

GWINNETT COUNTY

OCCUPATION TAX

AND

BUSINESS REGULATION ORDINANCE

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**GWINNETT COUNTY OCCUPATION TAX
AND BUSINESS REGULATION ORDINANCE**

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GWINNETT COUNTY OCCUPATION TAX AND BUSINESS REGULATION ORDINANCE

A RESOLUTION TO REVOKE THE GWINNETT COUNTY BUSINESS LICENSE ORDINANCE IN ITS ENTIRETY AND REPLACING WITH THE GWINNETT COUNTY OCCUPATION TAX AND BUSINESS REGULATION ORDINANCE AS ADOPTED BY THE BOARD OF COMMISSIONERS 12/19/95.

Article I

GENERAL PROVISIONS

**Section 18-1 Occupation Tax Imposed on Businesses In The
County Subject to Applicable Regulations and
Requirements**

Each person engaged in any business, trade, profession, or occupation in unincorporated Gwinnett County, Georgia, whether with a location in unincorporated Gwinnett County, or in the case of an out-of-state business with no location in the state and falling within the criteria of O.C.G.A. § 48-13-7, shall pay an occupation tax for such business, trade, profession or occupation. Moreover, each person engaged in any business, trade, profession or occupation in unincorporated Gwinnett County, Georgia who is subject to any applicable regulations and requirements that the county under its police powers has set forth in the articles of this chapter shall, prior to and during the operation of the business, trade, profession or occupation, comply with all applicable regulations and requirements.

Section 18-2

Construction Of Terms; Definitions

(A) Wherever the term "Gwinnett County" is used herein, such term shall be construed to mean unincorporated "Gwinnett County, Georgia"; wherever the term "county" is used herein, in the context of a geographic area, it shall be construed to mean unincorporated "Gwinnett County, Georgia."

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

- (1) **Business** means any business, trade, occupation, profession, avocation or calling of any kind for gain or profit, direct or indirectly, provided that this shall not include any business operating in the county solely under a franchise granted by the county.
- (2) **County** means the Gwinnett County government, acting through its appointed officials and employees in the administration of this ordinance.
- (3) **Disabled Veteran** shall mean a person who has served in the armed services of the United States and was terminated under conditions other than dishonorable. In addition said "disabled veteran" must provide certification by the U.S. Department of Veteran Affairs as twenty-five (25) or more percent disabled in line of duty service during peace-time or ten (10) or more percent disabled in line of duty service during war-time as set forth in O.C.G.A. 43-12-2; with further certification that such disability is likely to be permanent and continuing.
- (4) **Dominant line** means the type of business within a multiple line business from which the greatest amount of income is derived.
- (5) **Engaged in business** means any person, whether acting as

an owner, operator or agent in any business within the county, shall be deemed to be engaged in business when performing any act of selling any goods or services, soliciting business or offering goods or services for sale for payment in an attempt to make a profit; including sales or services of a wholesaler, retailer or manufacturer.

- (6) **Flat Fee** means the amount assessed uniformly to all businesses and practitioners of professions and occupations in the county for the initial start-up, renewal, or re-opening of occupation tax accounts.
- (7) **Governing Authority** means the elected Chairperson and Board of Commissioners of Gwinnett County.
- (8) (a) **Gross receipts** means the total revenue of the business or practitioner for the period, including without limitation:
 - (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 a parent-subsubsidiary controlled group of corporations as defined by 26 U.S.C. Sec.1563(a)(1),

between or among the units of a brother-sister controlled group of corporations as defined by 26 U.S.C. Sec. 1563 (a) (2), or between or among apparent corporation, wholly owned subsidiaries of such parent corporation, and any corporation in which such parent corporation or one or more of its wholly owned subsidiaries owns stock possessing at least 30 percent of the total value of shares of all classes of stock of such partially owned corporation, or between or among wholly owned partnerships or other wholly owned entities;

- (iv) Payments made to a subcontractor or an independent agent;
- (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.

(9) **Licensing and Revenue Manager** means the County official who shall be the administrator of the occupational tax function, and who may be assisted by subordinates and who shall have the primary responsibility for the implementation of this ordinance.

(10) **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 from the real property's owner, lessor, or the agent of the owner or lessor unless the real property's owner, lessor or agent of the owner or lessor, in addition to showing the property to prospective lessees or tenants and performing maintenance or repair to the property, otherwise conducts the business of renting or leasing the real property as such site or otherwise conducts any other business, profession or occupation as such site.

- (11) **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.
- (12) **Occupation Tax Certificate** shall mean that document issued by the Licensing and Revenue Manager, which, when properly annotated or validated by the Licensing and Revenue Manager, shall serve as evidence of compliance with the provisions of this ordinance.
- (13) **Permit** shall mean a work permit for employment in a regulated business, issued by the Chief of Police or designee in conformance with the provisions of the ordinance.
- (14) **Person** wherever used in this ordinance shall be held to

include sole proprietors, corporations, partnerships, professional practitioners or any other form of business organization.

- (15) **Practitioner of profession or occupation** is one who by state law requires state licensure regulating such profession or occupation. A separate occupation tax shall be required for each registered or licensed professional person, without regard to whether the person is fully engaged or employed in the profession, or whether the person performs all the duties customarily associated with the profession.
- (16) **Practitioners of professions and occupations** shall not include a practitioner who is an employee of a business, if the business pays an occupation tax based upon profitability ratio in combination with gross receipts.
- (17) **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 as 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 County. A regulatory fee may not include an administrative fee. Development impact fees as defined by paragraph 8 of O.C.G.A. Sec. 36-71-2 or other costs or conditions of zoning or land development are not regulatory fees.
- (18) **Transfer of Tax Certificate** shall mean only the transfer of a fully paid business or occupation tax certificate from an existing location as specified in a duly issued certificate, to a different business situs. Certificates may not be transferred in the case of a change in ownership, or after expiration date of a certificate; in

such cases a new application and certificate shall be required. Certificates may not be transferred when there is an outstanding unpaid amount.

- (19) **Yard Sales, Garage Sales, Bake Sales** shall mean events that occur not as a part of any business enterprise or profession, but instead are sponsored and operated by a private individual or group, normally for purposes of financially supporting special events or endeavors for non-profit or charitable groups.

(C) Gender - For convenience in sentence construction, use of the male pronoun has been selected; however, the term "he", "his", or any other masculine usage may be construed as "she", "her", or any other feminine usage as may be appropriate.

Section 18-3 Flat Fee And Transfer Fee Structure; Regulatory Fee Levied; Fees Separate From Taxes

- (A)** (1) A non-prorated, non-refundable flat fee of \$80.00 shall be required on all occupation tax accounts for the initial start up, renewal or re-opening of those accounts.
- (2) A transfer fee not to exceed \$20.00 may be imposed for the transfer of an occupation tax certificate.

(B) A regulatory fee is imposed as provided under O.C.G.A. Sections 48-13-8 and 48-13-9 on applicable businesses. The regulatory fee shall cover the approximate cost of any regulatory function and may not be used as a revenue-raising tool. The regulatory fee may not include a flat fee.

(C) Occupation taxes are levied as hereinafter provided, and are separate from flat fee or regulatory fees.

Section 18-4 Occupation Tax Levied; Structure

(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 part of the county or upon out-of-state businesses with no location or office in Georgia falling within the criteria of O.C.G.A. Sec. 48-13-7. The tax shall be based upon the following criteria: Gross receipts of the business or practitioner in combination with the profitability ratio for the type of business, profession or occupation as measured by nationwide averages derived from statistics, classifications or other information published by the United States Office of Management and Budget, the United State Internal Revenue Service or successor agencies of the United States.

(B) Occupation tax schedule: The tax rate determined by profitability ratios in combination with gross receipts for each business, trade, profession or occupation shall be as follows:

**Profitability Ratios with Gross Receipts
by Class**

<u>Profitability Ratio/ Tax Class</u>	<u>Rate on Gross Receipts</u>
1	.00065
2	.00078
3	.00091
4	.00104

5	.00117
6	.00130

(C) Each new or renewal occupation tax certificate holder shall pay an annual tax in an amount determined by the schedule outlined in subsection (B) of this section.

(D) If the Gwinnett County Board of Commissioners approves a rate change for occupation taxes, all businesses and practitioners of professions and occupations whose accounts are billed prior to the effective rate change date shall have ten (10) days after the effective rate change date to pay their occupation tax as originally billed together with any late fees and penalties.

Section 18-5 Professionals As Classified In O.C.G.A. Sec. 48-13-9(c), Paragraphs 1 through 18

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

- (1) The occupation tax based on gross receipts combined with profitability ratios as set forth in Section 18-4.
- (2) A fee of \$400.00 per practitioner who is registered to provide the service 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 includes each person in the business who qualifies and is registered or licensed as a

practitioner under the state's regulatory guidelines.

(B) Practitioners of professions and occupations authorized under this section are, but not limited to:

- (1) Architects.
- (2) Chiropractors.
- (3) Civil, mechanical, hydraulic or electrical engineers.
- (4) Dentist.
- (5) Embalmers.
- (6) Funeral directors.
- (7) Land surveyors.
- (8) Landscape architects.
- (9) Lawyers.
- (10) Marriage and family therapists, social workers, and professional counselors.
- (11) Optometrists.
- (12) Osteopaths.
- (13) Physicians.
- (14) Podiatrists.
- (15) Practitioners of physiotherapy.
- (16) Psychologists.
- (17) Public accountants.
- (18) Veterinarians.

Section 18-6 Occupation Tax Exclusions And Limitations

(A) Limits upon tax levied:

- (1) The county shall not require the payment of more than one occupation tax for each location that a business or

practitioner shall have, nor shall the county require that a business pay an occupation tax upon more than 100 percent of its gross receipts.

- (2) Notwithstanding the foregoing, where more than one business exists at a location, the gross receipts of each business will be taxed separately, and a separate application and tax certificate shall be required for each business.

(B) Exemption for Payments Made Elsewhere - The county shall not require an occupation tax in any tax year for those receipts that were simultaneously taxed for purposes of an occupation tax in other localities within the state of Georgia; provided however that those tax payments were legitimate, were made pursuant to a bona fide occupational tax structure, and further were not made primarily in an effort to avoid payment of occupation tax in Gwinnett County. The County shall not tax in any event gross receipts which are proceeds from outside the State, as defined in Section 18-2 (B) (8) (b) subsection (vi).

(C) The maximum occupation tax permitted under this ordinance shall be \$20,000.00 for any single occupation tax certificate.

(D) Occupational tax exemptions shall be granted as provided for in this ordinance. The Licensing and Revenue Manager shall be responsible for promulgating guidelines for making application for and granting occupational tax exemptions.

(E) An occupation tax shall not be levied in any other manner except as provided for herein.

annualized, whole-year gross receipts.

(D) Newly Established Businesses - In the case of a newly established business subject to occupation tax in the current year, and for which no business was conducted within the unincorporated limits of the county in the previous calendar year, the owner or responsible official shall, on or before actual commencement of business, file a return estimating the gross receipts for the current calendar year, and the tax shall be computed thereon. The tax shall become due 30 days from filing of the return, and shall be delinquent if not paid within 30 days of the due date. Notwithstanding the foregoing, if a lawyer begins business after January 1 of the occupation tax year, the tax and flat fee on such business shall be due and payable on December 31 of the year in which the business begins.

(E) False or Fraudulent Returns or Estimates - Failure to supply complete or accurate information is punishable as specified within this chapter.

(F) Dates - Filing or payment dates may be extended upon written order of the licensing and revenue manager.

Section 18-8 Submission Of Final Return Showing Gross Receipts Required, Procedures Where Tax Overpaid Or Underpaid; Refunds

(A) Not later than February 15 or the established due date, the owner or responsible official for each business subject to an occupation tax shall file in the format specified by the Licensing and Revenue Manager, a final return setting forth the total amount of gross

receipts for the business during the immediately preceding year. A \$25.00 penalty will be assessed on all returns filed after February 15 or the established due date.

(B) If the amount of occupation tax required herein, computed based upon the final return, is more than the amount of occupation tax previously paid by the business based upon an estimated filing, the difference amount shall be due and payable not later than April 1 of the year following the year in which the tax was incurred, and shall become delinquent if not so paid.

(C) If the amount paid for occupation tax during the immediately preceding year, computed on the estimated gross receipts for the period, is more than the amount due as computed upon the final actual return, the overpayment difference shall be refundable to the business, or alternately, if the business enterprise remains in existence, the overpayment may be credited towards the estimated occupation tax due for the current year.

(D) It shall be the duty of the Licensing and Revenue Manager to at least annually provide a statement of estimated and final tax computations, along with a schedule of payments and final status of the account of each business for the immediately preceding year.

(E) Refunds - Refund of the occupation tax shall be permitted where there has occurred a clerical error in the submission of a return or application, or where there has been discovered a clerical error in business classification or tax computation, or where there has been a voluntary or involuntary overpayment of the tax. Written requests for refund of the occupation tax, or any part thereof, must be filed with the Licensing and Revenue Manager by the owner or responsible

business official, and the request shall set forth a detailed justification for claim for refund. The flat fee is non-refundable.

(F) Evidence of gross receipts generated during any period may be substantiated by a certified copy of Schedule C of Form 1040 filed with the Internal Revenue Service by the certificate holder; and shall be required to be submitted upon request of the Licensing and Revenue Manager.

Section 18-9 Applications Required Annually; General Form; Posting.

(A) Every person, firm, company, or corporation engaged in business as of January 1 of the taxable year, and subject to the occupation tax shall, on or before February 15 or the established due date of each year, make an application for occupation tax certificate in writing to the licensing and revenue manager, or designee, in the form and manner required setting forth hereafter the following information:

(1) Name of the person, firm, company, or corporation; including the complete address of the resident agent or other responsible official of the business.

(2) Location, telephone number, and mailing address at which trade, business, or profession is to be conducted;

(3) Exact nature of the trade, business, or profession for which the occupation tax certificate is requested;

(4) Other information as shall be required by the county in order to compute the flat fee and occupation tax; including without limitation, the number of registered or licensed professionals, previous calendar or fiscal year gross receipts, projections of gross receipts for the current taxable year, federal tax identification or

social security account number, or other information as may be required for the administration of this chapter.

(5) All such information therein required being given by the owner, a member of the firm, an officer of the corporation, or an authorized employee, agent, or accountant having knowledge of actual business done, which application shall identify the individual making the return and shall be certified to be true, correct, and complete to the best of his knowledge and belief.

(B) Applications by newly established businesses are due prior to commencing business operations.

(C) Any applicable certificate shall be shown to the licensing and revenue manger or his designees, or to the chief of police or his designees upon request.

(D) This section shall not apply to lawyers.

**Section 18-10 Business Required To Furnish Names of Persons
to Call in Emergency Situations**

(A) All commercial businesses operating within the confines of the unincorporated areas of Gwinnett County, Georgia, having a permanent or leased premises, and not considered a home occupancy enterprise, shall furnish to the Licensing and Revenue Manager the names, addresses, and phone numbers of two (2) persons who may be reached in the event of an emergency by the police or fire departments.

(B) The Gwinnett County Police Department shall issue a decal containing a code number to said business which shall be posted on the front door of the business. The Gwinnett County Police Department will maintain the name records for each decal with code number as a means of identifying the proper record to consult in the event of an emergency.

(C) All commercial businesses as currently defined in paragraph A, of this section, and currently operating in the unincorporated areas of Gwinnett County, Georgia, shall have sixty (60) days from the effective date of this section to comply with its provisions.

(D) All new commercial businesses, except lawyers and those businesses considered a home occupancy enterprise which begin operation after the effective date of this section, shall comply with this section as a condition precedent to the issuance of an occupation tax certificate.

(E) It shall be the responsibility of the president of a corporation, which is domiciled in Gwinnett County, Georgia, to comply with this section. If a foreign corporation not domiciled in Gwinnett County, Georgia, operates in Gwinnett County, Georgia, it shall be the responsibility of its local manager to comply with this section. In all other cases, the owner of the business shall furnish the information required under this section.

(F) Any person who shall cease operating the business for which a code number has been issued shall notify the Licensing and Revenue Manager, in writing within ten (10) days of ceasing business.

(G) It shall be the responsibility of the president of the

**Section 18-12 Each Line Of Business To Be Identified On
Business Registration**

The business registration of each business operated in the County 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 Licensing and Revenue office and that line of business being noted by the Licensing and Revenue office upon the business occupation tax certificate which is to be displayed by the business owner.

**Section 18-13 The Number Of Businesses Considered Operating In
County**

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

**Section 18-14 Practitioners Exclusively Practicing For The
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 an occupation tax certificate or pay an occupation tax for that practice.

