

ARTICLE I. OCCUPATION TAX ORDINANCE

Sec. 19-36. Occupation Tax Required; Occupation Tax Required for Business Dealings in the Walton County.

(A) For the year 1995 and succeeding years thereafter, each person engaged in any business, trade, profession, or occupation in unincorporated Walton County, Georgia, whether with a location in unincorporated Walton County or in the case of an outof-state business with no location in Georgia exerting substantial efforts within the state pursuant to O.C.G.A. 5 48-13-7, shall pay an occupation tax for said business, trade, profession, or occupation; which tax and any applicable registration shall be displayed in a conspicuous place in the place of business, if the taxpayer has a permanent business location in Walton County, Georgia. If the taxpayer has no permanent business location in Walton County, Georgia, such business tax registration shall be shown to the Code Enforcement officer or this officer's deputies or to any law enforcement officer of said Walton County, Georgia, upon request.

Sec. 19-37. Construction of Terms; Definitions.

(A) Wherever the term Walton County is used herein, such term shall be construed to mean Walton County, Georgia; wherever the term *county* is used herein, it shall be construed to mean Walton County, Georgia.

(B) As used in this ordinance, the term:

(1) *Administrative fee* means a component of an occupation tax which approximates the reasonable cost of handling and processing the occupation tax.

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

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

1. A city ordinance would apply to businesses within the corporate limits; a county ordinance would apply to businesses located in the unincorporated part of the county.

(4)(a) *Gross receipts* means the total revenue of the business or practitioner for the period, including without limitation to the following:

- (i) Total income without deduction for the cost of goods or expenses incurred;
- (ii) Gain from trading in stocks, bonds, capital assets, or instruments of indebtedness;
- (iii) Proceeds from commissions on the sale of property, goods, or services;
- (iv) Proceeds from fees for services rendered; and
- (v) Proceeds from rent, interest, royalty, or dividend income.

(b) Gross receipts shall not include the following:

- (i) Sales, use, or excise tax;
- (ii) Sales returns, allowances, and discounts;
- (iii) Interorganizational sales or transfers between or among the units of parent-subsidary controlled group of corporations as defined by 26 U.S.C. S 1563(a)(1), or between or among the units of a brother-sister controlled group of corporations as defined by 26 U.S.C. S 1563(a)(2), or between or among wholly owned partnerships or other wholly owned entities;
- (iv) Payments made to a subcontractor or an independent agent; and
- (v) 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 Ordinance, if such funds constitute 80 percent or more of the organization's receipts; and
- (vi) Proceeds from sales to customers outside the state.

(5) *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 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.

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

(7) Person shall be held to include sole proprietors, corporations, partnerships, nonprofits, or any other form of business organization, but specifically excludes charitable nonprofit organizations which utilize 50 percent of their proceeds for charitable purposes.

(8) Practitioner of profession or occupation is one who by state law requires state licensure regulating such profession or occupation, but shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.

(9) Regulatory fees means payments, whether designated as license fees, permit fees, or by another name, which are required by a local government 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 Walton County. A regulatory fee may not include an administrative fee. Development impact fees as defined by paragraph 8 of O.C.G.A. Sect. 36-71-2 or other costs or conditions of zoning or land development are not regulatory fees.

Sec. 19-38. Occupation Tax Levied; 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 unincorporated area of the county **and/or** upon the applicable out-of-state businesses with no location or office in Georgia pursuant to O.C.G.A. Sect. 48-13-7 based upon the following criteria:

1. The number of employees of the business or practitioner.

(B) Occupation tax schedule

1. **Number of employees** - The tax rate determined by number of employees for each business, trade, profession, or occupation is as follows and will be developed and updated from time to time by the Code Enforcement Office:

<u>Employees</u>	<u>Tax Liability</u>
1-3	\$ 50
4-9	\$100
10-20	\$250
21-30	\$350
over 30	\$500

Sec. 19-39. Each Line of Business to Be Identified on Business Registration.

The business registration of each business operated in the local government's jurisdiction shall identify the line or lines of business that the business conducts. No business shall conduct any line of business without first having that line of business registered with the Code Enforcement Office and that line of business being noted by the Code Enforcement Office upon the business registration form which is to be displayed by the business owner.

