

CHAPTER 110: OCCUPATIONAL LICENSE TAX

Section

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§ 110.01 DEFINITIONS.

As used in this chapter, the following terms and their derivatives shall have the following meanings unless the context clearly indicates that a different meaning is intended.

"BUSINESS." Any enterprise, activity, trade, occupation, profession or undertaking of any nature conducted for gain or profit. "BUSINESS" shall not include the usual activities of boards of trade, chambers of commerce, trade associations, or unions, or other associations performing services usually performed by trade associations or unions. "BUSINESS" shall not include funds, foundations, corporations, or associations organized and operated for the exclusive and sole purpose of religious, charitable, scientific, literary, educational, civic or fraternal purposes, where no part of the earnings, incomes or receipts of such unit, group, or association, inures to the benefit of any private shareholder or other person.

"BUSINESS ENTITY." Each separate corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint-stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted.

"CITY." The City of Elkton, Kentucky.

"COMPENSATION." Wages, salaries, commissions, or any other form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted as follows:

(1) Include any amounts contributed by an employee to any retirement, profit sharing, or deferred compensation plan, which are deferred for federal income tax purposes under a salary reduction agreement or similar arrangement, including but not limited to, salary reduction arrangements under Sections 401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal Revenue Code; and

(2) Include any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or other payment method that permits employees to elect to reduce federal taxable compensation under the Internal Revenue Code, including but not limited to, Sections 125 and 132 of the Internal Revenue Code;

"CONCLUSION OF THE FEDERAL AUDIT." The date that the adjustments made by the Internal Revenue Service to net income, as reported on the business entity's federal income tax return, become final and unappealable.

"EMPLOYEE." Any person who renders services to another person or any business entity for compensation, including an officer of a corporation, and any officer, employee, or elected official of the United States, a state, or any political subdivision of a state, or any agency of instrumentality of any one or more of the above. A person classified as an independent contractor under the Internal Revenue Code shall not be considered an employee.

"EMPLOYER." The person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that:

(1) If the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term "EMPLOYER" means the person having control of the payment of such wages; and

(2) In the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term "EMPLOYER" means such person.

"FINAL DETERMINATION OF THE FEDERAL AUDIT." The revenue agent's report or other documents reflecting the final and unappealable adjustments made by the Internal Revenue Service.

"FISCAL YEAR." An accounting period of 12 months ending on the last day of any month other than December.

"GROSS RECEIPTS." All revenues or proceeds derived from the sale, lease, or rental of goods, services, or property by a business entity, reduced by the following:

- (1) Sales and excise taxes paid; and
- (2) Returns and allowances.

"INTERNAL REVENUE CODE." The "INTERNAL REVENUE CODE" in effect on December 31, 2007, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2007, that would otherwise terminate.

"NEW BUSINESS." The establishment of a business that has not previously had gross receipts so as to render it liable for an occupational license fee of the city. In the case a partnership, limited partnership, joint venture, association or other business comprised of individuals in a joint effort incurs a change in personnel, due to the addition or deletion of partners, limited partners, joint ventures or the like, the change in personnel shall not qualify that business as a new business insofar as this chapter is concerned.

"PERSON." Every natural person, whether a resident or nonresident of the city. Whenever the word "PERSON" is used in a 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.

"RETURN" or "REPORT." Any properly completed and, if required, signed form, statement, certification, declaration, or any other document permitted or required to be submitted or filed with the city.

"SALES REVENUE." Receipts from the sale, lease, or rental of goods, services, or property.

"TAX DISTRICT." Any city of the first to fifth class, county, urban county, charter county, consolidated local government, school district, special taxing district, or any other statutorily created entity with the authority to levy net profits, gross receipts, or occupational license taxes.

"TAXABLE GROSS RECEIPTS." In the case of a business entity having payroll or sales revenues, both within and without the city, "gross receipts" as defined in this section, and as apportioned under § 110.04.