Section 18-15**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. Secs. 48-13-5 to 48-13-26. All other applicable businesses and occupations are taxed by the local government pursuant to pertinent general state and local laws and ordinances. The payment of any tax levied herein shall not constitute a grant or authorization to engage in a business, profession, or trade; nor shall any such payment constitute a waiver of any regulation, ordinance, or rule that otherwise might apply. Except as provided for herein, the tax or fees so levied shall be in addition to any other tax or charge as may be imposed.

Section 18-16**When Tax Due And Payable; Penalties**

(A) Any registration and occupation tax levied hereunder shall be payable January 1 of each year, shall be delinquent if not paid by April 1 of each year, and shall be subject to penalties for delinquency as prescribed in subsections (c), (d), and (e) below. Notwithstanding the foregoing, occupation taxes and the flat fee for lawyers shall be due and payable on December 31 of the year in which the tax is incurred. Any lawyer failing to pay the occupation tax and flat fee by April 1 of the year following the year that the tax was incurred shall be considered delinquent and shall be subject to penalties for delinquency as prescribed in subsections (d) and (e) below.

(B) On any new profession, trade or calling begun in unincorporated Gwinnett County, the certificate shall be delinquent if payment is

not received within 30 days of first commencing operations and a penalty shall be imposed. Notwithstanding the foregoing, the occupation tax and the flat fee for lawyers beginning business after January 1 of the occupation tax year shall be due and payable on December 31 of the year in which the tax is incurred. Any lawyer failing to pay the occupation tax before April 1 of year following the year in which the tax was incurred shall be considered delinquent and a penalty shall be imposed.

(C) If any person, firm, or corporation whose duty it is to obtain a registration, fails to file returns, obtain registrations or pay taxes when due, or who is found to have violated other provisions of this chapter as herein specified; such offender shall, upon conviction by the judge of the magistrate court, be punished by a fine not to exceed \$1,000.00, or imprisonment not to exceed 60 days, either or both in the discretion of the recorder's court judge. This subsection shall not apply to lawyers.

(D) There is hereby imposed a penalty upon each business which fails to pay the occupation tax and flat fee as provided herein. The penalty for failure to make any payment required within this chapter shall be assessed in the amount of not more than ten percent of the flat fee and occupation tax determined to be due and owing under the provisions of this chapter for the first 30 days or fraction thereof concerning such delinquency and an additional penalty not to exceed one and one-half percent of the flat fee and occupation tax for each additional month or fraction thereof concerning such delinquency.

(E) In addition to the above remedies, the sheriff or tax commissioner may proceed to collect delinquent sums in the same manner as provided by law for tax executions.

**Section 18-17 Allocation of Gross Receipts of Business with
Multiple Intra or Interstate Locations**

For those businesses who have multiple locations inside and outside of the County where the gross receipts can be allocated to each location, the gross receipts used to determine the occupation tax assessed will be those gross receipts attributed to each Gwinnett County location. In the case where the dollar amount of gross receipts attributed locally cannot be determined in those businesses with multiple locations, the total gross receipts will be divided by the total number of locations in unincorporated Gwinnett County and elsewhere and allotted to those locations. Upon request, the business or practitioner with a location or office situated in more than one jurisdiction shall provide to the County the following:

- (1) Financial information necessary to allocate the gross receipts of the business or practitioner;
- (2) Information relating to the allocation of the business' or practitioner's gross receipts by other local governments; and
- (3) Occupation tax payments made to other jurisdictions.
- (4) Where the business has locations outside of the County and taxation is levied for a criteria other than gross receipts in the other local governments, the County shall not assess more than the allotted share of gross receipts for the local operation.

**Section 18-18 Location Of Business; Applicability Of
Certificate**

An occupation tax certificate granted under this ordinance shall apply only to the location, owner and the business lines included within the certificate.

Section 18-19 Change Of Location

Any person moving from one location to another shall notify the Licensing and Revenue Manager in writing in the format specified of the move and the new address no later than the day of moving. Upon surrender of the original occupation tax certificate to the County, and upon submission of the required information, a new certificate will be issued for the new location as long as the new location conforms to the zoning or fire codes and other applicable regulations of the County.

Section 18-20 Transfer Of Occupation Tax Certificates

Occupation tax certificates shall not be transferable, except for a change in location, and a transfer of ownership shall be considered in the same light as the termination of the business and the establishment of a new business. A new occupation tax certificate shall be required for the new owner of the business.

Section 18-21 Occupation Tax Certificate Qualifications

(A) No occupation tax certificate required by this ordinance shall be granted to any person who is not a citizen of the United States or a registered resident alien. Where the owner-applicant is a partnership or corporation, the provisions of this section shall apply to all its partners, officers, managers, and majority stockholders.

(B) Where an applicant is a corporation, a certificate will be issued jointly to the corporation, president or chief executive officer, and to the majority stockholder. Where the applicant is a partnership,

the certificate may be issued to a partner or general partner.

**Section 18-22 Exemption On Grounds That Business Operated For
Charitable Purpose**

Businesses owned by non-profit organizations and operated for charitable purpose may apply annually for an exemption from the occupation tax. Such application shall be in the format required by the Licensing and Revenue Manager and shall contain such supplemental information, including without limitation, a copy of the organization's approval of exemption from federal income taxation, as may be necessary. The exemption shall be effective for the taxable year during which the application is received. No enterprise 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 eighty percent (80%) or more of the entire gross receipts from said business are devoted to direct support of such charitable purpose. Any number of locations and lines of business may be granted such exemption, provided however that a separate application shall be required for each location and line of business for which an exemption is sought. The exemption from the occupation tax shall not extend to the flat fee except, however, that any single organization, in any tax year, shall be required to pay the flat fee only on the first certificate obtained, and any additional certificates for other lines or locations shall be issued without charge.

Section 18-23 Exemption For Disabled Veterans

Any business majority-owned by a disabled veteran, or any practitioner who is a disabled veteran as provided for in O.C.G.A. § 43-12-2 shall be exempt from the payment of any flat fee and

occupation tax levied herein; provided, however, that this exemption shall apply to only one business or occupation taxed hereunder and shall not apply to any other businesses or locations. Such disabled veteran shall be required to file the necessary application forms, and obtain a tax certificate.

Section 18-24 Yard Sales, Garage Sales, and Bake Sales

A private individual or group may conduct, not more than once in any six-month period, a sale of used items, baked goods or other food items, and which shall not be subject to the provisions of this ordinance except as herein provided. Such events shall be limited to three (3) consecutive days per event and subject to any health, zoning or other regulatory ordinances as may be in effect, and shall be subject to regulatory fees. The exclusion granted in this section shall not be available to flea market operators, promoters, performances or other such enterprises or any other business-related operations. The Licensing and Revenue Manager shall promulgate the necessary administrative regulations to implement this section.

**Section 18-25 Evidence Of State Registration Required If
Applicable; State Registration To Be Displayed;
Other Registrations Or Permits**

(A) Each person who is licensed under Title 43 of the state license examining boards shall provide evidence of proper and current state licensure before the County certificate can be issued.

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

license remains valid.

(C) It shall in every case be the duty of the owner or responsible business official to ascertain that all applicable registrations, permits, or licenses are obtained and are properly issued and in force, and are displayed as required.

Section 18-26 Evidence Of Qualification Required If Applicable

(A) Any business required to obtain health permits, fire inspections, bonds, certificates of qualification, certificates of competency or other regulatory matters shall first, before the issuance of a County certificate, show evidence of such qualification; and it shall further be required that all such qualifications, or certificates be maintained and kept current so long as the business remains in operation.

(B) Any business required to submit an annual application for continuance of that business shall do so before the certificate is issued.

Section 18-27 Police Permits Required Before Issuance of Tax Certificate

No occupation tax certificate shall be issued to businesses subject to County regulation until a background criminal investigation has been completed and a work permit issued by the Gwinnett County Police Department, as prescribed in Article XIII.

**Section 18-28 Liability Of Officer And Agents; Registration
Required; Failure To Obtain**

All persons subject to the occupation taxes provided in this ordinance shall be required to make application for and obtain the necessary certificate for said business prescribed 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 certificate. Every person commencing business in unincorporated Gwinnett County after January 1 of each year shall likewise pay the required fees or taxes and obtain the registration herein provided for on or before the date required. Failure to comply with provisions shall make the officer or agent subject to penalties provided therefore. Notwithstanding the foregoing, this section shall not apply to lawyers. Lawyers shall not be required to apply for or obtain an occupation tax certificate.

Section 18-29 When Registration And Returns Due; Penalties

(A) Each registration period and tax certificate shall be for the calendar year unless otherwise specifically provided. Failure to make application for and obtain where applicable an appropriate occupation tax certificate, or make estimated or final returns of gross receipts when due, shall be subject to a penalty fee of 100% of the flat fee for each year or fractional part thereof for which the return or application is overdue. Such penalties shall be in addition to all other penalties 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 tax certificate provided for herein shall be issued by the licensing and revenue manager and if any person, firm, or corporation whose duty it is to obtain a certificate shall fail to pay taxes when due or obtain the required certificate, subject to this chapter, such offender shall, upon having been convicted by a Recorder's court, be punished as provided for in section 18-32. This subsection shall not apply to lawyers.

(C) In addition to any other remedies provided hereunder, any delinquent occupation taxes, fees, or interest may be transferred to the tax commissioner who may proceed to collect the overdue amount in the same manner as provided for by law for tax executions.

Section 18-30 Transient Or Nonresident Business Owners

Any transient or nonresident person, firm, or corporation doing business within the County shall have in their possession proof of registration from where the business is domiciled upon his person or in any vehicle or other conveyance which is used in the business and the person shall exhibit the same to any authorized enforcement or police officer. This section shall not apply to lawyers.

Sections 18-31 Certificate Expiration; Renewal; Transfer

(A) All occupation tax certificates granted under the provisions of this ordinance shall expire on March 31 of each year.

(B) Certificate holders who desire to renew their certificates shall file an application with all applicable fees with the Licensing and Revenue Manager on the form provided for renewal of the occupation tax certificate for the following year. Applications for renewal

must be filed before the established due date of each year, with payment of tax being due on April 1. No renewal shall be granted after April 1 unless another date has been specified by the Licensing and Revenue Manager. Applications for renewal received after April 1 may be subject to regulations for the granting of occupation tax certificates as if no previous occupation tax certificate had been held in this County.

(C) All occupation tax certificates granted hereunder shall be for the full calendar year and are not subject to proration.

(D) Transfer of certificate shall be in accordance with Section 18-20.

(E) It shall be the duty of the renewal applicant to obtain renewal permits as may be required by this or any other ordinance.

Section 18-32 Penalty Of Chapter Violation

Any person violating any provisions of this ordinance shall, upon conviction before the Judge of the Recorder's Court, be fined in an amount not exceeding \$1,000.00 or imprisoned not exceeding sixty (60) days of imprisonment, either or both in the discretion of the Recorder's Court Judge. Citations issued by the Licensing and Revenue Manager or designee shall be heard before the Recorder's Court of Gwinnett County. This section shall not apply to lawyers.

Section 18-33 Businesses Not Covered By This Chapter

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 act of 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. Sec. 2-10-105.
- (5) Insurance companies governed by O.C.G.A. Sec. 33-8-8.
- (6) Motor common carriers governed by O.C.G.A. Sec. 46-7-15.
- (7) Those businesses governed by O.C.G.A. Sec. 48-5-355.
- (8) Agricultural products and livestock raised in the State of Georgia governed by O.C.G.A. Sec. 48-5-356.
- (9) Depository financial institutions governed by O.C.G.A. Sec. 48-6-93.
- (10) Facilities operated by a charitable trust governed by O.C.G.A. 48-13-55.

**Section 18-34 Occupation Tax Inapplicable Where Prohibited By
Law Or Provided For Pursuant To Other Existing
Law**

This occupation tax is not levied upon the gross receipts of any part of a business where such levy is prohibited or exempted by the laws of Georgia or of the United States.

Section 18-35**More Than One Place Or Line Of Business**

Where a business is operated at more than one place or where the business includes more than one line, the gross receipts of each location will be entered on a separate occupation tax return and the tax will be calculated at the rate of the dominant line of business conducted by the business identified on a form to be furnished by the Licensing and Revenue office. Where more than one business is operated at a location, each business shall file a separate occupation tax return.

Section 18-36**Returns Confidential**

Except in the case of audits, 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 Gwinnett County or any other person to divulge or make known in any manner to any person not needing such information for the discharge of official duties, the amount of gross receipts or related financial information disclosed in any occupation tax return required under this ordinance. Independent auditors or bookkeepers employed by the County shall be classed as "Employees." Nothing herein shall be construed to prohibit the publication by the 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 or of the United States, and other local governments. Any employee of the County who violates the confidentiality of this information shall be subject to discharge or other disciplinary action. Ownership, identity of registered agent, business locations and other non-financial data shall not be

confidential. Tax deficiency, failure to file returns or pay taxes when due shall not be confidential.

Section 18-37 Inspections Of Books And Records; Penalty For Understating Financial Information

At any time during the taxable year, or for up to two years thereafter, the Licensing and Revenue Manager of the County, through his officers, agents, employees, representatives, or independent auditors, may inspect the books of the business for which the returns are made. Such officer shall have the right to inspect the books or records for the business of which the return was made in Gwinnett County, Georgia, and upon demand of the Licensing and Revenue Manager such books or records shall be submitted for inspection by a representative of Gwinnett County within ten (10) business days. Failure of submission of such books or records within the time required shall be grounds for revocation of the tax certificate currently existing. Adequate records shall be kept in Gwinnett County, Georgia, for examination by the Licensing and Revenue Manager at his discretion. If, after examination of the books or records, it is determined that a deficiency occurs as a result of under reporting, a penalty of not more than one hundred and twenty-five (125%) percent of the difference between the tax initially paid, and the tax finally determined to be due may be imposed.

Section 18-38 Tax Certificate To Be Revoked For Failure To Pay Tax, File Returns, Permit Inspection Of Books, Or Upon Submission Of False Or Incomplete Information

Upon the failure of any business to pay said occupation tax or any final installment or 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 and complete return, or upon failure to amend a return to set forth the truth, or upon the submission of false information, or upon failure to permit inspection of its books or records as provided for within this ordinance; any business or occupation tax certificate granted by Gwinnett County under this ordinance shall be suspended or revoked. The Licensing and Revenue Manager or designee shall notify the responsible business official of any such violation, omission, or infraction, and of his intended sanction. Further, no new occupation tax certificate shall be granted by the County for 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 Licensing and Revenue Manager in accordance with provisions found in Section 18-8.

Section 18-39 Administration; Appeals; Rate Review

Appeals regarding tax certificate decisions of the Licensing and Revenue Manager and appeals regarding work permit decisions shall be before the Licensing and Revenue Board of Appeals.

Section 18-40 Notices

For purposes of this ordinance, notice shall be deemed delivered when personally served or, when served by mail, as of three (3) days after the date of deposit in the United States mail.

Section 18-41 Effect Of Failure To Comply With Chapter Provisions; Continuing In Business After Tax Certificate Revocation

Any person, their managers, agents or employees, who fail to surrender a tax certificate after its revocation or suspension, who conduct business in said unincorporated Gwinnett County after the certificate for said business has been revoked as above; any persons, their managers, agents or employees hereby required to make returns, showing the amount of gross receipts and who fail to make said returns within the time and in the manner herein provided, or refuse to amend such returns so as to set forth the truth, or who shall make false returns; and any persons, their managers, agents or employees who refuse to permit an inspection of books in their charge when the officers, agents, employees or representatives of the County request such inspection, during the business hours, for the purpose of determining the accuracy of the returns herein provided for, shall be subject to penalties provided herein.

Section 18-42 Execution For Delinquent Tax

In addition to the other remedies herein provided for the collection of the occupation tax herein levied, the Licensing and Revenue Manager, upon any tax becoming delinquent and remaining unpaid, shall issue execution for the correct amount of said tax against the persons, partnership or corporation liable for said tax, which said execution shall bear interest at the rate specified in O.C.G.A. Sec. 48-13-21 from the date when such tax becomes delinquent, and the lien shall cover the property in Gwinnett County of the person, partnership or corporation liable for said tax, all as provided by the ordinances of the County and the laws of Georgia. The lien of said occupation tax shall become fixed on and date from the time when

such tax becomes delinquent. The execution shall be levied by the sheriff or tax commissioner of the County upon the property of defendant located in said county or in any other location if no property remains in Gwinnett County and sufficient property shall be advertised and sold to pay the amount of said execution, with interest and costs. All other proceedings in relation thereto shall be had as is provided by ordinances and charter of said County and the laws of Georgia, and the defendant in said execution shall have rights of defense, by affidavit of illegality and otherwise, which are provided by ordinance or the laws of Georgia in regard to tax executions. When a nulla bona entry has been entered by proper authority upon an execution issued by the Licensing and Revenue Manager 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 entry of nulla bona 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 him as though he had never defaulted in the payment of the taxes.

