

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES FOR THE CITY OF
MAYSVILLE, GEORGIA, TO PROVIDE FOR THE APPLICATION OF BUSINESS
LICENSES, REVIEW AND APPROVAL OR DENIAL THEREOF, AND APPEALS
FROM DENIAL OF BUSINESS LICENSES, ETC.**

WHEREAS, the City of Maysville, Georgia is a municipality duly constituted and existing pursuant to Georgia law; and

WHEREAS, the City has the legislative power to adopt clearly reasonable ordinances, resolutions or regulations relating to the application and review of business licenses, and the denial or approval of such business licenses;

WHEREAS, the City Council desires to provide for an orderly process for such business license and to provide for due process for any applicant that may have a license denied; and

NOW, THEREFORE, BE IT RESOLVED AND ORDAINED by the Mayor and Council of the City of Maysville, by the lawful authority vested in them, that Chapter 10 is hereby amended as adding the following:

- I. [See Chapter 10 ordinance as attached.]
- II. All ordinances or parts of ordinances in conflict with this ordinance are repealed.
- III. Should any provision of this ordinance be rendered invalid by a court of law, the remaining provisions shall continue in force and effect until amended or repealed by action of the City Council.
- IV. This Ordinance shall take effect _____, 2024.

ADOPTED this ____ day of _____, 2024.

ATTEST

Kim Jackson, City Clerk

Kimberly Wilmoth, Council Member

Amanda Farley, Council Member

CITY OF MAYSVILLE

Richard Presley, Mayor

Richard Parr, Council Member

Brodriche Jackson, Council Member

Sec. 10-1. Registration required.

- (a) Except as provided by O.C.G.A. § 48-13-16, all persons, firms, companies and corporations, whether resident or nonresident of the city, engaged in prosecuting or carrying on, in the city, any trade, business, calling, vocation, or profession, shall register with the city clerk their name, business calling, vocation, or profession. Said registration shall be made on or before January 1 of each calendar year, except for new businesses which commence operations within the city for the first time, in which case the date of registration shall be on or before the date of commencing operations. Such registrations shall be signed and sworn to by the appropriate person set forth above and shall include the following information:
- (1) If the business, trade, calling, vocation or profession is operated under a trade name, not incorporated, the names of all persons having an interest therein shall be registered with the clerk;
 - (2) Name, address, and business classification of the concern for the preceding and current years;
 - (3) Number of actual employees of the business for the second and third quarters of the preceding year, or, in the case of a new business, the number of established employees for the second and third quarters of the current year;
 - (4) Average total hours considered to be a full work week by the business;
 - (5) Total hours worked by all employees of the business during the second and third quarters (April 1 to September 30, inclusive) of the preceding calendar year, or, in the case of a new business, the estimated total number of hours to be worked by all employees of the business during the second and third quarters of the current year;
 - (6) The business's state sales tax number and federal ID number; and
 - (7) Such other information as may be required by the city clerk for the purpose of determining the amount of the occupation tax and administering its collection.
- (b) If any person shall violate any of the provisions of this chapter, then such person shall, upon conviction before the municipal court, be subject to fine for each offense as follows:
- (1) Any person operating a business without having obtained a license before February 1 of each calendar year shall be subject to a \$10.00 fine for each day the business is operated without a license.
 - (2) Any new business not obtaining a license before commencing business shall be subject to a fine of \$100.00.
- (c) An applicant is not eligible for a business license if said applicant has any past due city taxes, bills, fees, assessments, fines, or any other charges. business licenses shall not be issued to any applicant until all outstanding debts to the city, which are past due, are paid in full.

Sec. 10-2. City clerk to administer and enforce.

- (a) The city clerk shall be responsible for the administration and enforcement of this chapter and shall have the power to make and publish reasonable rules and regulations not inconsistent with this chapter, or other laws of the city or the state, or with the state constitution or the Constitution of the United States, to effectuate the provisions of this chapter and provide for the collection of the tax herein levied.
- (b) In carrying out the responsibilities hereunder, the city clerk shall have the following duties:
 - (1) To prepare and provide the necessary forms for the registration of a business.
 - (2) To audit periodically the books and records of businesses subject to the provisions of this chapter, and to require the submission of such additional information as may be necessary to determine correctly the amount of the occupation tax due and to ensure the collection of same.

Sec. 10-3. Change of address.

Any person herein required to register his business or occupation shall notify the city clerk in writing of any change of address of such business.

Sec. 10-4. Enforcement of unpaid taxes and regulatory fees.

In addition to any other penalty provided in this Code, should any business license fees imposed under this Code remain due and unpaid for 90 days from the due date, the person liable for the tax shall be subject to pay a penalty of ten percent of the tax due. Any delinquent occupation taxes or regulatory fees shall accrue interest at the rate of 1½ percent per month.

Sec. 10-5. Duty to post license.

Each person subject to this Code section who is also licensed by the state, county or city shall post the state license in a conspicuous place and keep the license in the place of business at all times while the license remains valid.

Sec. 10-6. Review and approval or denial of applications; appeals.

