

MARSHALL COUNTY FISCAL COURT
ORDINANCE # 92 -01

AN ORDINANCE OF THE FISCAL COURT OF MARSHALL COUNTY, KENTUCKY, RELATING TO THE IMPOSITION OF A TWO PER-CENT PER ANNUM OF GROSS RECEIPTS, LICENSE FEE APPLICABLE TO OFF-SITE WASTE MANAGEMENT FACILITIES LOCATED WITHIN MARSHALL COUNTY, KENTUCKY;

BE IT ORDAINED BY THE FISCAL COURT OF THE COUNTY OF MARSHALL, COMMONWEALTH OF KENTUCKY, THAT;

SECTION I

The following words, when used in this Ordinance shall have the meaning ascribed to them in this section, except where the context clearly indicates or requires a different meaning:

1. "County" means Marshall County, Kentucky.
2. "Administrator" means the person or persons designated by the Marshall County Fiscal Court as being responsible for the collection of the off-site waste management facility license fee and the accounting thereof to the Fiscal Court.
3. "Licensee" means any person, corporation, association or other entity required hereunder to file a return or to pay a license fee thereon under this Ordinance. When pronouns are used, the singular shall include the plural, and the masculine shall include the feminine.
4. "Off-Site Waste Management Facility" means any place where waste is managed, treated, processed or disposed of by incineration, landfilling, or by any other method. For purposes of assessing the license fee provided for herein, off-site waste management shall consist of establishing and operating a facility whose principal purpose is treatment, storage, disposal or a combination of these activities but shall not include those treatment, storage, or disposal activities which occur incidental to or which are not otherwise distinguishable from a broader manufacturing operation at the site of said operation.
5. "Waste" means all waste of whatever type or kind including, without limitation, waste as defined in KRS 224.01-010(31)
6. "Person" means a natural person, corporation, partnership, association, joint venture or other legal entity.
7. "Gross Receipts" means the total amount of all consideration received by the waste management facility for the storage, handling, disposal or treatment of waste from whatever source, valued in money, whether received in money or otherwise, without any deduction for any expense or cost of doing business, including, without limitation, the following:

order book 121 page 201

- A. the cost of the materials used, labor or service costs, interest paid, losses or any other expenses in connection with the operation of the facility;
- B. taxes or other license fees of any kind paid by the facility; or
- C. costs of professional services of any kind incurred by the facility.

SECTION II

This Ordinance shall take effect July 1, 1992, upon passage by the Marshall County Fiscal Court upon second reading and publication in the Tribune-Courier newspaper.

SECTION III

On and after July 1, 1992, every person, which owns or operates an offsite waste management facility located within Marshall County, Kentucky shall pay to the administrator, as collecting officer for the County, an annual license fee in an amount equal to two per-cent (2%) per annum of the gross receipts of such a waste management facility. The fees so collected shall be used to defray the general operating and capital expenses of the County.

SECTION IV

A. Each person, subject to the license fee imposed by this Ordinance shall remit quarterly the payment due for the preceding quarter to the Administrator, together with a waste management facility license fee return in the form provided by the Administrator. Quarterly returns and payment shall be due as follows:

1. The payment and return for the first quarter of each year shall be due no later than May 1;
2. The payment and return for the second quarter of each year shall be due no later than August 1;
3. The payment and return for the third quarter of each year shall be due no later than November 1;
4. The payment and return for the fourth quarter of each year shall be due no later than February 1 of the following year.

B. The Administrator shall have the authority to extend the filing of said return in his discretion. Such extension shall be upon the written request of the licensee; provided, however, that any balance unpaid when payment is due shall bear interest at twelve per cent (12%) per annum until paid and that no such extension shall exceed 60 days.

SECTION V

It shall be the duty of the Administrator to collect and receive the license fees imposed by this Ordinance; to keep records of the amount received by him from each licensee and the date of such receipts; and to pay all money so received into the County Treasury upon receipt.

SECTION VI

The Administrator is hereby charged with the enforcement of the provisions of this Ordinance and is hereby empowered to take all action which he may deem necessary relating to any matter or thing pertaining to the administration and enforcement of the provisions of this Ordinance, including, without limitation, to the reexamination and correction of returns as to which an overpayment or underpayment is claimed or found to have been made and the rulings made by him shall be binding upon the licensee.

SECTION VII

The Administrator or any agent or employee designated in writing by him is hereby authorized to examine the books, papers, and records of 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 licensee or supposed licensee is hereby directed and required to give the Administrator, his duly authorized agent or employee, the means, facilities and opportunity for such examination and investigation as are hereby authorized. The Administrator is hereby authorized to examine any person under oath concerning any information relevant to the collection of the license fee imposed herein and to this end may compel the production of books, papers, records, and the attendance of all persons before him, whether as parties or witnesses, as he believes to have knowledge of such information.

SECTION VIII

Any information gained by the Administrator or any other officer, agent or employee of the County as a result of any returns, investigations, hearings or verifications required or authorized by this Ordinance shall be confidential, except for official purposes and except in accordance with proper judicial order, or as otherwise provided by law, provided, however, the

Administrator may disclose to the Commissioner of Revenue 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 Administrator if the said Commissioner of Revenue of the Commonwealth of Kentucky grants the Administrator the reciprocal right to obtain information from the files and records of the Department of Revenue of the Commonwealth of Kentucky and maintains the privileged character of the information so furnished him.

SECTION IX

This Ordinance is passed in accordance with KRS 68.178. Accordingly, the County is authorized to accept payments in lieu of the fee provided for herein under duly executed contracts between the County and the permitted facility.


SECTION X

The license fee imposed herein shall apply to all covered facilities existing on the date of the passage hereof and any such facilities licensed hereafter. This Ordinance shall not be construed, however, as the licensing, permitting or consent to operate any new facility and such license will be issued only pursuant to applicable law.

SECTION XI

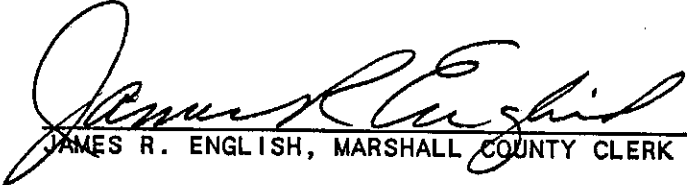
The provisions of this Ordinance are severable. If any sentence, clause, section or part of this Ordinance or the application thereof to any particular circumstance is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or repeal any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance, it being the intent of the Marshall County Fiscal Court to adopt such provision, section, paragraph, sentence and part thereof separately and independently of each other.

First reading held by the Marshall County Fiscal Court on May 6, 1992, and the Ordinance passed on ~~May~~^{JUNE} 2, 1992, after publication of the Ordinance as amended conforming to the requirements of KRS Chapter 424 with 3 voting Aye and 0 voting no.




MIKE MILLER, MARSHALL COUNTY JUDGE/EXECUTIVE

ATTEST:



JAMES R. ENGLISH, MARSHALL COUNTY CLERK

PREPARED BY:



KERRY B. HARVEY, MARSHALL COUNTY ATTORNEY