

ORDINANCE NO. 2022-12

CITY OF JOHNSON, WASHINGTON COUNTY, ARKANSAS

AN ORDINANCE AMENDING SECTION 4:24 OF THE JOHNSON MUNICIPAL CODE AND ADOPTING AN OCCUPATIONAL LICENSES CODE IN THE JOHNSON MUNICIPAL CODE; DECLARING AND EMERGENCY AND FOR OTHER PURPOSES.

WHEREAS, the City Council for the City of Johnson has adopted regulations pertaining to the city's Occupational License regulations codified in section 4.24 of the Johnson Municipal Code; and

WHEREAS, it has become apparent to the City Council for the City of Johnson, that a need exists to amend Section 4.24: Occupational Licenses for use by the City, for the purpose of establishing updated definitions, regulations, and procedures; and

WHEREAS, after review and consideration of the proposed amendment, the Johnson City Council determined that Section 4:24: Occupational Licenses of the Johnson Municipal Code should be amended and restated in its entirety as incorporated herein below.

NOW THEREFORE, BE IT ENACTED, BY THE CITY COUNCIL FOR THE CITY OF JOHNSON, ARKANSAS:

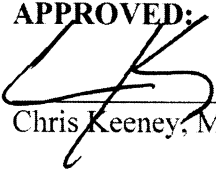
Section 1. Section 4.24: Occupational Licenses of the Johnson Municipal Code is hereby amended in its entirety to read and attached hereto as Exhibit "A".

Section 2. In the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Ordinance shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein provisions of this Ordinance shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

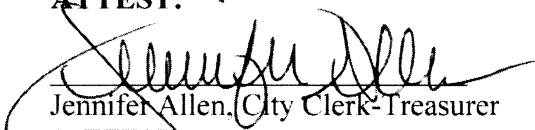
Section 3. Declaration of Emergency. It is hereby found and determined that Section 4.24: Occupational Licenses of the Johnson Municipal Code should be immediately revised in order to establish updated definitions, regulations, and procedures for the City of Johnson. Therefore, an emergency is declared to exist, and this act, being immediately necessary for the preservation and protection of the public peace, health, safety and welfare of the City and its citizens, shall become effective on the date of its passage and approval by the Mayor. If the Ordinance is neither approved nor vetoed by the Mayor, it shall become effective on the expiration of the period of time during which the Mayor may veto this Ordinance. If the Ordinance is vetoed by the Mayor and the veto is overridden by the City Council, it shall become effective on the date the City Council overrides the veto.

PASSED AND APPROVED this 13th day of Sept 2022.

APPROVED:


Chris Keeney, Mayor

ATTEST:


Jennifer Allen, City Clerk-Treasurer
(ATTEST)



4.24 Occupational Licenses

4.24.01 Annual Tax

The carrying on of any business, profession or occupation of whatever kind or nature within the city is hereby declared to be a special right, and any person engaged in any business, occupation or profession of whatsoever kind or nature within the city shall pay an annual tax for the carrying on of such business, occupation or profession within the city.

4.24.02 Requirement

A license shall hereafter be required of any individual, entity, or corporation who shall engage in, carry on, or follow any trade, business, profession, vocation or calling, within the corporate limits of the city of Johnson, Washington County, Arkansas.

It shall be unlawful for any person, whether as principal or agent, to commence, engage in, or carry on any of the businesses, occupations or professions described in this article within the city without having first paid the occupation tax and procured a license therefor.

4.24.03 Application

Applications for all licenses required by this ordinance shall be made in writing to the Clerk-Treasurer. Each application shall state the name of the applicant, the location to be used, if any, the time covered and the fee to be paid, and each application shall contain such additional information as may be needed for the administration of these regulations as determined by city officials.

4.24.04 Single Tax on Same Business

No person shall be subject to taxation under this article more than one time during any year for the conduct of the same trade, calling, vocation, business or profession despite the conduct of such occupation in more than one location within the city, unless the occupation is conducted in multiple locations at the same time.

4.24.05 Multiple Businesses

Any person engaged in two or more trades, callings, vocations, businesses or professions at the same location, or a single occupation which involves more than one category, shall be taxed under the applicable category bearing the highest tax. Occupations which solely involve sales but which have no declared inventory of stock in trade with the county assessor shall be taxed as a service.

4.24.06 Issuance

It shall be the duty of the clerk-treasurer, upon receipt of the amount of the tax provided in this article, to issue a license for every person liable to pay such tax, and to state in each license issued the amount thereof, the period of time covered thereby, the name of the person to whom issued, and the business, occupation or profession to be carried on. In no case shall any mistake in stating or computing the amount of a license due prevent or prejudice the collection by the city of what actually is due under this article.