"TAXABLE GROSS RECEIPTS." In the case of a business entity having payroll or sales revenues only within the city, "gross receipts" as defined in this section.

"TAXABLE YEAR." The calendar year or fiscal year ending

during the calendar year, upon the basis of which net income is computed.

(Ord. 2007-11, passed 12-10-07)

§ 110.02 OCCUPATIONAL LICENSE APPLICATION REQUIRED.

(A) Every person and business entity engaged in any business in the city shall be required to apply for and obtain a occupational license from the city, before the commencement of business or in the event of a change of business status.

(B) Licensees are required to notify the city of any changes in address, the cessation of business, or any other changes that render the information supplied to the city in the license application inaccurate.

(Ord. 2007-11, passed 12-10-07) Penalty, see § 110.99

§ 110.03 OCCUPATIONAL LICENSE TAX PAYMENT REQUIRED.

(A) Except as provided in division (D) of this section, every person or business entity engaged in any business for profit, 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.

(1) The occupational license tax shall be measured by 2.0% of all wages and 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.

(2) The occupational license tax shall be measured by 0.125% of the gross receipts from business conducted in the city by a resident or nonresident business entity.

(B) The minimum and maximum tax liability under this chapter shall be assessed as follows.

(1) For each employee, there is no maximum tax liability.

(2) For each business entity, there shall be a \$3,125 maximum liability, and a \$62.50 minimum liability for the portion of the occupational license tax that is measured by gross receipts, except that any business entity with gross receipts less than \$5,000 shall be exempt.

(C) The occupational license fee for any new business, as defined in § 110.01, that has never before procured an occupational license in the city may be prorated on a monthly basis, and any day of one month shall constitute an entire month for the purpose of proration, but in any event, the prorated

minimum may not be less than \$25.

(D) The occupational license tax imposed in this section shall not apply to the following persons or business entities:

(1) Any bank, trust company, combined bank and trust company, or trust, banking and title insurance company organized and doing business in this state, any savings and loan association, whether state or federally chartered;

(2) Any compensation received by members of the Kentucky National Guard for active duty training, unit training assemblies and annual field training;

(3) Any compensation received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections;

(4) Public service corporations that pay an ad valorem tax on property valued and assessed by the Kentucky Department of Revenue pursuant to the provisions of KRS 136.120. Licensees whose businesses are predominantly non-public service who are also engaged in public service activity are required to pay a license fee on their gross receipts derived from the non-public service activities apportioned to the city;

(5) Persons or business entities that have been issued a license under KRS Chapter 243 to engage in manufacturing or trafficking in alcoholic beverages. Persons engaged in the business of manufacturing or trafficking in alcoholic beverages are required to file a return, but may exclude the portion of their gross receipts derived from the manufacturing or trafficking in alcoholic beverages;

(6) Life insurance companies incorporating under the laws of and doing business in the Commonwealth of Kentucky. (Ord. 2007-11, passed 12-10-07; Am. Ord. 2009-11, passed 5-11-09) Penalty, see § 110.99

§ 110.04 APPORTIONMENT.

(A) Except as provided in division (D) of this section, gross receipts shall be apportioned as follows:

(1) For business entities with both payroll and sales revenue in more than one tax district, by multiplying the gross receipts by a fraction, the numerator of which is the payroll factor, described in division (B) of this section, plus the sales factor, described in division (C) of this section, and the denominator of which is two; and

(2) For business entities with sales revenue in more than one tax district, by multiplying the gross receipts by the

sales factor as set forth in division (C) of this section.

(B) The "PAYROLL FACTOR" is a fraction, the numerator of which is the total amount paid or payable in the city during the tax period by the business entity for compensation, and the denominator of which is the total compensation paid or payable by the business entity everywhere during the tax period. Compensation is paid or payable in the city, based on the time the individual's service is performed within the city.

