

BUSINESSES

Article II. Business Occupation Taxes

Sec. 12-16. - Purpose and scope of occupational tax; Occupation tax required, Occupation Tax Certificate required; Display of Occupation Tax Certificate.

- (a) Each person engaged in a business, trade, profession or occupation, whether with a location within the city or in the case of an out-of-state business with no location in the state exerting substantial efforts within the city pursuant to O.C.G.A. § 48-13-7, shall pay an occupational tax for said business, trade, profession or occupation.
- (b) Occupation taxes shall be based upon gross receipts in combination with profitability ratio and number of employees. The profitability ratio for the type of business will be determined from nationwide averages derived from statistics, classifications or other information published by the United States Office of Management and Budget, the United States Internal Revenue Service or successor agencies of the United States.
- (c) 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 profession, trade or calling.
- (d) Any person engaged in any business, trade, profession, or occupation in the city shall receive an Occupation Tax Certificate upon submission of the appropriate tax and providing proof of compliance with the provisions of this chapter.
- (e) The Occupation Tax Certificate provided for in this section shall be issued by the City Manager or designee.
- (f) Occupation Tax Certificates shall be displayed in a conspicuous place in the place of business if the taxpayer has a permanent business location in the city. If the taxpayer has no permanent business location in the city, such Occupation Tax Certificate shall be shown to the authorized enforcement officer of the city or designee upon request. Notwithstanding the foregoing, the requirement to display the certificate shall not apply to lawyers.

Sec. 12-17. - 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 clearly indicates a different meaning:

Business means any person, sole proprietor, partnership, corporation, trade, profession, occupation or other entity and the efforts or activities associated thereby for the purposes of raising revenue or producing income, including but not limited to sole proprietors receiving a form IRS 1099 from another business at the same location.

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

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 individuals, for purposes of documenting compensation, a form I.R.S. W-2 but not a form I.R.S. 1099.

Gross receipts.

- (1) The term "gross receipts" means the total revenue of the business or practitioner for the period including, without limitation, the following:
 - a. Total income without deduction for the cost of goods or expenses incurred;
 - b. Gain from trading in stocks, bonds, capital assets, or instruments of indebtedness;
 - c. Proceeds from commissions on the sale of property, goods, or services;
 - d. Proceeds from fees for services rendered; and
 - e. Proceeds from rent, interest, royalty, or dividend income.

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- (2) The term "gross receipts" does not include the following:
- a. Sales, use, or excise tax;
 - b. Sales returns, allowances, and discounts;
 - c. Interorganizational sales or transfers between or among the units of a parent-subsidary controlled group of corporations as defined by 26 USC 1563(a)(1), or between or among the units of a brother-sister controlled group of corporations as defined by 26 USC 1563(a)(2);
 - d. Payments made to a subcontractor or an independent agent for services which contributed to the Gross Receipts in issue;
 - e. Governmental and foundation grants, charitable contributions, or the interest income derived from such funds received by a nonprofit organization which employs salaried practitioners otherwise covered by this article, if such funds constitute 80 percent or more of the organization's receipts; and
 - f. Proceeds from sales of goods or services which are delivered to or received by customers who are outside the state at the time of delivery or receipt.

Location or office means 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.

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 local government as a revenue-raising ordinance or resolution.

Practitioner of profession or occupation means 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.

Regulatory fees means payments, whether designated as license fees, permit fees, or by another name, which are required by the City as an exercise of its police power and as a part of or an aid to regulation of an occupation, profession, or business. The amount of a regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the city. A regulatory fee may not include an administrative fee, registration fee, or fee by any other name in connection with a regulatory fee. Regulatory fees do not include required occupation taxes for businesses and professions located in the city.

Sec. 12-18. – Occupational Taxes due and payable dates.

- (a) Occupational taxes on businesses continuing from the preceding year shall be due and payable on January 1 of each subsequent year. Occupational tax due from businesses continuing operation in the current year from the preceding year shall be considered delinquent if not paid by April 1 of each year. Any business failing to pay the occupational taxes by April 1 shall be subject to and shall pay a ten percent penalty of the amount of tax or fees due and 1½ percent per month interest as provided by state law.

