

**COMMISSIONERS' ORDINANCE NO. O-17-19**

AN ORDINANCE AMENDING SECTION 10.21 OF THE CITY OF COVINGTON CODE OF ORDINANCES TO UPDATE REFERENCES OF CITY "OCCUPATIONAL LICENSES" TO "BUSINESS REGULATORY LICENSES."

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WHEREAS, pursuant to Commissioner's Ordinance No, O-51-08 and O-52-08, the Board of Commissioners approved changes to the City's business licensing fees which were necessary for the City to participate in the county-wide business licensing program; and

WHEREAS, the changes included updating the terminology for the applicable yearly license to business within the City of Covington from an "Occupational License" to a "Business Regulatory License"; and

WHEREAS, this change in terminology in part helped to differentiate the City license to do business, and the corresponding county multi-jurisdictional occupational license to do business; and

WHEREAS, despite the 2008 edits, certain terminology under the old system remains in the ordinances, and therefore City staff recommend updating the ordinances to provide for consistent use of "Business Regulatory License" where appropriate and "Occupational License Fees" where appropriate; and

WHEREAS, City staff have also proposed that the term "Business License" and "Business Regulatory License" be interchangeable, for convenience and ease of reference.

NOW THEREFORE,  
BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

Section 10.21 of the Covington code of Ordinances is amended to read as follows:

**§ 10.21 LICENSES.**

(A) *Business Regulatory License.*

(1) *Definitions.* For purposes of this division, definitions contained in § 110.01 of this code shall apply.

(2) *Business Regulatory License required for nonresident businesses, flea markets and contracting services.*

(a) A Business Regulatory License shall be required of any business entity located or operating outside the city, if the business entity engages in any type of business activity in the city or solicits and accepts business from customers within the city. The agent(s) of non-resident proprietor(s) shall be responsible for obtaining a Business Regulatory License required by this section and shall be liable for carrying on a business without a Business Regulatory License in the same manner as if they were proprietor(s) of a business located within the city. **Consistent with the definition in § 110.01, the term “Business License” may be used interchangeably with “Business Regulatory License” for purpose of convenience, and both terms shall have the same meaning and effect.**

(b) Each operator of a flea market shall secure a Business Regulatory License under this section. Any business entity renting a booth space in a flea market shall also secure a separate Business Regulatory License.

(c) Any business entity performing general contracting or sub-contracting services who satisfies the criteria as an independent contractor, as set forth in Official Treasury Regulation 31.3401(c)-1, may obtain a temporary Business Regulatory License under the following conditions:

1. The dollar value of the work performed is less than \$1,000;
2. The contractor did not have any Business Regulatory License in the city during the last fiscal year;
3. The duration of time needed to complete the work is three days or less;
4. The contractor's business is not located in the city; and
5. Any Business Regulatory License issued under these conditions will only be valid for three days. If the work performed lasts longer than three days or if the contractor receives additional work in the city during the same fiscal year, he or she shall obtain a standard Business Regulatory License and shall be allowed to deduct the processing fee of the temporary Business Regulatory License from the processing fee for the standard Business Regulatory License.

(3) *Business Regulatory License applications.*

(a) Every person required to procure a Business Regulatory License under the provisions of this section or under § 110.02 of this code, and pursuant to KRS 82.082 shall submit an application for the license, in writing, to the Finance Director or his or her representative on forms provided by the city. The applicant shall identify the kind of

business, profession, occupation, trade, vocation, calling or activity engaged in or services rendered and provide all other information required on the application. Failure to fully complete the application shall be grounds for not issuing a Business Regulatory License to the applicant. Every entity engaged in any franchise, trade, occupation, profession or other business in the city, other than those who are only so engaged as an employee, shall obtain an annual Business Regulatory License for that franchise, trade, occupation, profession or other business; and pay to the city a business Regulatory License fee in the amount of either \$50 or that part of a multi- jurisdictional occupational permit fee, collected by the county and proportionally allocated to the city, pursuant to the provisions of an inter-local agreement between the city, county Fiscal Court and various other cities within the county, for a single multi- jurisdictional annual occupational permit fee of \$225. A payment of \$10 is required for temporary Business Regulatory Licenses issued pursuant to (A)(2)(c) of this section.

(b) Any Business Regulatory License issued will be valid only for those activities listed on the application form. Any expansion of the business or activity shall require the submission of a new application form. Giving of false or intentionally misleading information on the application shall be grounds for denial of the Business Regulatory License applied for, or if a Business Regulatory License has been granted, revocation thereof upon discovery of these facts.

(c) If the business is located in the city, the application shall be approved by the city's Fire Inspector and the Code Enforcement Department before a Business Regulatory License will be issued. Upon inspection, the city may require further approval from the city's Zoning Administrator and/or Building Inspector. If a business location is later found to be in violation of city or state zoning, fire, or building codes, the Business Regulatory License for that location may be revoked pursuant to the procedures established in (A)(7) of this section.