Section 18-43 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 Governing Authority 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 county of additional occupation taxes upon the same

person, property or business.

Section 18-44 Enforcement Of Provisions

It is hereby made the duty of the licensing and revenue manager, or designee, to see that the provisions of this chapter relating to occupation taxes are observed; and where applicable to summon all violators of the same to appear before the recorder's court. It is hereby the further duty of the licensing and revenue manager, or designee, to inspect all certificates issued by Gwinnett County, along with the books and records of the various businesses holding certificates, 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 there under. It shall be the duty of the chief of police, or designee, to make diligent background investigations and searches of records of criminal conviction in those cases as required in this chapter; and to furnish timely information to the licensing and revenue manager in furthering the administration of these provisions. The chief of police, or designee, shall also have the authority to check businesses within unincorporated Gwinnett County for proper certificates issued by the county; and to issue citations for violations of thereof.

**Section 18-45 Provisions To Remain In Full Force And Effect
 Until Changed by Governing Authority**

This ordinance shall remain in full force and effect until changed by amendment adopted by the Gwinnett County Board of 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.

Section 18-46 Requirement Of Public Hearing

The Governing Authority shall conduct at least one public hearing before adopting any ordinance or resolution regarding the occupation tax. Furthermore, the Governing Authority shall hold one or more public hearings in any year when revenue from occupation taxes is greater than revenue from occupation taxes for the preceding year.

**Section 18-47 Conflicts Between Specific And General
 Provisions**

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

Section 18-48 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 effect 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.

Section 18-49 Repeal of Conflicting Provisions

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

Section 18-50--18-70 Reserved

Article II

TEMPORARY OUTDOOR ACTIVITY

Section 18-71. DEFINITIONS

As used in this article, the phrases used herein shall be defined as follows:

“Agriculture oriented recreational uses” shall include Christmas tree/pumpkin lots, hayrides, corn-mazes, petting zoos, pony rides and other similar facilities.

“Goods and merchandise” shall mean tangible or movable personal property, other than money.

“Holiday activities” shall mean seasonal activities associated with federally-recognized holidays and Halloween.

“Temporary outdoor activity” shall mean for-profit activities involving the temporary outside sale of goods and merchandise in association with an existing business located on the premises as the principal use of the premises and shall also include agriculture oriented recreational uses. The term shall include the sale of farm produce, carnivals, or the sale of Christmas trees from property which is vacant or which contains a separate and distinct primary use. Temporary outdoor activities shall occur in non-enclosed areas.

"Temporary Outdoor Activity Permit" shall mean written authorization by the director of the department of planning and development, or his designee, for the applicant to engage in temporary outdoor activities at a specified, fixed location meeting all requirements of this article.

Sec. 18-72. TEMPORARY OUTDOOR ACTIVITIES; PEDDLING PROHIBITED.

Temporary outdoor activities shall be governed by the following regulations:

- (1) Peddling goods and merchandise not customarily sold on a day-to-day basis in the business which constitutes the principal use of the premises is prohibited.
- (2) Mobile food services and the preparation of food onsite shall not be permitted as separate stand-alone temporary outdoor activities.
- (3) No display shall be erected or installed, nor shall any temporary outdoor activities take place, within 50 feet of a county or state right-of-way.
- (4) Temporary outdoor activities shall be permitted only within the county's C-2 and C-3 zoning districts. Agriculture oriented recreational uses only may also be permitted in RA-200 as provided herein. The department of planning and development shall collect a fee for the issuance of such permit.
- (5) A Temporary outdoor activity permit shall not be issued on parcels of land that are less than two acres in size. Agriculture oriented recreational uses shall

not be issued on parcels of land that are less than five acres in size.

- (6) No structure or covering shall be erected as a part of a temporary outdoor activity with the exception that temporary structures shall be permitted as a part of holiday activities, or agriculture oriented recreational uses.
- (7) Display tables may be used as a part of a temporary outdoor activity.
- (8) No operator, employee, or representative of the operator of a temporary outdoor activity shall solicit directly from the motoring public.
- (9) Temporary outdoor activities shall be permitted only on property where such activities shall not disrupt controlled vehicular ingress and egress or occupy required off-street parking spaces.
- (10) All temporary outdoor activities shall require an Occupation Tax Certificate, which is issued by the Licensing and Revenue Manager.
- (11) Written permission from the property owner shall be obtained and submitted by the applicant to the Gwinnett County Department of Planning and Development prior to the issuance of a temporary outdoor activity permit.
- (12) Multiple temporary outdoor activity permits shall not be simultaneously issued on a parcel of land containing less than five acres.
- (13) Temporary outdoor activities, other than holiday activities and agricultural oriented recreational uses, shall be conducted on a paved surface and not on grassed or landscaped areas.

- (14) No evidence of the temporary outdoor activity, other than holiday activities and agriculture oriented recreational uses, shall remain on a parcel of property for more than 12 consecutive hours of any calendar day.
- (15) Temporary outdoor activities shall be permitted for a period not to exceed 20 consecutive days. A second permit for a temporary outdoor activity on the same property may not be applied for or renewed within six months from the date of any prior approval of a temporary outdoor activity, unless noted otherwise.
- (16) Christmas tree sales shall be permitted between November 1st and December 31st due to the seasonal nature of such sales.
- (17) Pumpkin sales shall be permitted from September 15th through October 31st due to the seasonal nature of such sales.
- (18) Agriculture oriented recreational uses permitted in the RA-200 zoning district shall meet the following criteria:
 - a. The activity shall be permitted for 90 consecutive days due to the seasonal nature of such activities.
 - b. Operation must close at dusk.
 - c. No public address system or loud speakers shall be permitted.
 - d. Any structure or associated activity must be a minimum of 50' from any adjoining residentially zoned property.
 - e. Portable restroom facilities must be provided and must be located a minimum of 100' from any adjoining residentially zoned property.
 - f. The project access must be from an existing, paved county maintained road.

(19) Carnivals shall be permitted as temporary outdoor activities so long as no structure or equipment is located within 500 feet of any residential property line.

(19) Charitable or nonprofit events for which sale proceeds benefit charitable organizations are not regulated by this article.

The director of the department of planning and development, or his designee, is hereby authorized to inspect the temporary outdoor activity for compliance with the provisions of this article.

Section 18-73--18-80. Reserved

Article III

POOLROOMS

Section 18-81 Applicability Of Article

Pursuant to the authority granted to counties under Chapter 8 of O.C.G.A. Title 43, the Board of Commissioners hereby declares that said title and chapter, regulating operators of billiard rooms, shall not apply within the unincorporated area of the County and further declares that the provisions of this Article shall govern the operation of poolrooms within the unincorporated area of the County.

Section 18-82 Definitions

For purposes of this Article, the term:

- (1) **"Poolroom"** shall mean any public place where a person is permitted to play the game of pool or billiard.
- (2) **"Pool"** or **"billiard"** shall include any game played on a table surrounded by an elastic edge of cushions with balls which are impelled by a cue.

Section 18-83 Occupation Tax Certificate Required, Application

(A) All persons, firms or corporations desiring to operate a poolroom shall, prior to commencing such business, trade or profession, comply with all rules and regulations adopted by the Governing Authority regulating the operation of poolrooms.

(B) The application shall include but shall not be limited to the information required on all occupation tax returns, along with the following additional information:

- (1) Name and residence address of the owner-applicant;
- (2) If the owner-applicant is a corporation, the names of the officers; along with the name and address of the agent for service of process;
- (3) The name of the manager; and the name of all shareholders holding twenty (20) or more percent of any class of corporate stock. If the manager changes, the owner-applicant must furnish the Licensing and Revenue office and the Gwinnett County Police Department the name and address of the new manager and other information as requested within ten (10) days of such change in management.
- (4) Failure to furnish required information, and in the form

designated, shall automatically serve to dismiss the application.

- (5) All applications shall be sworn to by the applicant before a notary public or other officer authorized to administer oaths.
- (6) In all instances in which an application is denied under the provision of the Article, and after lapse of the time for appeal, or upon the adjudication of the appeal with decision rendered in favor of the County, the applicant may not reapply for an occupation tax certificate for at least 120 days from the final date of denial.

Section 18-84 Work Permits Required

Prior to the issuance of an occupation tax certificate, a work permit shall be required for the owner(s), manager(s) and employee(s).

Section 18-85 Applicant Disqualification

(A) No occupation tax certificate shall be granted to any person who has had any occupation tax certificate or employee work permit issued under the police powers of the County previously revoked within two (2) years prior to filing the current application.

(B) The Licensing and Revenue Manager may decline to issue a certificate when any person having an ownership or management interest in the operation of such place of business or control over such place of business does not meet the same character requirements as herein set forth for the certificate holder.

(C) All establishments must have and continuously maintain in the County a registered agent upon whom any process, notice or demand required or permitted by law or under this Article to be served upon

the certificate holder or owner may be served. This person shall be a resident of the County. The certificate holder shall file the name of such agent, along with the written consent of such agent, in the Licensing and Revenue office in such form as may be prescribed.

Section 18-86 General Operating Provisions

(A) No gambling or other games of chance shall be permitted in a poolroom.

(B) All establishments which have three (3) or more pool tables shall have a manager, or designated employee on duty during operating hours whose responsibility is the operation of the pool tables.

Section 18-87 Inspection Of Registered Establishments

Sworn officers of the police department shall have the authority to inspect establishments registered under this Article during the hours in which the premises are open for business. Such inspection shall be made for the purpose of verifying compliance with the requirements of this Article. This section is not intended to limit the authority of the Licensing and Revenue Manager or of any other county officer to conduct inspections authorized by other provisions of the Code.

Section 18-88 Unlawful or Prohibited Activities

No occupation tax certificate shall be granted to any person under the age of eighteen (18) or who has been convicted, pled guilty or entered a plea of nolo contendere under any federal, state or local law of any crime involving moral turpitude, illegal gambling, any

felony, criminal trespass, public indecency, misdemeanor involving any type of sexual related crime, any theft or violence against person or property, any crime of possession, sale, or distribution of illegal drugs, distribution of material depicting nudity or sexual conduct as defined under state law, criminal solicitation to commit any of these listed offenses, attempts to commit any of these listed offenses, for a period of ten (10) years prior to the date of application for such certificate and has been released from parole or probation.

Sections 18-89--18-100 Reserved.

**Article IV
VEHICLES FOR HIRE**

ARTICLE IV. VEHICLES FOR HIRE

Sec. 18-101 **Definitions.**

For the purposes of this article, certain terms and words are hereby defined. Where words are not herein defined, but are defined elsewhere in this Code of Ordinances, those words shall have the meaning as defined therein. As used in this article, unless the context otherwise indicates, the following words and terms shall have the meaning ascribed to them:

Limousine shall mean any motor vehicle that meets the manufacturer's specifications for luxury limousines, with a designed seating capacity of no less than five (5) and no more than nine (9) passengers behind the operator of the vehicle. No vehicle shall be allowed to operate as both a taxicab and a limousine.

Open stand shall mean locations on the streets of unincorporated Gwinnett County, including the locations on the premises of Gwinnett Transit or MARTA stations that may be used by any taxicab on a nonexclusive, first come, first served basis, and not by private vehicles or other public conveyances.

Taxicab shall mean a motor vehicle used to transport passengers for a fee or fare and which is fitted with a taximeter or other device that is used to compute such fee or fare.

Taxicab business shall mean an entity with its primary business being the operation of motor vehicles used to transport passengers for a fee or fare.

Taximeter shall mean an instrument or device attached to a motor vehicle and designed to measure the distance traveled by such vehicle, or an instrument or device attached to a motor vehicle and designed to compute and indicate the fare or fee to be charged to the passenger(s).

Vehicle for hire shall mean a limousine, taxicab or other motorized passenger-carrying vehicle that is used to transport passengers for a fee. Vehicles regulated by the Georgia Public Service Commission, non-emergency medical transport vehicles, and passenger vans with a capacity of fifteen (15) or more passengers, shall not be considered a vehicle for hire. A vehicle registration card (or, "cabcard") issued by the Georgia Department of Revenue shall be considered prima facie evidence that a limousine or van is not a "vehicle for hire" subject to this Ordinance.

Sec. 18-102. **Doing business defined.**

Any person shall be deemed doing business in the unincorporated areas of Gwinnett County under this article if such person is picking up passengers, responding to calls for service, or soliciting business in any way in unincorporated areas of the county and accepting or soliciting any consideration, charge or fee which is determined by agreement, by mileage, by the length of time the vehicle is used or by contract for the use of any motor vehicle or other vehicle designed or used for the purpose of transporting passengers. Any person shall also be deemed as doing business in the unincorporated areas of the county under this article if such person has established a business relationship with independent contractors or operates vehicles for hire on such person's own behalf for the purpose of transporting passengers in the unincorporated areas of the county.

Sec. 18-103. **Compliance; Zoning.**

No person shall conduct the business of operating vehicles for hire in the unincorporated area of Gwinnett County without first meeting the requirements of this article. Vehicle for hire businesses shall meet all applicable zoning, development, and building code requirements for the use of land and structures located within unincorporated Gwinnett County.

Sec. 18-104. **Business permit holder's responsibilities for violations.**

Business permit holders are responsible for violations of this article by their employees, lessees, subcontractors, and

independent contractors, including drivers and dispatchers. An occupation tax certificate or business permit may be suspended or revoked for violation of this Ordinance by the business permit holder's employees, lessees, subcontractors, and independent contractors in accordance with Sec. 18-114 hereof.

Sec. 18-105. **Notice.**

For the purposes of this article, notice shall be deemed delivered when personally served or when served by mail within three (3) days after the date of deposit in the United States mail.

Sec. 18-106. **Hearings.**

(a). Decisions of the Licensing and Revenue Office that adversely affect or aggrieve any applicant or occupation tax certificate holder under this article may within five business days be appealed to the Licensing and Revenue Manager. Decisions of the police department that adversely affect or aggrieve any taxicab business permit holder or taxicab drivers permit holder may within five business days be appealed to the chief of police or the chief of police's designated representative. Any applicant or occupation tax certificate holder who is aggrieved or adversely affected by a final decision of the Licensing and Revenue Manager or any applicant or permit holder who is aggrieved or adversely affected by a final decision of the chief of police or the chief of police's designated representative may request an appeal to the Licensing and Revenue Board of Appeals. Such appeal shall be by written petition, filed in the Licensing and Revenue Office along with a \$50 appeal fee and within fifteen (15) days after the final decision.

(b). A hearing shall be conducted on each appeal within thirty (30) days of the date of filing the written petition, unless a continuance of such hearing is agreed to by the appellant and the Licensing and Revenue Manager. The appellant at such hearing shall have the right to be represented by an attorney, at the expense of the appellant, and to present evidence and cross-examine witnesses.

(c). The findings of the Licensing and Revenue Board of Appeals shall be forwarded to the Licensing and Revenue Manager after the conclusion of the hearing. It shall be the duty of the Licensing and Revenue Manager to notify the appellant of the action of the review board.

(d). The findings of the Licensing and Revenue Board of Appeals shall not be set aside unless found to be (1) contrary to law or ordinances or (2) unsupported by substantial evidence on the records as a whole or (3) unreasonable.

(e). The findings of the Licensing and Revenue Board of Appeals, shall be final unless appealed within thirty (30) days of the date of said finding by certiorari to the Superior Court of Gwinnett County. An aggrieved party shall have all other remedies provided by law or at equity to all ordinances.

Sec. 18-107. **Audits.**

Each business and individual operating under the provisions of this article shall be subject to audit upon reasonable notice by the License and Revenue Manager.

Sec. 18-108. **Occupational Tax Certificates - In-County
Businesses.**

In addition to any other requirements with respect to the issuance of occupational tax certificates found elsewhere in this Code of Ordinances, the following requirements apply to taxicab businesses having a verifiable dispatch location within unincorporated Gwinnett County:

(1) An applicant for an occupational tax certificate is required to provide information showing its qualifications on a form(s) provided by the Licensing and Revenue Office.

(2) Applicants must be approved by the Licensing and Revenue Manager or designee, and such clearance shall include a background investigation and fingerprinting of the applicant.

(3) No taxicab business permit shall be issued to any taxicab business owning or leasing less than one (1) vehicle.

(4) All permits required by the provisions of this article shall expire on the same date as the expiration of the occupation tax certificate.

(5) If the applicant is not a sole proprietor or individual then all partners, officers or managers of the legal entity shall be required to comply with the provisions of this section.