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- (b) If a business begins on or after January 1 of the occupation tax year, the tax on such business shall be due and payable 30 days following the commencement of the business. Any business failing to pay the occupational taxes within 120 days after commencement shall be subject to and shall pay a ten percent penalty of the amount of tax or fees due and 1½ percent per month interest as provided by state law. Such penalty shall be assessed in full on the 121st day of the tax year in addition to interest on delinquent occupation taxes and regulatory fees.

Sec. 12-19. - Applicant requirements.

- (a) Any person engaged in any business, trade, profession, or occupation in the city shall submit an Occupation Tax Certificate application with supporting documentation showing compliance with all applicable provisions of state, county, and city laws relating to their business, trade, profession, or occupation.
- (b) Any person who performs any business, occupation or profession subject to an occupation tax in the City is required to provide the following information when paying such occupation tax:
 - (1) The legal name of the business;
 - (2) Any associated trade names for the business;
 - (3) The mailing address for the business;
 - (4) The actual physical address of each location of the business, if it is different than the mailing address;
 - (5) A detailed description of all business activity(ies);
 - (6) The North American Industry Classification System code (NAICS) applicable to such business, based on the dominant line of business; and
 - (7) The sales and use tax identification number assigned to the business by the state department of revenue, if the business is required by law to have such a number.
 - (8) Federal Tax identification number.
 - (9) Taxable gross receipts as defined under section 12-16 in the form of an Affidavit provided by the City.
 - (10) Any additional information and documents as required by the City.
 - (11) Each person who is licensed by the secretary of state pursuant to O.C.G.A. title 43 shall provide evidence of proper and current state licensure before the city occupation tax certificate may be issued.
 - (12) 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. This requirement to display the license shall not apply to lawyers.

Sec. 12-20. - Business classifications for determining tax levy.

- (a) For the purpose of this article, every person engaged in business requiring the payment of occupational taxes shall be assigned a code in accordance to the North American Industrial Classification System (NAICS) on the basis of their dominant line of business; each NAICS code shall be assigned to a profitability class as established by the city council in accordance with Statistics of Income, Business Income Tax Returns, United States Treasury Department, or Internal Revenue Service. The City Manager or designee shall review assignment of businesses to profitability classes on a biannual basis and shall administratively reassign businesses as necessary to the then most accurate profitability class.
- (b) Classifications by business profitability established by the city council are incorporated herein by reference and adopted for use in the application of this article and shall be maintained in the office of the city clerk, available for inspection by all interested persons.

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- (c) Businesses engaged in more than one business activity shall be classified on the basis of their dominant line of business at each location where business is done; except, that a person whose dominant business activity is legally exempt as defined by this article shall be classified according to such person's principal subsidiary business, if any, which is subject to the levy and assessment of occupation taxes.

Sec. 12-21. - Occupation tax levied; rate of tax; restrictions.

