

Chapter 18 – BUSINESSES

ARTICLE I. - IN GENERAL

Secs. 18-1—18-30. - Reserved.

ARTICLE II. - OCCUPATION TAXES AND REGULATORY FEES

DIVISION 1. - GENERALLY

Sec. 18-31. - Authority.

The authority to impose this license and tax is pursuant to O.C.G.A. §§ 48-13-1—48-13-26.

(Code 1985, § 10-1)

Sec. 18-32. - Business tax department established.

A business tax department is hereby created for the county. The department shall be composed of a director and any other employees as may be necessary. Subject to the direction of the county administrator, the supervision and control of the department is vested in the director.

(Code 1985, § 10-2)

Sec. 18-33. - Occupation tax required for business dealings in the county.

Every year, each person engaged in any business, trade, profession, or occupation in Coweta County, Georgia, whether with a location in unincorporated Coweta County or, in the case of an out-of-state business with no location in Georgia, exerting substantial efforts within the state pursuant to O.C.G.A. § 48-13-7, shall pay an occupation tax for said business, trade, profession, or occupation; which tax and any applicable registration shall be displayed in a conspicuous place in the place of business. If the taxpayer has no permanent business location in the county, such business tax registration shall be shown to the business tax director or this department or to any county enforcement officer upon request.

(Code 1985, § 10-3)

Sec. 18-34. - Construction of terms; definitions.

As used in this article, the term:

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

Director means the director of the business tax department of the county.

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

Gross receipts.

- (1) *Gross receipts* means the total revenue of the business or practitioner for the period, including without limitation to the following:
 - a. Total income without deduction for the cost of goods or expenses incurred;
 - b. Gain from trading in stocks, bonds, capital assets, or instruments of indebtedness;
 - c. Proceeds from commissions on the sale of property, goods, or services;
 - d. Proceeds from fees for services rendered; and
 - e. Proceeds from rent, interest, royalty, or dividend income.
- (2) *Gross receipts* shall not include the following:
 - a. Sales, use, or excise tax;
 - b. Sales returns, allowances, and discounts;
 - c. Interorganizational sales or transfers between or among the units of a parent-subsidiary controlled group of corporations as defined by 26 USC 1563(a)(1), or between or among the units of a brother-sister controlled group of corporations as defined by 26 USC 1563(a)(2);
 - d. Payments made to a subcontractor or an independent agent; and
 - e. Governmental and foundation grants, charitable contributions, or the interest income derived from such funds received by a nonprofit organization which employs salaried practitioners otherwise covered by this chapter, if such funds constitute 80 percent or more of the organization's receipts.

Location of office shall not include a temporary work site which serves a single customer or project.

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.

Person shall be held to include sole proprietors, corporations, partnerships, nonprofits, or any other form of business organization.

Practitioner of profession or occupation is one who by state law requires state licensure regulating such profession or occupation.

Practitioner of professions and occupations shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.

Regulatory fees means payments, whether designated as license fees, permit fees, or by another name, which are required by a local government as an exercise of its police power and as a part of or an aid to regulation of an occupation, profession, or business. The amount of a regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the county. A regulatory fee may not include an administrative fee. Development impact fees as

defined by O.C.G.A. § 36-71-2(8) or other costs or conditions of zoning or land development are not regulatory fees.

(Code 1985, § 10-4)

Cross reference— Definitions generally, § 1-2.

Sec. 18-35. - Administrative fee charged.

A nonprorated, nonrefundable administrative fee in an amount determined by the board of commissioners and listed in the schedule of fees and charges shall be required on all business and occupation tax accounts for the initial start-up, renewal, or reopening of those accounts.

(Code 1985, § 10-5)

Sec. 18-36. - Regulatory fee charged.

A regulatory fee in an amount determined by the board of commissioners and listed in the schedule of fees and charges is imposed on the following professions and occupations:

- (1) Carnivals;
- (2) Taxicab, limousine and non-emergency transport operators;
- (3) Tattoo artists;
- (4) Stables;
- (5) Shooting galleries and firearm ranges;
- (6) Scrap metal processors;
- (7) Pawnbrokers;
- (8) Food service establishments;
- (9) Dealers in precious metals;
- (10) Peddlers;
- (11) Parking lots;
- (12) Nursing and personal care homes;
- (13) Newspaper vending boxes;
- (14) Modeling agencies;
- (15) Massage parlors;
- (16) Auto and motorcycle racing;
- (17) Boardinghouses;
- (18) Businesses that provide appearance bonds;
- (19) Boxing and wrestling promoters;

- (20) Hotels and motels;
- (21) Hypnotists;
- (22) Handwriting analysts;
- (23) Health clubs, gyms and spas;
- (24) Fortunetellers;
- (25) Escort services;
- (26) Burglar and fire alarm installers; and
- (27) Locksmiths.

This regulatory fee does not and shall not include an administrative fee.

(Code 1985, § 10-6; Ord. of 1-7-03; Ord. of 10-4-05)

Sec. 18-37. - Occupation tax levied; restrictions.

- (a) *Tax criteria.* 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 and/or upon the applicable out-of-state businesses with no location or office in Georgia pursuant to O.C.G.A. § 48-13-7 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 U.S. Office of Management and Budget, the U.S. Internal Revenue Service, North American Industry Classification System (NAICS) 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 and will be developed and updated from time to time by the business tax director.

Profitability ratio/tax class	Tax rate on gross receipts
Class 1	0.00050
Class 2	0.000625
Class 3	0.00075

Administrative Fee: \$35.00

Maximum Cap: \$12,000.00

(c) *Restrictions.*

- (1) No business or practitioner shall be required to pay more than one occupation tax for each of its locations.
- (2) No occupation tax will be required upon more than 100 percent of a business's gross receipts.
- (3) No occupation tax will be required on receipts on which such tax has been levied in other localities or states.
- (4) An occupation tax shall be required from real estate brokers, agents, or companies whose offices are located outside the taxing jurisdiction and who sell property inside the taxing jurisdiction. This tax shall be based upon gross receipts only from real estate transactions with respect to property located within the unincorporated area of the county.
- (5) An occupation tax shall not be levied in any other manner except as described in this section.
- (6) Occupation taxes are limited to the gross receipts in the State of Georgia unless otherwise specified elsewhere in this chapter.
- (7) Out-of-state businesses with no location in Georgia shall be assessed occupation taxes based on the gross receipts of the business as defined in O.C.G.A. § 14-13-7 (see section 18-34) which are reasonably attributed to sales or services in the State of Georgia.

(Code 1985, § 10-7; Ord. No. 014-16, § 1, 4-26-16)

Sec. 18-38. - Exception for disabled veterans.

Any veteran obtaining a certificate of exemption from the State of Georgia, Department of Veterans Service, shall be exempted from purchasing a certificate under the provisions of this chapter. This exemption shall apply to one business at a time normally taxed hereunder and shall not apply to any additional businesses or locations as defined in section 18-34.

(Code 1985, § 10-8)

Sec. 18-39. - Administration; appeals; rate review.

- (a) Administration of this article shall be by the director hereunder unless otherwise provided in this article.
- (b) Appeals from any decision of the director or an authorized county official hereunder, shall be made in the same manner provided for appeals from decisions of these officials.
- (c) Review of rates and classifications provided shall be provided by the board of commissioners and the business tax rate review and appeals committee.

(Code 1985, § 10-9)

Sec. 18-40. - Administration of chapter and appeals.

