

Staff Report

Public Hearing

Subject: Ordinance Revision
Author: Samantha Easton, Planner II
Department: Development Services
Meeting Date: March 5, 2024
Item Description: Consideration to approve the amendment of the Code of Ordinances **Part II – Official Code: Chapter 70 – Taxation, Article II – Business License and Occupation Tax** of the Effingham County Code of Ordinances.

Summary Recommendation

Due to the increased growth of businesses in Effingham County, we have updated and condensed our Business License Ordinance.

Executive Summary/Background

- Home Occupation, Residential Businesses, and Rural Businesses have been combined into one type of License, being called “Residential Business”. Staff can add limitations of the scope of business under this category.
- Commercial/Industrial Businesses will now require a Life Safety Inspection performed by our Fire Inspector, as well as submitting a Pre-Plan for review by the Fire Department.
- Revocation of business license standards are now documented.
- Signage for Residential Businesses are allowed.
- Section 3.15 of the Zoning Ordinance and Article II of the Taxation Ordinance are now combined into one Ordinance to provide better service to Effingham County Residence.
- Newly Developed Commercial and Industrial Businesses must submit a Sketch Plan for approval by the Planning Board and Board of Commissioners.
- **On February 13, 2024, the Planning Board voted to Table this until April 9, 2024.**

Alternatives

1. **Approve an amendment** to the Code of Ordinances **Chapter 70 – Taxation; Article II – Business License and Occupation Tax**
2. **Deny an amendment** to the Code of Ordinances **Chapter 70 – Taxation; Article II – Business License and Occupation Tax**

Recommended Alternative: 1

Other Alternatives: 2

Department Review: FUNDING: N/A

Attachments:

1. Chapter 70 – Taxation, Article II – Business License and Occupation Tax Ordinance

Article II. – Business Licenses and Occupation Tax

Purpose and Intent - The business license ordinance aims to regulate and govern the establishment and operation of businesses within unincorporated Effingham County. It serves as a formal document that allows businesses to operate legally and ensures compliance with various laws, regulations, and standards. By obtaining a business license, companies demonstrate their commitment to operating in a responsible manner, protecting consumer rights, and adhering to health, safety, and environmental requirements. Additionally, the license allows local authorities to monitor and enforce business activities, ensuring fair competition and a level playing field for all enterprises. Overall, the business license ordinance aims to safeguard the interests of the public, promote economic growth, and maintain the integrity of the business environment.

Definitions. The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context indicates a different meaning:

Administrative Fee means a component of an occupation tax that approximates the reasonable cost of handling and processing the occupation tax.

Commercial Business means a business operated out of a commercial or industrial zoned property.

Dominant Line means the type of business, within a multiple-line business, that the greatest amount of income is derived from.

Employee means an individual whose work is performed under the direction and supervision of the employer and whose employer withholds FICA, federal income tax, or state income tax from such individual's compensation, or whose employer issues to such individual for purposes of documenting compensation a form IRS W-2 but not a form IRS 1099.

Location or Office shall include any structure or vehicle where a business, profession, or occupation is conducted but shall not include a temporary or construction work site that serves a single customer or project or a vehicle used for sales or delivery by a business of practitioner of a profession or occupation which has a location or office.

New Commercial/Industrial Business means a business being conducted out of a newly developed location.

Non-Profit Organization means a group organized for purposes other than generating profit and in which no part of the organization's income is distributed to its members, directors, or officers.

Occupation Tax means a tax levied on persons, partnerships, corporations, or other entities for engaging in an occupation, profession, or business for revenue raising purposes.

Practitioner of profession or occupation is one who by state law requires state licensure regulating such profession or occupation. Practitioners of professions and

occupations shall not include a practitioner who is an employee of a business if the business pays an occupation tax.

Residential Business means a business conducted out of a dwelling or an accessory structure located on the property.

Registration Required.

- a. Every person engaging in any business in the county upon which this article levies a fee shall register the business with the clerk on or before January 1st of each year, upon forms to be supplied by the county clerk, giving the name, address and type of business and such other information as may be required by the clerk for the purpose of determining the amount of fee to be assessed by this article. Any person who begins business for a trade or profession in the county after January 1st in any year shall register his name and business as above provided.
- b. All persons holding valid business licenses on or before December 31st shall be presumed to be continually engaged in business for the subsequent year for purposes of license renewal.

Businesses with no location in the state. Registration and assessment of an occupation tax is imposed on those businesses and practitioners of professions or occupations with no location or office in the state if the business's largest dollar volume of business in the state is in the county and the business or practitioner either:

- a. Has one or more employees or agents who exert substantial efforts within the jurisdiction of the county for the purpose of soliciting business or serving customers or clients; or
- b. Owns personal or real property that generates income and is located within the jurisdiction of the county.

