

McCreary County
Business Permit and Fee
Ordinance No. 215.1
AMENDMENT TO ORDINANCE NO. 215.0

AN ORDINANCE IMPOSING A PERMIT FEE UPON CERTAIN BUSINESSES, OCCUPATIONS, TRADES AND PROFESSIONS CONDUCTED OR HELD WITHIN THE LIMITS OF MCCREARY COUNTY, KENTUCKY, REQUIRING ALL PERSONS, FIRMS, OR CORPORATIONS PURSUING SAME TO FIRST OBTAIN A PERMIT THEREFORE AND REGULATING AND IMPOSING PENALTIES FOR ENGAGING IN ANY SUCH BUSINESS, OCCUPATION, TRADE, OR PROFESSION WITHOUT A PERMIT.

BE IT ORDAINED BY THE MCCREARY COUNTY FISCAL COURT IN AND FOR THE COUNTY OF MCCREARY COUNTY KENTUCKY:

SECTIONS:

1. Definitions
2. Business Permit Fee Established
3. Federal and State Licensing Required
4. Effective Date and Duration of Permit
5. Application Required
6. Additional Requirements for Professionals
7. Requirements and Penalties
8. Exemptions
9. Permit to be Displayed
10. Civil Action Notwithstanding
11. Collection Process
12. Enforcement and Examination of Records
13. Permit Non-Transferrable
14. Severability
15. Only Lawful Regulations Imposed
16. Adoption Provisions

SECTION 1: Definitions

As used in this Article, the following definitions shall apply:

APPLICANT: An applicant for a business tax license pursuant to this Article, including a renewal thereof.

BUSINESS: Trades, occupations, professions, and services of all and every kind of calling whether or not carried on for profit, including but not limited to retailing, wholesaling, manufacturing, service purveying, warehousing, personal and real property rentals and growing of plants and crops and animal husbandry for market.

COIN-OPERATED DEVICES ACTIVITY: The activity of managing, distributing, leasing or purveying coin-operated vending machines, amusement devices or facilities.

COMMERCIAL ADVERTISING: The business carried on at a fixed location or locations in the County of selling or taking orders for or offering to sell or take orders for or preparing or printing or otherwise producing advertising copy, billboards, placards, banners or other visual objects (excluding films, videotapes or other electronic production media) for promoting the sale of products or otherwise advertising.

COMMERCIAL ADVERTISING VEHICLE OPERATION: The business of operating a vehicle (of any kind nature, except devices moved by human power or used exclusively upon stationary rails or tracks) equipped with loudspeakers, musical devices, signs, placards, billboards, searchlights or other attention-getting devices for advertising purposes upon a public street, highway or other right-of-way.

CONTRACTOR: Any contractor or subcontractor the Business. For the purposes of this Article, any person engaged in activities similar to that of a contractor or subcontractor shall be deemed a contractor irrespective of whether said person is licensed as such by the State or other licensing agency.

COUNTY: Means the municipality of McCreary County, Kentucky.

ADMINISTRATOR: The Occupational Tax Administrator of the County or his or her designee.

EMPLOYEE: All persons engaged in the operation or conduct of any business whether as owner, any member of an owner's family, partner, agent, manager, solicitor and any and all other persons employed or working in or associated with said business whether or not any salary or other compensation or remuneration is paid for such work. Employee as used herein includes employees (as defined above) of subcontractors, licensees or other persons engaged in the business for which a license hereunder is issued unless such subcontractors, licensees or other persons are licensed hereunder for the businesses in which they are engaged or which they conduct. Employee shall not include persons employed on a seasonal or periodic basis for less than one month or on a part-time basis for two (2) months or less.

FIXED PLACE OF BUSINESS: The premises occupied in the County for the particular purpose of conducting a business thereat and regularly kept open for that purpose.

ITINERANT VENDOR: Any person, both principal and agent, engaged in a temporary and transient business in the County selling goods, wares and merchandise and who (for the purpose of carrying on such business) hires, leases or occupies any room, building or structure for the exhibition or sale of such goods, wares or merchandise or from which room, building or structure the sales shall be made or business solicited by means of samples or deliveries from house to house irrespective of whether such person associates temporarily with any local dealer, trader, merchant or auctioneer or conducts such temporary or transient business in connection with or as a part of or in the name of any local dealer, trader, merchant or auctioneer.