- A. Licenses Deemed a Privilege.** In general, an occupation tax certificate serves as a business license, and the terms are used interchangeably. Businesses that are regulated under other provisions of state or local law may require additional approvals or licenses. The granting of a business license or occupation tax certificate under any provisions of this Code shall be deemed a privilege only, and nothing herein contained shall be construed as granting any person whose business is subject to municipal regulation any legal right to engage in that business.
- B. Applications Requiring Approval by the City Council.** If any provision of this part provides for review and approval of an application for a business license by the city council, the city clerk shall forward the application together with a recommendation to the city council for consideration at its next regularly scheduled public meeting. The city council shall act on the application as required by this code.

C. Grounds for Denial.

1. The City Council shall deny a business license if one or more of the following grounds exists:
 - a. The business is not authorized to operate at the subject location or is otherwise not qualified to obtain the requested business license;
 - b. The business would constitute a nuisance as defined in Maysville’s Code of Ordinances; or
 - c. In the 24 months preceding the application, the business or an applicant has been found by a court of law to be operating a business unlawfully and has been enjoined by the court from operating contrary to law at the location, or upon the same parcel, for which the business license is sought.
2. The City Council may deny a business license if one or more of the following grounds exists:
 - a. The business or applicant has failed to provide information required for issuance of the business license or has answered a question or request for information with false, misleading, or incomplete information;
 - b. Any ground for suspension or revocation listed under this Code;
 - c. The business or applicant is neither the owner of the premises wherein the business will be operated, nor the holder of a lease thereon for the period to be covered by the business license.
3. When the City Council denies a business license or occupation tax certificate, the city shall send a written decision stating the grounds for such action to the applicant by personal delivery, certified mail, or email to an address for the applicant currently on file with the business license manager.

D. Issuance of License Upon Approval. Upon the express approval of the City Council, when so required by this code, or otherwise upon a determination by the City Council that the application is in order and all requirements have been met, the city shall issue a business license to the applicant therefore, which license shall state the nature of the business authorized and bear the date of issuance and the signature of the business license manager or the city manager.

E. Appeal of Decision. A person aggrieved by a decision of the City Council to grant or deny a business license may appeal the decision pursuant to Section 10-7.

Sec. 10-7. Appeals.

A. Any person aggrieved (“petitioner”) by any action of the City of Maysville (“city”) in the enforcement of this Section 10 of the code, or rules and regulations adopted pursuant to this Section 10 of the code, including a denial, suspension, or revocation of an business license, may appeal the action under this Section 10-7. to the mayor and city council. An appeal under this Section 10-7 shall stay all legal proceedings with regard to the collection of the occupation tax and penalties from the petitioner.

1. *Hearing officer authorized.* The mayor and city council may appoint one or more hearing officers to hear and decide appeals under this chapter. Where the mayor and council have designated that a hearing officer hear and decide an appeal, references to mayor and city council in this subsection shall be deemed references to the hearing officer.
2. *Time, manner for appeal.* To initiate an appeal, the petitioner shall file a written notice of appeal with the official who rendered the decision within ten business days of the date of the decision. The notice of appeal shall identify the bases for such appeal. The official who rendered the decision shall transmit to the city clerk all papers constituting the record upon which the action appealed from was taken.
3. *Scheduling of hearing; notice.* The city clerk shall schedule a hearing on the appeal to occur within 45 days of the filing of the notice of appeal. The city clerk shall notify the petitioner of the date, time and place of the hearing, at least five business days before the hearing. The city clerk shall send the written hearing notice by personal delivery, certified mail, or email to an address for the petitioner currently on file with the business license manager.
4. *Recording the hearing.* The city shall make an audio recording of the hearing. Any party may request that the city arrange for a court reporter take down the hearing, provided that the requesting party agrees to share equally in the cost of the take down pursuant to O.C.G.A. § 5-3-14(c).
5. *Hearing procedure.* At the hearing, the parties, including the official whose decision is under review, shall have the opportunity to present relevant arguments and to be represented by counsel, present evidence and witnesses, and cross-examine opposing witnesses. The hearing shall take no longer than two hours, unless extended upon request to meet the requirements of due process.
6. *Burden of proof; standard of decision.* The petitioner shall have the burden of proving by a preponderance of the evidence that no substantial evidence supports the official's decision. The mayor and city council may, in conformity with this chapter, reverse or affirm, wholly or partly, or may modify the opinion, requirement, decision or determination appealed from, and to that end shall have all the powers of the business license manager and city manager. The mayor and city council may direct any action as it may deem proper in conformity with this article and it shall be the duty of the business license manager and city manager to carry out the decisions of the mayor and city council in conformity with this chapter.
7. *Judicial review; costs.* The action of the mayor and city council, or the hearing officer, shall be final and may be appealed to superior court by a petition for review in accordance with O.C.G.A. § 5-3-1 et seq. If a petition for review is filed, the petitioner in superior court shall share equally in the cost of transcribing the evidence and proceedings pursuant to O.C.G.A. § 5-3-14(c). The city will notify the petitioner in superior court of the costs accrued in the appeal pursuant to O.C.G.A. § 5-3-16.