(6) All applicants must:

a. Be at least twenty-one (21) years of age;

b. Be a citizen of the United States or an alien admitted for permanent residence or who has otherwise been granted employment authorization by United States Immigration Customs Enforcement;

c. Have not been convicted, been on probation, parole, or been imprisoned for a period of five (5) years previous to the date of application, for the violation of any of the following offenses of the State of Georgia, of any other state, or of the United States: any felony; driving under the influence of drugs or alcohol; criminal solicitation to commit any of the offenses listed in this subsection; attempt to commit any of the offenses listed in this subsection; any misdemeanor crime of violence or theft, any misdemeanor crime of possession, sale or distribution of illegal drugs or any crime involving moral turpitude. Discharge without court adjudication of guilt pursuant to O.C.G.A. § 42-8-62 shall not disqualify an applicant from applying for a permit;

d. Provide a verifiable dispatch location staffed by business agents or employees and have a published telephone number;

e. File applications for the initial permitting and inspection of the taxicabs, with a list of all drivers that will be scheduled for driver permitting, indicating whether drivers are business employees or contract

drivers. A copy of each contract driver's insurance coverage must be included in the application;

f. Provide a copy of the applicant's rate schedule and the daily hours of operation; and

g Provide the name, address and telephone number of a responsible individual residing in Gwinnett County who will be the registered agent for the purpose of service of process or receipt of citations.

Sec. 18-109. **Business permits.**

(a) An applicant for a business permit is required to provide information showing its qualifications on a form(s) provided by the police department.

(b) Applicants must be approved by the police chief or designee, and such clearance shall include a background investigation and fingerprinting of the applicant.

(c) No business permit shall be issued to any business owning or leasing less than one (1) vehicle.

(d) No business permit shall be issued to an applicant unless the applicant has a valid and current occupation tax certificate to do business issued by a city, county, or consolidated government in the State of Georgia.

(e) All permits required by the provisions of this article shall expire on the same date as the expiration of the occupation tax certificate.

(f) If the applicant is not a sole proprietor or individual then all partners, officers or managers of the legal entity shall be required to comply with the provisions of this section.

(g) All applicants must:

(1) Be at least twenty-one (21) years of age;

(2) Be a citizen of the United States or an alien admitted for permanent residence or who has otherwise been granted employment authorization by United States Immigration Customs Enforcement;

(3) Have not been convicted, been on probation, parole, or been imprisoned for a period of five (5) years previous to the date of application, for the violation of any of the following offenses of the State of Georgia, of any other state, or of the United States: any felony; driving under the influence of drugs or alcohol; criminal solicitation to commit any of the offenses listed in this subsection; attempt to commit any of the offenses listed in this subsection; any misdemeanor crime of violence or theft, any misdemeanor crime of possession, sale or distribution of illegal drugs or any crime involving moral turpitude. Discharge without court adjudication of guilt pursuant to O.C.G.A. § 42-8-62 shall not disqualify an applicant from applying for a permit;

(4) Provide a verifiable dispatch location staffed by business agents or employees and have a published telephone number;

(5) File applications for the initial permitting and inspection of the taxicabs, with a list of all drivers that will be scheduled for driver permitting, indicating whether drivers are business employees or contract drivers. A copy of each contract driver's insurance coverage must be included in the application;

(6) Provide a copy of the applicant's rate schedule and the daily hours of operation; and

(7) Provide the name, address and telephone number of a responsible individual residing in Gwinnett County who will be the registered agent for the purpose of service of process or receipt of citations.

Sec. 18-110 **Insurance.**

(a) All businesses and drivers permitted pursuant to the provisions of this article shall provide with their application, and shall maintain for the duration of the permit, a certificate of insurance showing proof of motor vehicle insurance covering public liability and property damage issued by a state approved insurer. Such insurance shall insure passengers and third persons against personal injury and property damage in amounts specified by the Police Department's published rules and regulations.

(b) All permit holders must provide the police chief or his designee with an annual certificate of insurance showing the existence of such policies of insurance as required by this article. The annual certificate of insurance must be provided to the police chief or his designee thirty (30) days prior to the

expiration of any such insurance.

Sec. 18-111. **Work permits generally.**

(a) No person shall do business in unincorporated Gwinnett County as defined by Sec. 18-102 without a valid work permit issued by Gwinnett County,. All drivers must have held a valid Georgia driver's license for a minimum period of one (1) continuous year prior to applying for a work permit pursuant to this article. No business shall employ or associate with in any way, including independent contractors, any driver who has not first met the requirements of this article and been issued a valid work permit as authorized by this article.

(b) No work permit shall be issued to any person who is not employed by or represented by an approved business. All work permits shall expire on the drivers' birthday, and shall be renewed annually. A work permit shall only be good for one business which it was obtained for, if a driver works for more than one cab business he/she must have a work permit for each and every business the driver works for.

(c) Work permits must be posted on the dash or sun visor of the vehicle being driven so that it is visible from the passenger area. Businesses under this article are responsible for checking to ensure that each driver has a current work permit in the driver's possession and posted on the dash or sun visor of the vehicle being operated along with a visible vehicle inspection sticker.

(d) No request for a work permit will be processed unless the permit applicant presents a letter on business stationery to the police department from a current business permit holder requesting

issuance of a work permit to the named individual. The work permit applicant will further furnish information requested on a form to be provided by the police department and submit to a police clearance consisting of a background investigation or fingerprinting. Work permit applicants must meet the following requirements:

- (1) Be at least twenty-one (21) years of age.
- (2) Be a citizen of the United States or an alien admitted for permanent residence or who has otherwise been granted employment authorization by the United States Immigration Customs Enforcement.
- (3) Possess a current valid state driver's license. Such license must not be limited as defined in O.C.G.A. §§ 40-5-58 and 40-5-64.
- (4) Exhibit a proficiency with the English language so as to be able to comprehend and interpret traffic signs, issue written receipts to passengers and obey lawful orders of police and others in lawful authority.
- (5) Have not been convicted, been on probation, parole, or been imprisoned for a period of five (5) years previous to the date of application, or for the violation of any of the following offenses of the state, of any other state or of the United States; any felony; driving under the influence of drugs or alcohol; child molestation; criminal solicitation to commit any of these listed offenses; attempts to commit any of these offenses; any crime of violence or theft; any crime of possession, sale or distribution of illegal drugs or moral

turpitude. Discharge without court adjudication of guilt pursuant to O.C.G.A. § 42-8-62 shall not disqualify an applicant.

(6) Have not been convicted of four (4) or more moving traffic violations, or one (1) or more mandatory suspensions as defined by Georgia law, within the twelve (12) month period preceding the date of application or renewal of the application. Discharge without court adjudication of guilt pursuant to O.C.G.A. § 42-8-62 shall not disqualify an applicant.

(e) Drivers are responsible for reporting any change in qualifications or other licensing or permitting information previously supplied to the police department within ten (10) days of the change.

(f) Any vehicle purporting to be a taxicab operating within the unincorporated areas of Gwinnett County shall be in compliance with all of the provisions of this ordinance or shall be deemed to be in violation of this ordinance.

(g) Replacement work permits will be issued within thirty (30) days of original date upon the payment of one-half (1/2) of the fee charged for work permits. After thirty (30) days of original application date, a new application must be submitted.

Sec. 18-112. **Determination of work permit or inspection fees; proration of license permit or inspection fees.**

Fees for vehicle inspections and taxicab driver permits under this article shall be recommended by the police department for approval

to the board of commissioners. Fees required by this article are nonrefundable and are not prorated.

Sec. 18-113. **Transfer and term of work permits and vehicle stickers.**

(a) No business permit, work permit, occupation tax certificate or county inspection sticker for individual vehicles required by this article are transferable, except that the business permit shall be transferable pursuant to a purchase, gift, bequest, or acquisition of the stock or assets of a corporation to a person otherwise meeting the requirements of this Ordinance. If not renewed in compliance with this article, all permits, occupation tax certificates, and inspection stickers shall expire annually and be of no further force and effect.

(b) All county inspection stickers required by the provisions of this article shall expire on the date the Georgia motor vehicle license tag expires.

Sec. 18-114. **Suspension or revocation of occupation tax certificate, business permit, and work permit.**

(a) *Suspension.* For reasons set forth below, an occupation tax certificate, a business permit, or a work permit issued under this article may be suspended until these conditions no longer exist:

(1) Failure to maintain all of the general qualifications applicable to the initial issuance of an occupation tax certificate, business permit, or a work permit .

(2) Violation of any part of this article.

(3) For work permits only: have not been convicted of four

(4) or more moving traffic violations, or one (1) or more mandatory suspensions as defined by Georgia law, within the twelve-month period preceding the date of application or renewal of the application. Discharge without court adjudication of guilt pursuant to O.C.G.A. § 42-8-62 shall not disqualify an applicant.

(4) Allowing the required insurance coverage to lapse, or allowing a vehicle to operate in the unincorporated area of the county without a county inspection sticker.

(b) *Suspension for six (6) months.* For reasons set forth below, an occupation tax certificate, a business permit, or a work permit issued under this article may be suspended for six (6) months:

(1) Charging a fare in excess of those fares on file with the police department.

(2) Refusing to accept a passenger solely on the basis of race, color, national origin, religious belief, sex or sexual orientation. Sexual orientation shall mean the state of being heterosexual, homosexual or bisexual. Operators shall not refuse to accept a passenger unless the passenger is obviously intoxicated or dangerous.

(c) *Revocation.*

(1) An occupation tax certificate, a business permit, or a work permit issued under this article may be revoked where the applicant furnishes fraudulent or untruthful information, or omits information, requested in the application.

(2) An occupation tax certificate, business permit, or work permit may be revoked for a violation of this article. If any permit holder's employees, lessees, subcontractors, or independent contractors are found to have violated this article on three (3) or more occasions in a twelve-month period, the business permit may be revoked.

(3) A business permit may also be revoked if any driver affiliated in any way with such permit is found to have violated this article on five (5) or more occasions in a twelve-month period.

(d) In addition to any other remedies provided by law, the permit holder may also be cited for violating the provisions of this article, and such citation(s) shall be prosecuted in accordance with the requirements of this article in the Recorder's Court of Gwinnett County.

(e) The requirements of this article shall be in addition to all other taxing, and regulatory provisions of local, state or federal law and shall not authorize violations of any other applicable laws.

Sec. 18-115. **Vehicle condition and equipment; inspection and inspection sticker.**

(a) Drivers and businesses are responsible for maintaining each vehicle for hire in a clean and mechanically safe condition. The interior and exterior shall meet the requirements set out under inspection requirements outlined in this section. Gwinnett County will provide forms to be used to meet the requirements of the inspection. Permits shall cost \$50.00 for each vehicle, which shall include a GCIC check for the driver/operator of said vehicle. The cost for a taxicab business to obtain a permit shall be \$50.00 which shall include a GCIC check for said owner.

(b) Drivers are not to drive and businesses are not to allow drivers to operate a vehicle without the required markings, a taximeter, top light and inspection sticker as outlined in this section. Required markings shall also include the name of the business painted or affixed by decal to the outside right and left front doors and the schedule of rates, including minimum fares, painted or affixed by decal to the outside right and left rear doors. Magnetic signs, or non-permanent signs or markings, shall be prohibited. Limousines are excepted from having markings, top lights, or taximeters; however, limousines are required to have a plate attached to their front or rear bumper indicating the business name.

(c) All vehicles for hire to be used by a business in the county shall be inspected annually by an approved ASE or Master ASE mechanic at the licensee's expense. Any attempt by the permit holder to fraudulently obtain the required inspection will result in being disqualified from operating such a business in Gwinnett

County and may result in the loss of the current occupation tax certificate and/or business permit. Once a vehicle meets the requirements of the inspection, the business permit holder shall bring proof of the inspection to the Gwinnett County Police Department and a sticker will be affixed to the left side of the rear window. The requirements that each vehicle must meet are as follows:

(1) Exterior inspection shall ensure that headlights, taillights, brake lights, directional signal lights, license plate lights, windshield wipers, all vehicle glass, window cranks or electric windows, doors and door locks, trunk lid, trunk, hood, door handles, exhaust system, bumpers, fenders, body, tires and other vehicle parts are in good condition and functioning properly. There shall be no tears or rust holes in the vehicle body and no loose pieces hanging from the vehicle body. There shall be no unrepaired body damage or any body condition which would create a safety problem or interfere with the operation of the vehicle.

(2) Interior inspection shall include the rearview mirror, steering wheel, foot brakes, parking brakes, air conditioning and heating systems to ensure each item is in good operating condition. The upholstery, floor mats, headlining, door panels and the trunk compartment shall be inspected to insure there are no tears, that they are clean and have no offensive odors and that the trunk has sufficient space for passenger luggage.

(3) The vehicle shall have a spare tire, a jack, and a taximeter. The taximeter is to be positioned so that it is visible from the passenger compartment. Taximeter accuracy shall be verified according to the police department's published rules and regulations for vehicles for hire. Limousines are excepted from

having a taximeter.

(4) Vehicles shall be subject to random inspections at any time. Vehicles found to be substandard shall be removed from service immediately and shall be subject to immediate vehicle inspection sticker removal by the police department. Additional inspection requirements will be outlined in the police department's vehicle rules and regulations governing passenger-carrying vehicles.

(d) The inspection sticker is proof that the business met the permit and insurance requirements at the time of permit issuance and that the vehicle passed the last vehicle inspection. Each vehicle driver must have in the vehicle proof of current insurance coverage. Any business or vehicle letting insurance coverage lapse shall have the inspection sticker or stickers removed by the police department and the business permit and/or occupation tax certificate suspended or revoked. Business operations shall not be resumed until proof of insurance is provided to the Licensing and Revenue Office (if an in-county business) or the police department (if an out-of-county business), the business permit and occupation tax certificate reinstated and the vehicle or vehicles re-inspected and new inspection stickers issued by the police department.

(e) No business shall use any vehicle that has not been inspected and had the county inspection sticker affixed.

(f) Inspection stickers are not transferable from vehicle to vehicle and are nonrefundable if the vehicle is wrecked or taken out of service for any reason. The police department must be

notified within ten (10) days of any vehicle being taken out of service; stickers from vehicles taken out of service must be turned in to the police department. Stickers for replacement vehicles or additional vehicles are issued under the same procedures as original inspection stickers.

(g) The maximum number of inspection stickers issued in any calendar year shall not exceed one thousand (1,000).

(h) Inspection stickers shall expire on the date the Georgia motor vehicle license tag expires.

Sec. 18-116. **Miscellaneous requirements and regulations.**

(a) All drivers shall maintain in each vehicle a suitable map or street guide of the metropolitan Atlanta and Gwinnett area or a functioning global positioning system (GPS).

(b) All drivers shall make a reasonable search of their vehicle immediately following each trip, and upon discovery of any personal property left by a passenger in the vehicle, shall immediately notify the dispatcher so that the dispatcher can attempt to locate the owner to return the property. If the owner cannot be located within twenty-four (24) hours, the dispatcher shall forward the property to the police department. The county shall reflect the initial receipt of the property in a log that shall be maintained and available for inspection by the police chief or designee for ninety days (90).

(c) All drivers shall take the most direct route to a passenger's destination unless otherwise authorized or directed by the passenger.

(d) No driver shall refuse to accept a passenger, unless the passenger is obviously intoxicated or dangerous. All employees and independent contractors of companies permitted pursuant to this article shall be courteous and respectful to members of the public.

(e) No driver shall refuse to accept a passenger solely on the basis of that passenger's race, color, gender, religion, sex, national origin, sexual orientation, age or disability.

(f) All drivers shall provide receipts upon request of a passenger, showing the amount of fare paid, the name of the business, the vehicle identification number, the number of passengers, and origin and termination location of trip.

(g) No driver shall refuse to transport a blind or disabled person or that person's guide or service dog. No driver shall charge any extra fee for the guide or service dog to accompany said blind or disabled person.

(h) All drivers shall practice good personal hygiene, and wear proper dress while operating a taxicab. Proper dress shall mean shoes (not sandals), ankle length pants, and a shirt or blouse with sleeves and a collar. Hats must be of the baseball style or a chauffeur's cap. Clothing must be clean and not visibly soiled clothing.

(i) Business permit holders are responsible for ensuring that any driver who is affiliated in any way with such permit complies with

the requirements of this article. In addition to being cited for a violation of this article, violation(s) of this section may be grounds for suspension or revocation of the permit issued pursuant to this article.

(j) Failure of a driver to comply with this article shall result in the issuance of a citation and/or the driver's arrest and the impoundment of the taxicab.

(k) No driver's work permit shall be issued to a driver not affiliated with a business properly permitted pursuant to this article.

Sec. 18-117. **Trip sheets or logs.**

Drivers must maintain daily trip sheets or logs of all passengers, the time, place of entry, the destination of each passenger, the amount charged and an itemization of any personal property left in the vehicle for hire. Trip sheets must be maintained in the vehicle for forty-eight (48) hours and, thereafter, transferred to and maintained at the licensed business premises for a period of time to be specified by the police department in that department's published rules and regulations for vehicles for hire.