Evidence of State Licenses Required

- a. Each person who is licensed by the secretary of state pursuant to O.C.G.A. tit. 43 shall provide evidence of proper and current state licensure before county registration may be issued.
- b. Each person who is licensed by the state shall post the state license in a conspicuous place in the licensee's place of business and shall keep the license there at all times while the license remains valid.

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Evidence of qualifications required.

- a. Any business required to obtain health permits, bonds, certificates of qualification, certificates of competency, or any other regulatory matter shall

first, before the issuance of a county business registration, show evidence that such requirements have been met.

- b. Any business required to obtain a registration by this article shall first, before the issuance of county business registration, show proof of return and payment of all county ad valorem taxes due in the year preceding that for which the business license is sought and not in dispute, including real and personal property taxes and intangible taxes owed by the business; however, a county business registration shall be issued upon proof that the tax commissioner and the taxpayer have agreed to a plan for the payment of any delinquent taxes owed.

Government Practitioners. Any practitioner whose office is maintained by and who is employed in practice exclusively by the United States, the state, a municipality or county of the state, instrumentalities of the United States, the state, or a municipality or county of the state shall not be required to obtain a license or pay an occupation tax for that practice.

Professionals. Practitioners of professions as described in O.C.G.A. § 48-13-9(c) shall elect as their entire occupation tax one of the following:

- a. The occupation tax is based on the number of employees as outlined in this article.
- b. A fee of \$400.00 per practitioner who is licensed to provide the service, such tax to be paid at the practitioner's office or location. The per-practitioner fee applies to each person in the business who qualifies as a practitioner under the state's regulatory guidelines and framework.
- c. This election is to be made annually and must be done by February 1 of each year.

Administrative Fee and Occupational Tax. A non-prorated, nonrefundable administrative fee in the amount outlined in the county's schedule of fees shall be required on all occupation tax accounts for the initial registration and annual renewal of such accounts. Occupational Tax shall be levied upon those businesses and practitioners of professions and occupations with one or more locations or offices in the unincorporated part of the county and/or upon the applicable out-of-state businesses with no location or office in the state according to O.C.G.A. § 48-13-7 based upon the number of employees or practitioner. The tax rate is determined by the number of employees for each business, trade, profession, or occupation outlined in the county's schedule of fees.

Fee Exemptions. Examples of businesses and practitioners of professions and occupations which local governments are not authorized to subject to regulatory fees (O.C.G.A. § 48-13-9) include, but are expressly not limited to, the following:

- a. Lawyers;
- b. Physicians licensed under Chapter 34 of Title 43 of the Official Code of Georgia;
- c. Osteopaths licensed under Chapter 34 of Title 43 of the Official Code of Georgia;
- d. Chiropractors;
- e. Podiatrists;
- f. Dentists;
- g. Optometrists;
- h. Psychologists;
- i. Veterinarians;

- j. Landscape architects;
- k. Land surveyors;
- l. Practitioners of physiotherapy;
- m. Public accountants;
- n. Embalmers;
- o. Funeral directors;
- p. Civil, mechanical, hydraulic, or electrical engineers;
- q. Architects;
- r. Marriage and family therapists, social workers, and professional counselors;
- s. Dealers of motor vehicles, as defined in paragraph 1 of the Official Code of Georgia, Section 10-1-622;
- t. Owners or operators of bona fide coin-operated amusement machines, as defined in the Official Code of Georgia, Section 48-17-1, and owners or operators of businesses where bona fide coin-operated amusement machines are available for commercial use and play by the public, provided that such amusement machines have affixed current stickers showing payment of annual permit fees, per the Official Code of Georgia, Section 48-17-9;
- u. Merchants or dealers as defined in the Official Code of Georgia, Section 48-5-354 as to their deliveries to businesses and practitioners of professions and occupations in areas zoned for commercial use; and
- v. Any other business, profession, or occupation for which state licensure or registration is required by state law unless the state law regulating such business, profession, or occupation specifically allows for regulation by local governments.

Issuance of Business License or Tax Certificate. An application must be submitted to Development Services. This application must go through a zoning review to verify the property owner, the location of the business, state licenses, etc.

Due Date; Penalty and Interest.

1. Each occupation tax shall be due and payable on January 1 of each year; however, if any person commences business on any date after January 1 in any year, the tax and administrative fee shall be due and payable on the date of the commencement of the business. Should any tax or fee imposed by this article remain due and unpaid for 30 days from the due date, the person liable for the tax or fee shall be subject to **and shall pay a penalty of fifty percent of the tax or fee due, together with interest on the delinquent amounts at a rate of twenty-five percent per month.** When any person commences business on or after July 1 in any year, the tax for the remaining portion of the year shall be 50 percent of the tax imposed for the entire year; however, the administrative fee shall not be reduced.
2. The department of Development Services shall issue the tax registration, and if any person whose duty it is to obtain a registration shall after the registration or occupation tax becomes delinquent, transact or offer to transact, in the county, any profession, trade, or calling subject to this article without having first obtained the registration, such as offender,

shall upon conviction be subject to fine or imprisonment as provided in Section 1-19.

