

**CITY OF WRENS
CODE OF ORDINANCES
TITLE 7
CHAPTER 1**

TITLE 7

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Occupation Tax

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Sec. 7-1-1 Definitions.

The following words, terms and phrases shall, for the purposes of this chapter, have the following meaning:

- a. Administrative fee means a component of an occupation tax which approximates the reasonable cost of handling and processing the occupation tax.
- b. City means the City of Wrens, Georgia.
- c. 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 I.R.S. W-2 but not a form I.R.S. 1099. An individual who performs work under the direction and supervision of one business or practitioner in accordance with the terms of a contract or agreement with another business which recruits such individual is an employee of the business or practitioner which issues to such individual for purposes of documenting compensation a form I.R.S. W-2.
- d. 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 which serves a single customer or project or a vehicle used for sales or delivery by a business or practitioner of a profession or occupation which has a location or office. The renter's or lessee's location which is the site of personal property which is rented or leased from another does not constitute a location or office for the personal property's owner, lessor, or the agent of the owner or lessor. The site of real property which is rented or leased to another does not constitute a location or office for the real property's owner, lessor, or the agent of the owner or lessor unless the real property's owner, lessor, or the agent of the owner or lessor, in addition to showing the property to prospective lessees or tenants and performing maintenance or repair of the property, otherwise conducts the business of renting or leasing the real property at such site or otherwise conducts any other business, profession, or occupation at such site.
- e. Occupation Tax means a tax levied on persons, partnerships, corporations or other entities for engaging in an occupation, profession or business and enacted by the City of Wrens as a revenue-raising ordinance or resolution.
- f. Occupation Tax Certificate means a document issued by the City of Wrens acknowledging payment of the occupation tax.
- g. Practitioner of Profession and Occupation is one who by state law requires state licensure regulating such profession or occupation, but shall not include a

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practitioner who is an employee of a business, if the business pays an occupation tax.

Sec. 7-1-2 Administrative fee.

A nonprorated, nonrefundable administrative fee of \$40.00 shall be required on all occupation tax accounts for the initial startup or reopening of those accounts.

Sec. 7-1-3 Purpose and Scope of Occupation Tax.

The occupation tax levied herein is for revenue purposes only and is not for regulatory purposes, nor is the payment of the tax made a condition precedent to the practice of any such profession, trade, or calling. The occupation tax applies to those businesses and occupations which are covered by the provisions of O.C.G.A. § 48-13-5 to § 48-13-26.

Sec. 7-1-4 Occupation tax levied; occupational tax structure.

- a. An occupation tax based upon the number of full-time employees or full-time position equivalents in the State of Georgia is levied upon businesses and practitioners of professions and with one or more locations or offices within the corporate limits of the City in accordance with the schedule outlined in Subsection "c" below.

- b. An occupation tax based upon the number of full-time employees or full-time position equivalents in the State of Georgia is levied upon businesses and practitioners of professions and occupations with no location or office in the state of Georgia in accordance with the schedule outlined in Subsection "c" below if the business or practitioner:
 - 1. Has one or more employees or agents who exert substantial efforts within the corporate City limits for the purpose of soliciting business or serving customers or clients; or
 - 2. Owns real property or personal property which generates income and which is located in the corporate City limits.
 - 3. Any business or practitioner of a profession with no location or office in the state shall be exempt from assessment of an occupation tax under this section if such business or practitioner submits proof of payment of a local business or occupation tax in another state on the business's or practitioner's sales or services in the state of Georgia.

c.	<i>Employees</i>	<i>Tax Liability</i>
	0-2	\$90.00 minimum tax.
	3-10	\$35.00 per employee.
	11-20	\$32.00 per employee.
	21-30	\$25.00 per employee.
	31-40	\$18.00 per employee.
	41-50	\$9.00 per employee.

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Over 50 (MAXIMUM TAX) \$1,000.00

For the purposes of this computation an employee who works 40 hours or more weekly shall be considered a full-time employee and the average weekly hours of employees who work less than 40 hours weekly shall be added and such sum shall be divided by 40 to produce full-time employee position equivalents.

