

AN ORDINANCE ESTABLISHING THE PROCEDURES FOR DELINQUENT DEBT COLLECTION AND APPEALS THROUGH MUNICIPAL INTERCEPT SERVICES, LLC, PURSUANT TO THE PROVISIONS OF SECTIONS 40-18-100 THROUGH 40-18-103, ALABAMA CODE 1975

WHEREAS, in accordance with the Debt Setoff Collection Act Amendment (Ala. Act #2014-321) codified at §40-18-100 through §40-18-103, Ala. Code 1975, municipalities in the State of Alabama are authorized to collect payment of outstanding and unpaid debts owed by individual taxpayers by setting off such debts against the individual's Alabama State income tax refund; and

WHEREAS, the City of Hanceville, Alabama desires to collect payment of outstanding and unpaid debts owed to the City by individual taxpayers by setting off such debts against the individual state income tax refunds of such taxpayers; and

WHEREAS, with the passage of this Ordinance, the City of Hanceville, Alabama hereby establishes procedures by which the City may collect unpaid debts by submitting such debts to Municipal Intercept Services, LLC ("MIS"), and an appeals procedure by which individual taxpayers may contest the setoff of a debt against their Alabama State income tax refund.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HANCEVILLE, ALABAMA, AS FOLLOWS:

Section 1. DEFINITIONS:

- (a). General Debt: Money owed by an individual taxpayer to the City, which has remained unpaid and delinquent for at least sixty (60) days after the debt is finalized by ordinance or resolution of the City Council.
- (b). Judgment Debt: Money owed by an individual taxpayer to the City, which has been finalized by an order of a court of law, including but not limited to fines, court costs, and other penalties, and which has remained unpaid and delinquent for at least sixty (60) days since entry of the order. No action of the City Council is required to finalize a Judgment Debt.
- (c). Municipality or City: The City of Hanceville, Alabama, and its police jurisdiction which shall include, without limitation, all corporations and other instrumentalities whose governing boards are comprised of a majority of members who are appointed or elected by the City of Hanceville.

Section 2. When an individual taxpayer owes the City a General Debt or a Judgment Debt of twenty-five dollars (\$25.00) or more, and such debt is past due and remains unpaid, the City of Hanceville may submit the debt to the Alabama Department of Revenue through Municipal Intercept Services, LLC ("MIS") for collection no sooner than sixty (60) days after the debt is finalized by law,

order, ordinance, or resolution.

Section 3. In addition to each debt there shall be levied, assessed and added thereto a fee of \$50.00 to off-set the costs and liabilities of the City for intercepting funds, collecting funds, initiating, operating, monitoring, maintaining, validating and verifying data.

Section 4. Prior to submitting General Debts to the Alabama Department of Revenue through MIS, the City Clerk shall present General Debts determined by the City Clerk to be owed to the City to the City Council for review. The City Council shall adjust or reduce the debt, declare the debt to be satisfied, or pass a resolution affirming and finalizing the debt. Any General Debt so finalized may be submitted to MIS for collection after the expiration of sixty (60) days from the date the General Debts are finalized by the City Council.

Section 5. Upon notification to MIS that the Alabama Department of Revenue has intercepted a tax refund, MIS, on behalf of the City, will send notification to the taxpayer of the taxpayer's rights to appeal the setoff within thirty (30) days of the date of the notice. The notice sent by MIS will also be addressed to a joint filer, if any, and provide notification, as required by law, of the appeal rights of any such joint filer. Failure of the taxpayer, or joint filer if applicable, to appeal and request a hearing within thirty (30) days after the mailing of the notice shall be deemed a waiver of the opportunity to appeal the setoff.

Section 6. Notwithstanding Section 4 of this Ordinance, for General Debts and Judgment Debts, the City shall, at the time of the transfer of funds to the City by MIS or the Alabama Department of Revenue, notify the taxpayer or taxpayers whose refund is sought to be set off by first class, certified or registered mail, properly addressed and postage prepaid, that the transfer has been made. Such notice shall clearly set forth the name of the debtor, the manner in which the debt arose, the amount of the claimed debt, the transfer of funds to the City pursuant to Alabama law and the intention to set off the refund against the debt, notice that any refund in excess of the claimed debt will be sent to the taxpayer, the taxpayer's opportunity to give written notice to contest the setoff within 30 days of the date of mailing of the notice, the name and mailing address of the City Clerk of the City of Hanceville to whom the application for a hearing must be sent, and the fact that the failure to apply for such a hearing, in writing, within the 30day period will be deemed a waiver of the opportunity to contest the setoff. In the case of a joint return or a joint refund, the notice shall also state the name of the taxpayer named in the return, if any, against whom no debt is claimed, the fact that a debt is not claimed against such taxpayer, the fact that such taxpayer is entitled to receive a refund if it is due him or her regardless of the debt asserted against his or her spouse, and that in order to obtain a refund due, such taxpayer must apply, in writing, for a hearing with the City within 30 days of the date of the mailing of the notice. If a taxpayer fails to apply in writing for such a hearing within 30 days of the mailing of such notice, the taxpayer will have waived the opportunity to contest the setoff.