- (a) The director shall enforce the provisions of this Code involving the application for an issuance of business certificates and the regulation of businesses unless otherwise provided in this Code.
- (b) Appeals from any decision of the director shall be made to the business tax rate review and appeal committee by any person aggrieved thereby in the manner provided in this Code.

(Code 1985, § 10-10)

Sec. 18-41. - Issuance; denial; appeal.

- (a) *Issuance.* Coweta County business tax certification shall be issued by the director or county official hereunder upon the receipt of the application, payment of applicable fees and taxes, and the determination that the provisions of this chapter have been satisfied.
- (b) *Denial.*
 - (1) The director or an authorized county official hereunder shall not issue a certificate to any business engaged in unlawful activity or in such a manner as to violate lawful ordinances adopted by the board of commissioners. Unlawful activity shall include, but not be limited to, activities in violation of the zoning regulations and heating, electrical, health and building codes.
 - (2) All business certificates will be granted upon the condition that applicable county taxes on all real and personal property and all health licenses, fees and permits associated with the applicant's business be paid by the due date. Any business not fulfilling this requirement is subject to revocation of the business certificate as stated in this chapter.
 - (3) Any applicant which is denied a certificate will receive a refund for the certificate fee only. The administrative fee is nonrefundable.
- (c) *Appeal.*
 - (1) If an applicant is denied a county business certificate by the director, the applicant may file a written appeal from the denial to the Coweta County business tax rate review and appeals committee. An appeal must be filed with the director within 30 days from the denial. The director shall schedule a hearing before the committee and notify the appellant of the time and place of the hearing. The committee shall hear evidence relating to the denial of the certificate and at the conclusion of the hearing enter an order which sets forth a finding of the facts and a recommendation as to the appropriate action to be taken by the board of commissioners. The director shall transmit to the board of commissioners the official file and the order of the committee. The board of commissioners, without holding a hearing, shall review the file and the findings of fact and recommendations of the committee. The board of commissioners shall have the authority to affirm the action of the director or issue an order directing the director to issue the business certificate upon payment of the appropriate taxes and fees.

- (2) All appeal requests will be submitted with a nonrefundable processing fee as defined in the schedule of fees and charges. Any applicant which can prove to the satisfaction of the business tax director that he/she is indigent will have the appeals fee waived.

(Code 1985, § 10-11; Ord. of 9-12-96; Ord. of 10-5-04)

Sec. 18-42. - Reserved.

Editor's note— An ordinance of July 6, 2000, deleted § 18-42 in its entirety. Former § 18-42 pertained to conditional business certificates and derived from the 1985 Code and an ordinance of Oct. 20, 1998.

Sec. 18-43. - Business tax rate review and appeal committee.

The board of commissioners shall appoint five members to the Coweta County tax rate review and appeals committee. One member shall be appointed from each commission district and each member's term will run concurrent with that of the commissioner of the district from which the member is appointed. The committee's duties shall be as follows:

- (1) The committee shall select one of its members as presiding officer.
- (2) The committee shall adopt rules and procedures for conducting its business.
- (3) The committee shall serve as an appeals committee and all actions of the director of the business tax department including denial, suspension or revocation of a certificate, may be appealed to the committee in the manner set forth herein.
- (4) The committee shall annually review all business tax rates, fees, and categories of business subject to business tax and fees and make recommendations to the board of commissioners as to adjustments, if any, the committee considers appropriate in rate categories.
- (5) If any individual, firm or corporation subject to the payment of a business tax deems the tax to be unlawful, discriminatory or inequitable, it may pay the tax imposed by the board of commissioners under protest and then file a written request for review with the director of the business tax department. The request for review must be filed within 45 days from the date the tax is paid. The director shall, within 30 days from the date of receipt of the request for review from the licensee, schedule a conference with the licensee to review those matters set forth in the licensee's request for review. Within ten days from the date of the conference, a determination shall be made by the director in writing and a copy of the determination shall be sent to the licensee by certified mail. In the event the licensee is dissatisfied with the determination made by the director, it may, within 15 days from the date of receipt of the determination of the director, file its appeal to the county business tax and tax rate review and appeal committee. The appeal shall be in writing and shall be filed with the director of the county business tax department. The director shall, upon receipt of an appeal, schedule a hearing before the committee and notify the licensee of the date of the hearing. The committee shall hold a hearing and hear evidence and consider all matters relating to the licensee's appeal. Upon conclusion of the hearing, the committee shall enter a written finding of fact and make a written recommendation to the

board of commissioners. The director of the county business tax department shall transmit the committee's findings and recommendations to the board of commissioners for appropriate action of the licensee's appeal. The board of commissioners is not required to follow the recommendations of the committee, but shall give the recommendations of the committee careful consideration in reaching its final decision. Since the report from the committee to the board of commissioners shall contain a finding of fact, the board of commissioners shall not be required to conduct a hearing prior to making a final decision of the licensee's appeal. The board of commissioners shall notify the licensee taxpayer of its final decision. An appeal will then be set forth before the business tax rate review board as set forth in section 18-42(c)(1) and (2).

(Code 1985, § 10-13)

Sec. 18-44. - Display of certificate and registrations.

All persons shall exhibit and display all certificates issued to them under this Code in some conspicuous place in their business establishment at which address the certificate or registration was issued. Any transient or nonresident person, firm, or corporation doing business within the county shall carry the license or registration either upon his or her 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.

(Code 1985, § 10-14)

Sec. 18-45. - Revocation of certificate.

(a) If any certificate holder, employee or business which has been issued a county business certificate by the director is engaged in unlawful activities, including violations of laws of the State of Georgia, appropriate county ordinances, applicable zoning regulations, or applicable heating, electrical, health, or building codes, the business certificate may be revoked in the manner provided herein. Where it is reported to the director if the director's preliminary investigation reveals that there may be a basis for revocation or suspension of the certificate, the business certificate holder will be notified to appear before the director and show cause on a date certain why his or her business certificate should not be revoked or suspended. The business certificate holder may appear in person at the hearing or be represented by counsel. At the conclusion of the hearing, the director, based upon evidence submitted at the hearing, shall enter an order making a finding of fact and then:

- (1) Find that the evidence does not authorize revocation or suspension;
- (2) Issue a warning to business;
- (3) Suspend business certificate and probate suspension;
- (4) Revoke certificate and probate revocation;
- (5) Suspend certificate; or
- (6) Revoke certificate.

- (b) Within 30 days from the date of the order from the director, the business may appeal the decision by filing a notice of appeal to the business tax rate review and appeals committee. The hearing shall be scheduled and an order shall be issued by the committee which contains therein a finding of fact and a recommendation of appropriate action by the board of commissioners. The board of commissioners, without the necessity of a hearing, based on the file and order of the committee, may affirm, overrule, or partially affirm, partially overrule the decision of the director, or take any other appropriate action regarding licensee.

(Code 1985, § 10-15)

Sec. 18-46. - Paying occupation tax of business with no location in Georgia.

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

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

(Code 1985, § 10-16)

Sec. 18-47. - Each line of business to be identified on business registration.

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

(Code 1985, § 10-17)

Sec. 18-48. - Number of businesses considered to be operating in county.

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

(Code 1985, § 10-18)

Sec. 18-49. - Professionals as classified in O.C.G.A. § 48-13-9(c)(1) through (18).