Sec. 19-40. The Number of Businesses Considered to Be Operating in County.

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.

Sec. 19-41. Professionals as Classified in O.C.G.A. Sect. 48-13-9(c), Paragraphs 1 through 18.

Practitioners of professions as described in O.C.G.A. Sect. 48-13-9(c)(1) through (18) shall elect as their entire occupation tax the following:

(1) The occupation tax based on number of employees;

(2) A fee of \$200.00 per practitioner who is licensed to provide the service, such tax to be paid at the practitioner's office or location; provided, however, that a practitioner paying according to this paragraph shall not be required to provide information to the local government relating to the gross receipts of the business or practitioner. The per practitioner fee applies to each person in the business who qualifies as a practitioner under the state's regulatory guidelines and framework.

(3) This election is to be made on an annual basis and must be done by due date of each tax year.

Sec. 19-42. Practitioners Exclusively Practicing for a Government.

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

Sec. 19-43. Purpose and Scope of 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 only applies to those businesses and occupations which are covered by the provisions of O.C.G.A. Sections 48-13-5 to 48-13-26. All other applicable businesses and occupations are taxed by the local government pursuant to the pertinent general and/or local law and ordinance.

Sec. 19-44. When Tax Due and Payable; Effect of Transacting Business When Tax Delinquent.

(A) Each such occupation tax shall be for the calendar year 1995 and succeeding calendar years thereafter unless otherwise specifically provided. Said registration and occupation tax shall be payable January 1 of each year and shall, if not paid by January 20th of each year, be subject to penalties for delinquency as prescribed in this Ordinance. on any new profession, trade, or calling begun in Walton County in 1995 or succeeding years thereafter, the registration and tax shall be delinquent if not obtained immediately upon beginning business and a 25% penalty imposed. The tax registration herein provided for shall be issued by the Code Enforcement officer and if any person, firm, or corporation whose duty it is to obtain a registration shall, after said registration or occupation tax becomes delinquent, transact or offer to transact, in Walton County, any of the kind of profession, trade, or calling subject to this Ordinance without having first obtained said registration, such offender shall, upon conviction by a court of competent jurisdiction, be punished by a fine not to exceed \$500.00, or imprisonment not to exceed 20 days, either or both in the discretion of the presiding judge of the Magistrate Court.

(B) In addition to the above remedies, the law enforcement officer may proceed to collect in the same manner as provided by law for tax executions.

(C) Any validly issued business license expiring September 1, 1995 shall constitute satisfaction of occupation tax under this ordinance for calendar year 1995. Such license validity is hereby extended until December 31, 1995.

Sec. 19-45. Exemption on Grounds That Business Is Operated for Charitable Purpose.

No business on which a business registration or occupation tax is levied by this Ordinance shall be exempt from said registration or tax on the ground that such business is operated for a charitable purpose, unless 50 percent or more of the entire proceeds from said business are devoted to such purpose.

Sec. 19-46. Evidence of State Registration Required If Applicable; State Registration to Be Displayed.

(A) Each person who is licensed by the Secretary of State pursuant to Title 43 of the Official Code of Georgia Annotated shall provide evidence of proper and current state licensure before the County registration may be issued.

(B) Each person who is licensed by the state shall post the state license in a conspicuous place in the licensee's place of business and shall keep the license there at all times while the license remains valid.

Sec. 19-47. 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 a County business registration, show evidence that such requirements have been met.

Sec. 19-48. Liability of Officers and Agents; Registration Required; Failure to Obtain.

All persons subject to the occupation tax levy pursuant to this ordinance shall be required to obtain the necessary registration for said business as described in this ordinance, 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 registration. Every person commencing business in Walton County after January 1 of each year shall likewise obtain the registration herein provided for before commencing the same; and any person transacting, or offering to transact in Walton County, any of the kinds of business, trade, profession, or occupation without first having so obtained said registration, shall be subject to penalties provided therefor.

Sec. 19-49. When Registration and Tax Due and Payable; Effect of Transacting Business When Tax Delinquent.