- (a) An occupation tax shall be levied upon those businesses and practitioners of professions and occupations with one or more locations or offices in the corporate limits of the city and upon the applicable out-of-state businesses with no location or office in the state pursuant to O.C.G.A. § 48-13-7, based upon a combination of profitability classification, taxable gross receipts and the number of employees of the business or practitioner.
- (b) The occupation tax shall be determined by applying the business' gross receipts and number of employees to the tax rate table for the business' profitability classification established for each business type.
- (c) The tax rate for the classifications shall be set by Council with resolution or ordinance.
- (d) All occupation taxes levied by this article are levied on taxable gross receipts during the current calendar year and the number of employees to be employed in the business conducted. For new businesses, the occupation tax for the year of commencement shall be based upon an estimate of gross receipts of the business from the date of commencement until the end of that year. Continuing businesses subject to the occupational tax shall file with the city an affidavit showing all gross receipts of that business during the preceding calendar year ending on December 31. This affidavit showing preceding calendar year gross receipts shall be used as an estimate of gross receipts for making payments on the occupation tax for the current tax year. The number of employees reported for the current year's business operations may be based upon the number of employees employed in the business conducted during the previous year. Applicants or owners engaged in the business shall be reported as employees of the business. The affidavit showing the business' preceding year's actual gross receipts and number of employees shall also be used to adjust the estimated occupation tax for the same period. Should a business not continue or terminate during the year, such business shall notify the city's business occupation tax section and file a final return reporting the actual number of employees and those gross receipts not previously reported and making payment of any tax due.
- (e) The gross receipts tax shall include a flat rate of \$125.00 for the first \$249,999.99 of gross revenue and a fee per employee. Gross revenues above \$250,000.00 are taxed using a class table based on profitability, a tax factor and a fee per employee. The tax rate table will be set by Mayor and Council by ordinance or resolution.
- (f) Where a business subject to the occupation tax for the calendar year has been conducted for only a part of the preceding year, the affidavit shall contain a figure that puts such part of a year on an annual basis with the part-year receipts bearing the same ratio to the whole-year gross receipts as the part year bears to the whole year. Said figure shall be used as the estimate of the gross receipts of the business for the current calendar year in establishing the business tax liability.
- (g) In the event a business's actual amount of gross receipts in a given year are less than what was estimated, and it results in a fee difference, the business shall be responsible for submitting a written request for a refund of the difference by April 1 of the subsequent tax year; said request must be accompanied by financial support, i.e. tax return for that tax year. If the refund is substantiated, a refund will be processed within 30 days.
- (h) In the event a business's actual amount of gross receipts in a given year are more than what was estimated, and it results in a fee difference, the business shall be responsible for payment of the difference upon subsequent year's renewal, termination of the business or April 1 of the subsequent year, whichever is sooner; this additional tax due is subject to the penalties as outlined in this Chapter for occupation taxes due.

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- (i) No refund or proration shall be made for a taxpayer who shall cease doing business or remove the business from the city.
- (j) Notwithstanding the foregoing, if a lawyer begins or continues business after January 1 of the occupation tax year, the tax on such business shall be due and payable on December 31 of the year in which the business begins or continues. Any lawyer failing to pay the occupation tax within 120 days after December 31 shall be considered delinquent and shall be subject to and shall pay a ten percent penalty of the amount of tax or fee due and interest as provided by state law. Such penalty shall be assessed in full on the 121st day of the year following the tax year in addition to interest on delinquent occupational taxes. In addition, a list of all delinquent lawyers may be sent to the State Bar of Georgia. The general penalty for continuing violations of this Code shall not apply to violations of this chapter by lawyers. Specifically, failing to comply with the article will not result in the city closing the business or penalizing the continued practice of law by fining, imprisoning or criminalizing noncompliance.
- (k) The city shall not require the payment of more than one occupational tax for each location that a business or practitioner shall have nor shall the city require a business to pay an occupational tax for more than 100 percent of the business' gross receipts.
- (l) Real estate brokers shall pay an occupational tax for each principal office and each separate branch office located in the city based upon gross receipts derived from transactions with respect to property located within the city. Payment of the occupation tax shall permit the broker, the broker's affiliated associates and salespersons to engage in all of the brokerage activities described in O.C.G.A. § 43-40-1 without further licensing or taxing other than the state licenses issued pursuant to chapter 40 of title 43 of the O.C.G.A. No additional license, occupation or professional tax shall be required of the brokers affiliated associate brokers or salespersons; provided, however, that, subject to the limitations of subsection (b) of this code section, a municipality or county which levies a general occupation or business license tax on a gross receipts basis shall have the power to levy and collect an occupation, license, or professional tax upon real estate brokers transacting business within the boundaries of the taxing jurisdiction, which tax shall be based upon gross receipts derived from transitions with respect to property located within the boundaries of a taxing jurisdiction.
- (m) For out-of-state businesses with no location in the state, occupation taxes include the gross receipts of the business as defined in section 12-16.
- (n) For purposes of this section, prima facie evidence of gross receipts generated during any period shall be a sworn statement under oath and penalty of perjury, an affidavit form provided by the City, that the provided gross receipt information is true and correct as stated on the applicable income tax return of the business for the applicable year, less allowed exemptions. If no tax return has been filed for the applicable year, the applicant must swear under oath and penalty of perjury that no tax return has been filed for the applicable year, and the gross receipts as presented to the city are true and correct to the best of the applicant's knowledge, ability and training based on financial documents such as CPA statement and/or the business's annual profit and loss statement.
- (o) No portion of the tax may be prorated.
- (p) For purposes of determining the number of employees of a business, trade, or practitioner, an employee who works 40 hours or more weekly shall be considered a fulltime 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 fulltime position equivalence. For purposes of this section, the number of employees shall be the number of fulltime employees or fulltime position equivalence.
- (q) Notwithstanding any other provision of this article, practitioners of professions as described in O.C.G.A. § 48-13-9(c) (1) through (18) shall elect as their entire occupation tax one of the following:
 - (1) The occupation tax based-on number of employees and gross receipts combined with profitability ratios as set forth in this article; or