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

- (1) The occupation tax based on gross receipts combined with profitability ratios as set forth in this article; or

- (2) A fee of \$400.00 per practitioner who is licensed to provide the service, such tax to be paid at the practitioner's office or location; provided, however that a practitioner paying according to this subsection shall not be required to provide information to the local government relating to the gross receipts of the business or practitioner. The per practitioner fee applies to each person in the business who qualifies as a practitioner under the state's regulatory guidelines and framework.

This election is to be made on an annual basis and must be done by January 1 of each year.

(Code 1985, § 10-19)

Sec. 18-50. - Practitioners exclusively practicing for a government.

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

(Code 1985, § 10-20)

Sec. 18-51. - Purpose and scope of tax.

The occupation tax levied herein is for revenue purposes only and is not for regulatory purposes. (The occupation tax only applies to those businesses and occupations which are covered by the provisions of O.C.G.A. §§ 48-13-5—48-13-26.) All other applicable businesses and occupations are taxed by the local government pursuant to the pertinent general and/or local law and ordinance.

(Code 1985, § 10-21)

Sec. 18-52. - When tax due and payable; effect of transacting business when tax delinquent.

- (a) Each such occupation tax shall be for the calendar year 1995 and succeeding calendar years thereafter unless otherwise specifically provided. Said registration and occupation tax shall be payable January 1 of each year and shall, if not paid by April 15 of each year, be subject to penalties for delinquency as prescribed in section 18-72 of this article. On any new profession, trade, or calling begun in county in 1995 or succeeding years thereafter, the registration and tax shall be delinquent if not obtained immediately upon beginning business and a penalty in the amount of ten percent of the tax and interest calculated monthly in the amount of 1½ percent of the tax shall be assessed. The percentage shall be a 1½ percent penalty and a 1½ percent interest calculated monthly for all subsequent years. The business shall submit a revenue statement based on prior year's gross receipts on a form provided by the business tax director. The tax registration herein provided for shall be issued by the business tax director and if any person, firm, or corporation whose duty it is to obtain a registration shall, after said registration or occupation tax becomes delinquent, transact or offer to transact, in county, any of the kind of profession, trade, or calling subject to this article without having first obtained

said registration, such offender shall, upon conviction by the magistrate judge, be punished as provided in section 1-15.

- (b) In addition to the above remedies, the business tax department may proceed to collect in the same manner as provided by law for tax executions.

(Code 1985, § 10-22; Ord. of 2-21-95(2); Ord. of 4-1-03; Ord. No. 014-16 § 2, 4-26-16)

Sec. 18-53. - Allocation of gross receipts of business with multiple intrastate or interstate locations.

For those businesses that 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 county location. 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 county and elsewhere and allotted to those locations. Upon request, the business or practitioner with 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; and
- (2) Information relating to the allocation of the business's or practitioner's gross receipts by other local governments. 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.

(Code 1985, § 10-23)

Sec. 18-54. - Location of business.

- (a) *One location authorized.* A business certificate granted under this article shall not authorize the holder thereof to exercise or carry on a trade, business or profession named herein at any other place than mentioned in the certificate, except as otherwise provided herein.
- (b) *Change of location.* Any person moving from one location to another shall notify the director of this move and the new address in writing on a form provided by the director of business tax no later than the date of moving. A new certificate will be issued at the new location if the location conforms to the zoning regulations of the county.

(Code 1985, § 10-24)

Sec. 18-55. - Transfer of certificate.

Business certificates shall not be transferable, 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 certificate shall be required for the new owner of the business.

(Code 1985, § 10-25)

Sec. 18-56. - Expiration of certificate.

The certificate referred to in this article shall automatically expire on December 31 after the year of its issuance.

(Code 1985, § 10-26)

Sec. 18-57. - Exemption on grounds that business is operated for charitable purpose.

No business on which a business registration or occupation tax is levied by this chapter shall be exempt from said registration or tax on the ground that such business is operated for a charitable purpose, unless 100 percent of the entire proceeds from said business are devoted to such purpose.

(Code 1985, § 10-27)

Sec. 18-58. - Evidence of state registration required if applicable; state registration to be displayed; additional requirements for issuance of certificate.

- (a) Each person who is licensed by the secretary of state pursuant to O.C.G.A. tit. 43 shall provide evidence of proper and current state licensure before the county registration may be issued.
- (b) Each person who is licensed by the state shall post the state license in a conspicuous place in the licensee's place of business and shall keep the license there at all times while the license remains valid.
- (c) In addition to the requirements of section 18-34, the following businesses shall meet the listed additional requirements before the director may issue a license under section 18-41:

Ambulance service —state license required.

Auctioneer —state license required.

Auto parts (used and reconditioned)—state license required.

Auto salvage yard —state license required.

Automobile dealer —state license required.

Barbershop —state license required.

Beauty shop —state license required.

Bondsman —sheriff's department approval required.

Burglar alarm installation —low voltage state license required/notify sheriff's department.

Carnivals or amusement rides —proof of liability insurance/approval of sheriff's department.

Catering (including trucks)—approval of health department.

Chemical manufacturing or sales —approval of fire department.

Day care center —state department of human resources license required.

Day care home —certificate of registration from state department of human resources.

Delicatessen —health and fire department approval.

Employment agency —license from state department of labor if fee paid by employee.

Explosives, sales/distribution —license from state fire marshal.

Fire alarm installation —notify fire department.

Guns, firearms, ammunition —state and federal license required.

Hatchery —license required from state department of agriculture.

Ice cream shops —health department approval required.

Locksmith —approval of sheriff's department.

Lodginghouses and roominghouses —certificate from state department of human resources required.

Meat packing plant —license required from state department of agriculture.

Meats/retail from truck —license required from state department of agriculture.

Meats/wholesale —license required from state department of agriculture.

Nursing home, including convalescent home —certificate from state department of human resources.

Pawnbrokers —approval of sheriff's department required.

Pest control —state license required.

Polygraph examiner —state license required.

Private detective or investigator —state license required.

Professionals —state license required.

Restaurants —approval of health and fire department.

Roominghouses —certificate from state department of human resources.

Sanitoriums —certificate from state department of human resources.

Shooting gallery —fire and sheriff's department approval.

Skating rinks —fire department approval.

Spas —proof of \$20,000.00 bond or letter of exemption from state department of consumer affairs.

Tattoo shop —approval of the county board of health and copy of the state medical license by physician in charge of tattooing.

Wrecker service —approval of sheriff's department and amber light permit.

(Code 1985, § 10-28)

Sec. 18-59. - Evidence of qualification required if applicable.

Any business required to obtain health permits, bonds, certificates of qualification or certificates of competency, meet all zoning regulations, or any other regulatory matter shall first, before the issuance of a county business registration, show evidence that such requirements have been met.

(Code 1985, § 10-29)

Sec. 18-60. - Liability of officers and agents; registration required; failure to obtain.

All persons subject to the occupation tax levy pursuant to this article shall be required to obtain the necessary registration for said business as described in this article, and in default thereof the officer or agent soliciting for or representing such persons shall be subject to the same penalty as other persons who fail to obtain a registration. Every person commencing business in the county after January 1 of each year shall likewise obtain the registration herein provided for before commencing the same; and any person transacting, or offering to transact in county, any of the kinds of business, trade, profession, or occupation without first having so obtained said registration, shall be subject to penalties provided thereof.

(Code 1985, § 10-30)

Sec. 18-61. - Requirements, deadlines and penalties for business licenses.

