

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF RAINBOW CITY, ALABAMA:

Section 1. Definitions. That the following words, when used in this ordinance, shall have the meaning ascribed to them, except where the context clearly indicates or requires a different meaning:

(a) The word "person" shall mean 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 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 Town of Rainbow City, Alabama, by any clerk, laborer, tradesman, manager, official, or other employee, including any non-resident of the Town of Rainbow City, Alabama, 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 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, occupation and profession" 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 town officer or employee where the services of such official or employee are rendered within the Town of Rainbow City, Alabama.

(d) The word "employee" shall mean and include any person engaging in or following any trade, occupation or profession within the meaning of sub-section (b) of Section 1 of this ordinance.

(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 Town of Rainbow City, Alabama within the meaning of sub-section (b) of Section 1 of this ordinance.

(f) The word "gross receipts" and "compensation" shall have the same meaning and both words shall mean and include the total gross amount of all salaries, wages, commissions, bonuses, or other money 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 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 ordinance.

(h) The word "Town" shall mean the Town of Rainbow City, Alabama.

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

Section 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 Town on and after the 1st day of September, 1969, 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 per centum of the gross receipts of each such person.

Section 3. In cases where compensation is earned as a result of work done or services performed both within and without the Town, the license fees required under this ordinance shall be computed by determining upon the oath of the employer or if required by the Town 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 Town.

Section 4. Employers to withhold license fees and file returns. Each employer shall deduct from each payment due each employee the amount of the license fees measured by the compensation due each employee beginning on the first day of September, 1969. 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 Town for the quarterly periods ending March 31st, June 30th, September 30th and December 31st, of each year on or before the last day of the month next following the end of each such quarterly period, and each employer shall at the same time make a return on a form furnished by the Town. Provided, however, that the failure of 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.

If requested by the Town Clerk an employer shall file in his office on or before January 31, 1970, a return on a form acceptable to him, which return shall show the gross amount of compensation of each employee, the amount of the license fees deducted and paid by such employer, the amount for all or any part of the period from September 1, 1969 to December 31, 1969, and the last known address of each such employee, and on or before January 31st, in each year thereafter, a return showing the gross amount of 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.

Section 5. Returns to be filed by employees. When a quarterly return in form and substance satisfactory to the Town Clerk is not filed by an employer and the license fees are not paid to the Town 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 Town Clerk on or before the last day of the month next following the end of each such quarterly period, and showing in said return his gross receipts subject to license fees for the preceding quarter, and shall file a return with the Town Clerk on or before January 31st of each year thereafter

showing in 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 ordinance were not withheld by his employer from his gross receipts, such person shall file the return required by this section on a form obtainable at the Town 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 Town Clerk. Each person making a return required by this section shall, at the time of filing thereof, pay to the Town the amount of license fees due under this ordinance; 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.

Section 6. Duties of the Town Clerk. It shall be the duty of the Town Clerk 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 moneys received by the Town Clerk shall be turned over daily to the Town and a proper receipt obtained for same.

Section 7. Investigative powers of Town Clerk. The Town 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 supposed licensee 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 Town Clerk or to his duly authorized agent or employee, the means, facilities, and the opportunity for making of such examination and investigation. The Town 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.

Section 8. Regulations may be promulgated. The Town Council 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 ordinance, including but not limited to provisions for the re-examination and correction of returns as to which an overpayment or underpayment is claimed or found to have been made, and the regulations so promulgated shall be binding upon all licensees and employers.

Section 9. Information to be confidential. Notwithstanding any ordinances to the contrary, any information gained by the Town Clerk, or any other official or agent or employee of the Town 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 the proper judicial order, or the enforcement of this ordinance, and any person or agent divulging such information 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.

Section 10. Interest and penalties.

(a) All license fees imposed by this ordinance which remain unpaid after they become due shall bear interest at the rate of six

percentum per annum and any person who has failed to pay such license fees when the same became due shall also be charged a penalty of ten (10) per cent 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 Town at the time it is due as provided under the terms of Section 4, hereof, shall become liable to the Town for such fees, as well as for the interest thereon at the rate of six percentum per annum and for the aforesaid penalty. Provided, however, that the minimum penalty imposed against such person or employer shall be \$1.00.

(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 Town such license fees, penalties or interest imposed by this ordinance, or any person or employer who shall refuse to permit the Town 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 in 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 \$100.00 or imprisonment, of not more than thirty days, or to both such fine or imprisonment, for each offense. Such criminal penalties shall be in addition to the penalties imposed under sub-section (a) of this section.

Section 11. Use of license fees. All money derived from license fees under the provisions of this ordinance shall be paid to the Town and placed to the credit of the General Revenue Fund of the Town of Rainbow City, Alabama and shall be used and expended as directed by the Town Council of the Town of Rainbow City, Alabama.

Section 12. Severability. The provisions of this ordinance are severable. If any provision, section, paragraph, sentence or part thereof or the application thereof to any employer or licensee or class of persons shall be held unconstitutional or invalid, such decision shall not affect or impair the remainder of the ordinance, it being the legislative intent to ordain and enact each provision, section, paragraph, sentence and part thereof, separately and independently, of each other.

Section 13. Repeal of ordinance. All ordinances or parts of ordinances in conflict with this ordinance are to the extent of such conflict hereby repealed.

Section 14. Effective Date. This ordinance shall be in full force and effect on and after September 1, 1969, and from year to year thereafter until repealed.

THIS ORDINANCE PASSED AND ADOPTED this the 28th day of July, 1969.

W.R. Smith Mayor

ATTEST:
Ann L. Johnson City Clerk
Geoff B. Gantman Councilman
James T. Wheeler Councilman
H.D. Montgomery Councilman
J.A. [Signature] Councilman

SEAL