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- (2) \$400.00 for the year 2014 and subsequent years, but a practitioner paying according to this shall not be required to provide information relating to the gross receipts of such practitioner.

Sec. 12-22. - Inspections of books and records.

- (a) The city, through its officers, agents, employees or representatives, shall have the right to inspect the books or records of any business for which applications have been based upon the number of employees and gross receipts. It shall be the responsibility of the person holding a license under this chapter to secure, preserve and keep reasonable records, including payments to subcontractor, the business license number of any subcontractors, W-2s, 1099s, rents received from tenants and box holders, and records containing the amount of sales receipts, and such records and any other documents reasonably requested by the business license supervisor shall be furnished upon demand to the supervisor of the business license office, or his authorized representative, for determining the proper classification of the business and for audit purposes to determine the correct amount of occupation taxes for the business.
- (b) Upon demand of the City Manager or designee, such books or records shall be submitted within 30 days for inspection by a representative or agent of the city. Independent auditors or bookkeepers employed by the city shall be classified as agents for the purposes of this article. If it is determined that a deficiency exists as a result of under reporting, additional payment of occupation taxes required to be paid under this article shall be assessed. Additionally, Interest and penalties may be charged as provided by in this Code. Notwithstanding the foregoing, no attorney shall be required to disclose any information that would violate the attorney/client privilege.
- (c) Except as provided in subsection (c) of this section, information provided by a business or practitioner of an occupation or profession for the purpose of determining the amount of occupation tax for the business or practitioner is confidential and exempt from disclosure under O.C.G.A. § 50-18-70 et seq.
- (d) Information provided to the city by a business or practitioner of an occupation or profession for the purpose of determining the amount of occupation tax for the business or practitioner may be disclosed to the governing authority of another local government for occupation tax purposes or pursuant to court order or for the purpose of collection of occupation tax or prosecution for failure or refusal to pay occupation tax.
- (e) Every person, business and/or practitioner required to pay an occupation tax under the provisions of this Article who leases or rents space to another person, business and/or practitioner operating within the City shall submit a list of such persons, businesses and/or practitioners upon request of the City within 15 days of such request.
- (f) Nothing herein shall be construed to prohibit the publication by the city of statistics, so classified as to prevent the identification of particular reports or documents and items thereof.

Sec. 12-23. - Option to establish exemption or reduction in tax.

The governing authority may by subsequent ordinance or resolution provide for an exemption or reduction in the occupation tax or a credit against an 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.

Sec. 12-24. - Each line of business to be identified.

The Occupation Tax Certificate of each business operated in the local government's jurisdiction shall identify the dominant line of business that the business conducts. However, no business shall conduct

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any line of business without first having that line of business registered in writing with the city. This section shall not apply to attorneys in the practice of law.

Sec. 12-25. - Number of businesses considered to be operating in the city.

- (a) Where a person conducts business at more than one fixed location, each location or place shall be considered a separate business for the purpose of occupation tax, and the gross receipts of each will be returned on an affidavit furnished by the city in accordance with the provisions of this article.
- (b) Where the business or practitioner can reasonably allocate the dollar amount of gross receipts of the business or practitioner to one or more of the locations or offices on the basis of product manufactured in that location or office or the sales or other services provided in that location or office, the city is authorized to tax the gross receipts generated by the location or office within the city.
- (c) Where the business or practitioner cannot reasonably allocate the dollar amount of gross receipts among multiple locations or offices, the business or practitioner shall divide the gross receipts reported to all local governments in this state by the number of locations or offices of the business or practitioner which contributed to the gross receipts reported to a local government in this state, and shall allocate an equal percentage of such gross receipts of the business or practitioner to each location or office.