- (a) Applicant for registration shall be a U.S. citizen or maintain a permanent alien residency status and shall provide documentation thereof including federal ID or sales tax ID at the time of registration.
- (b) Each such registration shall contain a copy of the business' tax return or a current profit and loss statement. Each such registration shall be due no later than April 15 for the calendar year in which the registration is obtained unless otherwise specifically provided. There is hereby imposed a penalty upon each business which fails to apply for and obtain an appropriate business registration and pay all tax and fees as provided herein by April 15 of each year, and by April 15 each year hereafter. Every person commencing business in the county after January 1 of each year shall obtain the registration required before commencing such business.
- (c) Any person transacting or offering to transact in the county any business, trade, profession, or occupation without first having obtained said registration shall be subject to the penalties provided. Said penalties shall be in addition to all other penalties, civil and criminal herein provided; and may be collected by the remedies herein provided for collection of the occupation tax, and shall have the same lien and priority as the occupation tax to which the penalty is applied.
- (d) The registration herein provided for shall be issued by the business tax department, and if any person, firm, or corporation whose duty it is to obtain a registration shall after said occupation tax becomes delinquent, transact or offer to transact, in the county, any of the kind of business, trade, profession, or occupation without having first obtained said registration, such offender shall be subject to the penalties provided herein.

(Ord. No. 040-08, 12-16-08)

Editor's note— Ord. No. 040-08, adopted Dec. 18, 2008 amended § 18-61 in its entirety to read as herein set out. Former § 18-61 pertained to similar subject matter and derived from the 1985 Code, and an ordinance adopted Feb. 21, 1995.

Sec. 18-62. - Penalties for violation.

Any person violating any provisions of this article shall, upon conviction before the magistrate judge, be punished as provided in section 1-15.

(Code 1985, § 10-32)

Sec. 18-63. - Businesses not covered by article.

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

- (1) Those businesses regulated by the Georgia Public Service Commission.
- (2) Those electrical service businesses organized under O.C.G.A. tit. 46, ch. 3.
- (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. § 2-10-105.
- (5) Insurance companies governed by O.C.G.A. § 33-8-8 et seq.
- (6) Motor common carriers governed by O.C.G.A. § 46-7-15.
- (7) Those businesses governed by O.C.G.A. § 48-5-355. (Businesses that purchase carload lots of guano, meats, meal, flour, bran, cottonseed, or cottonseed meal and hulls.)
- (8) Agricultural products and livestock raised in the State of Georgia governed by O.C.G.A. § 48-5-356.
- (9) Depository financial institutions governed by O.C.G.A. § 48-6-93.
- (10) Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55.

(Code 1985, § 10-33)

Sec. 18-64. - Occupation tax inapplicable where prohibited by law or provided for pursuant to other existing law.

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

(Code 1985, § 10-34)

Sec. 18-65. - Occupation taxes levied on business transacted during previous calendar year.

All occupation taxes levied under this article are levied on the amount of business transacted during the previous calendar year.

(Code 1985, § 10-35)

Sec. 18-66. - Payment of occupation tax by newly established businesses.

In the case of a business subject to occupation tax for a calendar year, which was not conducted for any period of time in the corporate limits of county in the preceding year, the owner, or individual engaged in said business liable for the occupation tax shall estimate the gross volume of revenues from commencing date to the end of the calendar year, and such amount shall be paid in accordance with the provisions of this chapter.

(Code 1985, § 10-36)

Sec. 18-67. - 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, said business shall be required to obtain the necessary registration for each location and line and pay an occupation tax in accordance with the prevailing taxing method and tax rate for each location and line.

(Code 1985, § 10-37)

Sec. 18-68. - Returns confidential.

Except in the case of judicial proceedings or other proceedings necessary to collect the occupation tax hereby levied, it shall be unlawful for any officer, employee, agent, or clerk of county, or any other person to divulge or make known in any manner the amount of gross receipts or any particulars set forth or disclosed in any occupation tax return required under this article. All contents of said return shall be confidential and open only to the officials, employees, agents, or clerks of the county using said returns for the purpose of this occupation tax levy and the collection of the tax. Independent auditors or bookkeepers employed by the county shall be classed as "employees." Nothing herein shall be construed to prohibit the publication by county officials of statistics, so classified as to prevent the identification of particular reports or returns and items thereof, or the inspection of the records by duly qualified employees of the tax departments of the State of Georgia, the United States, and other local governments.

(Code 1985, § 10-38)

Sec. 18-69. - Inspections of books and records.

- (a) In any case the business tax department of the county, through its officers, agents, employees, or representatives, may inspect the books of the business for which the returns are made. The business tax department officer shall have the right to inspect the books or records for the business of which the return was made in Coweta County, Georgia, and upon demand of the

business tax department, such books or records shall be submitted for inspection by a representative of the county within 30 days. Failure of submission of such books or records within 30 days shall be grounds for revocation of the tax registration currently existing to do business in the county. Adequate records shall be kept in Coweta County, Georgia, for examination by the business tax department at that officer's discretion.

- (b) If, after examination of the books or records, it is determined that a deficiency occurs as a result of under reporting, a six-percent penalty and a two-percent interest monthly will be assessed for the period delinquent.

(Code 1985, § 10-39)

Sec. 18-70. - Tax registration to be revoked for failure to pay tax, file returns, permit inspection of books.

Upon the failure of any business to pay said occupation tax or any part thereof before it becomes delinquent, or upon failure to make any of said returns within the time required herein, or upon failure to make a true return, or upon failure to amend a return to set forth the truth, or upon failure to permit inspection of its books as above provided, any business tax registration granted by the county under this chapter permitting the owner of said business to do business for the current year shall be, ipso facto, revoked. This revocation may be reviewed, however, as provided in section 18-43 of this article. This issue to be determined by investigation and hearing shall be in violation of the provisions of this section.

(Code 1985, § 10-40)

Sec. 18-71. - Effect of failure to comply with ordinance provisions; continuing in business after tax registration revocation.

Any persons, their managers, agents, or employees, who do business in said county after the registration for said business has been revoked as above, hereby required to make occupation tax returns, and who fail to make said returns within the time and in the manner herein provided, who 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 business hours, for the purpose of determining the accuracy of the returns herein provided for, shall be subject to penalties provided in this article.

(Code 1985, § 10-41)

Sec. 18-72. - Lien taken for delinquent occupation tax.

- (a) In addition to the other remedies herein provided for the collection of the occupation tax herein levied, the business tax department of Coweta County, Georgia, upon any tax or installment of said 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 of two percent per month from the date when such

tax or installment becomes delinquent, and the lien shall cover the property (in the county) of the person, partnership, or corporation liable for said tax, all as provided by the ordinances of said county and the laws of Georgia. The lien of said occupation tax shall become fixed on and date from the time when such tax or any installment thereof becomes delinquent.

- (b) The execution shall be levied by the business tax department of said county upon the property of defendant located in said jurisdiction, 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 ordinance 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 the applicable laws in regard to tax executions. When a nulla bona entry has been entered by proper authority upon an execution issued by the business tax department 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 or her as though he or she had never defaulted in the payment of the taxes.

(Code 1985, § 10-42)

Sec. 18-73. - Amendment, repeal of provision.

The ordinance from which this article derives shall be subject to amendment or repeal, in whole or in part, at any time, and no such amendment or repeal shall be construed to deny the right of the commission to assess and collect any of the taxes or other charges prescribed. Said amendment may increase or lower the amounts and tax rates of any occupation and may change the classification thereof. The payment of any occupation tax provided for shall not be construed as prohibiting the levy or collection by the jurisdiction of additional occupation taxes upon the same person, property, or business.

