald, Munfordville, Kentucky.

This Ordinance shall become effective on its passing and approval:

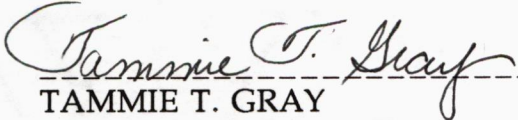
First reading given on the 15th day of March, 1994.

Second reading given and ordinance enacted on the 29th day of March, 1994.



VINCE LANG
Hart County Judge/Executive

ATTEST:



TAMMIE T. GRAY
Clerk, Hart Fiscal Court