- d. If a business or practitioner does not know how many employees which are the basis of this occupation tax will be employed by the business or practitioner during the current calendar year, then the business or practitioner shall file a return estimating the number of employees which are the basis of this occupation tax. If such estimate is not accurate, then no later than December 31st the business or practitioner shall file an amended return indicating the actual number of employees during the previous calendar year. Any overpayment of the occupation tax may be credited to the business or practitioner's account for future tax liability, offset against other amounts due and owing to the City for any reason or paid to the business or practitioner at the discretion of the City Administrator.

Sec. 7-1-5 Restrictions on imposition of occupation tax.

- a. The City shall not require the payment of more than one occupation tax for each individual location of a business or practitioner within the corporate City limits.
- b. A business or practitioner which has locations in Georgia subject to occupation tax by more than one local government in Georgia shall only be subject to occupation tax by the City if the business or practitioner conducts the largest dollar volume of business or service within the corporate City limits. This restriction shall only apply when the business or practitioner has provided to the City satisfactory proof of current payment of the occupation tax to the other local government(s).
- c. If an employee works for the same business or practitioner in more than one municipal corporation or county and the business or practitioner submits proof of this, the employee shall be counted as an employee in the City only if the City is the jurisdiction where such employee works for the longest period of time within the calendar year.
- d. Real estate brokers shall be subject to occupation tax pursuant to this ordinance only if they maintain a principal or branch office in the City. No occupational tax shall be required from those real estate brokers, real estate agents, or real estate companies whose offices are located outside of the jurisdiction and who sell property inside the jurisdiction.

Sec. 7-1-6 Number of businesses considered to be operating in City.

Where a person or entity conducts business at more than one fixed location, each location or place shall be considered a separate business for the purpose of an occupation tax.

Sec. 7-1-7 Commencement on or after July 1st.

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If a business or practitioner commences business in the City on or after July 1st in any year, the occupation tax for the remaining portion of the year shall be fifty percent (50%) of the tax imposed for the entire year. However, the administrative fee provided in Sec.7-1-2 shall not be prorated.

Sec. 7-1-8 Procedure for Issuance.

- a. Following receipt of the filing of an initial occupation tax return and administrative fee by a new applicant, the City Clerk shall forward a copy of the return to the City Administrator or other designated official. The City Administrator shall review the return and other applicable documentation. Following review, the Administrator shall forward a recommendation and the tax return to the City council's business license committee for consideration and action.
- b. If the committee determines that the return is in order and all requirements for the occupation tax certificate have been met, then the committee shall direct the Administrator to grant the request and provide an occupation tax certificate to the applicant. The occupation tax certificate shall state the nature of the business authorized, the name of the business, bear the date of issuance and the signature of the City Clerk.
- c. If the committee determines that the return is not in order or any requirements for the occupation tax certificate have not been met, then the committee shall direct the Administrator to deny the request and immediately provide written notice of the denial and the grounds therefore to the applicant. The applicant may appeal the denial to the mayor and City council within ten (10) days of the denial notice being received. Requests for appeal shall be submitted in writing to the City Clerk. The mayor and City council shall hold a public hearing on the appeal within fifteen (15) days of the appeal being filed. Within ten (10) days of the hearing, the mayor and City council may order the certificate granted with or without conditions or may affirm the denial of the certificate. The decision shall be based only upon a finding by the mayor and City council that the committee and/or Administrator was correct or erred in the interpretation of the conditions and regulations involved.
- d. Following receipt of the filing of an occupation tax return by an existing business or practitioner, the City Clerk shall forward a copy of the return to the City Administrator or other designated official. The City Administrator shall review the return and other applicable documentation. Upon a determination by the Administrator that the return is in order and all requirements have been met, the Administrator shall issue an occupation tax certificate to the applicant. The occupation tax certificate shall state the nature of the business authorized, the name of the business, bear the date of issuance and the signature of the City Clerk.
- e. No certificate shall be issued to any applicant whose place of business is not in full compliance with all minimum standard building codes adopted by the City.

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- f. No certificate shall be issued to any applicant who has any outstanding indebtedness to the City, including but not limited to property taxes, regulatory fees, utility bills and any other taxes or assessments.
- g. Unless otherwise provided in the Chapter, all certificates shall be approved or disapproved by the City council's business license committee and/or Administrator within ten (10) days of filing a return with the City Clerk.

