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ORDINANCE NO. 2023-03

An Ordinance Adopting and Enacting a New Code of The Town of Bakerhill, State of Alabama; Establishing the Same; Providing for the Repeal of Certain Ordinances Not Included Therein, Except as Herein Expressly Provided; Providing for the Effective Date of Such Code and a Penalty for the Violation Thereof; and Providing for the Manner of Amending Such Code; and Providing When This Ordinance Shall Become Effective.

WHEREAS, on the 11th day of December, 2023, at a regular meeting of the City Council of the Town of Bakerhill, Alabama, the following resolution was adopted.

That the City Council of the Town of Bakerhill proposes to consider the adoption of a new revision and codification of its ordinances and the adoption of such Code by ordinance, as provided by Code of Alabama 1975, Sections 11-45-7 and 11-45-8 and to adopt by reference as a part of such Code

## OCCUPATION LICENSE FEES

### Definitions.

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

- (a) The word "person" shall mean any natural person 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 "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 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, 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

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firm or corporation. But they shall not mean or include domestic servants employed in private homes, ministers, priests, and other duly ordained ministers of a recognized religious sect, where their activities are carried on in the performance of their religious duties, or businesses, professions or occupations for which license fees are required to be paid under any other ordinance, or any person who is an employer within the meaning of this section.

- (c) The words "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 officer or employee where the services of such official or employee are rendered within the city.
- (d) The word "employee" shall mean and include any person engaging in or following any trade, occupation or profession within the meaning of subsection (b).
- (e) The word "employer" shall mean and include any person, business, firm, corporation, partnership, association, or any other kind of organization, who or that employs any person in any trade, occupation or profession in the city within the meaning of subsection (b).
- (f) The words "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 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 word "gross receipts" and "compensation" shall 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.
- (g) The word "licensee" shall mean and include any person required to file a return or to pay a license fee under this article.

**Payment of license fees required.**

It shall be unlawful for any person to engage in or follow any trade, occupation or profession as defined in section 14-26 within the city without paying license fees for the privilege of engaging in or following such trade, occupation or profession, which license fees shall be measured by two (2) centum of the gross receipts of each such person.

(Code 1964, § 15-19; Ord. No. 119-91, § 1, 7-30-91)

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State law reference(s)—Power to require license, Code of Ala., § 11-51-90.

**Pro rata fee where work done both within and without city.**

In cases where compensation is earned as a result of work done or services performed both within and without the city license fees required under this article shall be computed by determining upon the oath of the employer or if required by the city clerk 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.

(Code 1964, § 15-20)

**Employers to withhold license fees and file return.**

Each employer shall deduct from each payment due each employee the amount of the license fees measured by the compensation due each employee. In determining the amount to be deducted and withheld the compensation may, at the election of the employer, be computed to the nearest dollar. The payments required to be made on account of such deductions by employers shall be made quarterly to the city for the quarterly periods ending March 31, June 30, September 30 and December 31, 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. 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 article or with any regulations promulgated under this article.

If requested by the city clerk, an employer shall file in his office on or before January 31 of each year, a return on a form acceptable to him, which return shall show 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.

(Code 1964, § 15-21)

**Returns to be filed by employees.**

When a quarterly return in form and substance satisfactory to the city clerk is not filed by an employer and the license fees are not paid to the city by such employer quarterly 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 on or before the last day of the month next following the end of each such quarterly period showing in said return his gross receipts subject to license fees for the preceding quarter, and shall file a return with the city clerk on or before January 31 of each year thereafter showing on said return the gross receipts subject to license fees during the preceding calendar year. If for any reason all license fees of a person subject to the provisions of this article were not withheld by his employer from his gross receipts, such person

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shall file the return required by this section on a form obtainable at the city clerk's office. 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. 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.

(Code 1964, § 15-22)

**Interest and penalties.**

- (a) All license fees imposed by this article which remain unpaid after they become due shall bear interest at the rate of six (6) per centum per annum and any person who has failed to pay such license fees when the same become due shall also be charged a penalty of ten (10) 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 article or who fails to pay such fees, after withholding the same, to the city at the time it is due as provided under the terms of section 14-29 hereof, shall become liable to the city for such fees, as well as for the interest thereon at the rate of six (6) per centum per annum and for the aforesaid penalty. Provided, however, that the minimum penalty imposed against such person or employer shall be one dollar (\$1.00).
- (b) Any person or employee who shall fail, neglect or refuse to pay a license fee as by this article 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 article, or any person or employer who shall refuse to permit the city clerk, or any agent or employee designated by him, in writing, to examine his books, records and 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 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 more than one hundred dollars (\$100.00) or imprisonment of not more than thirty (30) days, or to both such fine or imprisonment, for each offense such criminal penalties shall be in addition to the penalties imposed under subsection (a) of this section.

(Code 1964, § 15-23)

**Use of license fees.**

All money derived from license fees under the provisions of this article 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 directed by the governing body of the city.

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(Code 1964, § 15-24)

**Duties of the city clerk.**

It shall be the duty of the city clerk to collect and receive all license fees imposed by this article and to keep records showing the amounts received by him for each employer.

(Code 1964, § 15-25)

**Investigative powers of the city clerk.**

The city clerk 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 of any licensee or 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 article by such examination. Each such employer or supposed employer or licensee or supposed licensee shall give to the city clerk or to his duly authorized agent or employee, the means, facilities, and opportunity for the making of such examination and investigation. The city clerk 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, to the extent that any officer empowered to administer oaths in this state is permitted to make investigation.

(Code 1964, § 15-26)

**Regulations may be promulgated.**

The governing body of the city may by resolution prescribe, adopt, promulgate and enforce regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this article, including but not limited to provisions for the re-examination and correction of returns as to which any overpayment or underpayment is claimed or found to have been made, and the regulations so promulgated shall be binding upon all licensees and employers.

(Code 1964, § 15-27)

**Information to be confidential.**

Notwithstanding any ordinances to the contrary, any information gained by the city clerk, 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 article, shall be confidential, except for official purposes, or in accordance with a proper judicial order, or the enforcement of this article, and any person or agent divulging such information shall, upon conviction, be subject to

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a fine of not more than one hundred dollars (\$100.00) or to imprisonment of not exceeding thirty (30) days, or to both such fine and imprisonment.

(Code 1964, § 15-27.1)

This ordinance shall become effective on the first day of March, 2024, and the first payment of taxes hereunder shall be due and payable on the twentieth day of April, 2024.

ORDAINED, ADOPTED and APPROVED this 11th day of December, 2023.

AUTHENTICATED:

APPROVED/VETO:

  
CITY CLERK

  
MAYOR