(A) Each such registration shall be for the calendar year in which the registration was obtained unless otherwise specifically provided. There is hereby imposed a penalty upon each business which fails to apply for and obtain an appropriate business registration and pay all tax and fees as provided herein before January 20th of each year, and on January 20th each year hereafter. Every person commencing business in Walton County after January 1 of each year shall obtain the registration required before commencing such business. Any person transacting or offering to transact in Walton County any business, trade, profession, or occupation without first having obtained said registration shall be subject to the penalties provided in Sec. 19-50. Said penalties shall be in addition to all other penalties, civil and

criminal herein provided; and may be collected by the remedies herein provided for collection of the occupation tax, and shall have the same lien and priority as the occupation tax to which the penalty is applied.

(B) The registration herein provided for shall be issued by the Code Enforcement Officer, and if any person, firm, or corporation whose duty it is to obtain a registration shall, after said occupation tax becomes delinquent, transact or offer to transact, in Walton County, any of the kind of business, trade, profession, or occupation without having first obtained said registration, such offender shall be subject to the penalties provided thereof.

Sec. 19-50. Penalty of Ordinance Violation.

Any person violating any provisions of this Ordinance shall, upon conviction before the presiding Judge be fined in an amount not exceeding \$500.00 or imprisoned not exceeding 20 days, either or both, in the discretion of the presiding judge.

Sec. 19-51. Code Enforcement Office; Subpoena and Arrest Powers.

The Code Enforcement Office and its duly designated officers and inspectors or its successors shall have the power to issue citations in conjunction with any violation pertaining to the Business Tax Ordinance for 1995 (this law) and succeeding years.

Sec. 19-52. Businesses Not Covered by This Ordinance.

The following businesses are not covered by the provisions of this Ordinance but may be assessed an occupation tax or other type of tax pursuant to the provisions of other general laws of the State of Georgia or by local law:

- (1) Those businesses regulated by the Georgia Public Service Commission.
- (2) Those electrical service businesses organized under Chapter 3 of Title 46 of the Official Code of Georgia Annotated.
- (3) Any farm operation for the production from or on the land of agricultural products, but not including agribusiness.
- (4) Cooperative marketing associations governed by O.C.G.A. Sect. 2-10-105.
- (5) Insurance companies governed by O.C.G.A. Sect. 33-8-8, et seq.
- (6) Motor common carriers governed by O.C.G.A. Sections 46-7-15.

(7) Those businesses governed by O.C.G.A. Sections 48-5-355. (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 of Georgia governed by O.C.G.A. Sections 48-5-356.

(9) Depository financial institutions governed by O.C.G.A. Sections 48-6-93.

(10) Facilities operated by a charitable trust governed by O.C.G.A. Sections 48-13-55.

Sec. 19-53. Occupation Tax Inapplicable Where Prohibited by Law or Provided for Pursuant to Other Existing Law.

An occupation tax shall not apply to any business where such levy is prohibited or exempted by the laws of Georgia or of the United States.

Sec. 19-54. Payment of Occupation Tax by Newly Established Businesses.

In the case of a business subject to occupation tax for a calendar year, which was not conducted for any period of time in the unincorporated limits of Walton County in the preceding year, the owner, proprietor, manager, or executive officer of the business liable for occupation tax shall estimate the average aggregate number of employees from commencing date to the end of the year and such tax shall be prorated accordingly.

Sec. 19-55. More than One Place of Business.

Where a business is operated at more than one place, said business shall be required to obtain the necessary registration for each location and pay an occupation tax in accordance with the prevailing taxing method and tax rate for each location.

Sec. 19-56. Returns Confidential.

Except in the case of judicial proceedings or other proceedings necessary to collect the occupation tax hereby levied, it shall be unlawful for any officer, employee, agent, or clerk of Walton County, or any other person to divulge or make known in any manner any of the information or particulars set forth or disclosed in any occupation tax return required under this Ordinance. All contents of said return shall be confidential and open only to the officials, employees, agents, or clerks of Walton County using said returns for the purpose of this occupation tax levy and the collection of the tax. Independent auditors or bookkeepers employed by the County shall be classed as "employees." Nothing herein shall be construed to prohibit the publication by County 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, the United States, and other local governments.

Sec. 19-57. Inspections of Books and Records.