(C) The "SALES FACTOR" is a fraction, the numerator of which is the total sales revenue of the business entity in the city during the tax period, and the denominator of which is the total sales revenue of the business entity everywhere during the tax period.

(1) The sale, lease, or rental of tangible personal property is in the city if:

(a) The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within the city, regardless of the f.o.b. point or other conditions of the sale; or

(b) The property is shipped from an office, store, warehouse, factory, or other place of storage in the city and the purchaser is the United States government.

(2) Sales revenues, other than revenues from the sale, lease or rental of tangible personal property or the lease or rental of real property, are apportioned to the city based upon a fraction, the numerator of which is the time spent in performing such income-producing activity within the city, and the denominator of which is the total time spent performing that income-producing activity.

(3) Sales revenue from the sale, lease, or rental of real property is allocated to the tax district where the property is located.

(D) If the apportionment provisions of this section do not fairly represent the extent of the business entity's activity in the city, the business entity may petition the city, or the city may require, in respect to all or any part of the business entity's business activity, if reasonable:

(1) Separate accounting;

(2) The exclusion of any one or more of the factors;

(3) The inclusion of one or more additional factors that will fairly represent the business entity's business activity in the city; or

(4) The employment of any other method to effectuate an equitable allocation and apportionment of gross receipts.

(E) When compensation is paid or payable for work done or services performed or rendered by an employee, both within and without the city, the license tax shall be measured by that part of the compensation paid or payable as a result of work done or service performed or rendered within the city.

(1) The license tax shall be computed by obtaining the percentage that the compensation for work performed or services rendered within the city bears to the total wages and compensation paid or payable.

(2) In order for the city to verify the accuracy of a taxpayer's reported percentages under this division, the taxpayer shall maintain adequate records.

(F) All partnerships, S corporations, and all other entities where income is "passed through" to the owners are subject to this chapter. The occupational license tax imposed in this chapter is assessed against income before it is "passed through" these entities to the owners.

(G) 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.

(H) If a person liable for fee hereunder during any year, or portion of a year, acquired the assets of, or merges or consolidates his or her business with, the business of any other person or persons, the person liable for the fee shall report the receipts for the year of the other person or persons, together with his or her own gross receipts during the year.

(I) If a business entity makes, or is required to make, a federal income tax return, the occupational license tax shall be computed for the purposes of this chapter on the basis of the same calendar or fiscal year required by the federal government, and shall employ the same methods of accounting required for federal income tax purposes.

(Ord. 2007-11, passed 12-10-07) Penalty, see § 110.99

§ 110.05 EMPLOYERS TO WITHHOLD.

(A) Every employer making payment of compensation to an

employee shall deduct and withhold from the compensation an occupational license tax calculated under § 110.03.

(B) Every employer required to deduct and withhold tax under this section shall, for the quarter ending after January 1, and for each quarter ending thereafter, on or before the end of the month following the close of each quarter, make a return and report to the city, and pay to the city the tax required to be withheld under this section, unless the employer is permitted or required to report within a reasonable time after some other period as determined by the city.

(C) Every employer who fails to withhold or pay to the city any sums required by this chapter to be withheld and paid shall be personally and individually liable to the city for any sum or sums withheld or required to be withheld in accordance with the provisions of this section.

(D) The city shall have a lien upon all the property of any employer who fails to withhold or pay over to the city sums required to be withheld under this section.

(1) If the employer withholds, but fails to pay the amounts withheld to the city, the lien shall commence as of the date the amounts withheld were required to be paid to the city.

(2) If the employer fails to withhold, the lien shall commence at the time the liability of the employer is assessed by the city.

(E) Every employer required to deduct and withhold tax under this section shall annually, on or before February 28 of each year, complete and file, on a form furnished or approved by the city, a reconciliation of the occupational license tax withheld where compensation is paid or payable to employees. Either copies of federal forms W-2 and W-3, transmittal of wage and tax statements, or a detailed employee listing with the required equivalent information, as determined by the city, shall be submitted.