JUNK COLLECTOR: Any person engaged in the business of receiving, soliciting or otherwise obtaining used personal property for the purpose of selling, taking orders for or offering to sell parts or portions of said personal property after disassembly thereof.

MANUFACTURER: Any person engaged in the business of manufacturing, fabricating or processing any materials (raw or partly wrought) into goods, wares or merchandise or assembling or packaging any manufactured or processed material whether such manufactured or processed goods are sold or distributed to wholesalers, brokers or other channels for the purpose of resale.

NEWLY ESTABLISHED BUSINESS: A business in existence and operation for less than three (3) months.

NONRESIDENTIAL PROPERTY RENTAL: The business of renting or letting a building or structure of any kind or portions or areas thereof, including warehouses, ministorage facilities, industrial, commercial and office buildings of properties to a tenant or tenants for purposes other than residential dwelling, sleeping or lodging.

PEDDLER: Any person not having a regularly established place of business in the County who travels from place to place or has a stand upon any public street, alley or other public place, doorway of any building, unenclosed or vacant lot or parcel of land who sells or offers for sale any goods, wares or merchandise in his possession.

PERSON: Any individual person, corporation, partnership, association or other organizational form used for carrying on any business.

PROCESSOR: Any person engaged in the business of converting an article, substance or commodity into marketable form for the purpose of resale by changing its physical or chemical composition.

PROFESSION: Any profession, vocation or calling, the qualifications for which generally require an extended period or periods of specialized training and the issuance of an advanced educational degree or certificate and the performance of which requires licensing or certification or other official recognition. The term professional person as used in this Article shall include but is not limited to the following:

Architect.

Attorney at law.

Certified public accountant.

Chiropractor.

Dentist.

Geologist.

Medical practitioner.

Optician.

Optometrist.

Oral surgeon.

Osteopath.

Physician.

Podiatrist.

Professional engineer (including but not limited to civil, chemical, mechanical and electrical engineers).

Public accountant.

Surgeon.

Veterinarian.

RESIDENTIAL PROPERTY RENTAL: The business of managing, operating or renting any apartment house, duplex, hotel, motel, mobile home park, rooming or boardinghouse with two (2) or more residential units. For purposes hereof, the number of residential units aforesaid shall exclude that unit, if any, occupied by the applicant; provided, however, that the management, operation or rental of three (3) or less residential units shall not be deemed a residential property rental for purposes of this Article.

SOLICITOR: Any person engaged in the business of going from house to house, place to place or in or along the streets within the County selling or taking orders for or offering to sell or take orders for goods, wares, merchandise, advertising or any other thing of value for future delivery or for services to be performed in the future.

WHOLESALER: Any person engaged in the business of selling or soliciting the sale of goods, wares, merchandise or services for the purpose of resale and/or who sells in wholesale lots at wholesale prices.

SECTION 2: Business Permit Fee

This ordinance and fee stipulation shall not prevent any persons, firms, or corporations who shall exercise the privileges or engage in the businesses, trades, occupations, and professions in McCreary County from paying other fees, taxes, and licenses as required by local or state regulations.

The permit shall be active from July 1 to June 30 of each year and shall be required to be renewed annually by August 1.

The annual permit fee shall be paid to the McCreary County Fiscal Court, at the Occupational Tax Office in McCreary County, Kentucky. Fees and penalties will be used to administer and enforce the provisions of this ordinance and is hereby imposed upon and required of all persons, firms, and corporations who shall exercise the privileges or engage in businesses, trades, occupations, and professions within the county.

Fee Schedule:

Regular Business License: \$20

Temporary/Itinerant Business License: \$50

Non-Profit License** - Must file and show proof of State Tax ID - No Permit Fee

Yard Sales – No Permit Fee - Permitted on personal residence only unless at a registered commercial entity by **written permission** (yard sales occurring more than an average of 3 days per month shall purchase the regular business permit)

**Schools/Organizations/Churches hosting Fundraisers are exempt from obtaining a permit. This provision does not apply to these types of organizations if they are selling through store fronts, booths or special events. They will then need the non-profit permit.

SECTION 3: Federal and State Licensing Required

Before the Occupational Tax Administrator shall issue a permit to any person seeking to engage in the practice of any professions in McCreary County Kentucky requiring a certificate from government authorities of the State of Kentucky having jurisdiction or authority over that particular profession, shall require those applying for a permit to practice said profession, to present a proper certificate showing their right to practices said profession in the State. However, if any person so applying

for a permit to practice any of said professions, has in the past years obtained from the county of McCreary, a permit to practice said profession, then the Administrator is authorized to issue a new permit according to the provisions of this ordinance.