(d) Upon notice from the Finance Director or his or her representative that a business is being operated in violation of this section, the business shall be immediately stopped. This notice to stop business operations shall be in writing and shall be given to the owner of the business or its agent and shall state the conditions under which the business may be resumed. Any person who continues doing business or who alters, defaces, or removes the stop business operations notice shall be liable for a Class A misdemeanor.

(4) *Business Regulatory License certificates.*

(a) Upon approval of the application, the Finance Department shall issue Business Regulatory License certificate ("the certificate") to the applicant. The certificate shall show the period for which Business Regulatory License is issued, the name of the person to whom it is issued, and the address or location of the place of business for which the license is being issued.

(b) If a business entity moves its place of business this shall require submission of a new application with all appropriate departmental approvals. If a business entity has more than one place of business, a Business Regulatory License certificate shall be issued for each place of business. Each business entity shall display the [~~occupational license~~] **Business Regulatory License** certificate in a conspicuous place in each place of business.

(5) *Administration.*

(a) This section shall be administered by the Finance Director or his or her duly designated representative, under the direction of the City Manager.

(b) The Finance Director, with the approval of the City Manager, shall have authority to issue and promulgate such rules and regulations as he or she may consider necessary for the administration of this section, provided the rules and regulations are not inconsistent with the provisions of this section.

(c) The Finance Director, under the direction of the City Manager, will coordinate with Code Enforcement Services to appoint and supervise code enforcement officers charged with enforcing compliance with this section.

(d) The denial of any initial or renewal application for any Business Regulatory License shall be set forth in writing, with the reasons stated therein, and provided to the applicant.

(e) An appeal of such adverse decision to the Covington Board of Commissioners shall be filed with the City Clerk within 30 days thereof, or the decision shall become final. The Board of Commissioners shall conduct a hearing on the appeal at any regular or special call meeting within 30 days from the date the appeal is filed with the City Clerk. Notice of the hearing shall be provided to the applicant by certified mail, return receipt requested, and if the certified mail is returned, then by regular mail. The applicant may be represented by counsel and shall be entitled to call witnesses on his or her behalf.

(f) The decision of the Board of Commissioners shall be reduced to writing and provided to the applicant within seven days of the hearing. In the event the Board of Commissioners upholds the denial, the applicant must appeal the adverse decision to the Kenton County District Court within 30 days of the date of the written decision or the decision shall become final.

(6) *Penalties, citation for failure to obtain Business Regulatory License.*

(a) Any business entity or person that violates any provision of this section shall be subject to a civil fine of not less than \$100 per violation but not more than \$500 per violation.

(b) Code Enforcement Officers may issue on-site citations to any business entity that is unable to produce its Business Regulatory License certificate upon request, whether the business is being conducted in a permanent location or elsewhere in the city ("a correction citation").

(c) A correction citation shall provide the following information:

1. The date and time of issuance;
2. The name and mailing address of the business owner or independent contractor, as provided by the owner or contractor, their agent, servant or employee, or ascertained from vehicles used by these individuals;
3. The name and address of the business operating without a Business Regulatory License, or the name and address of the person or entity that hired the independent contractor;
4. A reference to this section;
5. The name of the Code Enforcement Officer;
6. A correction order allowing the business to obtain a license within ten business days of the citation date;
7. The amount of the civil fine if the person does not obtain the Business Regulatory License within the time set forth in the correction order or fails to contest the citation, and the maximum civil fine that may be imposed if the person elects to contest the citation;
8. The procedure for paying the civil fine or contesting the citation;
9. A statement explaining that if the person fails to pay the civil fine set forth in the citation or contest the citation, the right to a hearing shall be waived and the Code

Enforcement Board shall enter a final order confirming that a violation was committed and imposing the civil fine stated in the citation.

(d) Any person obtaining a Business Regulatory License certificate pursuant to a correction citation above shall provide a copy of the citation to the Finance Department when obtaining this certificate. If a Business Regulatory License certificate is obtained within ten days of the citation issuance, the Finance Department will forward a copy of the citation and Business Regulatory License certificate to the Code Enforcement Department, which will cause the citation to be dismissed and/or stop-work order to be lifted.

(e) Independent contractors who have been cited under this section shall only be eligible to receive permanent (as opposed to temporary) Business Regulatory Licenses.

(f) Independent contractors who have been cited more than once and fail to comply with this section shall be subject to a suit for injunction.