(F) Every employer shall provide each employee with a statement, on or before January 31 of each year, showing the amount of compensation and occupational license tax deducted by the employer from the compensation paid to the employee, for payment to the city during the preceding calendar year.

(G) An employer shall be liable for the payment of the tax required to be deducted and withheld under this section.

(H) (1) The president, vice president, secretary, treasurer or any other person holding an equivalent corporate office of any business entity subject to this section shall be personally and individually liable, both jointly and severally,

for any tax required to be withheld from compensation paid or payable to one or more employees of the business entity, and neither the corporate dissolution or withdrawal of the business entity from the city, nor the cessation of holding any corporate office, shall discharge that liability; provided that the personal and individual liability shall apply to each and every person holding the corporate office at the time the tax becomes or became obligated.

(2) No person shall be personally and individually liable under this division unless such person had authority to collect, truthfully account for, or pay over the tax imposed by this chapter at the time that the taxes imposed by this chapter become or became due.

(I) (1) Notwithstanding divisions (G) and (H) of this section, every employee receiving compensation in the city subject to the tax imposed under § 110.03 shall be personally liable for any amount due.

(2) In all cases where the employer does not withhold the tax levied under this chapter from the employee, such employee or employees shall be responsible for filing with the city each quarter in the same manner as if they were the employer.

(Ord. 2007-11, passed 12-10-07) Penalty, see § 110.99

§ 110.06 RETURNS REQUIRED.

(A) All business entity returns for the preceding taxable year shall be made by April 15 of each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for returns shall be supplied by the city.

(B) Every business entity shall submit a copy of its federal income tax return, and all supporting statements and schedules, at the time of filing its occupational license tax return with the city.

(1) Whenever, in the opinion of the city, it is necessary to examine the federal income tax return of any business entity in order to audit the return, the city may compel the business entity to produce for inspection a copy of any statements and schedules in support thereof that have not been previously filed.

(2) The city may also require copies of reports of adjustments made by the federal government.

(C) (1) Every business entity subject to a occupational license tax governed by the provisions of this chapter shall

keep records, render under-oath statements, make returns, and comply with rules as the city from time to time may prescribe.

(2) Whenever the city deems it necessary, the city may require a business entity, by notice served to the business entity, to make a return, render statements under oath, or keep records, as the city deems sufficient to determine the tax liability of the business entity.

(D) For the purpose of ascertaining the correctness of any return, or for the purpose of estimating the taxable income of any business entity, the city may require the attendance of a representative of the business entity, or of any other person having knowledge in the premises.

(E) The full amount of the unpaid tax payable by any business entity, as appears from the face of the return, shall be paid to the city at the time prescribed for filing the occupational license tax return, determined without regard to any extension of time for filing the return.

(F) (1) Every business entity making payments of \$600 or more to persons other than employees for services performed within the city are responsible for maintaining the records of those payments, and for completing IRS Form 1099, on or before February 28 of the year following the close of the calendar year in which such compensation was paid.

(2) Persons or business entities not required to remit a Form 1099 remain liable to the city to remit equivalent information for any compensation made to persons or business entities that are not employees.

(Ord. 2007-11, passed 12-10-07) Penalty, see § 110.99

§ 110.07 EXTENSIONS.

(A) The city may grant any business entity an extension of not more than six months, unless a longer extension has been granted by the Internal Revenue Service, or is agreed to by the city and the business entity, for filing its return, if the business entity, on or before the date prescribed for payment of the occupational license tax, requests the extension and pays the amount properly estimated as its tax.

(B) If the time for filing a return is extended, the business shall pay, as part of the tax, an amount equal to 12% per annum simple interest on the tax shown due on the return, but which has not been previously paid, from the time the tax was due until the return is actually filed and the tax paid to the city. A fraction of a month is counted as an entire month.
(Ord. 2007-11, passed 12-10-07) Penalty, see § 110.99

§ 110.08 REFUNDS.