SECTION 4: Effective Date and Duration of Permit

Before engaging in any business, occupation, profession, or trade or pursuing or carrying on the same within the limits of McCreary County, Kentucky, all persons, firms, or corporations desiring to do so shall first obtain a permit to do so, and pay the fee mentioned in Section 1 of this ordinance, except as herein after mentioned. No permit shall be granted for a longer period than one year and all licenses shall expire on June 30th each year succeeding the date said license was issued. The amount fixed as a permit fee in Section 1 is the amount for the year except where a different time is expressed and no permit shall be granted for a shorter period than one year except where a rate is fixed for a shorter period or less than three months of the license year remains unexpired, a person, firm or corporation engaging in any business named after August 1 shall be pro-rated for the remaining period on the license for his particular business and shall not be granted at a less rate for such permit.

SECTION 5: Application Required

All permits may be obtained from the Occupational Tax Administrator after paying stated fee. All persons, firms or corporations wishing to apply for a permit must also complete the required Business Registration Permit Application; which shall be maintained on file on the Office of the Occupational Tax Administrator.

SECTION 6: Additional Requirements of Professionals

The permit fee herein provided for shall be required of each member of a firm where two or more persons are engaged in the practice of the learned profession. It shall also be required where an individual, firm or corporation may have separate locations for conducting business and each separate location shall require the permit fee. Clarification: Each separate business will require a separate business permit. If the Professional is paid by the business in a payroll situation, that professional will not be required to have an additional permit. If the professional pays rental or payment to the business owner for the opportunity or privilege to work in that business setting, the professional will need an additional, personal business permit. Every business owner that files taxes with the federal or state government for the business will be required to have a business permit.

SECTION 7: Requirements and Penalties

It shall be unlawful for any person, firm, corporation or association to engage in, pursue or carry on any business, trade, occupation or profession mentioned in the preceding sections of the ordinance without first obtaining a permit and paying the fee herein provided for.

Anyone failing to adhere to the provisions of this ordinance by obtaining a business permit by February 1 of each year, may be penalized \$5 per day.

Each day violation shall constitute a separate offense.

Every permit imposed by this ordinance, and all increases, interest and penalties thereon, shall become, from the time the permit is due and payable, a personal debt of the taxpayer to the county.

The county may enforce the collection of the Business Registration Permit due under Section 1 of this ordinance and any fees, penalties, and interest as provided of this section by civil action in a court of appropriate jurisdiction. To the extent authorized by law, the county shall be entitled to recover all court costs and reasonable attorney fees incurred by it in enforcing any provision of this ordinance. In addition to the penalties prescribed in this section, any business entity who willfully fails to obtain a permit with the intent to evade payment of the permit fee, shall be guilty of a Class A misdemeanor.

There shall be a \$50 fine for not having permit displayed conspicuously.

Citations shall be issued at direction of the County Administrator and law enforcement officials shall be compensated \$50 per offense to serve paperwork for the Administrator.

SECTION 8: Exemptions

Nothing contained in this Article shall be deemed or construed to require the payment of any business permit fee prescribed in this Article by any person transacting, engaging in or carrying on any business which is exempt from the payment of such taxes under the Constitution or statutes of the Commonwealth of Kentucky.

CHARITABLE ORGANIZATIONS:

Nothing contained in this Article shall be deemed or construed to require the payment of any of business license fee prescribed in this Article by any institution or organization which is conducted, managed or carried on wholly for the benefit of charitable purposes and from which profit is not derived either directly or indirectly by any person. Must have proof of state or federal tax identification.

CARE FACILITIES:

Nothing contained in this Article shall be deemed or construed to require the payment of any business license fee prescribed in this Article by any person engaged in or conducting the business of child care for five (5) or less and adult care for three (3) or less persons.

HOME OCCUPATIONS:

Nothing contained in this Article shall be deemed or construed to require the payment of any business license fee prescribed in this Article by any person who is engaged in a home occupation conducted at the residence of said person in the County, the gross receipts from the operation of which are less than six hundred dollars (\$600.00) per year.

PUBLIC UTILITY:

Nothing contained in this Article shall be deemed or construed to require the payment of any business license fee prescribed in this Article by any public utility possessing a franchise granted by the County pursuant to which franchise said public utility pays to the County an annual franchise fee or otherwise makes annual payments to the County for the privilege in said franchise specified.

