

ORDINANCE NO. 12-12

AN ORDINANCE OF MADISON COUNTY, KENTUCKY, AMENDING ORDINANCE NUMBER 04-21 IMPOSING PRESCRIBED BUSINESS PERMIT LICENSE FEES FOR EXERCISING CERTAIN PRIVILEGES AND ENGAGING IN CERTAIN OCCUPATIONS, TRADES, AND PROFESSIONS IN SAID COUNTY, REQUIRING SUCH FEES TO BE PAID FOR AND DURING EACH LICENSE YEAR FROM JULY 1ST TO THE NEXT SUCCEEDING JUNE 30TH; STATING THE PURPOSE FOR WHICH SAID LICENSES ARE IMPOSED; AND IMPOSING PENALTIES FOR VIOLATIONS OF THE PROVISIONS OF THE ORDINANCE.

WHEREAS, pursuant to Madison County Fiscal Court Ordinance #04-21, businesses located within the incorporated territory of the county of Madison are required to obtain a business license; and

WHEREAS, the administration and enforcement of that ordinance has been performed through the Madison County Finance Office; and

WHEREAS, it is hereby found that the administration and enforcement of said ordinance could be more efficiently performed by the office of Planning and Code Enforcement;

NOW THEREFORE, BE IT ORDAINED BY THE MADISON COUNTY FISCAL COURT, KENTUCKY:

I. BUSINESS PERMIT LICENSE: ON WHOM IMPOSED

On and after July 1, 2004, every person, association, corporation, or other entity engaged in any occupation, trade, profession or other activity in the County shall pay an annual business permit license fee to the Madison County Fiscal Court, Kentucky, be and they are hereby imposed upon and required of all persons, firms and corporations who shall exercise the privileges or engage in businesses, trades, occupations and professions in Madison County, for and during each license year from July 01st each year to June 30th of the following year, and which business permit license fees are as follows, to wit:

The annual business permit license fees shall be ten dollars (\$10.00), except as provided in Section II (a) and hereof due each year not later than June 30th.

II. EXEMPTED ACTIVITIES

(a) Because of the undue burden of administration, no business permit license under this Ordinance shall be required of agricultural business classified as farms under the

definitions as related to the Internal Revenue Service classification and those businesses that file a Schedule F for the purposes of reporting income taxes.

Provided that the above listed occupations may be exempt from business permit license fee, the Ordinance, however, does not exempt any business or business activity, including the above exemptions, from the necessity of pay occupational license fees and net profit fees as associated with Madison County Ordinance 87-3 enacted July 1, 1987.

III. DEFINITIONS

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

“Director of Planning and Code Enforcement”- The Director of Planning and Code Enforcement of the Madison County Fiscal Court, Kentucky.

“County”- Madison County Fiscal Court, Kentucky

“Business”-An enterprise, activity, profession or undertaking of any nature conducted for gain or profit, whether conducted by an individual, co-partnership, association, or any other entity, but shall not include the usual activities of boards of trade, chambers of commerce, trade associations or unions (or other association performing the services usually performed by trade associations or unions); Community Chest funds or foundations; corporation or associations organized and operated exclusively for religious, charitable, scientific, literary, educational or civic purposes, or for the preventions of cruelty of children or animals; or clubs or fraternal organizations operated exclusively for social, literary, educational, or fraternal purposes, where no part of the earnings or income or receipts or such units, groups, or associations insures to the benefit of any private shareholder or individual.

“Association” – A partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.

“Corporations”- A corporation of joint stock association organized under the laws of the United States, the State of Kentucky or any other state, territory, or foreign country or dependency.

“Employer”- An individual, co-partnership, association, corporation, governmental body or unit of administration or agency, or any other entity, who or that employs one or more

persons on a salary, wage, commission or other compensation basis, regardless of whether such employer is engaged in business as above defined, or is excluded by the terms of said definition.

“Sales”- Net sales of merchandise or of services, or of both, computed by whatever method of accounting is authorized for Federal income tax purposes.