Delinquent Occupation Tax. Any occupation tax and administrative fee not paid within 12 months of the original due date will result in termination of the Business License. If a license is terminated the business owner must reapply for the business license and pay each year of back fees since the license was terminated. {ex. A business license expires on 12/31/23, the occupation tax is \$50 due to number of employees. If not paid by 2/1/24, an additional 50% late fee as well as an additional 25% per month. If not paid by 2/1/25 the license is terminated. If the business owner would like to apply for a new license in 2027 they must pay the renewal fee for each year, as well as all late fees and interest fees.}

Revocation of Business License. Effingham County Board of Commissioners or their designees have the right to revoke any business license if deemed necessary. Standards of revocation may include, but not limited to: operating a business different then the original scope of business stated at time of application, or failure to comply with ordinance provisions.

Mobile Food Vendors. Mobile Food Vendors must get approval from the Department of Public Health. Once they have received their Food Service Permit, they can apply for their business license. If the Commercial Kitchen is based out of a Commercial Business, they will apply for a Commercial Business License; if they have a Commercial Kitchen at their residence, they will apply for a Residential Business License.

General Provisions

Residential Businesses General Provisions. All residential businesses, where permitted in AR-1, AR-2, R Districts, and PD, must meet the following general provisions (Excluding Agritourism Businesses):

1. The residential business shall be clearly incidental and secondary to the use of the dwelling. Internal or external changes which will make the dwelling unit or lot appear less residential in nature or function are prohibited. Examples of such prohibited alterations include construction of parking lots, paving of required setbacks, or adding commercial-like exterior lighting.
2. The residential business shall be conducted entirely within the principal dwelling unit and/or in a properly permitted, approved and fully enclosed accessory building that complies with the standards set forth in Chapter 14.
3. No separate entrance or driveway shall be allowed for the business without proper permitting and approval from Effingham County Development Services.
4. Residential Businesses are allowed one sign on the premises not to exceed 16sqft in size.
5. The residential business shall not be open to the public or receive deliveries earlier than 6:00am or later than 8:00pm. Routine residential-type carriers, such as UPS, and/or Amazon excepted.

6. A residential business shall not generate excessive traffic or produce obnoxious odors, fumes, smoke, dust, heat, glare, noise, vibration, electrical disturbance, or radioactivity or other conditions that will be a nuisance to the surrounding area.
7. Toxic, explosive, flammable, combustible, corrosive, radioactive, or other restricted materials, if any, shall be used, stored and disposed of in accordance with the International Fire Code and National Fire Protection Association Life Safety Code. Activities conducted and material/equipment used shall not be of a nature to require the installation of fire safety features not standard to residential uses.
8. Residential businesses are allowed two (2) employees who do not reside within the dwelling.
9. No more than two (2) residential businesses are permitted in a single residence.
10. Residential businesses may serve as headquarters or dispatch centers where employees come to the site and are dispatched to other locations if Effingham County Development Services approves.
 - a. *Parking*. All parking associated with the residential business must be mapped out on a Plot Plan to be approved by Effingham County Development Services before issuance of a business license.
 - b. *Fleet Parking*. Fleet Parking is prohibited in R Zoning Districts, and PD Zoning District. Fleet Parking may be allowed in AR-1 or AR-2 Zoning Districts, if located on a Truck Route or an Arterial Road and approved by Effingham County Development Services via the Sketch Plan Process.
 - c. *Driveways*. GDOT standards must be followed to allow fleet parking for a residential business.
11. Utility Trailers may be used in the operation of the business but must be stored out of view from the road, and only in AR-1 or AR-2 zoning districts.
12. Uses that require customers to come on site to have a service provided for them must be considered under a special approval by Effingham County Development Services.

Examples of such uses are:

Beauty/Barber Shop
Small Scale Mechanic Shop
Accountant
In Home Daycares
Swimming Lessons
Horse Stables

Commercial/Industrial Businesses General Provisions: All commercial, and industrial businesses where permitted in B-1, B-2, B-3, I-1 and PD, must meet the following general provisions (Excluding Agritourism Businesses):

Part II – Official Code / Chapter 70 – Taxation / Article II – Business Licenses and Occupation Tax

1. All new Commercial/Industrial Businesses must have a Technical Review Committee Meeting with Development Services.
2. All new Commercial/Industrial Businesses must submit a Sketch Plan to go before the Planning Board and Board of Commissioners for approval.
3. All Commercial/Industrial businesses in Effingham County shall have a Life Safety/Fire Safety Inspection.
4. All Commercial/Industrial businesses in Effingham County shall submit a Pre-Plan for review by the Effingham County Fire Department documenting all but not limited to: emergency exits, fire extinguishers, sprinkle rooms, electrical panels and more.