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**AN ORDINANCE OF
THE CITY OF WESTPHALIA, MISSOURI**

ORDINANCE NO. 09-23

**AN ORDINANCE OF THE CITY OF WESTPHALIA, MISSOURI, REQUIRING
BUSINESS LICENSES AND PROVIDING REGULATION THEREOF.**

**NOW, THEREFORE, BE IT ORDNANIED BY THE BOARD OF ALDERMEN OF THE CITY OF
WESTPHALIA, MISSOURI, AS FOLLOWS:**

WHEREAS, the City of Westphalia issued Ordinance Number 02-20 on April 28, 2020 and Ordinance Number 87-2 on December 29, 1986 concerning business licenses;

WHEREAS, the Board of Aldermen hereby rescinds Ordinance Number 02-20 and Ordinance Number 87-2; and

WHEREAS, the Board of Aldermen does hereby implement new standards for the granting and renewal of business licenses, and establishes requirements to be met by businesses to remain in operation;

Section 1 General

No person shall engage in any occupation, business or calling, unless he/she shall first obtain a license to conduct the business, occupation or calling. This shall include any retail, wholesale or manufacturing business selling goods or services to the community as a whole or to other businesses, as well as professional occupations, except those occupations which are specifically excluded by virtue of Section 71.620, RSMo. For the purposes of this ordinance, a person shall include an individual, corporation, partnership, limited liability company, limited partnership, association or any other similar type of entity.

Section 2 Exemptions.

Non-profit organizations as outlined in the U.S. Internal Revenue Service regulations shall be exempt from this ordinance. Any person or organization claiming an exemption based upon a non-profit status must submit such documents as necessary to support the exemption. In addition, any person who conducts less than four (4) yard or garage sales per calendar year, all of which being less than four (4) days in duration, shall also be exempt. Any person who conducts more than three (3) yard or garage sales per year or any yard or garage sale which is longer than three (3) days in duration shall be considered to be engaged in a commercial activity and shall be subject to all provisions of this ordinance and all other ordinances of the City of Westphalia which regulate business activities.

Section 3 Solicitors.

Solicitors are specifically excluded from the provisions of this ordinance.

Section 4 Application.

Any person desiring to enter into or carry on any business, trade or calling within the City limits shall first make application to the City Clerk for a license to do so, giving such information as may be necessary for the Clerk to properly perform their duties as required by City ordinance and State law. The application shall also be subject to all other provisions as hereinafter set forth.

Section 5 Issuance.

Any license applied for under this ordinance shall be issued by the City Clerk only upon compliance by the applicant therefore with all provisions of this ordinance and the City of Westphalia Zoning Code. Any business that requires Osage County Department of Health inspection: food service, hotel and lodging, childcare, etc., shall supply an "Inspection report" by said Department at the time of application or renewal of business license. Business licenses or permits may be issued to applicants who desire to operate as building contractors, interior designers, sales representatives, service-related contractors and similar occupations at the address of the applicant's residence without the occupancy permit, or building conformance requirements so long as the actual performance of such occupation is not visible from the outside of such residence except for signage on motor vehicles not in excess of one (1) ton gross weight used as normal transportation and so long as no one other than the applicant and members of the applicant's immediate family who also live in such residence conduct such occupation from within the residence. In no event shall any materials associated with such occupation be stored on the premises outside of the residential structure. All business license applications must include a copy of the current State of Missouri business/merchant license and the current Osage County business license. All business license applications shall be submitted on forms provided for such purpose by the City of Westphalia and include all applicable said documentation.

Section 6 Multiple Locations.

Any business operated under the same name at multiple locations shall be required to have a separate license for each such location.

Section 7 Display.

Every license issued under this ordinance shall be displayed by the business so licensed.

Section 8 Term — Renewal.

A. All licenses issued under this ordinance shall be renewed annually during the month of March and shall become delinquent if not renewed by April first (1st) of each year. Renewal of licenses pertaining to child-related businesses shall be subject to the same requirements as a new application.