Sec. 18-118. **Drivers smoking, playing radios, etc.**

A driver while operating a vehicle for hire is not to smoke or play a radio or tape player if objected to by a passenger.

Sec. 18-119. **Cruising and use of vehicle stands.**

Business permit holders under this article are responsible for ensuring that no driver participates in cruising. Cruising is defined as moving about the streets of the unincorporated area for the purpose of picking up and transporting passengers who have not previously requested such service by telephone or by personal command. Business permit holders shall ensure that their drivers use open stands on a nonexclusive, first-come-first-serve basis.

Sec. 18-120. **Call jumping.**

Businesses under this article shall not participate in nor allow their drivers to practice call jumping or the act of intercepting a passenger who has requested service from another business.

Sec. 18-121. **Age of vehicles for hire, taxicabs and limousines.**

(a) As of December 31, 2006, no vehicle having a vehicle age greater than fifteen (15) years may be operated as a taxicab, vehicle for hire or limousine in the unincorporated area of the county. For the purposes of this section, the term vehicle age shall be the vehicle's model year.

(b) As of December 31, 2008, no vehicle having a vehicle age greater than eight (8) years may be operated as a taxicab, vehicle for hire or limousine in the unincorporated area of the county. For the purposes of this section, the term vehicle age shall be the vehicle's model year.

Sec. 18-122. Schedule of fares.

(a) All permitted taxicab drivers shall charge the following schedule of fares:

(1) To the first one-seventh mile--Two (\$2.00) dollars;

(2) Each additional one-seventh mile--Twenty-five cents (\$.25);

(3) Waiting time--Eighteen dollars (\$18.00) per hour; and

(4) For each additional passenger in excess of one riding in the vehicle on the same trip--One dollar (\$1.00) per extra person. Children under five (5) years of age shall not be charged the extra person fee, and only one (1) child over the age of five (5) in the company of an adult may be charged the extra person fee.

(b) All taxicab drivers permitted under this article shall have the right to charge a six dollar (\$6.00) charge if the meter is not utilized.

(c) Taximeters shall be calibrated by the permitted taxicab driver or taxicab business to calculate the fares in accordance with the schedule set forth in this section. The permit holder shall install lead and wire seals to the taximeter once it is calibrated so that no adjustments, alterations or replacements may be made to the taximeter that affects in any way its accuracy or indications.

(d) The Chief of Police may revise this schedule of fares effective January 1 of each year beginning January 1, 2008.

Sec. 18-123. **Enforcement**

The Gwinnett County Police Department shall be responsible for the enforcement of this ordinance. The Gwinnett County Police Department is authorized to inspect taxis anytime without a warrant to ensure compliance with this ordinance.

Sec. 18-124 **Penalty**

Any person who violates any provision of this ordinance may be summoned to appear in the Gwinnett County Recorder's Court . Any person convicted a first time for one or more violations of this Ordinance shall be punished by a fine of \$250.00. Any person convicted a second time for one or more violations of this Ordinance shall be punished by a fine of \$500.00. Any person subsequently convicted for one or more violations of this Ordinance shall be punished by a fine of \$1,000.00.

SEVERABILITY

If any portion of this ordinance is declared by a Court of competent jurisdiction to be invalid or unenforceable, such declaration shall not be deemed to affect the remaining portions of this ordinance.

ARTICLE V

Massage Establishments and Spas

Section 18-131 Definitions (Duplicate Section # to be corrected)

For the purpose of this Article, the term:

- (1) **"Massage apparatus"** shall mean any manual, mechanical, hydraulic, hydrokinetic, electric, or electronic device or instrument or any device or instrument operated by manual, mechanical, hydraulic, hydrokinetic or electric power, which is utilized by a "massage therapist" for the purpose of administering a "massage".
- (2) **"Massage establishment"** shall mean any business established for profit which employs or contracts with one (1) or more "massage therapists" or operates or maintains for profit one (1) or more "massage apparatus", and which for good or valuable consideration, offers to the public facilities and personnel for the administration of "massages". This term shall not include hospitals or other professional health care establishments separately licensed as such by the State of Georgia.
- (3) **"Massage or "massage therapy"** shall mean the manipulation and/or treatment of soft tissues of the body, including but not limited to the use of effleurage, petrissage, pressure, friction, tapotement, kneading, vibration, range of motion stretches, and any other soft tissue manipulation whether manual or by use of massage apparatus, and may include the use of oils, lotions, creams, salt glows, hydrotherapy, heliotherapy, hot packs, and cold packs. This term shall

not include diagnosis, the prescribing of drugs or medicines, spinal or other joint manipulations, or any service or procedure for which a license to practice chiropractic, physical therapy, podiatry, or medicine is required by the State of Georgia.

- (4) **"Massage therapist/practitioner/masseur/masseuse"** shall mean any person who for good or valuable consideration administers a "massage" or "massage therapy".

- (5) **"Spa establishment"** shall mean any business established for profit that provides personal services such as body wraps, hydro mineral wraps, body polish, body wash, baths and hydro tub soak.

Section 18-132 Scope of Regulations

- (A) All licenses issued under this Article shall constitute a mere privilege to conduct the business so authorized during the term of the certificate or permit only and subject to all terms and conditions imposed by the County and State law.

- (B) Nothing in this Article shall be construed to regulate, prevent, or restrict in any manner:
 - (1) Any physician, chiropractor, physical therapist, or similar professional licensed and regulated by or through the State of Georgia while engaged in the practice of said profession.

(2) Any hospital or other professional health care establishment separately licensed as such by the State of Georgia.

(3) Any other individual or entity expressly exempted from local legislation by the laws of the State of Georgia.

Section 18-133 License Required, Application

(A) In addition to obtaining an occupation tax certificate as referenced in Section 18-1, all persons, firms or corporations desiring to engage in the business, trade or profession of a massage establishment shall, before engaging in such trade, business, profession, make application for a license in the form and manner prescribed in this Article. The application shall include the information required on all license returns, along with the following additional information:

(1) No license for a massage establishment shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence.

(2) A letter certifying as to the good moral character of the applicant, signed by three (3) currently qualified and registered Gwinnett County voters of good moral character. Individuals signing such letter must provide their name, address and social security number.

(3) The applicant must hold and furnish a certified copy of a diploma or certificate of graduation from a state certified school and accredited school of massage therapy. The diploma must be representative of the fact that applicant

attended a course of study of not less than 500 credit hours, consisting of a curriculum of anatomy, physical culture, physiology, basic massage theory, technique and clinical practice, approach to massage, allied modalities and disease awareness and other such subjects.

- (4) The applicant must furnish a certified statement from the **National Certification Board of Therapeutic Massage and Body Work** evidencing passage by the applicant thereof of the exam for massage therapists administered by said Board.
- (5) If the applicant is a corporation or partnership, such corporation or partnership shall submit the foregoing information and exhibits with regard to each employee, independent contractor agent and partner, general or limited associated with the operation of the massage therapy establishment.
- (6) If the applicant is a corporation, such corporation shall, in addition to the foregoing information, submit a complete list of the stockholders of said corporation, including names, current addresses and current occupations, and provide the name and address for its registered agent in Gwinnett County, Georgia.
- (7) If the applicant is a corporation, such corporation must be chartered under the laws of Georgia or authorized by the Secretary of State to do business in Georgia.
- (8) If the applicant is an individual, the applicant must submit a copy of a valid driver license or a valid ID card as reliable proof thereof. Additionally, if the applicant

does not reside in Gwinnett County, the applicant must provide the name and address for an agent who resides in Gwinnett County authorized to receive legal process and notices under this Article on behalf of the applicant.

- (B) In addition to obtaining an occupation tax certificate as referenced in Section 18-1, all persons, firms or corporations desiring to engage in the business, trade or profession of a spa establishment shall, before engaging in such trade, business, profession, make application for a license in the form and manner prescribed in this Article. The application shall include the information required on all license returns, along with the following additional information:
- (1) No license for a spa establishment shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence.
 - (2) If the applicant is a corporation or partnership, such corporation or partnership shall submit the foregoing information and exhibits with regard to each employee, independent contractor agent and partner, general or limited associated with the operation of the massage therapy establishment.
 - (3) If the applicant is a corporation, such corporation shall, in addition to the foregoing information, submit a complete list of the stockholders of said corporation, including names, current addresses and current occupations, and provide the name and address for its registered agent in Gwinnett County, Georgia.

- (4) If the applicant is a corporation, such corporation must be chartered under the laws of Georgia or authorized by the Secretary of State to do business in Georgia.
- (5) If the applicant is an individual, the applicant must submit a copy of a valid driver license or a valid ID card as reliable proof thereof. Additionally, if the applicant does not reside in Gwinnett County, the applicant must provide the name and address for an agent who resides in Gwinnett County authorized to receive legal process and notices under this Article on behalf of the applicant.
- (C) No person, firm or corporation or its officers shall be granted a license for a massage or spa establishment unless it shall appear to the satisfaction of the Licensing and Revenue Manager or his designee that such person, partners in the firm, officers and directors of the corporation have not been convicted or plead guilty or entered a plea of nolo contendere under any federal, state or local law of any crime involving illegal gambling, any felony, criminal trespass, public indecency, disorderly conduct, misdemeanor involving any type of sexual related crime, any theft or violence against person or property, any crime of possession, sale, or distribution of illegal drugs, distribution of material depicting nudity or sexual conduct as defined under state law, criminal solicitation to commit any of these listed offenses, attempts to commit any of these listed offenses, for a period of the (10) years prior to the date of application for such certificate and has been released from parole or probation. No person, partner or officer under the age of eighteen (18) shall be granted a license for massage establishment or spa.

Section 18-134 Regulatory Fee, Expiration and Renewal

- (A) There shall be an annual regulatory fee for each massage and spa establishment licensed within unincorporated Gwinnett County in the amount of \$250.00. The regulatory fee shall be paid with the license application.

- (B) All licenses granted hereunder shall expire on December 31 of each year. Licensees who desire to renew their license shall file application, with the requisite fee heretofore provided, with the Licensing and Revenue Manager on the form provided for renewal of the license for the ensuing year. Applications for renewal must be filed before November 30 of each year. Any renewal applications received after November 30 shall pay in addition to said annual fee, a late charge of twenty percent (20%). If license application is received after January 1, such application shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held.

- (C) All licenses granted hereunder shall be for the calendar year and the full regulatory fee must be paid for a license application filed prior to July 1 of the license year. One-half (1/2) of a full regulatory fee shall be paid for a license application filed after July 1 of the license year.

- (D) Any person renewing any license issued hereunder who shall pay the required fee, or any portion thereof, after January 1, shall, in addition to said annual fee and late charges, pay simple interest on the delinquent balance at the annual rate then charged by the Internal Revenue Service of the United

States on unpaid federal income taxes.

Section 18-135 Work Permits Required

Prior to the issuance of a license the on premise owner(s), manager(s) and employee(s) desiring to engage in the business, trade or profession of massage therapy shall be required to obtain a work permit.

Section 18-136 General Operating Provisions for Massage Establishment and Spa

- (A) It shall be the duty of all persons holding a license under this Article to annually file, along with the renewal application for the license, the name of all employees, their home address, home telephone number and place of employment. The holder of a license issued under the provisions of this Article must additionally report changes in the list of employees with the names and require supplement information for new employees to be filed with the Licensing and Revenue Manager or his designee within ten (10) days from the date of such change.

- (B) It shall be the duty of any person granted a license under this Article to maintain correct and accurate records of the name and address of the persons receiving treatment at such establishment; the type of treatment administered; and the name of the person at the establishment administering the treatment. The records shall be subject to inspection at any time by the Licensing & Revenue Manager, or his designee, or the Chief of Police or his designee.

- (C) The establishment shall have an owner, manager, or supervisor on premise at all hours the establishment offers massage therapy. If during an inspection there is no owner, manager, or supervisor on premise the establishment must cease operations and close to the public until an owner, manager or supervisor is on premise.
- (D) Records required to be maintained under this Article shall be kept for a minimum of two (2) years beyond the expiration date of a license. Records shall be made available to the Licensing and Revenue Manager, during business hours, at the certificate holder's business location in Gwinnett County, within then (10) business days of any such request.
- (E) The establishment shall be subject to inspection at any time during business hours by the Licensing & Revenue Manager or his designee and by the Chief of Police or his designee, to ensure compliance with this Article.
- (F) All employees, massage therapist and other persons on the premises, with the exception of the customers, shall be completely clothed at all times when administering a massage. For the purposes of this Article "completely clothed" shall mean having on the upper portion of the body appropriate undergarments and either blouse or shirt which shall cover all the upper body save the arms and neck and shall mean having on the lower body appropriate undergarments plus either pants or skirt, and said pants or skirt must cover from the waist down to a point at least two (2) inches above the knee. All clothes worn in compliance with this Article shall be entirely non-transparent.

- (G) No business of a massage therapist shall be engaged in and no place of business shall be open for business except within and between the hours of 7:00 AM and 10:00 PM.
- (H) A readable sign shall be posted at the main entrance identifying the establishment. Signs shall comply with the sign requirements of the Gwinnett County Code.
- (I) Minimum lighting shall be provided in accordance with the Uniform Building Code, and additionally, at least one (1) artificial light of not less than forty (40) watts shall be provided in each enclosed room or booth.
- (J) Ordinary beds or mattresses shall not be permitted in any establishment.
- (K) The establishment, prior to the issuance of the license must be in compliance with all applicable building and life safety codes, and the building to be occupied must have a valid, current certificate of occupancy.
- (L) It shall be unlawful for any person under the age of eighteen (18) to patronize any massage establishment unless such person carries with him/her at the time of such patronage, a written order directing the treatment to be given by a regularly licensed physician or written permission of the underage person's parent or guardian. It shall be the duty of the holder of a license to determine the age of the person attempting to patronize a massage establishment and to prohibit such patronage by an underage person.

- (M) No massage practitioner, or any of his employees, shall manipulate, fondle or handle the sexual organs or anus of any person.

Section 18-137 Issuance of the License for Massage Establishment and Spa

- (A) When a license application is submitted in proper form, including all information and exhibits required herein and accompanied by the correct fees, the application shall be accepted and a review of the application and an inspection and investigation shall be conducted by the Licensing & Revenue Manager or his designee. The Licensing & Revenue Manager or his designee shall transmit a copy of the completed application to the Gwinnett County Police Department. Upon the payment by the applicant of the required fees, the Gwinnett County Police department, or its designee, shall cause to be conducted a background investigation of the police record of the applicant, and shall transmit a summary of the investigation results to the Licensing & Revenue Manager or his designee.
- (B) Upon receipt of the background investigation, and completion of review of the application in accordance with the terms of this Article, the Licensing & Revenue Manager or his designee shall act on the application. The Licensing & Revenue Manager or his designee shall deny any application that:
 - (1) Fails to meet each of the application requirements specified herein.
 - (2) Fails to meet each of the minimum standards specified in

Section 18-133 of this Article.

- (3) Contains false information in the application or attached documents.

Section 18-138 Grounds for Revocation and Suspension for a Massage Establishment and Spa

The license of a massage establishment or spa may be revoked or suspended upon one (1) or more of the following grounds:

- (1) Failure of the holder to maintain initial requirements for obtaining the license.
- (2) The holder is guilty of fraud in the practice of massage, or fraud or deceit in his/her being issued the license for the practice of massage.
- (3) The holder is engaged in the practice of massage under a false or assumed name, or is impersonating another therapist of a like or different name.
- (4) The holder has violated any laws relating to sodomy, aggravated sodomy, solicitation of sodomy, public indecency, prostitution, pimping, pandering, pandering by compulsion, masturbation for hire, disorderly conduct, or entered a plea of nolo contendere to any felony.
- (5) Any of the holder's employees, independent contractors or agents has been convicted, pled guilty, or entered a plea of nolo contendere to any felony, or has violated any laws relating to sodomy, aggravated sodomy, solicitation of

sodomy, public indecency, prostitution, pimping, pandering, pandering by compulsion, masturbation for hire, or disorderly conduct in connection with the operation of the massage establishment or on or about the premises of the massage establishment.

- (6) Failure of the holder to maintain correct and accurate records as required by this Article.
- (7) Failure of the holder to actively supervise and monitor the conduct of the employees, independent contractors, agents, customers, or others on the premises in order to protect the health, safety and welfare of the general public and the customers.
- (8) The holder, his/her employees, agents, or independent contractors associated with the establishment have allowed to occur or have engaged in a violation of any part of this Article.
- (9) The holder has violated any of the provisions of this Article.

Section 18-139 Hearings

No license for a massage or spa establishment shall be denied, suspended or revoked without the opportunity for a hearing as hereinafter provided.