(A) Where there has been an overpayment of tax under § 110.05, a refund or credit shall be made to the employer to the extent of overpayment, only if a written application for refund or credit is received by the city from the employer within two years from the date the overpayment was made.

(B) (1) An employee who has compensation attributable to activities performed outside the city, based on time spent outside the city, whose employer has withheld and remitted to this city, the occupational license tax on the compensation attributable to activities performed outside the city, may file for a refund within two years of the date prescribed by law for the filing of a return.

(2) Prior to approval of the refund, the employee shall provide a schedule and computation sufficient to verify the refund claim, and the city may confirm with the employer the percentage of time spent outside the city and the amount of compensation attributable to activities performed outside the city.

(Ord. 2007-11, passed 12-10-07)

§ 110.09 FEDERAL AUDIT PROVISIONS.

(A) As soon as practicable after each return is received, the city may examine and audit the return. If the amount of tax computed by the city is greater than the amount returned by the business entity, the city shall assess the additional tax, and mail a notice of assessment to the business entity within five years from the date the return was filed, except as otherwise provided in this division.

(1) In the case of a failure to file a return or of a fraudulent return, the additional tax may be assessed at any time.

(2) In the case of a return where a business entity understates gross receipts, or omits an amount properly part of gross receipts, or both, which understatement or omission, or both, is in excess of 25% of the amount of gross receipts stated in the return, the additional tax may be assessed at any time within six years after the return was filed.

(3) In the case of an assessment of additional tax relating directly to adjustments resulting from a final determination of a federal audit, the additional tax may be assessed before the expiration of the times provided in this division, or six months from the date the city receives the final determination of the federal audit from the business entity, whichever is later.

(4) The times provided in this division may be extended by agreement between the business entity and the city.

(a) For the purposes of this division, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.

(b) Any extension granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

(B) Every business entity shall submit a copy of the final determination of the federal audit within 30 days of the conclusion of the federal audit.

(C) The city may initiate a civil action for the collection of any additional tax within the times prescribed in division (A) of this section.

(Ord. 2007-11, passed 12-10-07) Penalty, see § 110.99

§ 110.10 ADMINISTRATIVE PROVISIONS.

(A) No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this chapter.

(B) Any tax collected pursuant to the provisions of this chapter may be refunded or credited within two years of the date prescribed by law for the filing of a return, or the date the money was paid to the city, whichever is the later, except that:

(1) In any case where the assessment period contained in § 110.09 has been extended by an agreement between the business entity and the city, the limitation contained in this division shall be extended accordingly.

(2) If the claim for refund or credit relates directly to adjustments resulting from a federal audit, the business entity shall file a claim for refund or credit within the time provided for in this division, or six months from the conclusion of the federal audit, whichever is later.

For the purposes of this division and division (A) of this section, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.

(C) The authority to refund or credit overpayments of taxes collected pursuant to this chapter is vested exclusively in the city.

(Ord. 2007-11, passed 12-10-07)

§ 110.11 INFORMATION TO REMAIN CONFIDENTIAL.

(A) No present or former employee of any tax district shall intentionally and without authorization inspect or divulge any information acquired by him or her of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the tax district or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business.

(1) This prohibition does not extend to information required in prosecutions for making false reports or returns for taxation, or any other infraction of the tax laws, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or the taxpayer's properly authorized agent with information respecting his or her own return.

(2) Further, this prohibition does not preclude any employee of the tax district from testifying in any court, or from introducing as evidence returns or reports filed with the tax district, in an action for violation of a tax district tax laws or in any action challenging a tax district tax laws.