B. All new applications shall be processed prior to the opening of any new business.

Section 9 Suspension or Revocation.

Any license issued under the provisions of this ordinance may be suspended or revoked by the Board of Aldermen for the violation by the licensee of any applicable provision of this ordinance, State law, or rule or regulation. The Board of Aldermen shall provide the license holder an opportunity for a public hearing

before the Board of Aldermen. Upon the completion of such hearing, if the Board of Aldermen finds by substantial evidence that a violation has occurred, the license shall either be suspended for a time not to exceed one hundred eighty (180) days or shall be revoked. Should any business become delinquent on any taxes due to the City, County, State or Federal Government, the Mayor, with the consent of a majority of the Board of Aldermen, is authorized to revoke said business license until proof of payment, a copy of the new State of Missouri business/merchant license, and a copy of the new Osage County business license is supplied to the City Clerk.

Section 10 Fee.

Before any new license shall be issued under this ordinance, the applicant shall pay a non-refundable fifty-dollar (\$50.00) fee. The cost of an annual renewal of said license, as required by Section 8 above, shall be twenty-five dollars (\$25.00). Under no circumstances shall license fees due be prorated. In addition, if the annual renewal is not paid by April first (1st), a twenty-dollar (\$20.00) per week penalty shall be assessed. The penalty shall be for each full seven-day period or portion thereof for which the business operates without a valid license. Business licenses are not transferable and are required to be posted at each business location. A new license must be purchased for a fee of fifty dollars (\$50.00) if the business moves to a new address or has new management. All fees shall be deposited into City funds.

Section 11 Penalty for Violation of Chapter.

Any person who does not secure a license prior to doing business within the City, whose license is revoked and who continues to operate, or whose license is not renewed and who continues to operate is guilty of an ordinance violation punishable by fine of not more than five hundred dollars (\$500.00). Each day of operation after one (1) of the acts described in this Section occurs shall be considered to be a separate offense. In the event that a business is in operation in violation of this ordinance for a period of greater than fourteen (14) days, the Mayor, with the consent of a majority of the Board of Aldermen, is authorized to direct the City Attorney or their designee to file an action in the Circuit Court of Osage County seeking an injunction to prevent such business from continuing operation until such time as they have brought themselves into compliance with this ordinance. Should such litigation be necessary to enforce the terms hereof, the business in question shall be responsible for the reasonable attorney's fees and costs incurred by the city in enforcing this ordinance, in addition to all fines for the late acquisition of a license as described herein. Prior to the filing of any such litigation, the City shall provide via hand-delivery to the business address of record for the offending party a written notice indicating that litigation as described herein will be filed within not less than seven days if a business license is not acquired.

WHEREAS, this Ordinance shall be in full force and effect from and after the date of its passage by the Board of Aldermen and approval by the Mayor, City of Westphalia, Missouri. All business licenses issued under Ordinance 02-20 and Ordinance 87-2 shall remain valid and in effect until their expiration pursuant to their terms.

DULY PASSED on this 26th day of September, 2023.

Address:

City of Westphalia – City Hall
116 East Main Street
P.O. Box 36
Westphalia, MO 65085

By: Tammy Massman
Tammy Massman
Mayor

ATTEST:

Tammy Massman
Tammy Massman
City Clerk

Curtis Wheat
Curtis Wheat
Mid MO Operations-Sewer Operator

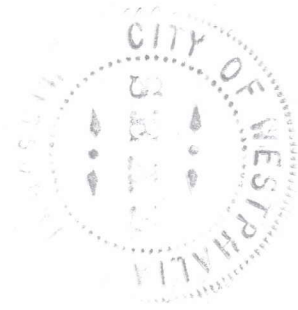
STATEMENT OF THE AYES AND NAYS:

APPROVED this 26th day of September, 2023.

First Reading: 4 Ayes _____ Nays

Second Reading: 4 Ayes _____ Nays

Third Reading: 4 Ayes _____ Nays



Tammy Massman
Tammy Massman
Mayor

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