Section 7. Upon receipt of funds transferred by MIS or the Alabama Department of Revenue pursuant to the setoff procedures under Alabama law, the City shall deposit and hold such funds in an escrow account until a final determination of the validity of the debt.

Section 8. All appeals from debt setoffs shall be heard by the Mayor of the City of Hanceville.

Section 9. Upon receipt of a timely written appeal from a taxpayer, the City Clerk shall set a date for the Mayor to hear the protest and give notice to the taxpayer by registered or certified mail of the date so set. The time and place of such hearing shall be designated in such notice and the date set shall not be less than 15 days from the date of such notice.

Section 10. At the appeal hearing, the taxpayer may present evidence to the Mayor. If, at the hearing, the Mayor determines that the sum asserted as due and owing is found not to be correct, an adjustment to the claim may be made. No issues shall be reconsidered at the hearing which have been previously litigated.

Section 11. Following the appeal hearing, the City shall give written notice to the taxpayer of the Mayor's final determination and shall inform the taxpayer of the taxpayer's right to appeal such final determination as provided in Section 12 of this Ordinance. The decision of the Mayor shall be final, and no further appeals may be taken other than as provided in Section 12 of this Ordinance. In issuing the final determination, the Mayor shall affirm, amend, or refund the setoff.

Section 12. If any taxpayer is dissatisfied with the final determination made at the hearing by the Mayor, the taxpayer may appeal the final determination to the Circuit Court of Cullman County by filing a notice of appeal with the City Clerk of the City of Hanceville and with the clerk or register of the Circuit Court of Cullman County within 30 days from the date the notice of final determination was given by the City.


Section 13. The Mayor of the City of Hanceville, Alabama, is hereby authorized to enter into a "Memorandum of Understanding and Agreement" with Municipal Intercept Services, LLC, ("MIS"), 535 Adams Avenue, Montgomery, Alabama 36104 (P.O. Box 1270, Montgomery, Alabama 36102).

Section 14. This ordinance shall not enforceable against any individual in the police jurisdiction until same has been noticed for 30 days and published according to law.

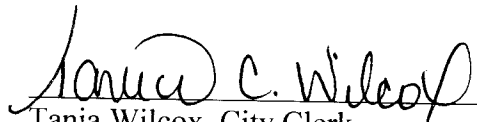
Section 15. Severability. If any provision of this Ordinance, including any exception, part, phrase, or term, or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and in this end the provisions of this Ordinance are declared severable.

Section 16. This ordinance shall take effect immediately upon its passage and publication, as provided by law.

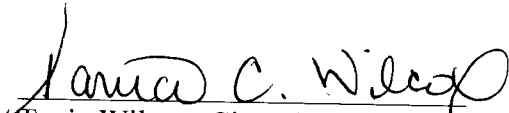
ADOPTED AND APPROVED this 21st day of December, 2017.


Kenneth Nail, Mayor

ATTEST:

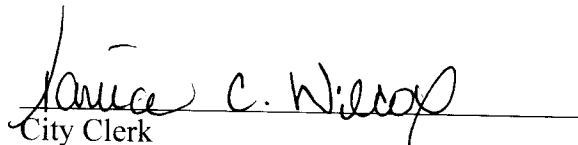

Tania Wilcox, City Clerk

APPROVED this 21st day of December, 2017.


Tania Wilcox, City Clerk

CERTIFICATION

I, Tania Wilcox, Clerk of the City of Hanceville, hereby certify that the above Ordinance was duly adopted by the City Council of the City of Hanceville at a regular meeting held on the 21st day of December, 2017, and that same has been published in accordance with law .


City Clerk

Certificate of Publication

I, Tania C. Wilcox, certify that this ordinance was posted in the following public places: Hanceville City Hall, Hanceville Public Library, Hanceville Post Office, and Hanceville Water Department on 3/9/2018.