- (A) The Licensing and Revenue Manager shall provide written notice to the applicant or license holder of his/her order to deny, suspend

or revoke the license. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the applicant or license holder of the right to appeal under the provisions of this chapter. Any applicant or license holder who is aggrieved or adversely affected by a final action of the Licensing and Revenue Manager may have a review thereof by appeal to the Licensing and Revenue Board of Appeals established pursuant to the county alcoholic beverage ordinance. Such appeal shall be by written petition filed in the office of the Licensing and Revenue Manager within 15 days after the final order or action of the Licensing and Revenue Manager and in order to defray administrative costs, must be accompanied by a filing fee of fifty dollars (\$50.00). The Licensing and Revenue Manager, at his/her discretion, may waive or reduce the filing fee amount if it is determined the fee would create a hardship on the individual filing such appeal. The Licensing and Revenue Board of Appeals may at the request of the appellant, refund the filing fee by a majority vote.

(B) A hearing shall be conducted on each appeal within 30 days of the date of filing with the Licensing and Revenue Manager unless a continuance of such date is agreed to by the appellant and the Licensing and Revenue Manager. The appellant at such hearing shall have the right to be represented by an attorney, at the expense of the appellant, and to present evidence and cross-examine witnesses. Should the appellant desire an official transcript of the appeal proceedings, and then such request must be made at least three days prior to such hearing. The appellant shall have the burden of proof on any such appeal. Before hearing an appeal, each member of the Licensing and Revenue Board of Appeals shall sign an affidavit to be part of the record that he or she is not related to or personal friends with any appellant or any owner of the establishment in question in the appeal being considered and that he or she has no

financial interest in the outcome of the appeal. Should any member be unable to sign such an affidavit, that member shall not serve on that appeal and the case shall be heard by the remaining members of the Licensing and Revenue Board of Appeals.

(C) The findings of the Licensing and Revenue Board of Appeals shall be forwarded to the Licensing and Revenue Manager within 15 days after the conclusion of the hearing, and it shall be the duty of the Licensing and Revenue Manager to notify the appellant and the chief of police or his designee of the action of the Licensing and Revenue Board of Appeals.

(D) The findings of the Licensing and Revenue Board of Appeals shall not set aside unless found to be:

- (1) Contrary to law or ordinances, or
- (2) Unsupported by substantial evidence on the records as a whole, or
- (3) Unreasonable

(E) The findings of the Licensing and Revenue Board of Appeals shall be final unless appealed within 30 days of the date of such finding by certiorari to the superior court of the county. An aggrieved party shall have all other remedies provided by law or at equity to all ordinances.

(Ord. of 9-19-95)

Section 18-140 Severability

(A) Should any section or provision of this Article be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the

(B) The application shall include but shall not be limited to the information required on all occupation tax returns, along with a certificate certifying as to the good moral character of the applicant, signed by three (3) currently qualified and registered voters of good moral character of the County. The letter shall not be required for annual renewals of the occupation tax certificate.

Section 18-152 Work Permits Required

Prior to the issuance of an occupation tax certificate, a work permit shall be required for the owner(s), manager(s) and employee(s).

Section 18-153 General Operating Provisions

(A) It shall be the duty of all persons holding an occupation tax certificate under this section to annually file, along with the renewal application for the occupation tax certificate, the names of all employees, their home address, home telephone number and places of employment. The holder of an occupation tax certificate issued under the provisions of this Article must additionally report changes in the list of employees with the names and required supplemental information for new employees to be filed with the Licensing and Revenue Manager within ten (10) days from the date of such change.

(B) It shall be the duty of any person granted a certificate under this section to maintain correct and accurate records of the name and address of the persons receiving services at such establishment; the type of services administered; and the name of the person at the establishment administering the services. The records shall be subject to inspection at any time by the Licensing and Revenue

Manager, or designee, or the Chief of Police or designee.

(C) It shall be unlawful for any person under the age of eighteen (18) to patronize any fortune-telling or related establishment unless such person carries with him at the time of such patronage, written permission of the underage person's parent or guardian. It shall be the duty of the holder of an occupation tax certificate to determine the age of the person attempting to patronize an establishment and to prohibit such patronage by an underage person.

(D) Records required to be maintained under this Article shall be kept for a minimum of two (2) years beyond the expiration date of an occupation tax certificate. Records shall be made available to the Licensing and Revenue Manager, at a location in Gwinnett County, within ten (10) business days of any such request.

(E) [reserved]

Section 18-154 Inspection Of Registered Establishments

Sworn officers of the police department shall have the authority to inspect establishments registered under this Article during the hours in which the premises are open for business. Such inspection shall be made for the purpose of verifying compliance with the requirements of this Article. This section is not intended to limit the authority of the Licensing and Revenue Manager or any other county officer to conduct inspections authorized by other provisions of the Code.

Section 18-155 Applicant Disqualification

No occupation tax certificate shall be granted to any person under the age of eighteen (18) or who has been convicted, pled guilty or entered a plea of nolo contendere under any federal, state or local law of any crime involving moral turpitude, illegal gambling, any felony, criminal trespass, public indecency, misdemeanor involving any type of sexual related crime, any theft or violence against person or property, any crime of possession, sale, or distribution of illegal drugs, distribution of material depicting nudity or sexual conduct as defined under state law, criminal solicitation to commit any of these listed offenses, attempts to commit any of these listed offenses, for a period of ten (10) years prior to the date of application for such certificate and has been released from parole or probation.

Sections 18-156--18-180 Reserved.

Article VII

PRECIOUS METALS DEALERS

Sec. 18-181. Applicability of certain sections.

(a) Section 18-186 shall not apply to any precious metals or goods containing precious metals obtained from industrial producers, manufacturers, licensed dealers, or distributors.

(b) Sections 18-183 and 18-184 shall not apply to registered pawnbrokers, scrap metal processors, or secondhand dealers.

Pawnbrokers, scrap metal processors, and secondhand dealers are not, however, relieved from compliance with section 18-186 when the purchase of precious metals or goods containing precious metals are from persons or sources other than industrial producers, manufacturers, or licensed dealers or distributors. (Res. of 12-19-95) Cross references: Pawnshops, ch. 82.

Sec. 18-182. Definitions.

For purposes of this article, the term:

Precious metals means any metals including, but not limited to, in whole or in part, silver, gold, and platinum.

Precious metals dealer means any person, partnership, sole proprietorship, corporation, association, or other entity engaged in the business of purchasing, selling, bartering, or acquiring in trade any precious metals from persons or sources other than manufacturers or licensed dealers for resale in its original form or as changed by melting, reforming, remolding, or for resale as scrap, or in bulk.

Permanent location means a business domiciled within a properly constructed building which must be located within a properly zoned area according to the planning and zoning ordinance.

Nonpermanent location means any location designated to be used to conduct the aforementioned business, in any movable vehicle, and temporary or movable structure, including but not limited to, vans, mobile homes, trailers, hotels and motels, lodges, or any similar nonpermanent structure designed by

applicant to be used to conduct such business for a limited or specific time. (Res. of 12-19-95)

Sec. 18-183. Occupation tax certificate required, application.

(a) All persons, firms or corporations desiring to engage in the business, trade or profession of a precious metals dealer shall, before engaging in such business, trade or profession, make application for an occupation tax certificate in the form and manner prescribed by the licensing and revenue manager.

(b) The application shall include but shall not be limited to the information required on all occupation tax returns, along with the following additional information:

- (1) Full name, date of birth, address, and social security number of applicant.
- (2) Full name(s), date(s) of birth, and social security number(s) of any other person(s) having an ownership interest in the proposed business. In the case of a corporation, this list shall include owners of ten or more percent of the common or preferred stock.
- (3) Full names, dates of birth, and social security numbers, and titles of corporate officers where appropriate.
- (4) Full name, address, telephone number, date of birth, title, and social security number of individuals to be employed. (Res. of 12-19-95)

Sec. 18-184. Work permits required. (See Pawnshops Chpt 82 Sections #2-10).

Prior to the issuance of an occupation tax certificate, a work permit shall be required for the owner(s), manager(s), and employee(s). (Res. of 12-19-95)

Sec. 18-185. Applicant disqualifications.

No occupation tax certificate shall be granted to any person under the age of 18 or who has been convicted, pled guilty or entered a plea of nolo contendere under any federal, state or local law of any crime involving moral turpitude, illegal gambling, any felony, criminal trespass, public indecency, misdemeanor involving any type of sexual related crime, theft or violence against person or property, any crime of possession, sale, or distribution of illegal drugs, distribution of material depicting nudity or sexual conduct as defined under state law, criminal solicitation to commit any of these listed offenses, or attempts to commit any of these listed offenses. (Res. of 12-19-95)

Sec. 18-186. Records and information to be maintained; display of transaction number; identification; digital photographs; fingerprints; records storage.

Engaging in the business of buying used or previously owned precious metals in the unincorporated areas of the county is hereby declared to affect the public interest due to the opportunity it affords for the disposal of stolen property.

In the public interest and as set forth herein, all precious metals dealers shall maintain records documenting all precious metals transactions.

(1) All precious metals dealers shall maintain records documenting accurate descriptions of all property purchased. Such description shall include, to the extent possible, the manufacturer, model, serial number, style, material, kind, color, design, number of stones if jewelry, and all other identifying names, marks, and numbers. The precious metals dealers shall assign a transaction number documenting each transaction, and ensure each item received is tagged with the transaction number.

(2) The tag bearing the transaction number must remain attached to the item until the property is disposed of by sale, trade, or other lawful means. This paragraph does not apply to the purchase of property from licensed wholesale or distributor businesses for the purpose of retail sales; however the precious metals dealer shall be required to maintain all purchasing records for property exempted from this paragraph.

(3) The precious metals dealer shall require all persons selling property to show proper identification prior to conducting a transaction. Proper identification is defined as a government issued photo identification card such as a driver's license, military identification card, state identification card, or passport.

(4) The precious metals dealer shall also document the name, address, telephone number, race, sex, height, weight, drivers license number, date of birth, and social security number of the person selling the property, along with the date and time of transaction. This documentation shall be made at the time of the transaction.

(5) The precious metals dealer shall photograph, with a digital camera or web camera, the person selling the property. The photograph shall clearly show a frontal view of the subject's face along with the transaction number and a photograph of the item being sold. Digital images shall be labeled and stored in such a manner that they are safe from corruption, readily identifiable, and readily available for review.

(6) The precious metals dealer shall obtain from each person selling any property, the fingerprint of the right hand index finger, unless such finger is missing, in which event the print of the next finger in existence on the right hand shall be obtained with a notation as to the exact finger printed. The fingerprint shall be imprinted onto the transaction form in the designated area along with the signature of the person selling the property. The fingerprint must be clear and legible. In the event that more than one transaction form is required, a fingerprint and signature will be obtained for each form. Fingerprints and the information required herein shall be obtained each time such person pledges, trades, pawns, exchanges, or sells any property.

(7) Items of property that appear to be new, unused, and in their original packaging cannot be accepted by the precious metals dealer unless the customer can supply a copy of the original sales receipt, or other proof of purchase from the place of purchase, to the precious metals dealers who shall retain the receipt or proof of purchase on file.

(8) The precious metals dealer shall store the above records, digital images, and fingerprints for a period of four (4) years and make them available to law enforcement personnel upon request.

(9) Every precious metals dealer shall enter each transaction as it occurs into the electronic automated reporting system via the internet to the administrator of the electronic automated reporting system. The administrator of the electronic automated reporting system will electronically transmit all transactions to the county police department.

Sec. 18-187. Daily report to police; required format.

Every precious metals dealer shall make a daily report, in such form as may be prescribed by the chief of police, of all pawnshop transactions that occurred during 24 hours ending at 9:00 p.m. on the date of the report.

(1) Every precious metals dealer shall enter each transaction as it occurs into the electronic automated reporting system via the internet to the administrator of the electronic automated reporting system. The administrator of the electronic automated reporting system will electronically transmit all transactions to the police department.

(2) In the event that the electronic automated reporting system becomes temporarily or permanently disabled, precious metals dealers will be notified as soon as possible by the police department. In this event, the precious metals dealer will be required to make records of transactions in paper form as prescribed by the police department. Such paper forms must include all information as enumerated in Section 18-186. Precious metals dealers shall be responsible for maintaining an adequate inventory of these forms.

(3) The chief of police or his designee shall select and designate the required automated reporting system and required equipment needed. There will be a fee assessed to the precious metals dealer for each reported transaction. Said fee may be assessed against the persons selling property. The assessed fee shall not exceed 50% of the actual cost charged by the police department or the third party administrator. This fee will be invoiced to the precious metals dealers and collected by the chief of police or his designee, which may be a third party administrator of the automated reporting system.

Sec. 18-188. Property not to be disposed of for thirty (30) days after acquisition; location of property; police holds.

(a) All property received through any precious metals dealer transaction shall be held for at least thirty (30) days before disposing of same by sale, transfer, shipment, or otherwise.

(b) All property purchased shall be held and maintained by the precious metals dealer on the premises of the precious metals dealer or, if impracticable, at such other location as may have been previously approved in writing by the chief of police or his designee. The chief of police shall not approve any off-premises storage facilities located outside Gwinnett County.

(c) The county police department has the authority to place property that is the subject of police investigation on "police hold." In that event, the county police department shall notify the precious metals dealer of the need for a police hold and identify all property subject to the police hold. Upon notification, it shall be the responsibility of the precious metals dealer to maintain the subject property until such time as the property is released from police hold status or the property is confiscated as evidence.

(d) No occupation tax certificate shall be granted to any applicant for a nonpermanent location as defined in Section 18-182.

Sec. 18-189. Dealing with minors.

It shall be unlawful for any precious metals dealers, his or her agents or employees, to receive through any precious metals dealer any property from minors. A minor, for the purpose of this section, is an individual 17 years of age or under.

Sec. 18-190. Responsibility for enforcement.

The county police department shall have the responsibility for the enforcement of this chapter. Sworn officers of the county police department and civilian employees designated by the chief of police shall have the authority to inspect establishments licensed under this chapter during the hours in which the premises are open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of this chapter and state law. This section is not intended to limit the authority of any other county officer to conduct inspections authorized by other provisions of the county code.

Sec. 18-191. Penalty for violation.

Any person, firm, company, corporation or other entity who violates any provision of this chapter may be subject to arrest or summoned to appear in the Gwinnett County Recorder's Court and upon conviction or other finding of guilt, be punished by a fine of up to \$1,000.00 or 60 days imprisonment, or both.

Sec. 18-192. Severability

If any portion of this ordinance is declared by a Court of competent jurisdiction to be invalid or unenforceable, such declaration shall not be deemed to affect the remaining portions of this ordinance.

Sec 18-193 Effective date

The provisions of this ordinance shall be effective sixty (60) days following the approval by the Board of Commissioners.

Article VIII

ESCORT AND/OR DATING SERVICE

**Section 18-211 Occupation Tax Certificate Required,
Application**

(A) All persons, firms or corporations desiring to engage in the business, trade or profession of providing and/or arranging dates, escorts, or partners for persons shall, before engaging in such business, trade or profession, make application for an occupation tax certificate in the form and manner prescribed by the Licensing and Revenue Manager.

(B) The application shall include but shall not be limited to the information required on all occupation tax returns, along with the following additional information:

- (1) Full name, date of birth, address, and social security

number of applicant.

- (2) Full name(s), date(s) of birth, and social security number(s) of any other person(s) having an ownership interest in the proposed business. In the case of a corporation, this list shall include owners of twenty (20) or more percent of the common or preferred stock.
- (3) Full names, dates of birth, and social security numbers, and titles of corporate officers where appropriate.
- (4) Full name, address, telephone number, date of birth, title, and social security number of individuals to be employed.

Section 18-212 Work Permits Required

Prior to the issuance of an occupation tax certificate, a work permit shall be required for the owner(s), manager(s) and employee(s). It shall be the responsibility of the occupation tax certificate holder to ensure that the provisions of this section are complied with and that no one is employed until the prospective employee possesses such work permit.

Section 18-213 Applicant Disqualification

No occupation tax certificate shall be granted to any person under the age of eighteen (18) or who has been convicted, pled guilty or entered a plea of nolo contendere under any federal, state or local law of any crime involving moral turpitude, illegal gambling, any felony, criminal trespass, public indecency, misdemeanor involving any type of sexual related crime, any theft or violence against person or property, any crime of possession, sale, or distribution of illegal drugs, distribution of material depicting nudity or sexual

conduct as defined under state law, criminal solicitation to commit any of these listed offenses, attempts to commit any of these listed offenses, for a period of ten (10) years prior to the date of application for such certificate and has been released from parole or probation.