Sec. 12-26. - Paying tax of businesses with no location in the state.

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

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

Sec. 12-27. Occupation Tax Certificate not transferable; Changes.

- (a) Occupation tax certificates are not transferable.
- (b) Any person or practitioner of profession or occupation taxable under this Article moving from one location to another shall notify the city of this move and shall submit the new address in writing prior to the day of the moving and pay a \$10 fee. A new certificate for the occupational tax will be issued for the new location provided the new location conforms to the zoning regulations of the city.
- (c) Any person or practitioner of profession or occupation taxable under this Article changing its business name from one name to another shall notify the city of the name change in writing and include any and all applicable supporting documents, i.e. trade name registration, and pay a \$10 fee.
- (d) A change of ownership shall be considered in the same manner as the termination of the business and the establishment of a new business. The new owner must submit proof of the ownership change, i.e. bill of sale.

Sec. 12-28. Failure to pay tax, file returns or permit inspection of books.

Upon the failure of any business to pay the occupation tax or any part of such tax, upon failure to submit any of the required documents within the time required in this article, upon failure to submit a true application, required documents and affidavits, upon failure to amend an application, required documents and affidavit to set forth the truth, or upon failure to permit inspection of its books as provided in Section

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12-22, the imposition of civil penalties may be pursued by the local government. This section shall not apply to attorneys in the practice of law.

Sec. 12-29. Liability of officers and agents; Occupation Tax Certificate required; failure to obtain.

All persons subject to the occupation tax levy pursuant to this article shall be required to obtain the necessary Occupation Tax Certificate for such business as described in this article, and, in default thereof, the officer or agent soliciting for or representing such persons shall be subject to the same penalty as other persons who fail to obtain a Occupation Tax Certificate.. Every person commencing business in the city after January 1 of each year shall likewise obtain the Occupation Tax Certificate provided for in this section within 30 days of commencing the business.

Sec. 12-30. Lien taken for delinquent tax.

In addition to the other remedies provided in this article, for the collection of the occupation tax levied in this article, the city, upon any tax or installment of the tax becoming delinquent and remaining unpaid, shall issue execution for the correct amount of the tax against the persons, partnership, or corporation liable for such tax, which execution shall bear interest at the rate of 18 percent per annum from the date when such tax or installment becomes delinquent. The lien shall cover the property (in the city) of the person, partnership, or corporation liable for such tax. The lien of the occupation tax shall become fixed on and date from the time when such tax or any installment thereof becomes delinquent. The execution shall be levied by the City Manager or designee upon the property of such defendant located in such jurisdiction. Sufficient property shall be advertised and sold to pay the amount of the execution, with interest and costs. This section shall not apply to attorneys in the practice of law.

Sec. 12-31. Denial, revocation or suspension; appeals.

- (a) An occupation tax certificate may be denied, suspended or revoked upon one or more of the following grounds:
 - (1) The applicant or certificate holder is guilty of fraud in the operation of the business or occupation he practices or fraud or deceit in being licensed to practice in that area;
 - (2) The applicant or certificate holder is engaged in the business or occupation under a false or assumed name, or is impersonating another practitioner of a like or different name;
 - (3) The applicant or certificate holder is addicted to the habitual use of intoxicating liquors, narcotics, or stimulants to such an extent he is unable to perform his duties under the business or occupation;
 - (4) The applicant or certificate holder is guilty of fraudulent, false, misleading, or deceptive advertising or practices;
 - (5) The applicant or certificate holder has been convicted of or has pled guilty or nolo contendere to any sexual offense as set out in O.C.G.A. § 16-6-1 et seq., or to any offense involving the lottery, illegal possession or sale of narcotics or alcoholic beverages or possession or receiving of stolen property, for a period of five years immediately prior to the filing of the application. If, after having been granted a certificate, the applicant pleads guilty, is convicted of, or enters a plea of nolo contendere to any of the above offenses, said certificate shall be subject to suspension and/or revocation;
 - (6) The original application, any supporting document, or renewal thereof, contains materially false information, or the applicant has deliberately sought to falsify information contained therein;
 - (7) Failure of the business to provide books and records for inspection within 30 days of a demand by the City Manager or designee as provided for in Sec. 12-22.