(B) The city reserves the right to disclose to the Commissioner of Revenue of the Commonwealth of Kentucky, or his or her duly authorized agent, all such information and rights to inspect any of the books and records of the city, if the Commissioner of Revenue of the Commonwealth of Kentucky grants to the city the reciprocal right to obtain information from the files and records of the Kentucky Revenue Cabinet, and maintains the privileged character of the information so furnished. Provided, further, that the city may publish statistics based on such information, in such a manner as not to reveal data respecting gross receipts or compensation of any person.

(C) In addition, the city is empowered to execute similar reciprocity agreements, as described in division (B) of this section, with any other taxing entity, should there be a need for exchange of information in order to effect diligent enforcement of this chapter.

(Ord. 2007-11, passed 12-10-07)

§ 110.12 USE OF OCCUPATIONAL LICENSE TAX.

All money derived from the license taxes under the provisions of this chapter shall be paid to the city and placed to the credit of the city's general revenue fund.

(Ord. 2007-11, passed 12-10-07)

§ 110.99 PENALTY AND ENFORCEMENT.

(A) (1) A business entity subject to tax on gross receipts may be subject to a penalty equal to 5% of the tax due for each calendar month, or fraction thereof, if the business entity:

(a) Fails to file any return or report on or before the due date prescribed for filing, or as extended by the city; or

(b) Fails to pay the tax computed on the return or report on or before the due date prescribed for payment.

(2) The total penalty levied pursuant to this division shall not:

(a) Exceed 25% of the total tax due; or

(b) Be less than \$25.

(B) Every employer who fails to file a return or pay the tax on or before the time prescribed under § 110.05 may be subject to a penalty in amount equal to 5% of the tax due for each calendar month or fraction thereof.

(1) The total penalty levied pursuant to this division shall not exceed 25% of the total tax due.

(2) However, the penalty shall not be less than \$25.

(C) In addition to the penalties prescribed in this section, any business entity or employer shall pay, as part of the tax, an amount equal to 12% per annum simple interest on the tax shown due, but not previously paid, from the time the tax was due until the tax is paid to the city. A fraction of a month is counted as an entire month.

(D) Every tax imposed by this chapter, and all increases, interest, and penalties thereon, shall become, from the time the tax is due and payable, a personal debt of the taxpayer to the city.

(E) (1) The city may enforce the collection of the occupational tax due under § 110.03, and any fees, penalties, and interest as provided in divisions (A), (B), (C), and (D) of this section, by civil action in a court of appropriate jurisdiction.

(2) To the extent authorized by law, the city shall be entitled to recover all court costs and reasonable attorney fees incurred by it in enforcing any provision of this chapter.

(F) In addition to the penalties prescribed in this section, any business entity or employer who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with the intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class A misdemeanor.

(G) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with, any matter arising under this chapter, of a return, affidavit, claim, or other document that is fraudulent or false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, shall be guilty of a Class A misdemeanor.

(H) For the purpose of this section, a "RETURN" shall mean and include any "RETURN," declaration, or form prescribed by, and required to be filed with, the city, under the provisions of this chapter, or by the rules of the city, or by the city's written request for information to the business entity.

(I) Any person violating the provisions of § 110.11 by intentionally inspecting confidential taxpayer information without authorization, shall be fined not more than \$500, or imprisoned for not longer than six months, or both fined and imprisoned.

(J) Any person violating the provisions of § 110.11 by divulging confidential taxpayer information shall be fined not more than \$1,000, or imprisoned for not more than one year, or both fined and imprisoned.

(K) Violations of the provisions of this chapter are hereby also declared to be civil offenses, and may be enforced by the Code Enforcement Board established in §§ 35.095 et seq.; or in the alternative, by the Todd District Court.

(1) The decision on where this chapter will be enforced shall be at the city's discretion.

(2) Any person violating the provisions of this chapter, if charged and enforced through the Code Enforcement Board, may be fined in accordance with § 35.107, Ordinance Fine Schedule, as set forth in the Code Enforcement Board Ordinance. (Ord. 2007-11, passed 12-10-07)