

ORDINANCE NO. 17- 03-01

**AN ORDINANCE AMENDING THE EFFECTIVE PERIOD
FOR A PERMIT FOR ALL PERSONS,
FIRMS, OR CORPORATIONS CONDUCTING A TEMPORARY
BUSINESS IN THE CITY OF BENTON, KY
FROM SEVEN DAYS TO FOUR DAYS FOR FOOD VENDORS**

BE IT ORDAINED by the Council of the City of Benton, KY that ordinance:

WHEREAS, persons, firms, and corporations conducting temporary businesses in the City of Benton during various festivals, special events and holidays at which goods and services are sold; and

WHEREAS, these activities have and will continue to place a financial burden on the City; and

WHEREAS, to alleviate the financial burden and to apportion the costs and expenses incurred in clean-up, police protection, and traffic control, the City intends to require a temporary business permit for the privilege of conducting any business in the City of Benton for any period of seven (7) days or less, *or four (4) days or less for food vendors*;

NOW THEREFORE IT IS ORDAINED that:

Section 1. Definitions. The following terms shall have the meanings set out in this section when used in this ordinance unless a different meaning clearly appear from the context:

(a) “Temporary Business” shall mean the sale of goods or services, the acceptance of donations in exchange for goods or services or the barter of goods and services by any person, firm, corporation, group, or association and persons in the City of Benton, KY for *any period of seven (7) days or less, or four (4) days or less for food vendors* or for operating any business out of a vehicle, truck, trailer or other mobile unit for any period of time.

(b) “Business” shall mean any marketing activity conducted for the sale, exchange or transfer of goods and/or services for either a donation or for a profit.

(c) A non-profit firm or corporation shall mean any organized church, religious organization, or group organized and existing in Kentucky holding a tax identification number issued to it by the Internal Revenue Service.

(d) An educational related group or organization shall mean any PTO or other school related organization associated with a school located in Marshall County, Kentucky, with a letter from the principal of that school authorizing the organization to raise money in that school’s name.

(e) A tax exempt organization shall be any group or organization exempt from the payment of an income tax under §503(c)(3) of the Internal Revenue Code as amended.

Section 2. Permit Required. No persons from corporation, groups, or associations of persons shall operate a temporary business within the city without a permit issued by the City Clerk.

Section 3. Application Required. An application for a permit to operate a temporary business under this Ordinance shall be made at the City Clerk’s Office upon forms provided by the City. Such application shall be sworn to or affirmed by the applicant and filed with the City Clerk at least twenty-four (24) hours prior to the time in which the permit applied for shall become effective. The application shall be in the form attached hereto and shall contain the following information:

- (1) Name, address of the person, firm, or corporation applying for the permit.
- (2) If the applicant is not an individual, the names and addresses of the applicants principal officers and managers.

(3) The name and address of the person or persons who are to be in direct charge of conducting the temporary business.

(4) The time within which the temporary business will be operated and the location within the City where the business is to be conducted.

(5) Any application for a permit must also be signed by the party on whose property the temporary business shall be conducted.

(6) A copy of any tax identification information provided to it by the Internal Revenue Service.

(7) A copy of the exemption letter it received from the Internal Revenue Service if it is a 501(c)(3) organization.

(8) Any other information it may wish to have the City Clerk review in conjunction with its application.

Section 4. Investigations by the City Clerk's Office. The City Clerk shall examine each application filed under this Ordinance and shall make or cause to be made, such further examinations of the application and the applicant as the City Clerk may deem appropriate. The permit shall be issued when the City Clerk determines that:

(a) All statements made by the applicant in the application are true.

(b) That the applicant has not engaged in any fraudulent activity, transactions, or enterprise.

(c) Nothing in the application will constitute or permit a violation of any provision of any other City Ordinance including the City's Planning and Zoning Ordinance.