4.24.07 Tax Schedule

The tax as provided in this section shall be paid by the person engaging in any business, occupation or profession inside the corporate limits of the city.

(1) General (includes home-based):

(i) \$50.00 plus \$5 for each employee and/or owner who work over 25 hours a week.

(2) Food and lodging.

a. Restaurants, cafes, diners, cafeterias, delicatessens or any place where food is prepared and served to the public:

1. Minimum: \$50.00.

2. 10—25 seats: \$75.00.

3. 26—75 seats: \$100.00.

4. Over 75 seats: \$150.00.

b. Motels, hotels, boardinghouses, rooming houses, mobile home parks, apartments and short-term rentals (AirBnB, VBRO, etc...) :

1. 1—6 units: \$50.00.

2. Plus each additional unit thereafter: \$5.00.

3. Catalogue houses the principal sales of which are by fulfillment of orders from out-of-town warehouses: \$300.00.

4. Self-service storage units:

(i) 1—6 units: \$50.00.

(ii) Plus each additional unit thereafter: \$1.00.

4.24.08 Payment of Tax

The tax levied under this article shall be due and payable at the office of the Clerk-Treasurer on February 1 of each year, and the period covered by any license under this article shall be for one year; provided, however, at the option of the licensee, the license may be paid in two semiannual installments on February 1 and August 1 of each year. The tax owed by any person commencing business on or after July 1 shall be prorated for the first year as of the date of such commencement. New businesses classifiable as sales or manufacturing shall declare their number of employees already employed at the time of commencement of new operations within the city.

4.24.09 Fees Paid

All fees and charges for licenses shall be paid at the time application therefore is made to the Recorder/Treasurer. When an applicant has not engaged in the business until after the expiration of part of the current license year, the license fee shall be prorated by quarters and the fee paid for each

quarter or fraction thereof during which the business has been or will be conducted. All license fees shall become part of the city General Fund.

4.24.10 Expiration

All licenses shall terminate on December 31 of each year and the annual license fee which shall be due and payable on January 1 of each year. The Clerk-Treasurer shall publish a notice in a newspaper of general circulation in the city of the time of expiration of the city licenses, three (3) weeks prior to the date of such expiration. Provided that a failure to publish such notice, or the failure of the licensee to have actual knowledge of such notice shall not excuse the licensee from a failure to obtain a new license, or a renewal thereof, nor shall it be a defense in an action for operation without a license.

4.24.11 Zoning

No license shall be issued for the conduct of any business if the premises and building to be used for the purpose do not fully comply with the ordinances and regulations of the city. No such license shall be issued for the conduct of any business or performance of any act which would involve a violation of the zoning ordinance of the city or for any individual, entity, or corporation that is in arrears to the city for any fine or fee owed, or for amounts owed pursuant to the city's advertising and promotion tax on lodging and the sale of prepared foods and beverages.

4.24.12 Location

The location of any licenses business or occupation, or of any permitted act, may be changed, provided, ten (10) days' notice thereof is given to the Clerk-Treasurer, in the absence of any provision to the contrary, provided that the building, zoning, and other ordinances of the city of Johnson are complied with.

4.24.13 Inspections

Whenever inspections of the premises used for or in connection with the operation of a licensed business or occupation are provided for or required by ordinance, or are reasonably necessary to secure compliance with any ordinance provision or to detect violations thereof, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit thereto for the purpose of making the inspection any officer or employee of the city who is authorized or directed to make such inspections at any reasonable time admission is requested.

4.24.14 License Posted

It shall be the duty of any person conducting a licensed business in the city to keep his license posted in a prominent place on the premises used for such business at all times. The holder of a license shall show the license to any authorized officer or agent of the city upon request, and shall provide supporting data or information regarding the calculation of the tax to any authorized officer or agent upon request.

4.24.15 Out of Town Contractors

Any out-of-town contractor doing work within the corporate limits of the city must show proof that they have a valid business license from the local government where their business is located. If they fail to produce a license from another locality, they must purchase a license from the city.

4.24.16 Verification of Subcontractor's License

All builders and contractors shall verify that all subcontractors doing work for them on any project in the corporate limits of the city possess a valid license before the work is performed.

4.24.17 Short Term Lease

(A) 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 clearly indicates a different meaning:]

Short-term residential rental is defined as the renting of residential property for a period of 29 days or less per rental.