Section 18-214 General Operating Provisions

(A) It shall be the duty of all persons holding an occupation tax certificate under this section to annually file, along with the renewal application for the occupation tax certificate, the names of employees, their home address, home telephone number and places of employment. The holder of an occupation tax certificate issued under the provisions of this Article must additionally report changes in the list of employees with the names and required supplemental information for new employees to be filed with the Licensing and Revenue Manager within ten (10) days from the date of such change.

(B) It shall be the duty of any person granted a certificate under this section to maintain correct and accurate records of the name and address of the persons receiving escort and/or dating services and to provide the name of the employee providing said service. The records shall be subject to inspection, at any time, by the Licensing and Revenue Manager, or designee, or the Chief of Police or designee.

Section 18-215 Unlawful Or Prohibited Activities

No person under eighteen (18) years of age shall be employed by an escort and/or dating service in any capacity and each prospective employee shall be fingerprinted and permitted by the County Police Department.

Sections 18-216--18-230 Reserved.

Article IX

CANVASSER OR SOLICITOR

Section 18-231 Intent

The intent of the Gwinnett County Commissioners in enacting this Article is to regulate the sale of goods and services by canvassing or soliciting at residences in the County, to the end that criminal activity in the County and abusive techniques utilized by any such canvassers or solicitors which adversely affect the public health, safety, and welfare in the County will be curtailed. This Article is not intended as a de facto prohibition of door-to-door solicitation, nor is it an attempt to adversely affect interstate commerce. Instead, this Article is intended to balance competing interests, reduce criminal activity and protect County citizens from abusive sales techniques versus the conduct of proper commercial sales activity. This Article is not intended to allow any business activity which would otherwise be unlawful.

Section 18-232 Definition

For purposes of this Article, the term "**canvasser**" or "**solicitor**" includes any person who solicits orders door-to-door or house-to-house on behalf of a business, individual, vocation or occupation.

Section 18-233 Exempt Activities Or Organizations

(A) Persons, businesses and organizations exempted from local regulation by operation of state or federal law or by the Constitution of the United States, or of the State, are exempt from the requirements of this Article.

(B) Bona fide charitable or nonprofit organizations whose field sales representatives are under the age of fifteen (15) are not required to obtain an occupation tax certificate, canvasser's or solicitor's permit.

Section 18-234 Occupation Tax Certificate Required, Application

(A) All persons, firms, companies, corporations or other entities engaging or offering to engage in business as a canvasser or solicitor involving going from door-to-door or house-to-house, without an appointment or invitation, in residential areas or businesses of the unincorporated portion of Gwinnett County, for the purpose of soliciting orders, sales, subscriptions, or conducting business of any kind, shall file an application in the required form, and obtain an occupation tax certificate for such activity from the Licensing and Revenue Manager. Provided, however, that non-profit agencies, entities, or organizations which are certified as exempt from payment of U.S. Income Taxes by the Internal Revenue Service may canvass or solicit without permits, upon registering with Gwinnett County Licensing and Revenue office and furnishing the Gwinnett County Police Department written confirmation of their tax exempt

status and a list of their representatives including names, addresses, date of birth, social security number, and telephone numbers.

(B) The application shall include but shall not be limited to the information required on all occupation tax returns, along with the following additional information:

- (1) Full name, date of birth, address, and social security number of applicant.
- (2) Full name(s), date(s) of birth, and social security number(s) of any other person(s) having an ownership interest in the proposed business. In the case of a corporation, this list shall include owners of twenty (20) or more percent of the common or preferred stock.
- (3) Full names, dates of birth, and social security numbers, and titles of corporate officers where appropriate.
- (4) Full name, address, telephone number, date of birth, title, and social security number of individuals to be employed.

Section 18-235 Work Permits Required, Annual List

(A) Prior to the issuance of an occupation tax certificate, a work permit shall be required for the owner(s), manager(s) and employee(s).

(B) It shall be the duty of all persons holding an occupation tax certificate under this section to annually file, along with the renewal application for the occupation tax certificate, the names, home address, home telephone number, date of birth, social security number and place of employment for all employees so engaged in canvassing or soliciting.

Section 18-236**Applicant Disqualification**

No occupation tax certificate shall be granted to any person under the age of eighteen (18) or who has been convicted, pled guilty or entered a plea of nolo contendere under any federal, state or local law of any crime involving moral turpitude, illegal gambling, any felony, criminal trespass, public indecency, misdemeanor involving any type of sexual related crime, any theft or violence against person or property, any crime of possession or sale, or distribution of illegal drugs, distribution of material depicting nudity or sexual conduct as defined under state law, criminal solicitation to commit any of these listed offenses, attempts to commit any of these listed offenses, for a period of ten (10) years prior to the date of application for such certificate and has been released from parole or probation.

Section 18-237**General Operating Provisions**

It shall be the duty of any person granted a certificate under this Article to maintain correct and accurate records concerning proposed method of operation in the County, including the dates and times and area of operation, and employee's assignments by geographic area and dates. Such record shall be kept for a minimum of twelve (12) months beyond the expiration date of the occupation tax certificate and shall be made available for inspection by the Chief of Police or designee or the Licensing and Revenue Manager or designee. A copy of such record shall be forwarded to the Chief of Police or his designee quarterly.

**Section 18-238 Suspension or Revocation of Occupation Tax
Certificate or Permit**

(A) The work permit of any canvasser or solicitor charged with any felony, criminal trespass, public indecency, misdemeanor involving any type of sex crime, theft or violence against person or property, criminal solicitation to commit any of these offenses, or violation of this or any other Gwinnett County ordinance while canvassing or soliciting shall be deemed suspended and subject to seizure from the time of lawful arrest by the Gwinnett County Police Department, or an arrest for any violation of the Georgia Criminal Code by any law enforcement agency within Gwinnett County. Said suspension shall remain in effect until the canvasser or solicitor is convicted or acquitted, or until the charge is dismissed, "dead-docketed", "nolle prossed", or "no-billed". It shall be the responsibility of the canvasser or solicitor to present the Gwinnett County Police Department with proof that the arrest which led to the suspension was dismissed, "dead-docketed", "nolle prossed", or "no-billed". Upon presentation of proof of such dispositions, the certificate or the canvasser or solicitor permit will be reinstated and will be valid until date of original expiration.

(B) The certificate or permit of any canvasser or solicitor who is convicted, has entered a plea of guilty, or has received a nolo contendere to a felony, criminal trespass, public indecency, misdemeanor involving any type of sex crime, theft or violence against person or property, or criminal solicitation to commit any of these offenses, shall be deemed revoked and subject to seizure by the Chief of Police or designee or the License and Revenue Manager or designee from the time of said conviction, guilty, or nolo contendere sentencing.

(C) The certificate or permit of any canvasser or solicitor who is convicted, has pled guilty, or received nolo contendere sentencing for any violation of this ordinance shall be deemed revoked and subject to seizure by the Chief of Police or designee or the License and Revenue Manager or designee from the time of said sentencing.

Section 18-239 Unlawful Or Prohibited Activities

The following are prohibited practices for canvassers and solicitors and any violation shall constitute grounds for suspension, revocation, or denial of renewal of certificate or permit, and/or arrest.

- (1) Canvassing or soliciting on Sunday, or between the hours of 7:00 p.m. and 9:00 a.m. Monday through Saturday.
- (2) Canvassing or soliciting at any location where a sign is posted at or near the main entrance or driveway to the residence or business prohibiting such activity.
- (3) Using any entrance, or part of the building, other than the main entrance to the residence or business.
- (4) Entering a residence except at the express invitation of the occupant.
- (5) Failure of the canvasser or solicitor to inform the occupant in plain terms of the purpose of the call.
- (6) The canvasser or solicitor to represent that they are participating in any contest, game or other competitive endeavor, or that they are offering the occupant an opportunity to participate in any such contest, game or endeavor.
- (7) The canvasser or solicitor to use vulgar, insulting or threatening language in the course of any solicitation.

- (8) The canvasser or solicitor to remain upon the property of the residence or business after the occupant has verbally indicated that they do not wish to make a purchase or donation. For the purpose of this ordinance, a solicitation shall be deemed to continue until the solicitor has left property of the residence or business.
- (9) Canvassing or soliciting anyone under the age of 18.
- (10) Failure of canvasser or solicitor to have a valid permit prominently displayed on their person (upper front portion of the body commonly referred to as the top of the shoulders down to the waist) or refuse any customer or prospective customer's request to examine same. All canvassers or solicitors of non-profitable organizations who solicit funds without a certificate or permit shall have prominently displayed documentation identifying themselves, their organization including tax-exempt status, and shall not refuse any customer or prospective customer the right to examine same upon request. Except that canvassers or solicitors of non-profit organizations who are under the age of fifteen (15) are not required to display or produce for examination any documentation.
- (11) For more than two canvassers or solicitors to engage in solicitation upon any residence or business at the same time for the same goods or services.
- (12) Canvasser or solicitor to make more than one solicitation call at the same residence within any consecutive two-week period without receiving prior invitation from the occupant of said residence.

- (13) Canvasser or solicitor to violate any of the provisions of this ordinance, or to violate any other county ordinance while engaging in any of the activities described.
- (14) Canvasser or solicitor to engage in any of the conduct described in this ordinance during a period in which their certificate or permit is denied, suspended, or revoked.
- (15) Canvasser or solicitor to lend, rent, or sell their certificate or permit card to another, or canvass or solicit using the certificate or permit card of another.
- (16) The canvasser or solicitor to deviate from the stated guidelines as set out in the certificate or permit application or amendments thereto filed by applicant or certificate holder.

Sections 18-240--18-260 Reserved.

ARTICLE X

PERFORMANCES AND PROMOTIONS

Section 18-261 Definitions

For purposes of this Article, the term:

- (1) **"Athletic show"** means any sporting event or display of sporting goods where an admission fee is charged.
- (2) **"Concert"** means any musical event where an admission fee is charged.

- (3) **"Cultural event"** means any work of art exhibit where an admission fee is charged.
- (4) **"Educational event"** means any gathering for the purpose of learning about a specific subject where an admission fee is charged.
- (5) **"Exposition"** means any display of good or services where an admission fee is charged.
- (6) **"Performance"** means any non-recurring event for which an admission fee is charged.
- (7) **"Promoter"** means the organizer of any performance, show, concert, event or exposition.

Section 18-262 Exemption Provisions

No flat charge or any tax shall be imposed and no certificate shall be required for any event sponsored or conducted by the U.S. Government, the State of Georgia or any political subdivision, including any local school system board of education.

Section 18-263 Occupation Tax Certificate Required, Application

(A) Except as provided for here in all persons, firms or corporations desiring to conduct a performance or non-recurring concert, exposition, show, or similar event, or any athletic, cultural or educational event shall, before engaging in such business, trade or profession, make application for an occupation tax certificate in the form and manner prescribed by the Licensing and Revenue Manager.

(B) The application shall include the information required for all general occupation tax certificates.

Section 18-264 Permits Required

No occupation tax certificate shall be issued until the applicant has the Planning and Development Department's approval for the location along with the Fire Marshal's approval.

Section 18-265 General Operating Provisions

(A) It shall be the duty of any person operating as a promoter or organizer under this Article to furnish accurate and complete information to the Licensing and Revenue Manager. Failure to comply with these requirements may be punishable as provided for in Section 18-32.

(B) Independent vendors participating as part of a promoter-sponsored event, exposition, performance, concert or show shall not be required to apply for or obtain an occupation tax certificate provided however that:

1. The promoter of any such undertaking shall have in effect at the time of the undertaking a valid occupation tax certificate for the appropriate line(s) of business.
2. The promoter shall have first, prior to commencing the undertaking, have furnished the Licensing and Revenue Manager with a true and accurate list of the name and address of each vendor, along with the location and dates of operation.
3. The promoter shall have paid a \$10.00 administrative fee for each participating vendor and an occupation tax on the total

aggregate taxable receipts for all participants or vendors operating or conducting business at said undertaking.

4. Said undertaking shall be for a period not to exceed ten (10) consecutive days.

Section 18-266 Unlawful Or Prohibited Activities

It shall be unlawful for any organizer of a performance or promotion to knowingly allow any criminal activity in connection with said performance or promotion involving larceny, burglary or theft or any description as defined in the Georgia Criminal Code Title 26; or any felony or misdemeanor involving moral turpitude or crime against a person or property.

Sections 18-267--18-290 Reserved.

Article XI

Section 18-291---18-306

SEE COUNTY CLERK FOR ADULT ENTERTAINMENT ORDINANCE

Section 18-307-18-310 Reserved

Article XII
SUSPENSION, REVOCATION AND DENIAL
OF OCCUPATION TAX CERTIFICATE OR EMPLOYEE WORK PERMIT;
PROCEDURE FOR APPEAL

Section 18-312 Suspension or Revocation of a Business Permit

A business permit may be suspended or revoked by the chief of police or his designee where a business or employee of a business furnished fraudulent or untruthful information in the application for a permit, fails to meet all qualifications set forth under the provisions of the ordinance, or fails to comply with any requirements of this ordinance or any other applicable law or regulation.

Section 18-313. - Hearings for Suspension or Revocation of a Business Permit.

No permit shall be denied, suspended or revoked without the opportunity for a hearing as hereinafter provided.

- (1) The chief of police or his designee shall provide written notice to the business of his or her order to suspend or revoke the permit. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the business of the right to appeal under the provisions of this chapter. Any business that is aggrieved or adversely affected by a final action of the chief of police may have a review thereof by appeal to the Licensing and Revenue Board of Appeals established pursuant to the

county alcoholic beverage ordinance. Such appeal shall be by written petition, filed in the office of the Chief of Police or his designee within 15 days after the final order or action of the Chief of Police or his designee and in order to defray administrative costs, must be accompanied by a filing fee of \$50.00. The Chief of Police, at his/her discretion, may waive or reduce the filing fee amount if it is determined the fee would create a hardship on the business filing such appeal. The Licensing and Revenue Board of Appeals may, at the request of the appellant, refund the filing fee by a majority vote.

- (2) A hearing shall be conducted on each appeal within 30 days of the date of filing with the Chief of Police or his designee unless a continuance of such date is agreed to by the appellant and the Chief of Police or his designee. The appellant at such hearing shall have the right to be represented by an attorney, at the expense of the appellant, and to present evidence and cross-examine witnesses. Should the applicant desire an official transcript of the appeal proceedings, then such request must be made at least three days prior to such hearing. The appellant shall have the burden of proof on any such appeal. Before hearing an appeal, each member of the Licensing and Revenue Board of Appeals shall sign an affidavit to be part of the record that he or she is not related to or personal friends with any owner of the establishment in question in the appeal. Should any member be unable to sign such an affidavit, that member shall not serve on that appeal and the case shall be heard by the remaining members of the alcohol license and permit appeal board.

(3) The findings of the Licensing and Revenue Board of Appeals shall be forwarded to the Chief of Police within 15 days after the conclusion of the hearing, and it shall be the duty of the Chief of Police or his designee to notify the appellant of the action of the Licensing and Revenue Board of Appeals.

(4) The findings of the Licensing and Revenue Board of Appeals shall not be set aside unless found to be:

- a. Contrary to law or ordinances;
- b. Unsupported by substantial evidence on the record as a whole; or
- c. Unreasonable.

The findings of the Licensing and Revenue Board of Appeals shall be final unless appealed within 30 days of the date of such finding by certiorari to the superior court of the county.

Section 18-314. - Suspension or Revocation of Occupation Tax Certificate or Massage Establishment License, Procedure.

- (a) An occupation tax certificate or massage establishment license may be suspended or revoked by the licensing and revenue manager where the applicant furnished fraudulent or untruthful information in the application for a certificate or omits information required in the application for a certificate; for failure to pay all fees, taxes or other charges imposed under the provisions of the ordinance; for conviction of any of the applicable crimes set forth in each article; or for violation of any of the provisions of this chapter.

(b) Suspension or revocation of occupation tax certificate:

- (1) If any holder of a county occupation tax certificate or massage establishment license issued by the licensing and revenue office is engaged in unlawful activities which violate laws of the state, appropriate county ordinances, applicable zoning regulations, or applicable heating, electrical, health or building codes, the occupation tax certificate shall be revoked in the manner provided herein.
- (2) Where it is reported to the licensing and revenue manager that the holder of a county occupation tax certificate or massage establishment license is engaged in unlawful activities as set forth in the applicable articles of this chapter, a preliminary hearing shall be conducted in order to determine whether there is a basis for revocation or suspension of the occupation tax certificate.
 - a. The occupation tax certificate or massage establishment license holder will be notified to appear before the manager and show cause on a date certain why his occupation tax certificate or massage establishment license should not be revoked or suspended. The certificate holder may appear in person at the hearing or be represented by counsel.
 - b. At the conclusion of the hearing, the licensing and revenue manager, based upon evidence submitted at the hearing shall enter a decision making a finding of fact and then:
 1. Find that the evidence does not authorize revocation or suspension;
 2. Issue a warning to the certificate or license holder;

3. Suspend the certificate or license and probate suspension;
4. Revoke the certificate or license and probate revocation;
5. Suspend the certificate or license ; or
6. Revoke the certificate or license.