Sec. 7-1-9. Display of Occupation tax certificate.

Every business, practitioner and location subject to payment of the occupation tax levied by this chapter shall display a current occupation tax certificate in a conspicuous place at the location for which such certificate was issued. If the taxpayer does not have a permanent location within the City, the occupation tax certificate shall be shown to any police officer or other City official upon request.

Sec. 7-1-10 State License Display.

Each person subject to any occupation tax who is also licensed by the State of Georgia 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.

Sec. 7-1-11 Issuance of Replacement Certificates.

In the event that the City Clerk is notified that the business or practitioner has lost its copy of the certificate, the Clerk shall make a new copy, upon showing by the business or practitioner that the required fees have been paid. In addition, the business or practitioner shall be charged a replacement fee of \$30.00. Replacement certificates shall be signed by the City Clerk and shall indicate the time and date upon which issued.

Sec. 7-1-12 Duration of Certificate.

Any certificate referred to in this chapter shall automatically expire on December 31st of the year of its issuance.

Sec. 7-1-13 Businesses not covered by this chapter.

The following businesses are not covered by the occupation tax provisions of this chapter:

- a. 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, or instrumentality of the United States, the state, or a municipality or county of the state;
- b. Any state or local authority or nonprofit organization pursuant to O.C.G.A. § 48-13-13(5);
- c. Those businesses regulated by the Georgia Public Service Commission;

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- d. Those electrical service businesses organized under O.C.G.A. Title 46, Chapter 3;
- e. Any farm operation for the production from or on the land of agricultural products, but not including any agribusiness;
- f. Non-profit, agricultural product cooperative marketing associations pursuant to O.C.G.A. § 2-10-105;
- g. Motor common carriers pursuant to O.C.G.A. § 46-7-15;
- h. Persons purchasing guano, meats, meal, flour, bran, cottonseed or cottonseed meal or nuns in carload lots for distribution among the purchasers for use and not sale pursuant to O.C.G.A. § 48-5-355;
- i. Pursuant to O.C.G.A. § 48-5-356, businesses/individuals selling or introducing into the City agricultural products or livestock, including animal products, raised in this state when the sale and introduction are made by the producer of the product and the sale is made within ninety (90) days of the introduction of the product into City;
- j. Insurance companies¹ governed by O.C.G.A. § 33-8-8 et seq.;
- k. Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55;
- l. Depository institutions pursuant to O.C.G.A. § 48-6-93; or
- m. Any business where the levy of such occupation tax is prohibited by the laws of the State of Georgia or the United States.

Sec. 7-1-14 Exemptions from Payment of Occupation Tax.

- a. The following classes of persons may conduct business within the corporate City limits without paying an occupation tax, provided such person receives a certificate of exemption issued by the commissioner of veterans service:
 - 1. Any disabled veteran of a war or armed conflict in which any branch of the armed forces of the United States engaged, whether under United States command or otherwise;
 - 2. Any blind person; or
 - 3. Any veteran of peacetime service in the United States armed forces who has a physical disability incurred during the period of such service.
- b. Any individual seeking an exemption under this section must comply with the applicable provisions of O.C.G.A. § 43-12-1 through § 43-12-9.

¹ Independent insurance agencies or brokers with one or more locations or offices within the corporate limits of the City shall be subject to the provisions of this chapter.

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- c. Individuals receiving an exemption from payment under this section are required to obtain an occupation tax certificate from the City. Said certificate shall be marked "FREE" on its face.

Sec. 7-1-15 Affect of exemptions and limitations.

The exemptions and limitations contained in this chapter shall not be construed to repeal or otherwise affect in any way any franchise fees, business taxes or other fees otherwise allowed by law.

Sec. 7-1-16 Evidence of State Registration When Required.

Each person who is licensed under Title 43 of the Official Code of Georgia Annotated by the Examining Boards of the Secretary of State's Office shall provide evidence of proper and current State licensure before any City occupation tax certificate may be issued.

Sec. 7-1-17 Evidence of Qualification Required If Applicable.