Section 5. Fees for Permit. Before a permit is issued by the City Clerk a fee shall be paid by the applicant for any temporary business. A permit will allow a temporary business to

operate at one location for a period of *seven (7) consecutive days or less, or four (4) consecutive days or less for food vendors consecutive days* from the date of issuance. A separate application and fee shall be required for each additional business location if more than one (1).

The fees to be paid for the permit shall be:

(1) \$100.00 for any person, firm or corporation serving any type of food or drinks not otherwise entitled to a reduced fee.

(2) \$50.00 for a permit authorizing the applicant to sell merchandise only.

(3) \$50.00 for non-profit firm or corporation organized and registered in Kentucky holding a tax identification number issued to it by the Internal Revenue Service.

(4) \$25.00 for any organized church located in Marshall County, Kentucky or any educational group or organization associated with a school located in Marshall County, Kentucky and authorized to raise money in that school's name or any organization with a §501(c)(3) exemption issued to it by the Internal Revenue Service.

Section 6. Permit not Transferable. Any permit issued under this Ordinance shall be nontransferable.


Section 7. Waiver. *The requirement of having a temporary business permit may be waived by Executive Order for any event or occasion. Any such waiver shall apply to all vendors for or at each such event or occasion, and waivers shall not be available on an individual basis per vendor for an event or occasion.*

Section 7.8. Penalty. Any person, firm, or corporation violating any of the provisions of this Ordinance shall be fined not less than Two Hundred (\$200.00) Dollars nor more than Five Hundred (\$500.00) Dollars for each offense and a separate offense shall be deemed committed on each day on which a violation occurs or continues.

Passed this the 20 day of March, 2017.


RITA DOTSON, MAYOR

ATTEST:


MICHELE EDWARDS,
CITY CLERK

INTRODUCED BY

		<u>AYE</u>	<u>NAY</u>
<u> </u>	CHARLES EDMONDS	<input checked="" type="checkbox"/>	<u> </u>
<u> </u>	JUSTIN LAMB	<input checked="" type="checkbox"/>	<u> </u>
<u> </u>	STANLEY HOLLAND	<input checked="" type="checkbox"/>	<u> </u>
<u> </u>	RITA MURRAY	<input checked="" type="checkbox"/>	<u> </u>
<u> </u>	SHERRA RILEY	<input checked="" type="checkbox"/>	<u> </u>
<u> </u>	CHRIS SMITHMIER	<input checked="" type="checkbox"/>	<u> </u>

FIRST READING: 2-20-2017

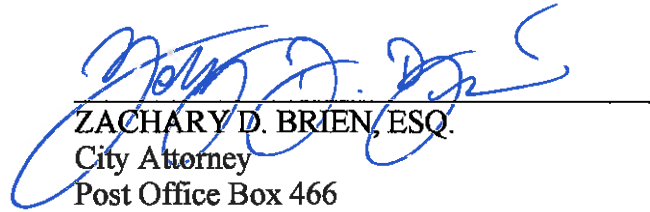
SECOND READING: 3-20-2017

PUBLICATION: 3-28-2017

“AN ORDINANCE AMENDING THE EFFECTIVE PERIOD FOR A PERMIT FOR ALL PERSONS, FIRMS, OR CORPORATIONS CONDUCTING A TEMPORARY BUSINESS IN THE CITY OF BENTON, KY FROM SEVEN DAYS TO FOUR DAYS FOR FOOD VENDORS.” This Ordinance is summarized as an ordinance requiring temporary business permits for any person, firm, corporation, group, or association and persons conducting business in the City of Benton, KY for any period of seven (7) days or less, or four (4) days or less for food vendors, and authorizing the waiver of a temporary business permit for all vendors on a particular event or occasion.

A complete copy of this Ordinance is available for viewing at the City Hall during regular business hour.

I hereby certify that the above is a true and correct summary of an Ordinance adopted by the City of Benton on 3-20, 2017.



ZACHARY D. BRIEN, ESQ.
City Attorney
Post Office Box 466
Benton, Kentucky 42025