

GRAVES COUNTY FISCAL COURT
GRAVES COUNTY KENTUCKY
ORDINANCE
BUSINESS OCCUPATIONAL LICENSE FEE
JULY 1, 2019

Ordinance No. _____

AN ORDINANCE RELATING TO THE IMPOSITION AND PAYMENT INTO THE TREASURY OF GRAVES COUNTY KENTUCKY OF A BUSINESS OCCUPATIONAL LICENSE FEE AND LICENSE FEES BASED ON SALARIES, WAGES, COMMISSION, AND OTHER COMPENSATION EARNED FOR WORK DONE OR SERVICES PERFORMED OR RENDERED IN GRAVES COUNTY OUTSIDE THE CITY LIMITS OF MAYFIELD, KENTUCKY, WITH SAID BUSINESS OCCUPATIONAL LICENSE FEE AND OTHER LICENSE FEES BEING USED FOR GENERAL EXPENSES OF THE COUNTY GOVERNMENT INCLUDING EXPENSES INCIDENT TO THE ACQUISITION BY THE COUNTY OF FACILITIES OF A CAPITAL NATURE.

BE IT ORDAINED BY THE FISCAL COURT OF COUNTY OF GRAVES,
COMMONWEALTH OF KENTUCKY:

SECTION 1:

This Ordinance shall become effective on July 1, 2019, and shall remain in full force and effect until repealed or modified in a lawful manner.

SECTION 2: DEFINITIONS:

As used in this ordinance, the following terms shall, except as otherwise provided herein, have the respective meanings ascribed to them:

ASSOCIATION: A partnership, limited partnership, joint venture, or any other form of unincorporated enterprise, owned or engaged in by two or more persons.

BUSINESS: Shall include the carrying on or exercise for gain or economic benefit, either direct or indirectly, of any business, trade, profession, occupation, vocation, calling or commercial activity whatsoever in the city. The term "business" shall not include the usual activities of boards of trade, chambers of commerce, trade associations or unions (or other associations performing the services usually performed by trade associations or unions), community chest funds or foundations; corporations organized and operated exclusively for religious, charitable, scientific, literary, educational or fraternal purposes, where no part of the earnings or income or receipts from such units, groups, or associations shall be from engaging in activities other than the activities in which such units, groups or associations usually engage; such other activities shall be included in the term " business" provided further, that activities conducted for gain or profit by any educational institution, hospital or any other institution mentioned in

this subparagraph are included in the term, "business:

COUNTY: The term "County" whenever used herein shall mean Graves County, Kentucky, outside the city limits of Mayfield, Kentucky.

CORPORATION: A corporation or joint stock association organized under the law of the United States, the State of Kentucky, or any other state, territory, or foreign country or dependency.

EMPLOYEE: Any person engaging in or following any trade, occupation, profession, or activity within the meaning of "OCCUPATION," "TRADE," OR "OTHER ACTIVITY."

EMPLOYER: Any individual, person, partnership, association, corporation, governmental body, unit, administration, or agency, or any other entity, who or that employs one or more persons on a salary, wage, commission, or other compensation basis.

FIDUCIARY: A fiduciary is a person who holds in trust, moneys, or properties, to which another has a beneficial title or interest, or who received and controls income for another person.

LICENSEE: Any person required to file a return or to pay a license fee under this ordinance.

NET PROFITS: The net income from the operation of a business or enterprise after provision for all costs and expenses incurred in the conduct thereof shall be the same as reported for federal income tax purposes excluding items exempted under this ordinance, but without deduction of taxes based on income.

OCCUPATION, TRADE, PROFESSION or OTHER ACTIVITY: The doing of any kind of work, the rendering of any kind of personal service, or the holding of any kind of position or job within the city, by any clerk, laborer, tradesman, manager, official, or other employee, including any nonresident of the city who is employed by an employer as defined in this ordinance, where the relationship between the individual performing the services and the person for whom such services are rendered is, as to those services the legal relationship of employer and employee, including also a partner of a firm or an officer of a firm or a corporation if such partner or officer receives a salary for his personal services rendered in the business of such firm or corporation, and shall also include and mean the holding of any kind of office or position, either by election or appointment by the federal, state, county or city government or any officer or employee thereof where the services of such official or employee are rendered within the city.