- 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 an occupation tax certificate, show evidence of such qualification.
- b. Any business required to submit an annual application for continuance of the business shall do so before a certificate is issued.

Sec. 7-1-18 Filing Returns; Other information required or requested.

- a. On or before January 30th of each year, an individual, business or practitioner subject to this occupation tax chapter shall file with the City Clerk, on a form approved by and available from the City, a signed return attesting to the number of employees of such business or practitioner during the calendar year. Said return shall be filed at the time the business or practitioner remits payment to the City Clerk for the occupation tax due.
- b. Individuals, businesses and practitioners conducting businesses in the City shall submit to the City Clerk or make available within thirty (30) days of a request for same such information as may be required or requested by the City to determine the appropriate occupation tax due.
- c. Individuals, businesses and practitioners who fail or refuse to make available truthful and accurate information the City requests or requires for determining applicability or amount of occupation tax, or for levying or collecting such occupation tax shall be subject to suspension of the right to conduct business. In the case of those practitioners where the local government cannot suspend the right of the practitioner to conduct business, the imposition of civil penalties shall be permitted and pursued by the City.

Sec. 7-1-19 Confidentiality.

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Information provided by a business or practitioner to the City for the purpose of determining the applicability and amount of the occupation tax or levying or collecting the occupation tax is confidential and exempt from disclosure under Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia. Such information may be provided to the governing authority of another local government for occupation tax purposes or pursuant to court order or for the purpose of collecting occupation tax or prosecution for failure or refusal to pay occupation tax. Nothing herein shall be construed to prohibit the publication by the City officials of statistics, so classified as to prevent the identification of particular reports or returns and items thereof, or the inspection of the records by duly qualified employees of the tax departments of the State of Georgia or of the United States.

Sec. 7-1-20 Occupation tax; date due.

Any occupation tax due pursuant to this chapter shall be due and payable no later than January 30th of each year. In the event that any person commences a business, trade, practice, or calling in the City after January 30th of any year, the occupation tax shall be due and payable within thirty (30) days of the commencement of the business, trade, practice or calling.

Sec. 7-1-21 Change of Address.

Any business or practitioner receiving an occupation tax certificate that moves from one location to another within the City shall notify the City Clerk of the move and the new address in writing on a form approved by the City. This notice shall be provided no later than the day of moving. The same certificate will be valid at the new location if the new location conforms to the zoning and other building regulations of the City.

Sec. 7-1-22 Transfer of Certificates.

Certificates shall not be transferable except as provided in this section. In the event that the owner of a business holding a currently valid occupation tax certificate should sell or transfer the business to another individual, the purchaser of the business shall obtain free of charge a new certificate in his/her name for the balance of the current term of the seller's occupation tax certificate, upon making application to the Administrator, and the purchaser shall be punishable for violation of this Chapter if the transfer of the certificate provided for in this section is not made within thirty (30) days of the transferee's operation of the business. At the date of renewal of the seller's certificate, the buyer must obtain a new certificate and comply with all applicable provisions of this Chapter in the same manner as if he/she had been the original owner of the business.

Sec. 7-1-23 Penalty for violation.

- a. Any business or practitioner subject to any occupation tax imposed by this chapter which is unpaid for ninety (90) days after the date on which payment is due shall be subject to a penalty of ten percent (10%) of the occupation tax due.
- b. In addition to the other remedies herein provided, the City municipal court may impose a civil fine for failure to pay the occupation tax due under this Chapter.

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Such a civil fine shall not exceed \$500.00 and may be enforced by the contempt power of the court.

Sec. 7-1-24 Lien taken for delinquent occupation tax.

- a. In addition to the other remedies herein provided for the collection of the occupation tax levied, the City Clerk shall issue executions against individuals, businesses and practitioners for taxes that are delinquent and remaining unpaid. Such executions shall bear interest at the rate authorized by O.C.G.A. § 48-13-21 or, if such statute should be repealed, one and one-half percent (1½ %) per month. The lien shall cover the property (in the City) of the individual, business or practitioner liable for payment of the delinquent occupation tax. The lien shall become fixed as of the date and time the occupation tax becomes delinquent tax. The execution shall be levied by the City Clerk upon the property of defendant located in the jurisdiction, and sufficient property shall be advertised and sold to pay the amount of the execution, including penalties, interest and costs. All other proceedings in relation thereto shall be had as is provided by the ordinances, Code and Charter of the City and the laws of the State of Georgia, and the defendant in the execution shall have rights of defense, by affidavit of illegality and otherwise, which are provided by the applicable laws in regard to tax executions.

