

ORDINANCE NO. 30-17

ORDINANCE RELATING TO BUSINESS AND OCCUPATION LICENSE FEES

SUMMARY: AN ORDINANCE AMENDING SECTION 21-33 *OCCUPATIONAL LICENSE TAX PAYMENT REQUIRED* OF ARTICLE III, *BUSINESS AND OCCUPATIONAL LICENSE FEES*, BY CHANGING THE RATE OF OCCUPATIONAL LICENSE TAX FOR COMPENSATION PAID OR PAYABLE FOR WORK DONE OR SERVICES PERFORMED OR RENDERED IN THE CITY BY AN EMPLOYEE FROM ONE PERCENT (1%) TO ONE AND TWENTY NINE HUNDREDTHS PERCENT (1.29%) AND AMENDING SECTION 21-48 *BEGINNING DATE* OF THIS ORDINANCE TO JULY 1, 2017

WHEREAS, Section 181 of the Kentucky Constitution authorizes the General Assembly to confer upon local jurisdictions the power to impose and collect license fees on franchises, trades, occupations and professions; and

WHEREAS, pursuant to KRS 92.281(1), the General Assembly has authorized cities of all classes to impose and collect all taxes provided for in Section 181 of the Kentucky Constitution; and

WHEREAS, acting pursuant to KRS 92.281(1), the City of Henderson has heretofore adopted an ordinance imposing occupational license taxes on the net profits of every business entity conducting business within the City and upon the compensation of any employee from services performed within the City; and

WHEREAS, Section 171 of the Kentucky Constitution requires that any tax imposed under Section 181 of the Kentucky Constitution be uniform within the class of those subject to the tax; and

WHEREAS, the City of Henderson Board of Commissioners have determined that, because business entities pay license taxes on their net profits whereas employees pay license taxes on their gross compensation, business entities and employees are not of the same class for purposes of Section 181 of the Kentucky Constitution; and

WHEREAS, the Board of Commissioners have determined that a reduction in real estate taxes is needed to bring the City real estate tax rate more in line with other cities of similar size, promote home ownership and encourage economic development in the City; and

WHEREAS, the City of Henderson needs an additional revenue based on the 2018 fiscal year budget; and

WHEREAS, the Board of Commissioners have determined that the net profits portion of the occupational license tax should not change in order to promote continued economic development in the City; and

WHEREAS, the occupational license tax on employee compensation is imposed on employees for the privilege of working within the City; and

WHEREAS, the Board of Commissioners have determined that it is necessary and appropriate to increase the rate of occupational license taxes on compensation paid to employees for work done or services performed within the City by such employees; and

WHEREAS, the Board of Commissioners have determined that it is necessary and appropriate to increase to one and twenty-nine e hundredths percent (1.29%) the rate of occupational license taxes on compensation paid to employees for work done or services performed within the City by such employees, and that such rate apply to compensation earned on or after July 1, 2017.

BE IT ORDAINED by the City of Henderson, Kentucky, that Section 21-33, *Occupational License Tax Payment Required* of Article III. *Business and Occupational License Fees*, of Chapter 21, *Taxation*, of the City's Code of Ordinances, is hereby amended as follows:

ARTICLE III. BUSINESS AND OCCUPATIONAL LICENSE FEES

Sec. 21-33 Occupational License Tax Payment Required.

- (A) Except as provided in Sec. 21-34, every person or business entity engaged in any business, trade, occupation, or profession and any person or business entity that makes a filing with the Internal Revenue Service or the Kentucky Revenue Cabinet shall be required to file and pay to the city an annual occupational license tax for the privilege of engaging in such activities within the city. The occupational license tax shall be measured by: ~~{one percent (1%)}~~ :
- (1) One and twenty nine hundredths percent (1.29%) of All 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
 - (2) One percent (1%) of ~~The~~ net profits from business conducted in the city by a resident or nonresident business entity, or \$25.00, whichever is greater.
- (B) 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 tax for the period of that taxable year during which the business entity had business activity in the city.

Sec. 21-48 Beginning Date:

The provisions of this Ordinance shall become in effect on January 1, 2006. The occupational license tax rate of all compensation paid or payable to employees in the city as detailed in Section 21-33(A)(1) will become effective July 1, 2017.

All ordinances or parts of ordinances in conflict herewith are hereby repealed and superseded to the extent of such conflict.