

**CITY OF MIDDLETOWN**  
**ORDINANCE NO. 10-12-2023-B**  
**AN ORDINANCE AMENDING CERTAIN SECTIONS OF ORDINANCE 07-13-2023-B**  
**ENACTING A NEW CHAPTER 114**  
**OF THE CODE OF ORDINANCES RELATING TO**  
**BUSINESS LICENSING AND OCCUPATIONAL TAXATION**

**WHEREAS**, the city recently enacted an ordinance creating a business licensing and occupational tax for the city and the City Commission finds that certain sections require modification to bring more clarity to what activity is to be taxed

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MIDDLETOWN, KENTUCKY:**

**SECTION 1:** The City of Middletown does hereby amend certain sections of its Ordinance 07-13-2023-B as follows:

**OCCUPATIONAL LICENSE FEE**

**114.07 SHORT TITLE.**

This subchapter may be referred to as the Middletown Occupational License Fee Ordinance.

**114.08 DEFINITIONS.**

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

"CITY." The City of Middletown, Kentucky.

"COLLECTOR." The person designated by the city as the license fee collector and administrator under this subchapter.

"COMMISSION MERCHANT" or "COMMISSION EMPLOYEE." Any person who engages in the sale of goods for compensation in the form of a commission only. Also, any person who buys and resells goods, if the person does not maintain a retail store or wholesale sales floor, and does not store goods except during short periods before transportation to the buyer.

"COMPENSATION." The compensation paid by any employer, regardless of whether the employer is a for-profit or a non-profit entity, to any employee, including wages, salaries, commissions, bonuses, and all other kinds of employee compensation whatsoever.

"COMPENSATION" also includes commission received by a commission merchant or commission employee. "COMPENSATION" as herein defined does not include fringe benefits paid for by an employer.

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

"EMPLOYEE." Any person engaging in or following any trade, occupation, profession, or activity as defined herein and receiving compensation consisting of either wages, salary, commission, or other forms of compensation. The substance and not the form shall govern, and no employee working under the supervision of another person shall be considered to be an independent contractor merely because a contract has been signed making it appear that the employee is an independent contractor.

"EMPLOYER." Any individual, person, partnership, association, corporation, governmental body or unit or administration or agency, or any other activity or any other entity, who or that employs one or more persons on a salary, wage, commission, or other compensation basis. "EMPLOYER" shall also mean the person or entity liable for the withholding of occupational license fees from the compensation of an employee.

"FIRM." Any sole proprietorship, partnership, corporation, joint venture, limited partnership, or other form of organization formed for the purpose of doing business.

"INDIVIDUAL." A natural person.

"LICENSEE." Any person required to pay a license fee under this subchapter.

"OCCUPATION, TRADE, PROFESSION, OR OTHER ACTIVITY." The doing of any kind of work, the rendering of any kind of personal service, the holding of any kind of position or job within the city, by any clerk, laborer, tradesman, manager, official, or other employee, 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 the firm or officer who receives a salary for his personal services rendered in the business of the firm or corporation; and shall also include an officer or employee employed either by election or appointment, by the federal, state, county, or city, where the services of the official or employee are rendered within the city.

"PERSON." Any natural person, co-partnership, fiduciary, association, or corporation. Whenever 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 enterprise, shall mean the partners or members thereof, and as applied to corporations, shall mean the officers and directors thereof.

"RESIDENT." Any natural person, co-partnership, fiduciary, association, corporation, or other entity domiciled or having a business situs in the city.

"SALARIES, WAGES, COMMISSIONS, AND OTHER COMPENSATIONS" or

"WAGES." The total gross amount of all salaries, wages, commissions, bonuses, shares of net

partnership receipts or withdrawals, corporate dividends paid in lieu of salaries or wages, **any 1099 or other incomes** which are required to be reported for federal income tax purposes, and any and all other payments or other considerations which a person receives from, or is entitled to, for any work done or personal services rendered within the city in any trade, occupation, or profession, or any other activity, including all deductions whether for tax, insurance, or other, but excluding fringe benefits paid for by an employer. Amounts paid to traveling salesmen or other workers as allowance or reimbursement for travel or other expenses incurred in the business of the employer, except to the extent of the excess of such amounts over such expenses actually incurred and accounted for by the employee to his employer, are excluded.

**"SALES WITHIN THE CITY."** Sales of merchandise delivered to a customer within the city, or services performed within the city for a customer.

**"TREASURER."** The treasurer of the City of Middletown, Kentucky.

**114.10 OCCUPATIONAL LICENSE FEES IMPOSED.**

**Beginning January 1<sup>st</sup> 2024 and thereafter,** there is levied and imposed an annual occupational license fee upon all persons engaged in any occupation, trade, profession, or business in the city, for the privilege of engaging in the occupation, trade, profession, or business. The occupational license fee shall be measured by and be equal to 1% of the gross annual salaries, wages, or **other compensations as defined herein** earned by any such persons for work done or services performed or rendered within the city in the 12 months next preceding the return to be filed as required in this Chapter. **The City may further detail specific types of compensation to be taxed in a policy document which shall be approved by the City Commission.**

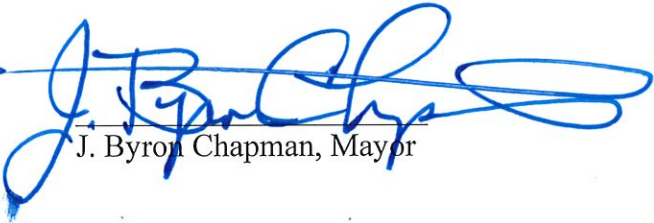
**SECTION 2:**

This ordinance shall take effect upon enactment and publication according to law.

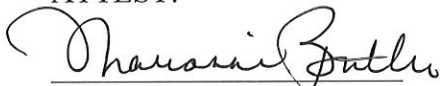
First Reading: October 12, 2023

Second Reading:

Passed and Approved:

  
J. Byron Chapman, Mayor

ATTEST:

  
Marianne Butler, Clerk

Oliver yes Hayden yes Wolf yes

Stigers yes Chapman yes