Section 18-315. - Hearings for Suspension or Revocation of Occupation Tax Certificate and Massage Establishment License, Procedure.

- (a) No occupation tax certificate or massage establishment license shall be denied, suspended or revoked without the opportunity for hearing as hereinafter provided. This provision does apply to work permits for owners, managers, and employees.
- (b) It shall be the duty of the licensing and revenue manager or his designee to provide written notification to the individual of the decision to deny, suspend or revoke an occupation tax certificate. Such written notification shall set forth in reasonable detail the reasons for such action(s) and shall notify the individual of the right to appeal under the provision of this ordinance. Any individual, who is aggrieved or adversely affected by the final action(s) of the licensing and revenue manager, or designee, may have a review thereof by appeal to the Gwinnett County Licensing and Revenue Board of Appeals established pursuant to the county alcoholic beverage ordinance. Such appeal shall be by written petition, filed in the office of the licensing and revenue manager, or designee, within 15 days after the final decision or action(s) of the licensing and revenue manager, or designee, and in order to defray administrative costs, must be accompanied by a filing fee of

\$50.00 for tax certificate appeals or \$50.00 for work permit appeals. The licensing and revenue manager, at his discretion, may waive or reduce the filing fee amount if it is determined the fee would create a hardship on the individual filing said appeal. The license and revenue board of appeals may, at the request of the appellant, refund the filing fee by a majority vote.

- (c) If any individual, firm or corporation subject to the payment of an occupation tax deems the tax to be unlawful, discriminatory or inequitable, it may pay the occupation tax imposed by the board of commissioners under protest and then file a written request for review with the licensing and revenue manager. The request for review must be filed within 45 days from the date the tax is paid. The manager shall, within 30 days from the date of receipt of the request for review from the occupation tax certificate holder, schedule a conference with the occupation tax certificate holder to review those matters set forth in the certificate holder's request for review. Within ten days from the date of the conference, a determination shall be made by the manager in writing and a copy of the determination shall be sent to the certificate holder by certified mail. In the event the certificate holder is dissatisfied with the determination made by the manager it may within 15 days from the date of receipt of the determination of the manager, file its appeal to the licensing and revenue board of appeals in the manner outlined in subsection (b) above.

- (d) A hearing shall be conducted on each certificate or work permit appeal within 30 days of the date of filing with the licensing and revenue manager, or designee, unless a continuance of such date is agreed to by the appellant and the manager, or designee.

The appellant at such hearing shall have the right to be represented by an attorney, at the expense of the appellant, and to present evidence and cross-examine witnesses. The appellant shall have the burden of proof on any such appeal. Should the appellant desire an official transcript of the appeal proceedings, and then such request must be made at least three days prior to such hearing.

- (e) Before hearing an appeal, each member of the licensing and revenue board of appeals shall sign an affidavit to be part of the record that they are not related to or personal friends with any member, owner, officer or stockholder of the appellant or the appellant's representative before the board. No board member hearing the appeal shall have a financial interest in the outcome of the appeal. Should any member be unable to sign such an affidavit, that member shall not serve on the appeal and the case shall be heard by the remaining members of the appeal board.
- (f) The findings of the licensing and revenue board of appeals, shall be forwarded to the licensing and revenue manager within fifteen (15) days after the conclusion of the hearing, and it shall be the duty of the licensing and revenue manager to notify the certificate or permit holder of the action of the board.
- (g) The findings of the licensing and revenue board of appeals shall not be set aside unless found to be (1) contrary to law or ordinances or (2) unsupported by substantial evidence on the records as a whole, or (3) unreasonable.

(h) The findings of the licensing and revenue board of appeals, shall be final unless appealed within 30 days of the date of said finding by certiorari to the superior court of the county. An aggrieved party shall have all other remedies provided by law or at equity to all ordinances.

Section 18-316. - Severability.

If any portion or subsection of this article or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder or application to other persons or circumstances shall not be affected.

Section 18-317 - 18-330. - Reserved.

ARTICLE XIII

APPLICANT BACKGROUND REVIEWS AND EMPLOYEE

WORK PERMITS

**Section 18-331 Review Of Applicants For Certain Occupations,
Business Or Professions**

(A) A review of criminal history records is required prior to the issuance of an occupation tax certificate for the following businesses, trades, or professions:

- Burglar/Security Alarm Installer
- Escort and/or Dating Service
- Fortune-telling & Related Practices
- Locksmith
- Massage Practitioner/Therapist

- Passenger Carrying Vehicles
- Pool Room Employee or Owner/Manager
- Precious Metals
- Solicitor/Canvasser
- Spa/Owners

(B) In addition to a review of criminal history, the applicants must provide the following items listed:

- Positive identification (only official United States Government issued pictured identification accepted; e.g. valid driver's license, military ID card or valid state ID card).
- Fingerprints may be required on occasion for positive identification.

(C) It shall be the duty of the Chief of Police, or designee to perform a search of criminal history records, and to furnish such information to the Licensing and Revenue Manager.

Section 18-332 Regulations As To Owner, Manager and Employee Work Permits

(A) A work permit is required for all owners, managers, and employees for the following:

- Burglar/Security Alarm Installer
- Escort and/or Dating Service
- Fortune-telling & Related Practices
- Locksmith
- Massage Practitioner/Therapist
- Operating vehicles for hire
- Pool Room Employee or Owner/Manager

- Precious Metals
- Solicitor/Canvasser

(B) No person shall be employed by any business listed in subsection (A) of this section until such person has been fingerprinted or cleared by the Chief of Police or his designee, indicating that the person is eligible for such work permit.

(C) No work permit shall be issued until such time as a signed application has been filed with the Gwinnett County Police Department, Chief of Police or designee, and upon paying a fee which shall be established by the Gwinnett County Board of Commissioners, and a search of the criminal records of the person completed. Said application shall include, but shall not be limited to, the name, home address, date of birth, social security number and prior arrest record of the person. The arrest record shall be used for investigative purposes only, and shall give rise to no presumption or inference of guilt. Due to the inclusion of arrest information, these applications shall be regarded as confidential and shall not be produced for public inspection without a court order.

(D) The Chief of Police or his designee shall have a complete and exhaustive search made relative to any police record of the person fingerprinted or cleared. In the event there is no evidence of a disqualifying violation, the Chief of Police or his designee shall issue a work permit to the person by mail, stating that the person is eligible for employment. If it is found that the person is not eligible for employment, the Chief of Police or his designee shall notify the person, in writing by certified mail that they are not eligible for employment, the cause of such denial and their right to appeal.

(E) No certificate holder shall allow any employee or manager required to hold a work permit to work on the premises unless the employee or manager has in his possession a valid Gwinnett County work permit. For new employees, a receipt issued by the Gwinnett County Police Permit Unit may be used for a maximum of thirty (30) days from the date of issue except for canvasser or solicitor. A canvasser or solicitor must have on his person a valid Gwinnett County issued work permit before conducting business in unincorporated Gwinnett County. Certificate holders are required by this ordinance to inspect and verify that each employee or manager required to do so has in his possession a valid work permit. Issuance of this fee receipt shall allow the applicant to work in the position applied for only until such time as the required criminal history background investigation is completed. The temporary privilege conferred by issuance of this fee receipt shall expire immediately upon completion of such background investigation. If the background investigation indicates that the applicant does not meet the requirements for issuance of a work permit, the applicant may appeal the denial of the work permit as provided in this ordinance. However, issuance of this fee receipt and the temporary privilege granted thereby shall not be construed as conferring any right or privilege to the applicant to continue working in the position for which the work permit is sought during the pendency of any appeal from the denial of a work permit.

(F) No person shall be granted a work permit unless it appears to the satisfaction of the Chief of Police or his designee, that such person has not been convicted, pled guilty or entered a plea of nolo contendere under any federal, state or local law of any crime involving moral turpitude, illegal gambling, any felony, criminal trespass, public indecency, misdemeanor involving any type of sexual related crime, any theft or violation against person or property, any

crime of possession, sale, or distribution of illegal drugs, distribution of material depicting nudity or sexual conduct as defined under state law, criminal solicitation to commit any of these listed offenses, attempts to commit any of these listed offenses, for a period of five (5) years prior to the date of application for such work permit and has been released from parole or probation. These requirements will apply unless other requirements are provided for specific businesses.

(G) For purposes of this ordinance, a conviction or plea of guilt or nolo contendere shall be ignored as to any offense for which defendant who was allowed to avail themselves of the Georgia First Offender Act, O.C.G.A. 42-8-60 et seq., as amended. Except; however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentencing court entered an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.

(H) No person shall be issued a work permit if it is determined that the person falsified, concealed, or covered up any material fact by any device, trick, or scheme while making application to the Police Department for a work permit under this section. If it is determined that a person is in violation of this subsection and a work permit is denied for this reason, then fifteen (15) calendar days must elapse from date of application before a new application and fee may be resubmitted.

(I) All work permits will expire annually on the date established generally for expiration of the occupation tax certificate and are transferable within same profession. The work permit must be in the possession of the employee while the employee is at work and

available for inspection by the members of the Gwinnett County Police Department or the Licensing and Revenue Manager's staff.

(J) Any person granted a work permit and practices his trade outside the business location is required to display the work permit on the upper front portion of the body, commonly referred to as the top of the shoulder down to the waist. Also the work permit will be available for inspection upon request.

(K) All work permits issued hereunder remain the property of the Gwinnett County Police Department, and shall be produced for inspection upon the demand of any officer or designee of the Gwinnett County Police Department or employee of the Licensing and Revenue Office.

(L) No person shall lend, rent, or sell his work permit to another or use the work permit of another.

(M) Replacement work permits will be issued within thirty (30) days of original date, upon paying one-half (1/2) of the fee charged for work permits. After thirty (30) days of original application date, a new application and fee must be submitted.

(N) All work permits issued through administrative error may be terminated and seized by the Chief of Police or his designee, or the Licensing and Revenue Manager or his designee.

(O) It shall be the duty of all persons holding a work permit to file with the Chief of Police or his designee, the name of the establishment, the work permit number and a list of all employees, including their name, date of birth, social security number, home

address and home telephone number twice annually; during the month of June and again during the month of December.

(P) Any person(s) convicted of any violation(s) of this section shall receive a minimum fine of two hundred dollars (\$200).

(Q) Burglar/Security Alarm Installer; Escort and/or Dating Services; Fortune-telling & Related Practices; Locksmith; Massage Practitioner; Pool Room Operator: No person shall be granted a work permit unless it appears to the satisfaction of the Chief of Police or his designee, that such person has not been convicted, pled guilty or entered a plea of nolo contendere under any federal, state or local law of any crime involving moral turpitude, illegal gambling, any felony, criminal trespass, public indecency, misdemeanor involving any type of sexual related crime, any theft or violation against person or property, any crime of possession, sale, or distribution of illegal drugs, distribution of material depicting nudity or sexual conduct as defined under state law, criminal solicitation to commit any of these listed offenses, attempts to commit any of these listed offenses, for a period of five (5) years prior to the date of application for such work permit and has been released from parole or probation. No person under eighteen (18) years of age shall be employed by an escort and/or dating service in any capacity. No person shall be granted a work permit without a valid Georgia Drivers License or a valid Georgia State ID card.

(R) Passenger Carrying Vehicles: No person shall be granted a work permit under the age of twenty-one (21) or unless it appears to the satisfaction of the Chief of Police or his designee, that such person has not been convicted, pled guilty or entered a plea of nolo contendere under any federal, state or local law of any crime

involving moral turpitude, illegal gambling, any felony, criminal trespass, public indecency, misdemeanor involving any type of sexual related crime, any theft or violence against person or property, any crime of possession, sale or distribution of illegal drugs, distribution of material depicting nudity or sexual conduct as defined under state law, driving under the influence of drugs or alcohol, criminal solicitation to commit any of these listed offenses, attempts to commit any of these listed offenses, for a period of five (5) years prior to the date of application for such work permit and has been released from parole or probation. All operators must post their work permit in public view within the interior of the vehicle and possess a valid Georgia driver's license.

(S) Precious Metals Dealer: No person shall be granted a work permit unless it appears to the satisfaction of the Chief of Police or his designee, that such person has not been convicted, pled guilty or entered a plea of nolo contendere to any crime involving moral turpitude, larceny, burglary or theft of any description as defined in the Georgia Criminal Code Title 26, criminal trespass, fraudulent practices, theft or violence against person or property, illegal gambling, any felony or any felony possession or sale of controlled substances, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime.

(T) Solicitor/Canvasser: No person shall be granted a work permit unless it appears to the satisfaction of the Chief of Police or his designee, that such person has not been convicted, pled guilty or entered a plea of nolo contendere to any crime involving moral turpitude, criminal trespass, theft or violence against person or

property, illegal gambling, any felony, any felony possession or sale of controlled substances, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime within a period of five (5) years of the date of conviction and has been released from parole or probation. The applicant must provide a detailed statement of the kind of canvassing or soliciting contemplated and the methods to be employed thereby, including area and hours of operation. The applicant must also provide proof of or application for a Gwinnett County occupation tax certificate. Work Permits for any canvasser or solicitor no longer employed shall be surrendered to the Gwinnett County Police Department within fifteen (15) days of their termination.

Section 18-333 - Work/Business Permit Fee Scale.

Costs of work/business permits shall be the fees established by the Board of Commissioners and set forth in the Gwinnett County Police Department's Work/Business Permit Fee Schedule. These fees are nonrefundable in the event an applicant, for any reason is not issued an occupation tax certificate, business permit, and/or work permit.

Sections 18-334--18-350 Reserved.

Article XIV

**MISCELLANEOUS ADDITIONAL REQUIREMENTS FOR ISSUANCE OF
OCCUPATION TAX CERTIFICATE**

Section 18-351 Additional requirements.

(a) In addition to the requirements of this code, the following

businesses shall meet the listed additional requirements before the certificate may be issued as prescribed in Sections 18-26 and 18-27.

Ambulance Service - State License
Auctioneer - State License
Auto Parts (Used or Reconditioned) - State License
Auto Salvage Yard - State License
Automobile Dealer - State License
Barber Shop - State License
Beauty Shop - State License
Bondsman - Sheriff's Approval
Burglar/Security Alarm Installers - Low Voltage State License/Police Department Permit
Carnivals/Amusement Rides - Proof of Liability Insurance
Catering (Including Trucks) - Health Department Approval
Chemical Mfg or Sales - Fire Department Approval
Day Care Center - State License (Georgia Department of Human Resources)
Day Care Home - State Certificate of Registration (Georgia Department of Human Resources)
Delicatessen - Health and Fire Department Approval
Electrical Contractor - State License
Employment Agency - State License if fee paid by employee (Georgia Department of Labor)
Explosives Sales/Distribution - State License (State Fire Marshal)
Fire Alarm Installation - Notify Fire Department
Guns, Firearms, Ammunition - State and Federal License
Hatchery - State License (State Department of Agriculture)
HVAC Contractor - State License
Ice Cream Shop - Health Department Approval
Locksmith - Police Department Permit

Lodging and Rooming Houses - Certificate from Georgia Department of Human Resources

Manicurists - State License

Manufacturer's Reps - Police Department Permit (when going door to door without appointment)

Meat Packing Plant - State License (Georgia Department of Agriculture)

Meats/Retail from Truck - State License (Georgia Department of Agriculture)

Meats/Wholesale - State License (Georgia Department of Agriculture)

Mechanical Contractor - State License

Nail Salon - State License

Nursing Home/Convalescent Home - Certificate from Georgia Department Human Resources

Operating Vehicles for Hire - Police Department Permit/Proof of Insurance (Limousines - Certificate from PSC)

Pest Control - State License

Plumbing Contractor - State License

Polygraph Examiner - State License

Private Detective/Investigator - State License

Professionals - State License

Restaurant - Health and Fire Department Approval

Sanatoriums - Certificate from (Georgia Department of Human Resources)

Septic Tank Contractor - Certificate from Health Department

Shooting Gallery - Fire Department Approval

Skating Rink - Fire Department Approval

Spa - Letter of Contract Compliance from Georgia Department of Consumer Affairs

Tattoo Parlor - Health Department Approval

Utility Contractor - State License

Wrecker Service - Amber Light Permit (all)/Contract and Police Department Approval (only those providing services to County)

(b) Business owners and operators who offer public play on bona fide class B coin operated amusement machines as defined by OCGA 48-17-1(2.3) are authorized

Section 18-352 Reserved

**GWINNETT COUNTY OCCUPATION TAX
AND BUSINESS REGULATION ORDINANCE**

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