- b. When a nulla bona entry has been entered by proper authority upon an execution issued by the City Clerk against any person defaulting on the occupation tax, the person against whom the entry was made shall not be allowed or entitled to have or collect any fees or charges whatsoever for services rendered after the entry of the nulla bona. If, at any time after the nulla bona entry has been made, the person against whom the execution issues pays the tax in full together with all interest and costs accrued on the tax, the person may collect any fees and charges due to such person as if such person had never defaulted in the payment of the tax.

Sec. 7-1-25 Liability for officers and agents.

All businesses or practitioners subject to the occupation tax imposed by this chapter shall be required to file a return and pay such tax. For failure to do so any officers, agents, and/or managers soliciting or obtaining such practitioner business shall be subject to the same penalty as other persons, businesses or practitioners who fail to file a return or pay the applicable occupation tax.

Sec. 7-1-26 Revocation/Suspension of Certificate.

The mayor and council after affording the business or practitioner a five (5) day notice of the charges and opportunity to be heard with respect to any revocation proceedings, may, if it finds this Chapter to have been violated by the certificate holder, its agents, or employees in the operation of the business, revoke any and all certificates in their entirety, suspend the same for a specified period of time, place the business on probation or place other conditions thereon as the mayor and City council may deem necessary after a hearing thereon.

Sec. 7-1-27 Amendment, repeal of provision.

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This chapter shall be subject to amendment or repeal, in whole or in part, at any time, and no such amendment or repeal shall be construed to deny the right of the City to assess and collect any of the taxes or other charges prescribed. Such amendment may increase or lower the amounts and tax rates of any occupation and may change the classification thereof. The payment of any occupation tax provided for shall not be construed as prohibiting the levy or collection by the City of additional occupation taxes upon the same person, property, practitioner, or business.

Sec. 7-1-28 Applications of provisions to prior ordinance.

This chapter does not repeal or affect the force of any part of any ordinance heretofore passed where taxes levied under such prior ordinance have not been paid in full. Any and all parts of ordinances heretofore and hereinafter passed that provide for the issuing and enforcing of execution for any tax or assessment required by such ordinances, or that impose fines or penalties for the nonpayment of such tax, provided for in such ordinance or ordinances, or for failure to comply with any other provisions hereof, shall continue and remain in force until such tax or assessment shall be fully paid.

Sec. 7-1-29 Enforcement of provisions.

It is hereby made the duty of the City Administrator and City police department to see that the provisions of this chapter relating to occupation taxes are observed; and to summon all violators of the same to appear before the municipal court. It is hereby made the further duty of the City Administrator, Chief of Police, members of the police department, and their assistants to inspect all certificates issued by the City, as often as in their judgment it may seem necessary to determine whether the certificate held is the proper one for the business sought to be transacted thereunder.

Sec. 7-1-30 Provisions to remain in full force and effect.

This chapter shall remain in full force and effect until changed by amendment adopted by the City council. All provisions hereto relating to any form of tax herein levied shall remain in full force and effect until such taxes have been paid in full.

Sec. 7-1-31 Requirement of public hearing.

The City council shall conduct at least one public hearing before adopting, amending, or repealing any ordinance or resolution regarding the occupation tax.

Sec. 7-1-32 Option to establish exemption, reduction, or credit.

The City council may by subsequent ordinance or resolution provide for an exemption or reduction in occupation tax or a credit against occupation tax owed to one or more types of businesses or practitioners of occupations or professions as part of a plan for economic development or attracting, encouraging, or maintaining selected types of businesses or practitioners of selected occupations or professions. Such exemptions or reductions in occupation tax shall not be arbitrary or capricious, and the reasons shall be set forth in the minutes of the City council.

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Sec. 7-1-33 Conflict between specific and general provisions.

Where there is an apparent conflict in this chapter between specific and general provisions, it is the intention hereof that the specific shall control.