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- (8) The business or establishment is not authorized to operate within the city, or within the zoning district within which it is located, or is otherwise not in conformity with locational requirements of any of the city's ordinances;
 - (9) The applicant or licensee has failed to pay any fee to the city or county, has failed to make a return or pay a tax due to the tax commissioner of the county, or any other agency of the city or county government or has otherwise failed to comply with the provisions of this chapter or any other chapter of this Code of Ordinances.
 - (10) The business or establishment is a threat or nuisance to public health, safety or welfare;
 - (11) The business or establishment has been found by a court of law to have been operating unlawfully;
 - (12) Any other violation of this article; or
 - (13) Violation of another statute, ordinance, rule, or regulation that governs the operation of the business in question.
- (b) Within 45 days of the filing of a completed application, the city shall either issue an occupation tax certificate to the applicant or issue a written notice of intent to deny an occupation tax certificate for one or more reasons set forth in subsections (a)(1) through (a)(13) of this section. The notice shall be sent by certified mail, return receipt requested. The written notice shall also notify the applicant of the right to appeal said decision as designated in this section.
 - (c) Should the City Manager or designee find cause for one or more reasons set forth in subsections (a)(1) through (a)(13) of this section for an occupation tax certificate to be suspended or revoked, the City Manager or designee shall notify the occupation tax certificate holder by written notice of intent to suspend or revoke said occupation tax certificate. The notice shall be sent by certified mail, return receipt requested. Such notice shall state the grounds for the suspension or revocation of said occupation tax certificate and notify the holder of the right to appeal said decision as designated in this section.
 - (d) The City Manager or designee shall administer and enforce the provisions of this article. Should an aggrieved person or entity desire to appeal a decision under this article, the following procedure shall apply: a notice of appeal must be filed with the City Manager or designee within 15 calendar days after receipt of the decision. The notice of appeal shall be in the form of a letter and shall clearly identify all of the objections or exceptions taken to the decision of the city. The notice of appeal shall also contain an address for receipt of future notices. Should the aggrieved person or entity fail to file a notice of appeal within the time allowed, the right to appeal is lost.
 - (e) Upon receipt of a timely and proper notice of appeal, the City Manager or designee shall notify the appellant, in writing, of the date, time and place where a hearing will be held. The notice shall specify the time, place and date, not less than ten days nor more than 30 days after the date the notice is issued on which the mayor and city council, or such hearing officer or board as the mayor and council may designate, shall conduct a hearing on the City Manager or designee's written notice of intent to deny, suspend, or revoke the occupation tax certificate. Said hearing shall be conducted in accordance with the administrative hearing procedures as adopted by resolution of the city council.
 - (f) The mayor and city council, or such hearing officer or board as the mayor and council may designate, shall issue a written decision, including specific reasons for the decision pursuant to this article, to the respondent within five days after the hearing. If the decision is to deny, suspend, or revoke an occupation tax certificate, the decision shall become final unless the applicant or certificate holder files an appeal by petition for writ of certiorari to the county superior court within 30 days of the date of the decision. In case of intent to deny, if the decision concludes that no grounds exist for denial, of the occupation tax certificate, the city shall, within three business days of the issuance of the decision, issue the occupation tax certificate to the applicant.
 - (g) This section shall not apply to attorneys in the practice of law.