RECREATION INSTRUCTORS:

Nothing contained in this Article shall be deemed or construed to require the payment of any business license fee prescribed in this Article by any person engaged in the business of recreation instruction or sports officiating (i.e. coaches, referees and umpires) for programs or activities conducted or sponsored by the County.

CLAIM FOR EXEMPTION:

Any person claiming an exemption pursuant to this Division shall file an affidavit or declaration under penalty of perjury with the Administrator stating facts upon which such exemption is claimed and attaching thereto documents in support of such claim.

EXEMPT LICENSE:

Upon a proper showing contained in said affidavit or declaration or attachments, the Administrator shall issue a license to the person claiming an exemption without payment to the County of the business license tax prescribed in this Article.

REVOCACTION:

The Administrator may revoke any license theretofore issued without payment of a business license tax upon information that said licensee is not entitled to an exemption or is no longer entitled to the exemption upon said license had been issued.

SECTION 9: Permit to be Displayed

It shall be unlawful for any person, firm, or corporation to operate a truck, bus, taxi, or other vehicles within McCreary County that comes within the provision of this ordinance without carrying the business license in a conspicuous place upon or within said truck, bus, taxi, or other vehicle. All business permits should be displayed conspicuously at your place of business and in such a manner as to be open to the view of the public and subject to inspection by all duly authorized officers of the County.

SECTION 10: Civil Action Notwithstanding

In addition to the penalties provided in this ordinance for a violation thereof, the fee may be collected from the persons, firms, corporations or association from whom the same is due by a civil action in any court of competent jurisdiction or in this Commonwealth, and such recovery shall in no way relieve said persons from the payment of a fine for engaging in any business, occupations, trade or profession herein mentioned without a permit to do so.

SECTION 11: Enforcement and Examination of Records

It shall be the duty of the McCreary County Sheriffs Department or an authorized representative of the McCreary Fiscal Court (ie-Occupational Tax Administrator) to inspect all places of business, all persons and entities engaged in business in McCreary County, Kentucky and to prosecute any person, entity, firm or corporation violating any section of this ordinance, and to see that all permits required under this ordinance are properly issued and displayed on the premises. Citations shall be issued at direction of the County Administrator and law enforcement officials shall be compensated \$50 per offense to serve paperwork for the Administrator.

SECTION 12: Permit Non-Transferrable

The examples listed under any section of this ordinance are not intended to be all inclusive but merely examples. The Occupational Tax Administrator has authority to delegate category placement of all businesses seeking a permit. Permits are non-transferrable when there is a change in ownership.

If the person, firm, corporation or association ceases operation, the owner must

return the permit to the Occupation Tax Administrator's office, so the name may be removed from the Tax Collector files.

SECTION 13: Severability

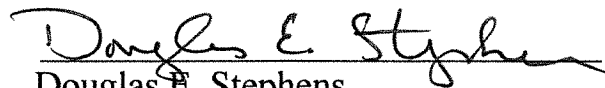
If any section or part thereof of this ordinance shall be held to be invalid or unconstitutional the same shall not be held to invalidate or impair the authority force or effect of any section or a part of section not to hold unless it clearly appears that such other section or part thereof are wholly or necessarily dependent upon the section or part thereof held invalid or unconstitutional.

SECTION 14: Only Lawful Regulations Imposed

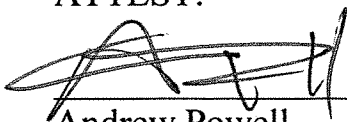
All ordinances in conflict herewith or contrary hereto are hereby repealed. No part of this ordinance shall be intended to replicate, invalidate or exempt a business from the requirements of the Occupational License Tax Requirements as set forth in Ordinance 210.2.

SECTION 15: Adoption Provisions

Introduced for first reading on a motion made by Jason Mann, seconded by Leroy Perry and passed by a majority vote of the McCreary County Fiscal Court in a duly assembled session on the 8th day of June, 2017 and finally adopted, after due advertisement, on a motion made by _____, seconded by _____ and passed by a majority vote of the McCreary County Fiscal Court in a duly assembled session on the _____ day of _____, 2017.


Douglas E. Stephens
McCreary County Judge/Executive

ATTEST:

 6-30-17
Andrew Powell
Court Clerk