*(7) Revocation or suspension of Business Regulatory License.*

(a) Any Business Regulatory License issued under this section may, with notice to the holder thereof and a hearing as hereinafter provided for, be revoked or suspended by the Board of Commissioners if:

1. Within 12 months prior to the date on which charges are filed, the holder of the Business Regulatory License, or its agent, servant, or employee, has been convicted of any action or activity occurring at the business premises covered by the Business Regulatory License of any violation of city or county ordinances involving gambling, prostitution, drugs, or disorderly conduct or of any state or federal criminal or penal statute involving these same crimes;

2. A condition is allowed to exist at the business premises that creates a public nuisance;

3. The Business Regulatory License holder, its agents, servants, or employees, suffer or permit any disorderly conduct at the business premises that disturbs the good order of the community and/or at the premises; or

4. The holder of the Business Regulatory License misrepresents in its application any material facts as to the kind of business operating or to be operated at the premises.

(b) Business Regulatory Licenses may be suspended for violation of the City of Covington's Human Rights Ordinance; see § 37.10(C)(1)(b).

(c) Suspension and revocation procedure.

1. When the City Manager has probable cause to believe that a Business Regulatory License should be revoked for any of the causes enumerated herein, it shall be his or her duty to prepare charges against the holder of the Business Regulatory License by filing a statement of the charges against the holder of the license with the City Clerk. The charges shall be in writing and each charge shall be clearly set out. Within three days after the filing of the charges with the Board of Commissioners, a notice of the filing of the charges and of the time of the hearing thereof shall be mailed by certified mail, return receipt requested, to the Business Regulatory License holder at the address shown on the Business Regulatory License and a hearing before the Board of Commissioners shall be held within 14 days after the filing of the charges with the Board.

2. At the hearing, the introduction of any judgment of conviction in any court of competent jurisdiction shall be conclusive evidence that a violation occurred. The existence of any prior judgment of conviction for the same or similar offense, under the same ownership/ management as those being asserted as the basis for the current hearing, shall be considered as actual or constructive knowledge of the existence of the engagement in the illegal conduct on the premise covered by the Business Regulatory License. The Business Regulatory License holder shall be permitted to present evidence in defense of the charges and shall be given the opportunity to refute that the Business Regulatory License holder knew or should have known of the existence of the illegal conduct that led to a conviction on the part of the Business Regulatory License holder or any agent, servant, or employee thereof.

3. The action and decision of the Board of Commissioners on the charges shall be reduced to writing and kept on file in the City Clerk's office.

4. Upon a finding that the Business Regulatory License holder knew or should have known of the existence of the illegal or improper conduct, the City Commissioners shall consider the severity and frequency of offenses to determine whether a period of suspension or a revocation is appropriate. All business activity at the location shall cease immediately for the period of suspension or revocation.

(8) *Revocations affecting renewals or transfers.*

(a) No transfer of an existing Business Regulatory License or issuance of any new Business Regulatory License shall be permitted so long as charges against the business and/or the Business Regulatory License holder are pending for a suspension or revocation hearing before the Board of Commissioners pursuant to this section.

(b) In the event a Business Regulatory License is surrendered by the Business Regulatory License holder pending charges against the [~~occupational~~] license holder and prior to any revocation hearing or is revoked or suspended after a hearing, no new Business Regulatory License certificate for the business premises for which the original Business Regulatory License was granted shall issue to any person when, in the discretion of the Financial Director, the procurement of a Business Regulatory License certificate is attempted for the sole purpose of allowing the previously surrendered, revoked, or suspended Business Regulatory License holder, or the holder of a Business Regulatory License surrendered in lieu of revocation, to operate the same or substantially similar business under a new Business Regulatory License and merely in the name of another person, constituting a "sham" application.

(9) *Voluntary surrender.* Should any Business Regulatory License holder herein voluntarily surrender any existing [~~occupational~~] ***Business Regulatory*** license during the term of its issuance and prior to expiration thereof, the Business Regulatory License shall automatically be deemed as revoked, null and void and shall only be reissued upon submission of a new application and qualification for the same.

(10) *Expiration date.* Unless an earlier expiration date is provided therein, all Business Regulatory Licenses shall expire at midnight on the fifteenth day of the fourth month after the end of the fiscal year of the licensee.

(B) *Other licenses.*

(1) The city may refuse to issue other licenses or permits issued pursuant to this code or may suspend or revoke such licenses or permits after notice and hearing for any of the following causes:

(a) Any fraud, misrepresentation, or false statements contained in the application for permit or license;

(b) Conviction of the applicant, licensee, or permittee of any crime or misdemeanor or a violation of any act of the City of Covington, the State of Kentucky or of any law of the United states having a reasonable relationship to the purpose and scope of the permit or license;

(c) Conducting the activity, or making use of an item, for which the license is issued in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, morals, or general welfare of the public.



Meeting Date:

ORD.: 1ST

2ND

OR:

	Bowman	Downing	Smith	Williams	Meyer
Yeas	✓		✓	✓	✓
Nays					
Present, not Voting					