In any case the Code Enforcement Office of the County, through its officers, agents, employees, or representatives, may inspect the books of the business for which the returns are made. The Code Enforcement officer shall have the right to inspect the books or records for the business of which the return was made in Walton County, Georgia, and upon demand of the Code Enforcement Officer such books or records shall be submitted for inspection by a representative of the County within thirty days. Failure of submission of such books or records within thirty days shall be grounds for revocation of the tax registration currently existing to do business in Walton County. Adequate records shall be kept in Walton County, Georgia, for examination by the Code Enforcement officer at that officer's discretion. If, after examination of the books or records, it is determined that a deficiency occurs as a result of underreporting, a penalty of 25 percent of the prime interest rate times the amount deficient will be assessed for the period delinquent. For purposes of this section, the prime interest rate shall be that which is published by *The Wall Street Journal* on the first business day of the year in which the underreporting is identified.

Sec. 19-58. Tax Registration to Be Revoked for Failure to Pay Tax, File Returns, Permit Inspection of Books.

Upon the failure of any business to pay said occupation tax or any part thereof before it becomes delinquent, or upon failure to make any of said returns within the time required herein, or upon failure to make a true return, or upon failure to amend a return to set forth the truth, or upon failure to permit inspection of its books as above provided, any business tax registration granted by the County under this ordinance permitting the owner of said business to do business for the current year shall be, ipso facto, revoked. No new business tax registration shall be granted by the County for the operation of a business for which any part of the occupation tax herein provided for is at that time unpaid, or to an individual, firm, or corporation who has failed to submit adequate records as requested by the Code Enforcement officer in accordance with this ordinance. 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 local government in the case of delinquent occupation tax.

Sec. 19-59. Amendment, Repeal of Provision.

This Ordinance 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 Commission to assess and collect any of the taxes or other charges prescribed. Said 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 jurisdiction of additional occupation taxes upon the same person, property, or business.

Sec. 19-60. Applications of Provisions to Prior Ordinance.

This Ordinance 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. So much and such parts of ordinances heretofore and hereinafter passed as provided for the issuing and enforcing of execution for any tax or assessment required by such ordinances, or that imposed fines or penalties for the nonpayment of such tax, or for failure to pay regulatory fees provided for in said ordinance or ordinances, or failure to comply with any other provisions hereof, shall continue and remain in force until such tax, regulatory fee, or assessment shall be fully paid.

Sec. 19-61. Enforcement of Provisions.

It is hereby made the duty of the Code Enforcement Office and Sheriff's department to see that the provisions of this Ordinance relating to occupation taxes are observed; and to summon all violators of the same to appear before the court. It is hereby made the further duty of the Code Enforcement Officer, Sheriff's Department, and their assistants to inspect all registrations issued by Walton County, as often as in their judgment it may seem necessary to determine whether the registration held is the proper one for the business sought to be transacted thereunder.

Sec. 19-62. Provisions to Remain in Full Force and Effect Until Changed by Governing Body.

This Ordinance shall remain in full force and effect until changed by amendment adopted by the Walton County Commissioners. 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. 19-63. Requirement of Public Hearing.

After January 1, 1996, the Commission shall conduct at least one public hearing before adopting any ordinance or resolution which will increase the rate of occupation tax as set forth in this ordinance. In any year when revenue from occupation taxes is greater than revenue

from occupation taxes from the preceding year for Walton County, the Commission shall hold one or more public hearings as a part of the process of determining how to use the additional revenue.

Sec. 19-64. Option to Establish Exemption or Reduction in Occupation Tax.

The Commission may by subsequent ordinance or resolution provide for an exemption or reduction in occupation tax to one or more types of businesses or practitioners of occupations or professions as part of a plan for economic development or attracting or encouraging 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 Board of Commissioners.

Sec. 19-65. Conflicts between Specific and General Provisions.

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

Sec. 19-66. Severability.

If any section, provision, or clause of any part of this Ordinance shall be declared invalid or unconstitutional, or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent that this Ordinance would have been adopted had such invalid portion not been included herein.

Sec. 19-67. Repeal of Conflicting Provisions.

All ordinances or parts of ordinances in conflict with this ordinance, and not preserved hereby, are hereby repealed.

BOARD OF COMMISSIONERS OF WALTON COUNTY

By: (SEAL)

RICK HOLDER, Chairman

(SEAL)

Attest:

DONNA E. LINDSEY, Clerk