“Sales within County”- Shall be deemed to include sales of merchandise delivered to a customer within the County or service performed within the County for a customer.

“Non-resident”- An individual, co-partnership, fiduciary, or association or other entity outside the County.

“Person”- Every natural person, co-partnership, fiduciary, association or corporation.

Whenever the term “person” is used in any clause prescribing and imposing a penalty in the nature of a fine or imprisonment, the word, as applied to association, shall mean the partners or members thereof and as applied to corporations, the officers and directors.

“Resident”- An individual, co-partnership, association, corporation, or other entity domiciled or having a business status in the County.

“Licensee”- any person required hereunder to file a return or to pay a business permit license fee under this Ordinance. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

IV. BUSINESS PERMIT LICENSE CONDITIONS

The issuance and acceptance of each and all licenses hereinabove provided for and required, and enjoyment of the privileges thereby granted, shall be subject to the following provisions and conditions, to wit:

1. The Works, “Person, Firms and/or Corporations” used in this Ordinance applies to individuals engaged and associated in the same occupation and conducting their business in the same manner as if one person was the sole owner and manager.
2. Before exercising any of the privileges or engaging in any business, trade, occupation or profession in Madison County, Kentucky during any license year, every person, firm or corporation desiring to do so shall first procure the County license and pay the fee thereon, as hereinabove provided. Provided, however that any person, firm or corporation in arrears for license fees and ad valorem taxes due and owing to said

County, shall be denied a license, and shall be denied the privilege of engaging further in any trade, occupation, business or profession in the County unless said arrearages have fully paid and satisfied, and any violator of this prohibition shall be subject to the penalties hereinafter provided.

3. No license shall be transferred under this Ordinance to any person, firm or corporation unless the transferee make written application to the Madison County Director of Planning and Code Enforcement, or his/her designee therefore and only after same has been approved. Provided that, no license permitting the sale of alcoholic beverage shall be transferred, either from person to person or place to place.
4. No refund will be granted on surrendered business permit license for any part of the year unless the business was discontinued under circumstances or by reason of causes over which the licensee has no control.
5. All licenses must be conspicuously and permanently displayed in the original place of business for which they are granted.
6. No partial payments for any kind of license will be permitted or accepted.
7. It shall be the duty of the County Office of Planning and Code Enforcement or his/her designee to inspect for proper licenses issued and proper display of same.
8. False information given to apply for the license shall result in the immediate revocation of license and subject to the penalties set forth in this Ordinance.
9. A business permit license shall not be issued without a zoning permit released from the County Office of Planning and Code Enforcement, stating that the property is properly zoned for such activity or has been duly authorized.

V. INITIAL LICENSE FEE

Every person conducting a business as defined in the Ordinance shall obtain a business permit license from the County Office of Planning and Code Enforcement before the commencement of such business, the fee for which shall be \$10.00, except as provided in Section II hereof. All persons conducting business transient in nature are required to obtain a business permit license from the County Office of Planning and Code Enforcement not less than seven days preceding the commencement of business, the fee for which shall be \$200.00 per showing, except for as provided in Section II hereof. Transient businesses include, but are not limited to the following:

- Circus, regardless of local sponsorship
- Carnival, regardless of local sponsorship
- Amusement, athletic contest, or entertainment not part of a duly licensed business or not held in a regularly licensed theatre or in a publicly owned or religious or educational building, and not sponsored by a bona fide civic, patriotic, religious or educational organization.
- Itinerant Merchants
- Peddlers

VI. RECORDS OF COLLECTION

It shall be the duty of the Director of Planning and Code Enforcement to collect and to receive the license fees imposed by this Ordinance and the Director of Planning and Code Enforcement shall keep records showing the amount received by him/her from each licensee and employer and the date of such receipt of such fees to the Director of Planning and Code Enforcement.

VII. ENFORCEMENT: REGULATIONS

The Director of Planning and Code Enforcement is hereby charged with the enforcement of the provisions of this Ordinance, and is hereby empowered to prescribe, adopt, and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this Ordinance.