(Code 1985, § 10-43)

Sec. 18-74. - Applications of provisions to prior ordinance.

The ordinance from which this article derives does not repeal or affect the force of any part of any ordinance heretofore passed where taxes levied under such prior ordinance have not been paid in full. So much and such parts of ordinances heretofore and hereinafter passed as provided for the issuing and enforcing of execution for any tax or assessment required by such ordinances, or that imposed fines or penalties for the nonpayment of such tax, or for failure to pay regulatory fees provided for in said ordinance or ordinances, or failure to comply with any other provisions hereof, shall continue and remain in force until such tax, regulatory fee, or assessment shall be fully paid.

(Code 1985, § 10-44)

Sec. 18-75. - Enforcement of provisions.

It is hereby made the duty of the business tax department to see that the revisions of this chapter relating to occupation taxes are observed.

(Code 1985, § 10-45)

Sec. 18-76. - Provisions to remain in full force and effect until changed by governing body.

This article shall remain in full force and effect until changed by amendment adopted by the commission. 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.

(Code 1985, § 10-46)

Sec. 18-77. - Requirement of public hearing before tax increase.

After January 1, 1996, the commission shall conduct at least one public hearing before adopting any ordinance or resolution which will increase the rate of occupation tax as set forth in this article.

(Code 1985, § 10-47)

Sec. 18-78. - Option to establish exemption or reduction in occupation tax.

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

(Code 1985, § 10-48)

Sec. 18-79. - Conflicts between specific and general provisions.

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

(Code 1985, § 10-49)

Secs. 18-80—18-95. - Reserved.

DIVISION 2. - SCHEDULES OF TAXES AND FEES

Sec. 18-96. - Reserved.

Editor's note— Ord. No. 014-16 § 3, adopted April 26, 2016, repealed § 18-96, which pertained to schedule of taxes and derived from the Code of 1985, § 10-58.

Sec. 18-97. - Schedule of fees applicable to practitioner of professions and occupations regulated under O.C.G.A. § 48-13-9.

Regulatory fees authorized by O.C.G.A. § 48-13-9 for businesses or practitioners of professions or occupations shall be as set forth in the schedule of fees and charges.

(Code 1985, § 10-59)

Secs. 18-98—18-115. - Reserved.

ARTICLE III. - POOL AND BILLIARDS

Sec. 18-116. - Applicability of article II of this chapter to pool rooms.

Pursuant to the authority granted to counties under O.C.G.A. tit. 43, ch. 8, 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 article II of this chapter shall govern the operation of pool rooms within the unincorporated area of the county.

(Code 1985, § 10-52)

Sec. 18-117. - Definitions.

As used in this article, the term "pool room" shall mean any public place where a person is permitted to play the game of pool or billiards. The term "pool" or "billiards" shall include any game played on a table surrounded by an elastic ledge of cushions with balls which are impelled by a cue.

(Code 1985, § 10-53)

Cross reference— Definitions generally, § 1-2.

Sec. 18-118. - Certificate application.

- (a) All persons, firms, or corporations desiring to operate a pool room shall make application for a business certificate on a form prescribed by the business tax director.
- (b) The application shall include but shall not be limited to the name and address of the owner. If the manager or owner changes, this information must be furnished to the business tax director within ten days prior to the change.

- (c) All applicants shall furnish data, information, and records as required by the business tax director and to insure compliance with the provisions of this article. Failure to furnish data shall automatically serve to dismiss the application with prejudice.
- (d) All applications shall be sworn to by the applicant before a notary public or other officer authorized to administer oaths.
- (e) In all instances in which an application is denied under the provision of this article, the applicant may not reapply for a certificate for at least one year from the final date of denial.

(Code 1985, § 10-54)

Sec. 18-119. - Certificate and qualifications.

- (a) No certificate required by this article shall be granted to any person who is not a citizen of the United States and/or is a resident of Coweta County.
- (b) Where the owner-applicant is a partnership or corporation, the provisions of this section shall supply to all its partners, officers, managers, and majority stockholders. In the case of a corporation, the certificate shall be issued jointly to the corporation and to the majority stockholder, if an individual. Where the majority stockholder is not an individual, the certificate shall be issued jointly to the corporation and its agent registered under the provisions of this section. In the case of a partnership, the certificate will be issued to one of the partners.
- (c) No certificate shall be granted to any person who has been convicted under any federal, state, or local law of any misdemeanor involving moral turpitude within ten years prior to the filing of the application of such certificate.
- (d) No certificate shall be granted to any person convicted under any federal, state, or local law of any felony within ten years prior to the filing of an application for such certificate.
- (e) No certificate shall be granted to any person who has had any certificate issued under the police powers of the county previously revoked within two years prior to the filing of the application. The business tax director may decline to issue a certificate when any person having an 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.
- (f) All licensed 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 licensee or owner may be served. This person shall be a resident of the county. The licensee shall file the name of such agent, along with the written consent of such agent, with the business tax director in such form as he may prescribe.

(Code 1985, § 10-55)

Sec. 18-120. - General operating provisions.

- (a) No gambling or other games of chance shall be permitted in a pool room.

- (b) All establishments which have three 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.
- (c) The pool room is subject to inspection of establishment and subsequent suspension or revocation as stated earlier in this chapter.

(Code 1985, § 10-56)

Sec. 18-121. - Inspection of licensed establishments.

Sworn officers of the county sheriff's department shall have the authority to inspect establishments licensed 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 any other county officer to conduct inspections authorized by other provisions of this Code.

(Code 1985, § 10-57)

Secs. 18-122—18-134. - Reserved.

ARTICLE III.A. - COMMERCIAL KENNELS, LARGE ANIMAL VETERINARIANS AND STABLES

Sec. 18-135. - Additional requirements for commercial kennels, large animal veterinarians and stables.

Commercial kennels, large animal veterinarian practices and stable may be licensed in residential districts where the applicant is properly zoned for such an occupation. Freestanding structures authorized by the county's zoning ordinance used in connection with a commercial kennel, large animal veterinarian or stable are permitted. Additional employees may be permitted. All other requirements to engage in a home occupation in a residential zoning classification apply.

(Ord. of 4-6-04; Ord. of 11-11-04)

Secs. 18-136—18-145. - Reserved.

ARTICLE IV. - PRECIOUS METALS DEALERS

Sec. 18-146. - Definitions.

As used in this article, unless the context otherwise requires, the term:

Nonpermanent location means any location designed to be used to conduct the aforementioned business, in any movable vehicle, and temporary and 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 said business for a limited or specific time. The applications will not be accepted.

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

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

(Code 1985, § 10-82)

Cross reference— Definitions generally, § 1-2.

Sec. 18-147. - License required; application contents; application approval fees.

- (a) No person shall engage in business as a precious metals dealer without first obtaining a Coweta County business license.
- (b) The application for the business license shall be obtained from the Coweta County business tax department.
- (c) The application for the business license shall be in writing and shall be sworn to or affirmed by the applicant. The application shall contain, but not be limited to, the precise location from which the proposed business is to operate; full name, address; phone number; date of birth; and social security number of the applicant and any other persons having an ownership interest in the proposed business; names, addresses and age of all officers of any publicly held corporation and their titles; full name, address, phone number, date of birth, and social security number of all employees to be employed in proposed business; photograph, fingerprints and any other information deemed necessary for a background investigation by the county sheriff's department.