Sec. 12-32. - Exemptions from article provisions; Tax prohibited by law

- (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, instrumentalities of the United States,

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- 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.
- (b) Organizations which are exempt from federal income taxation under the United States Internal Revenue Code shall be eligible for exemption from the city occupational tax. Any such organization claiming an exemption shall provide to the city a federal tax exemption letter showing the code section under which an exemption is claimed unless filing for exempt status with the IRS is not required (such as a church.) However, with respect to any activity for which an organization otherwise entitled to an exemption under this section shall be liable for federal income tax on unrelated business income or shall be deemed to be a feeder organization under the United States Internal Revenue Code, the exemption from payment of occupational taxes shall not be available.
 - (c) Pursuant to O.C.G.A. § 43-12-1, blind persons and disabled veterans may conduct business without paying an occupation tax . Any such person claiming an exemption shall secure evidence of qualification for the exemption from the proper authority and present it to the city.
 - (d) The following businesses are not covered by the provisions of this article but may be assessed an occupation tax or other type of tax pursuant to the provisions of other general laws of the state or by local law:
 - (1) Those businesses regulated by the state public service commission.
 - (2) Those electrical service businesses organized under O.C.G.A. § 46-3-1 et seq.
 - (3) Any farm operation for the production from or on the land of agricultural products, but not including agribusiness pursuant to O.C.G.A. § 48-13-16(a)3.
 - (4) Cooperative marketing associations governed by O.C.G.A. § 2-10-105.
 - (5) Insurance companies governed by O.C.G.A. § 33-8-8 et seq.
 - (6) Motor common carriers governed by O.C.G.A. § 46-7-15.
 - (7) Those businesses governed by O.C.G.A. § 48-5-355, i.e., businesses that purchase carload lots of guano, meats, meal, flour, bran, cottonseed, or cottonseed meal and hulls.
 - (8) Agricultural products and livestock raised in the state governed by O.C.G.A. § 48-5-356.
 - (9) Depository financial institutions governed by O.C.G.A. § 48-6-93.
 - (10) Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55.
 - (11) Any state or local authority, nonprofit organization, or vendor acting pursuant to a contract with a tax-exempt agricultural fair pursuant to O.C.G.A. § 48-13-13.
 - (12) Motor vehicles regulated by the Department of Public Safety pursuant to O.C.G.A. §. 48-13-16(a)1.
 - (13) Motor common carriers governed by O.C.G.A. § 40-1-116.
 - (14) Non-profit agricultural co-ops governed by O.C.G.A. §2-10-105.
 - (e) An occupation tax shall not apply to the gross receipts of any part of a business where such levy is prohibited or exempted by the laws of the state or of the United States.

Sec. 12-33. - Violation.

Violation of any provision of this chapter shall be deemed an offense. The court with jurisdiction to enforce local government ordinances may impose a civil fine for failure to pay the occupation tax or regulatory fee. This fine may not exceed \$500.00 and may be enforced by the contempt power of the court pursuant to O.C.G.A. § 48-13-26. This general penalty for violations of this Code shall not apply to violations of this chapter by lawyers.

Sec. 12-34. - Enforcement of article.

It is hereby made the duty of the city manager or designee to see that the provisions of this article relating to occupation taxes are observed. It is hereby made the further duty of the City Manager or designee to inspect all Occupation Tax 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 under this article.

BUSINESSES

Sec. 12-35. - Conflicts between specific and general article provisions.

It is the intent of the article to impose the taxes set forth in this article upon all businesses and practitioners operating in the city consistent with the requirements of the Constitution and laws of the state. In the event that the fees imposed hereby shall not be authorized on any business and practitioner, or taxes and fees shall be in excess of the maximum amount authorized by law, such taxes and fees shall be imposed only to the extent authorized by law. Where there is an apparent conflict in this article between specific and general provisions, it is the intention of this section that the specific provisions of this article shall control.

Sec. 12-36. - Article to remain in full force and effect until changed by governing authority.

This article shall remain in full force and effect until changed by amendment adopted by the governing authority. This article may be amended only after the conduct of at least one public hearing pertaining thereto. All provisions relating to any form of tax levied in this article shall remain in full force and effect until such taxes have been paid in full.

Sec. 12-37. – Promulgation of rules and regulations.

The city manager or designee shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with this article or other laws of the city and the state, or the Constitution of this state or the Constitution of the United States, for the administration and enforcement of the provisions of this article and the collection of the occupational tax.