The Director of Planning and Code Enforcement or any agent or employee designated in writing by him/her 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 amount of license fee imposed by the terms of this Ordinance.

VIII. PENALTIES

Any person or corporation who shall fail, neglect or refuse to obtain the business permit license required by this Ordinance, or who shall attempt to do anything whatever to avoid payment of the whole or any part of the license fee shall, upon conviction, be subject to a fine not to exceed \$500.00 or imprisonment for a year in jail or both.

Any person, business, or employee of a business who conducts a business or trade or engages in a profession or other activity after having had the initial license revoked and after being ordered closed who conducts the business, trade, profession or activity shall be guilty of a misdemeanor and upon conviction fined not more than \$500.00 and imprisoned for not more than one year in jail or both. Each day's violation of this prohibition is a separate offense. In addition to the above if the person or business reopens after the Director of Planning and Code Enforcement orders a license revoked, the Madison County Sheriff shall take whatever steps are necessary to physically close the premises.

In order to provide for the constitutional protections of any person who feels that the determinations of the Director of Planning and Code Enforcement are incorrect, there shall be an appeal process, in which any person can request the County Judge Executive to review all the data pertaining to that person's license. The County Judge Executive shall then have the responsibility of meeting jointly with the complainant and the Director of Planning and Code Enforcement in order to reach an amicable agreement.

IX. CONFIDENTIAL INFORMATION

Any information gained by the Director of Planning and Code Enforcement or any other official or agent or employee of the County as a result of any returns, investigations, hearings or verifications required or authorized by this Ordinance, shall be confidential, except for official purposes and except in accordance with proper judicial order, or as otherwise provided by law.

X. UNLAWFUL IMPOSITION OF LICENSE

It is not the intention of the county or of this Ordinance to impose and require a business permit license fee prohibited by law.

XI. PENALTY FOR FAILURE TO OBTAIN LICENSE

Any person, firm or corporation who shall engage in any occupation without first obtaining the required license therefore, or show shall fail to pay the required license fee when the same shall be due, shall be guilty of a misdemeanor, and upon conviction therefore, shall be fined not more than \$500.00 and imprisoned for up to a year in jail or both, and each day that any person, firm or corporation continues to operate without the required license shall be deemed a separate offense.

XII. SEVERABILITY

The provisions of this Ordinance are severable. If any sentence, clause or section or part of this Ordinance or the application thereof to any particular state of case is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or repeal any of the remaining provisions, sentences, clauses or sections or parts of this Ordinance, it being the legislative intent of this body to ordain and enact each provision, paragraph, sentence and part hereof separately and independently of each other.

XIII. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage, pursuant to applicable legal and procedural requirements.

XIV. AUTHORITY

This Local Ordinance is enacted pursuant to applicable authority granted by the Commonwealth and federal government.

That the County Clerk cause this Ordinance to be published in accordance with the appropriate Kentucky Revised Statues.

This Ordinance No. 12-12 shall become effective on the date of the second reading and adoption.

DATE OF FIRST READING: December 18, 2012

MOTION BY: Billy Ray Hughes

SECONDED BY: Roger Barger

VOTE:

	YES	NO
JUDGE KENT CLARK	✓	
MAGISTRATE LARRY COMBS	✓	
MAGISTRATE ROGER BARGER	✓	
MAGISTRATE GREG KING	✓	
MAGISTRATE BILLY RAY HUGHES	✓	

DATE OF SECOND READING: January 8, 2013

MOTION BY: Larry Combs

SECONDED BY: Billy Ray Hughes

VOTE: YES NO

JUDGE, KENT CLARK	✓	
MAGISTRATE LARRY COMBS	✓	
MAGISTRATE ROGER BARGER	present	
MAGISTRATE GREG KING	✓	
MAGISTRATE BILLY RAY HUGHES	✓	

[Signature]
MADISON COUNTY JUDGE EXECUTIVE

Attest:

[Signature]
MADISON COUNTY CLERK, KENNY BARGER