(Code 1985, § 10-83)

Sec. 18-148. - Processing of application; issuance of license.

Processing of application shall be carried out by the county sheriff's department; and upon approval of application, the business license shall be issued by the county business tax department. The county sheriff's department shall determine whether the applicant or any of their employees has ever been convicted of any crime involving larceny, burglary or theft of any description, as

defined in the Georgia Criminal Code, title 26, or any felony or misdemeanor involving moral turpitude.

(Code 1985, § 10-84)

Sec. 18-149. - Method of maintaining records.

- (a) Every precious metals dealer shall maintain a book, in permanent form, in which shall be entered in legible English at the time of each purchase of precious metals or goods containing precious metals, the following information:
 - (1) The date of the purchase transaction;
 - (2) The name of the person making the purchase from the seller;
 - (3) The name, age, and address of the seller of the items purchased; a photograph of the seller; and the social security number of the seller;
 - (4) An identification and description of the purchased goods, including the serial numbers; model numbers; or other numbers; and any identifying marks inscribed thereon;
 - (5) The signature of the seller.
- (b) The permanent record book required herein shall be maintained for each purchase of precious metals or goods made from precious metals for a period of four years. Entries shall appear in chronological order in ink. No blank lines may be left between entries. No obliteration, alterations, or erasures may be made. Corrections shall be made by drawing a line of ink through the entry without destroying its legibility. The book and all precious metals and goods containing precious metals, shall be open to the inspection of any duly authorized law enforcement officer at all times.

(Code 1985, § 10-85)

Sec. 18-150. - Required daily written report.

Every precious metals dealer shall make a daily report in writing to the county sheriff's department of all precious metals or goods containing precious metals purchased during the 24 hours ending at 9:00 p.m. on the date of the report. The reports shall be on forms or on duplicate invoices as may be prescribed or approved by the sheriff's department. The reports shall be legible and mailed or delivered to the sheriff's department prior to 10:00 a.m. on the day following the date of the report. In addition to any other information required by the sheriff's department, the reports shall include the name and address of the permittee, date of transaction, description, and amount of the precious metals or goods containing precious metals purchased and the name and address of the person from whom purchased. The sheriff's department may promulgate rules and regulations consistent with this section to require the proper enforcement thereof.

(Code 1985, § 10-86)

Sec. 18-151. - Holding period.

Any dealer who acquires used valuables in the course of business shall hold these items for at least ten days before disposing of them by sale, transfer, shipment, grinding down, melting, or otherwise changing the original appearance of the item. Provided, the provisions of this section shall not be deemed as to prevent any dealer from storing such items off the business premises, or placing such items in the hands of any bank or security company for the purpose of safekeeping. However, any dealer storing such items off the premises shall produce such items for inspection within 12 hours following the demand of any officer of the county sheriff's department.

(Code 1985, § 10-87)

Sec. 18-152. - Applicability of sections 18-147 through 18-151.

- (a) Sections 18-149, 18-150 and 18-151 shall not apply to any precious metals or goods containing precious metals from industrial producers, manufacturers, licensed dealers, or distributors.
- (b) Sections 18-147 and 18-148 shall not apply to licensed pawnbrokers, scrap metal processors, or secondhand dealers. Pawnbrokers, scrap metal processors, and secondhand dealers are not, however, relieved from compliance with sections 18-149, 18-150 and 18-151, when the purchase of precious metals or goods containing precious metals is from persons or sources other than industrial producers, manufacturers, or licensed dealers or distributors.

(Code 1985, § 10-88)

Sec. 18-153. - Hours of operation.

The hours within which dealers may keep open their place of business shall be from 7:00 a.m. until 9:00 p.m.

(Code 1985, § 10-89)

Sec. 18-154. - Purchase from minors.

No dealer shall make any purchase of precious metals from any person under the age of 18 years.

(Code 1985, § 10-90)

Sec. 18-155. - Unlawful activities.

- (a) It shall be unlawful for any precious metals dealer or any agency or employee of a precious metals dealer who makes purchases of precious metals or goods containing precious metals to:
 - (1) Fail to maintain and make entries in the permanent record book as required by section 18-149 of this chapter;
 - (2) Make any false entries therein;

- (3) Falsify, obliterate, destroy, or remove from the place of business such permanent record book;
 - (4) Fail to submit daily reports as required in section 18-150 of this chapter;
 - (5) Refuse to allow a duly authorized law enforcement officer to inspect such permanent book, or any precious metals or goods containing precious metals in his or her possession.
- (b) Any person violating any provision of subsection (a) of this section shall upon conviction be punishable as provided in section 1-15.

(Code 1985, § 10-91)

Sec. 18-156. - Suspension or revocation of license.

Any licenses issued pursuant to this article may be suspended or revoked upon the following grounds:

- (1) For the holder of the license to misrepresent any information in the original or renewal application for any license authorized by this article;
- (2) For the violation or a conviction of the holder of the license of any criminal law involving larceny, burglary or theft of any description as defined in the Georgia Criminal Code, title 26, or any felony or misdemeanor involving moral turpitude; and
- (3) For the violation or a conviction of the holder of the license of any part of subsection (a) of section 18-155 of this article.

(Code 1985, § 10-92)

Sec. 18-157. - Notice and hearing.

- (a) No license which has been issued to any person pursuant to this chapter shall be suspended or revoked except upon one or more of the grounds stated in section 18-156, and until after the holder of the license has been notified by the director of the Coweta County business tax department.
- (b) Where it is reported to the director that a holder of a Coweta County business license is engaged in unlawful activities, a preliminary investigation shall be conducted by the director in order to attempt to determine whether there is a basis for the reports. If the director's preliminary investigation reveals that there may be a basis for revocation and suspension of the license, the license holder will be notified to appear before the director and show cause on a date certain why his or her business license should not be revoked or suspended. The licensee may appear in person at the hearing or be represented by counsel. At the conclusion of the hearing, the director, based upon evidence submitted at the hearing, shall enter an order making a finding of fact and then:
 - (1) Find that the evidence does not authorize revocation or suspension;
 - (2) Issue a warning to licensee;
 - (3) Suspend license and probate suspension;

- (4) Revoke license and probate revocation;
 - (5) Suspend license; or
 - (6) Revoke license.
- (c) Within five days from the date of the order from the director, the licensee may appeal the decision by filing a notice of appeal with the presiding officer of the Coweta County business license and tax review committee. The presiding officer shall schedule a hearing before the committee and notify the licensee of the time and date of the hearing. At the conclusion of the hearing, the committee shall enter an order which contains therein a finding of fact and a recommendation of appropriate action by the board of commissioners. The board of commissioners, without the necessity of a hearing, based on the file and order of the committee, may affirm, overrule, or partially affirm and partially overrule the decision of the director. The board of commissioners is authorized to:
- (1) Find in favor of the licensee;
 - (2) Issue a warning to licensee;
 - (3) Suspend the license and probate suspension;
 - (4) Revoke license and probate revocation;
 - (5) Suspend license;
 - (6) Revoke license; and
 - (7) Take any other appropriate action regarding the licensee.

(Code 1985, § 10-93)

Sec. 18-158. - Additional licenses.

A precious metals dealer license shall be in addition to all other licenses issued.

(Code 1985, § 10-94)

Secs. 18-159—18-185. - Reserved.

ARTICLE V. - FINANCIAL INSTITUTIONS LICENSE

Sec. 18-186. - Tax levied.