PAYROLLS: The total wages, salaries, and other personal services compensation.

PERSON: Any natural person, partnership, fiduciary, association, or corporation. Whenever the word "PERSON" is used in any 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 enterprises, shall mean the partners or members thereof, and as applied to a corporation, shall mean the officers and directors thereof.

SALARIES, WAGES, COMMISSION, AND OTHER COMPENSATIONS: The total gross amount of all salaries, wages, commission, bonuses, share of net partnership receipts or withdrawals,

corporate dividends paid in lieu of salaries or wages, and any and all other payments or other consideration which a person receives from, or is entitled to, for any work done or personal services rendered in any trade, occupation, or profession or any other activity, including all deductions whether for tax, insurance, or other. Amounts paid to traveling salesmen or other workers as allowance or reimbursement for travel or other expenses incurred in the business of the employer are excluded; but to the extent of the excess of such amounts over such expenses actually incurred and accounted for by the employee to his employer they are included in the foregoing definition.

TRANSIENT MERCHANT: Any person carrying on or exercising for gain or economic benefit, either directly or indirectly, any business, trade, profession, occupation, vocation, calling or commercial activity whatsoever in Graves County on an infrequent basis for periods not exceeding Fourteen (14) consecutive days.

SECTION 3:

That on or after July 1, 2019, every person, partnership, association, corporation, or any other legal entity engaged in any business, trade, occupation, or profession in the county shall pay to the Treasurer of Graves County, Kentucky a yearly business occupational license fee of \$10 and an annual license fee which shall be based on said activities performed and shall be measured by one percent (1%) of all salaries, wages, commissions, and other compensations earned by every person, partnership, association, corporation or other legal entity as stated above, resident and non-resident alike, for work done or services performed or services rendered in the County.

Where salaries, wages, commission, and other compensations are earned for work done or services performed or rendered, both within and without the County, said license fee shall be measured by such part of the salaries, wages, commissions and other compensations as is earned as a result of work done or services performed or rendered in the County. Such license fee shall be computed by obtaining the percentage which the compensation for work performed or services rendered within the County bears to the total compensation earned.

SECTION 4:

Each employer who employs one or more persons within the County shall deduct monthly or more than monthly, at the time of the payment thereof, the license fee due from each employee measured by the amount of salaries, wages, commission, or other compensation due by said employer to said employee and shall pay to the Graves County Treasurer the amount of the license fee so deducted. The payment required to be made on account of deductions by employers shall be quarterly to the County Treasurer for the quarterly periods ending September 30, December 31, March 31 and June 30 of each year, on or before the last day of the month next following the quarter of said deduction. Such quarterly return and payment shall set for the name and residence of each employee of said employer during the preceding calendar year giving the amount of salaries, wages, commissions, or other compensations earned during such preceding year by each such employee, together with such other pertinent information as the Treasurer may require, provided, however, that the failure or omission by any employer to deduct such license fee shall not relieve the employee from the payment of such license fee. All yearly business occupational license fees

of \$10 shall be paid by July 1 of each year.

SECTION 5:

Each person subject to a yearly business occupational license fee and subject to a license fee imposed by this Ordinance shall, on or before the 15th of the fourth month following the close of each year, make and file with the County Treasurer, a return setting forth the aggregate amount of salaries, wages, commission, and other compensations earned during the preceding year with other pertinent information as the Treasurer may require.

SECTION 6:

It shall be duty of the County Treasurer to collect and received the license fees imposed by this Ordinance, to keep records of the amount received from each employer and date of such receipts, and to deposit all monies so received into the County Treasury each month for taxes collected the previous month.

SECTION 7:

The County Treasurer is hereby charged with the enforcement of the provisions of this Ordinance and is hereby empowered to take all action which may be deemed necessary relating to the administration and enforcement of the provisions of this Ordinance including, but not limited to, the reexamination and correction of returns as to which an overpayment underpayment is claimed or found to have been made and the rulings made by the County Treasurer shall be binding upon the licensee and the employers.