(B) It shall be illegal to operate any type of short-term residential rental business in the City of Johnson without a privilege license. Owners of a short-term residential rental property shall obtain a privilege license from the city. The application for the privilege license shall contain, but not be limited to, the following:

- (1) The name, address, and phone number of the owner of the property or properties to be licensed.
- (2) A list of all short-term residential rental addresses of any kind owned by said owner in the City of Johnson.
- (3) If the owner is not a resident of Washington County, Arkansas, the application must include the name, address, and phone number of a local contact person responsible for the property, and who may serve as a local agent for service of any lawsuits, citations, warnings, or other correspondence regarding the property.
- (4) A completed application checklist with all requirements on the check-list met and with any required documents attached.
- (5) A completed fire marshal inspection with all requirements satisfied.
- (6) Violations of this section shall be subject to a fine of not less than \$100.00, nor more than \$500.00. Each day an owner continues to operate the business in violation of this section constitutes a separate offense.

4.24.18 Not Transferable

A license issued under these regulations shall not be transferable.

An employee, for the purpose of construing this ordinance only, is any partner, corporate officer or other individual who receives any direct or indirect compensation from any entity subject to the licensing under these regulations.

Exception: The sole proprietor of any unincorporated business is not an employee within the meaning of this ordinance and shall not be counted for the purpose of computing the number of employees upon which the amount of any license fee shall be based.

4.24.19 Exemptions

The following existing ordinances are not affected by the provisions contained herein:

1. Ordinances licensing, regulating or controlling the operation of mobile home parks.
2. Any franchise ordinance specifically including, but not being limited to, utilities, sanitation service, and telephone service. (Ord. No. 2011-13, Sec. 2)

4.24.20 Penalty

Any person violating any provision of this ordinance, upon conviction shall be fined a sum of not less than the amount of the license fee provided for, nor more than double such amount for each offense. Each day of violation shall constitute a separate and distinct offense. This section shall not be construed to prevent the City of Johnson from suspending or revoking any licenses or permits according to the procedures provided for in the Johnson Municipal Code.

4.24.21 Conflict with Statutes

These regulations shall not be construed to alter, change, or regulate in any unlawful way any business, trade, occupation, profession or vocation regulated or governed by the laws of the state of Arkansas when such laws are in conflict with the provisions herein contained.

4.24.22 Suspension/Revocation of License

(a) *[Good cause for suspension/revocation.]* Any business license issued pursuant to the provisions of this article may be suspended or revoked for good cause by the city council. Good cause for such suspension or revocation shall include, but is not limited to:

- (1) The existence of unsanitary conditions, noise, disturbances, or other conditions at, near or in the premises which causes or tends to create a public nuisance, which may injuriously affect the public health, safety or welfare, or which unnecessarily affects the adequate allocation of public safety resources;
- (2) The commission of, or permitting or causing the commission of, any act in the operation of the business which is prohibited by any ordinance, rule or law of the city, state or federal government;
- (3) Fraudulent practices and misrepresentation in the operation of the business;
- (4) Concealment or misrepresentation in procuring the business license;
- (5) The business for which the license has been issued is unlawful or is prohibited by any ordinance, code, rule or law of the city, state or federal government;
- (6) The license was issued by mistake or is in violation of any of the provisions of this article; or
- (7) The premises used to conduct said business has been condemned, declared a fire hazard or declared unsafe for business occupancy pursuant to applicable building, property maintenance, or fire codes.

4.24.23 Suspension/Revocation Procedure

- (1) The city council, on its own motion or initiative, or upon the written complaint of any person or city staff, may, by resolution, set a hearing date to determine whether good cause exists to suspend or revoke a license issued pursuant to this article.

(2) A notice of the hearing, along with a copy of the resolution setting the hearing date, shall be served by certified mail with return receipt requested, to the person holding the business license at the address shown on the business license application. Such notice and resolution shall also be hand delivered to the licensee at the address shown on the business license application, if the person is present. If the person is not present, the notice and resolution may be delivered to the person in actual charge of the premises at the time of delivery. If the business is closed, a copy of the notice and resolution shall be posted in a conspicuous location on the property.

(3) The notice and resolution shall inform the licensee of the allegations which constitute the basis for the hearing, and shall provide that the licensee will be given the opportunity to appear and be heard at the hearing.

(4) At the hearing, the city council will make a determination as to whether good cause exists to suspend or revoke the license. This determination shall be made only after the licensee has been afforded a reasonable opportunity to be heard on the issue.

(5) In the event the city council finds good cause to suspend the license, it shall have the authority to place reasonable conditions and restrictions on the licensee during the suspension period. Any violation of these conditions and restrictions shall result in the revocation of the license.