In accordance with O.C.G.A. § 48-6-93, there is hereby levied an annual business license tax upon all depository financial institutions located within the county at a rate of twenty-five-hundredths of one percent of the gross receipts of said depository financial institutions. Gross receipts shall mean gross receipts as defined in O.C.G.A. § 48-6-93. Depository financial institutions shall mean state and national banks, state building and loan associations and federal savings and loan associations.

(Code 1985, § 10-101)

Sec. 18-187. - Minimum tax.

The minimum annual amount of business license tax due from any depository financial institution pursuant to section 18-66 shall be \$1,000.00.

(Code 1985, § 10-102)

Sec. 18-188. - Filing of return.

Pursuant to O.C.G.A. § 48-6-93(c), each depository financial institution subject to this tax shall file a return of its gross receipts with the board of commissioners of the county on March 1 of the year following the year in which such gross receipts are measured. Said return shall be in the manner and in the form prescribed by the commissioner of the state department of revenue based on the allocation method set forth in O.C.G.A. § 48-6-93(d). The board of commissioners of the county shall assess and collect the tax levied pursuant to this article based upon the information provided in said return.

(Code 1985, § 10-103)

Sec. 18-189. - Due date.

Taxes levied pursuant to this article shall be due no later than 30 days after filing of the return prescribed by section 18-68 unless extended by the board of commissioners.

(Code 1985, § 10-104)

Sec. 18-190. - Administration.

The county administrator is hereby directed to forward a copy of this article to each depository financial institution in the county and to the home office of each such depository financial institution if located outside the county.

(Code 1985, § 10-105)

Secs. 18-191—18-215. - Reserved.

ARTICLE VI. - HOME OCCUPATIONS

Sec. 18-216. - Home occupations.

All home occupations established through the moratorium date of March 2, 1990, shall be allowed to continue on the following conditions:

- (1) Application for license is submitted to the business tax department with business established date of no later than March 2, 1990. This must be received within 60 days of board of commissioners approval of the amendment.
- (2) Business will be granted a conditional business license with the following conditions:
 - a. Once the business (which is not zoned according to the requirements of the current ordinance) changes owner, location, or activity, that conditional license will be void until the current ordinance requirements are met either through zoning or other elections.
 - b. The home occupation will not generate or cause conditions such as excessive noise, light, glare, odor, or similar objectionable features which would reduce the value, use, or enjoyment of surrounding properties.
 - c. The home occupation will not include a junkyard as defined in the county zoning ordinance.
 - d. The home occupation must be operated only by a member or members of the family residing in the residence.
 - e. All complaints will be investigated by the business tax department.
 - f. If at any time after the conditional business license has been issued, the business tax director finds that the conditions imposed are not being fulfilled by the holder of the conditional license, business license ordinance section 18-42, revocation of license and appeals proceedings will begin.
- (3) The definition of home occupations effective March 3, 1990, to all new businesses or existing businesses which failed to apply by the 60-day deadline, shall be as defined in the county zoning ordinance.

(Code 1985, § 10-75)

Secs. 18-217—18-239. - Reserved.

ARTICLE VII. - SEXUALLY ORIENTED BUSINESSES^[2]

Footnotes:

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Editor's note— Ord. No. 042-08, adopted January 26, 2009, amended art. II in its entirety to read as herein set out. Former art. II consisted of §§ 18-240—18-273, pertained to similar subject matter and derived from an ordinance adopted February 1, 2000.

Sec. 18-240. - Purpose; rationale and findings.

- (a) *Purpose.* It is the purpose of this article to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the county, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the county. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene material.
- (b) *Rationale and findings.* Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the board of commissioners, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); and

Daytona Grand, Inc. v. City of Daytona Beach, 490 F.3d 860 (11th Cir. 2007); *Artistic Entertainment, Inc. v. City of Warner Robins*, 331 F.3d 1196 (11th Cir. 2003); *Artistic Entertainment, Inc. v. City of Warner Robins*, 223 F.3d 1306 (11th Cir. 2000); *Williams v. Pryor*, 240 F.3d 944 (11th Cir. 2001); *Williams v. A.G. of Alabama*, 378 F.3d 1232 (11th Cir. 2004); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *Gary v. City of Warner Robins*, 311 F.3d 1334 (11th Cir. 2002); *Ward v. County of Orange*, 217 F.3d 1350 (11th Cir. 2002); *Boss Capital, Inc. v. City of Casselberry*, 187 F.3d 1251 (11th Cir. 1999); *David Vincent, Inc. v. Broward County*, 200 F.3d 1325 (11th Cir. 2000); *Sammy's of Mobile, Ltd. v. City of Mobile*, 140 F.3d 993 (11th Cir. 1998); *Lady J. Lingerie, Inc. v. City of Jacksonville*, 176 F.3d 1358 (11th Cir. 1999); *This That And The Other Gift and Tobacco, Inc. v. Cobb County*, 285 F.3d 1319 (11th Cir. 2002); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Grand Faloon Tavern, Inc. v. Wicker*, 670 F.2d 943 (11th Cir. 1982); *International Food & Beverage Systems v. Ft. Lauderdale*, 794 F.2d 1520 (11th Cir. 1986); *5634 E. Hillsborough Ave., Inc. v. Hillsborough County*, 2007 WL 2936211 (M.D. Fla. Oct. 4, 2007), *aff'd*, 2008 WL 4276370 (11th Cir. Sept. 18, 2008) (*per curiam*); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *Richland Bookmart, Inc. v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *High Five Investments, LLC v. Floyd County*, No. 4:06-CV-190, R. 128 (N.D. Ga. Mar. 14, 2008); *City of New York v. Hommes*, 724 N.E.2d 368 (N.Y. 1999); *For the People Theatres of N.Y., Inc. v. City of New York*, 793 N.Y.S.2d 356 (N.Y. App. Div. 2005); *Taylor v. State*, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); *Z.J. Gifts D-4, L.L.C. v. City of Littleton*, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); *People ex rel. Deters v. The Lion's Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth

Judicial Circuit, Effingham County, July 13, 2005); *Reliable Consultants, Inc. v. City of Kennedale*, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); *10950 Retail, LLC v. Fulton County*, No. 1:06-CV-1923, R. 62 Order (N.D. Ga. Dec. 21, 2006); *10950 Retail, LLC v. Fulton County*, No. 1:06-CV-1923, R. 84 Contempt Order (N.D. Ga. Jan. 4, 2007); and

Fairfax MK, Inc. v. City of Clarkston, 274 Ga. 520 (2001); *Morrison v. State*, 272 Ga. 129 (2000); *Sewell v. Georgia*, 233 S.E.2d 187 (Ga. 1977), dismissed for want of a substantial federal question, 435 U.S. 982 (1978) (sexual devices); *Flippen Alliance for Community Empowerment, Inc. v. Brannan*, 601 S.E.2d 106 (Ga. Ct. App. 2004); *Oasis Goodtime Emporium I, Inc. v. DeKalb County*, 272 Ga. 887 (2000); *Chamblee Visuals, LLC v. City of Chamblee*, 270 Ga. 33 (1998); *World Famous Dudley's Food & Spirits, Inc. v. City of College Park*, 265 Ga. 618 (1995); *Airport Bookstore, Inc. v. Jackson*, 242 Ga. 214 (1978);

and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995—98; Chattanooga, Tennessee - 1999—2003; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Ft. Worth, Texas - 2004; Kennedale, Texas - 2005; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; Jackson County, Missouri - 2008; Louisville, Kentucky - 2004; New York, New York Times Square - 1994; and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota),

the Board of Commissioners finds:

- (1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.
- (2) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.
- (3) Each of the foregoing negative secondary effects constitutes a harm which the county has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the county's rationale for this article, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the county's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the county. The county finds that the cases and documentation relied on in this article are reasonably believed to be relevant to said secondary effects.