SECTION 8:

All license fees imposed by this Ordinance remaining unpaid after they become due shall bear interest at the legal rate and the person from whom said license fees are due shall be charged a penalty of one percent (1%) of the amount of the unpaid license fee for each month or fraction of a month during which said license fees remain unpaid, not exceeding a penalty of 12% in the aggregate. Any person or employer who falls or refuses to withhold monthly, the license fee measured by one percent (1%) of salaries, wages, or other compensation as hereinbefore provided or who fails to pay said money, after withholding the same, to the County Treasurer, at the time it is due as provided under the terms of Section 4 of this Ordinance, shall become liable for the amount due to the County Treasurer and the same shall bear interest at the legal rate in addition to a penalty of one percent (1%) of the unpaid license fees for each months or fraction of a month said license fees remain unpaid, not exceeding a penalty of 12% in the aggregate.

SECTION 9:

A license certificate shall be issued to each person paying a license fee due under this ordinance for a licensee year, or remaining portion of a license year in the case of a new business. Such certificate

shall show the year for which issued, the name of the person to whom issued, and the address or location of the place of business being licensed. A license may be transferred from one person to another if kind of business is not materially changed and may be transferred to cover another location if a licensee moves the place of business. Each licensee shall display such license certificate in a conspicuous place in each licensed place of business.

SECTION 10:

The County Treasurer or any agent or employee designated in writing by the Treasurer are hereby authorized to examine the books, papers, and records of any employer or supposed employer or any licensee or supposed licensee in order to determine the accuracy of any return made, or if no return was made, to ascertain the amount of license fee imposed by the terms of this Ordinance. Each such employer or supposed employer or licensee or supposed licensee is hereby directed and required to give the Treasurer, his duly authorized agent or employee, the means, facilities, and opportunity for such examination and investigation as are hereby authorized. The Treasurer is hereby authorized to examine any person under oath concerning wages, salaries, commissions, or other compensation which were or should have been returned and to this end they may compel the production of books, papers, records, and the attendance of all persons before them, whether as parties or witnesses, whom they believe to have knowledge of such wages, salaries, commissions, or other compensation to the extent that any officers empowered to administer oaths in this Commonwealth is permitted to so order.

SECTION 11:

Any information gained by the Treasurer or any other official or agent or employee of the County as a result of any returns, investigations, and hearing or verifications required or authorized by this Ordinance shall be confidential except for official purposes and except in accordance with the proper judicial order as otherwise provided by law. However, the Treasurer may disclose to the Secretary of the Revenue Cabinet of the Commonwealth of Kentucky or his duly authorized agent all such information and may permit him or his agent to inspect any of the books and records of the Treasurer if said Secretary of the Revenue Cabinet of the Commonwealth of Kentucky grants the Treasurer the reciprocal right to obtain information from the files and records of the Revenue Cabinet of the Commonwealth of Kentucky and maintains the privilege and character of the information so furnished him.

SECTION 12:

Persons for whom withholding need not be made by the employer are domestic servants, household employees, ordained ministers, farmers, and farm employees.

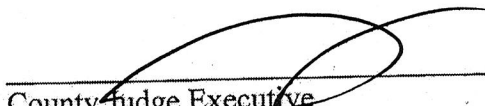
SECTION 13:

The provisions of this Ordinance are severable. If any sentence, clause, section or part of this Ordinance 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 intent of the Fiscal Court to adopt such provision, section, paragraph, sentence, and part thereof separately and independently of each other.

SECTION 14:

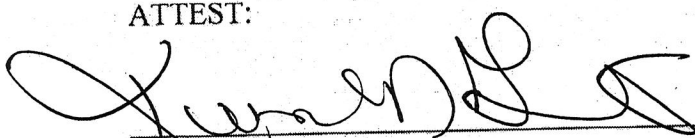
Any person, partnership, association, corporation, or other legal entity engaged in a business, trade, occupation, or profession who violates any of the provisions of this Ordinance by failing to pay any license fee when due, or failing to withhold and pay any license fee when due, or failing to file any report or submit any examination required by this Ordinance, or in any other manner fails or refuses to comply with any of the terms or provisions of this Ordinance, shall be guilty of a Class A misdemeanor and upon conviction shall be fined not more than \$500 or incarcerated in the county jail for more than twelve (12) months or both. Such penalties shall be in addition to other penalties imposed by this Ordinance. Each failure or refusal to comply with any of the provisions of this Ordinance shall constitute a separate offense and each day that such failure or refusal continues without compliance shall constitute a separate offense.

ADOPTED this 24 day of June, 2019.



County Judge Executive

ATTEST:



County Court Clerk