(6) In the event the city council finds that good cause exists to revoke the license, the city council shall, by ordinance, revoke the license and shall direct the city clerk to notify the licensee of the revocation of the license, and to direct the licensee to immediately cease all business activity at the business location. Notice shall be completed in accordance with subsection (b)(2) herein.

(7) Any person conducting business activity in violation of a revocation ordinance shall be punishable by those penalties prescribed in Section 4-24-20 of this Code, and each sales transaction shall constitute a separate and punishable offense.

(8) Any business or person who has had a license revoked pursuant to the provisions of this article shall not be eligible for another license until the business or person has complied with the requirements of Section 4-24-03 and has obtained city council approval before a new license may be considered.

ORDINANCE NO. 2023-01

CITY OF JOHNSON, WASHINGTON COUNTY, ARKANSAS

AN ORDINANCE AMENDING SECTION 4.24.07: TAX SCHEDULE OF THE JOHNSON MUNICIPAL CODE; DECLARING AND EMERGENCY AND FOR OTHER PURPOSES.

WHEREAS, the City Council for the City of Johnson has adopted regulations pertaining to the city's occupational license regulations codified in section 4.24 of the Johnson Municipal Code; and

WHEREAS, it has become apparent to the City Council for the City of Johnson, that a need exists to amend Section 4.24.07: Tax Schedule for use by the City, in order to provide updated regulations and procedures; and

WHEREAS, after review and consideration of the proposed amendment, the Johnson City Council determined that Section 4.24.07: Tax Schedule of the Johnson Municipal Code should be amended and restated in its entirety as incorporated herein below.

NOW THEREFORE, BE IT ENACTED, BY THE CITY COUNCIL FOR THE CITY OF JOHNSON, ARKANSAS:

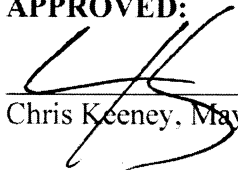
Section 1. Section 4.24.07: Tax Schedule of the Johnson Municipal Code is hereby amended, as set forth in the attached Exhibit "A".

Section 2. In the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Ordinance shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein provisions of this Ordinance shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

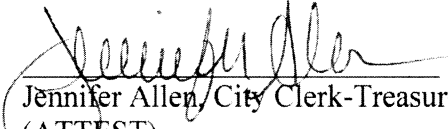
Section 3. Declaration of Emergency. It is hereby found and determined that Section 4.24.07: Occupational Licenses of the Johnson Municipal Code should be immediately revised in order to provide updated regulations and procedures for the City of Johnson. Therefore, an emergency is declared to exist, and this act, being immediately necessary for the preservation and protection of the public peace, health, safety and welfare of the City and its citizens, shall become effective on the date of its passage and approval by the Mayor. If the Ordinance is neither approved nor vetoed by the Mayor, it shall become effective on the expiration of the period of time during which the Mayor may veto this Ordinance. If the Ordinance is vetoed by the Mayor and the veto is overridden by the City Council, it shall become effective on the date the City Council overrides the veto.

PASSED AND APPROVED this 10th day of January 2023.

APPROVED:


Chris Keeney, Mayor

ATTEST:


Jennifer Allen, City Clerk-Treasurer
(ATTEST)



4.24.07 Tax Schedule

The tax as provided in this section shall be paid by the person engaging in any business, occupation or profession inside the corporate limits of the city.

(1) General (includes home-based):

(i) \$50.00 plus \$5 for each employee and/or owner who work over 25 hours a week.

(2) Food and lodging.

a. Restaurants, cafes, diners, cafeterias, delicatessens or any place where food is prepared and served to the public:

1. Minimum: \$50.00.

2. 10—25 seats: \$75.00.

3. 26—75 seats: \$100.00.

4. Over 75 seats: \$150.00.

b. Motels, hotels, boardinghouses, rooming houses, mobile home parks, apartments and short-term rentals (AirBnB, VBRO, etc...) :

1. 1—6 units: \$50.00.

2. Plus each additional unit thereafter: \$5.00.

3. Catalogue houses the principal sales of which are by fulfillment of orders from out-of-town warehouses: \$300.00.

4. Self-service storage units:

(i) 1—6 units: \$50.00.

(ii) Plus each additional unit thereafter: \$1.00.

5. An individual landlord, not operating as a corporate or business entity, who rents out less than 3 dwelling units (and no commercial, industrial, or institutional unit, site or building) shall be exempt from this regulation. However, a landlord that operates a short-term residential rental shall not be exempt and must apply for and obtain a business license for each individual short-term rental.

c. The tax shall not exceed the amount of \$300.00 for the conduct of the same trade, calling, vocation, business or profession as set forth herein.