The county hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses, including the judicial opinions and reports related to such secondary effects.

(Ord. No. 042-08, 1-26-09)

Sec. 18-241. - Definitions.

For purposes of this article, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

Adult bookstore or adult video store. A commercial establishment which, as one of its substantial business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas." A "substantial business activity" exists where the commercial establishment meets any one or more of the following criteria:

- (a) At least 25% of the establishment's displayed merchandise consists of the foregoing items; or
- (b) At least 25% of the wholesale value of the establishment's displayed merchandise consists of the foregoing items; or
- (c) At least 25% of the retail value (defined as the price charged to customers) of the establishment's displayed merchandise consists of the foregoing items; or
- (d) At least 25% of the establishment's revenues derive from the sale or rental, for any form of consideration, of the foregoing items; or
- (e) The establishment maintains at least 25% of its floor space for the display, sale, and/or rental of the foregoing items (aisles and walkways used to access said items shall be included in "floor space" maintained for the display, sale, or rental of said items); or
- (f) The establishment maintains at least 500 square feet of its floor space for the display, sale, and/or rental of the foregoing items (aisles and walkways used to access said items shall be included in "floor space" maintained for the display, sale, or rental of said items); or
- (g) The establishment regularly offers for sale or rental at least 2,000 of the foregoing items; or
- (h) The establishment regularly features the foregoing items and regularly advertises itself or holds itself out, by using "adult," "adults-only," "XXX," "sex," "erotic," or substantially similar language, as an establishment that caters to adult sexual interests; or
- (i) The establishment maintains an "adult arcade," which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer

persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or "specified anatomical areas."

Adult cabaret. A nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, regardless of whether alcoholic beverages are served, which regularly features persons who appear semi-nude.

Adult motion picture theater. A commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas" are regularly shown to more than five persons for any form of consideration.

Characterized by. Describing the essential character or quality of an item. As applied in this article, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

County. Coweta County, Georgia.

Employ, employee, and employment. Describing and pertaining to any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

Establish or establishment. Any of the following:

- (a) The opening or commencement of any sexually oriented business as a new business;
- (b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or
- (c) The addition of any sexually oriented business to any other existing sexually oriented business.

Floor space. The floor area inside a sexually oriented business that is visible or accessible to patrons for any reason, excluding restrooms.

Hearing officer. An attorney, not otherwise employed by the county, who is licensed to practice law in Georgia, and retained to serve as an independent tribunal to conduct hearings under this article.

Influential interest. Any of the following:

- (1) The actual power to operate the sexually oriented business or control the operation, management or policies of the sexually oriented business or legal entity which operates the sexually oriented business;
- (2) Ownership of a financial interest of 30 percent or more of a business or of any class of voting securities of a business; or
- (3) Holding an office (e.g., president, vice president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates the sexually oriented business.

Licensed day-care center. A facility licensed by the State of Georgia, whether situated within the county or not, that provides care, training, education, custody, treatment or supervision for more than 12 children under 14 years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, for less than 24 hours a day, regardless of whether or not the facility is operated for a profit or charges for the services it offers.

Licensee. A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In the case of an "employee," it shall mean the person in whose name the sexually oriented business employee license has been issued.

Nudity or a state of nudity. The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

Operator. Any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business regardless of whether that person is an owner, part owner, or licensee of the business.

Person. Individual, proprietorship, partnership, corporation, association, or other legal entity.

Premises. The real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a sexually oriented business license.

Public park. A publicly owned or leased tract of land, whether situated in the county or not, designated, dedicated, controlled, maintained and operated for use by the general public for active or passive recreational or leisure purposes by the county or any political subdivision of the state and containing improvement and pathways, access or facilities intended for public recreational use. The term "public park" shall not include parkways, public roads: rights-of-way, traffic circles, or easements.

Regularly. The consistent and repeated doing of an act on an ongoing basis.

Religious institution. Any church, synagogue, mosque, temple or building, whether located within the county or not, where persons regularly assemble for religious worship and related religious activities or for propagating a particular form of religious belief.

Residential. Pertaining to the use of land, whether situated within the county or not, for premises such as homes, town homes, patio homes, manufactured homes, duplexes, condominiums and apartment complexes, which contain habitable rooms for nontransient occupancy and which are designed primarily for living, sleeping, cooking, and eating therein. A premises which is designed primarily for living, sleeping, cooking and eating therein shall be deemed to be residential in character unless it is actually occupied and used exclusively for other purposes. Hotels, motels, nursing homes, and nursery schools shall not be considered to be residential. The term "residential" shall also include any unimproved tract zoned for residential uses by the zoning ordinances of the county, and any unimproved tract zoned for residential uses.

School. A building, whether situated within the county or not, where persons regularly assemble for the purpose of instruction or education together with the playgrounds, stadiums and other structures or grounds used in conjunction therewith. The term is limited to:

- (a) Public and private schools used for primary or secondary education, in which any regular kindergarten or grades one through 12 classes are taught; and
- (b) Special educational facilities in which students who have physical or learning disabilities receive specialized education in lieu of attending regular classes in kindergarten or any of grades one through 12.

Semi-nude or state of semi-nudity. The showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

Semi-nude model studio. A place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. This definition does not apply to any place where persons appearing in a state of semi-nudity did so in a class operated:

- (a) By a college, junior college, or university supported entirely or partly by taxation;
- (b) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
- (c) In a structure:
 - (1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and
 - (2) Where, in order to participate in a class a student must enroll at least three days in advance of the class.

Sexually oriented business. An adult bookstore or adult video store, an adult cabaret, an adult motion picture theater, or a semi-nude model studio.

Specified anatomical areas. Any of the following:

- (a) Less than completely and opaquely covered: human genitals, pubic region; buttock; and female breast below a point immediately above the top of the areola; and
- (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified criminal activity. Any of the following specified crimes for which less than five years has elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

- (a) Rape, child molestation, sexual assault, sexual battery, aggravated sexual assault, aggravated sexual battery, or public indecency;

- (b) Prostitution, keeping a place of prostitution, pimping, or pandering;
- (c) Obscenity, disseminating or displaying matter harmful to a minor, or use of child in sexual performance;
- (d) Any offense related to any sexually-oriented business, including controlled substance offenses, tax violations, racketeering, crimes involving sex, crimes involving prostitution, or crimes involving obscenity;
- (e) Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or
- (f) Any offense in another jurisdiction that, had the predicate act(s) been committed in Georgia, would have constituted any of the foregoing offenses.

Specified sexual activity. Any of the following:

- (a) Intercourse, oral copulation, masturbation or sodomy; or
- (b) Excretory functions as a part of or in connection with any of the activities described in (a) above.

Transfer of ownership or control. Any of the following:

- (a) The sale, lease, or sublease of the business;
- (b) The transfer of securities which constitute an influential interest in the business, whether by sale, exchange, or similar means; or
- (c) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Viewing room. The room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video reproduction.

(Ord. No. 042-08, 1-26-09)

Sec. 18-242. - License required.

- (a) *Business license.* It shall be unlawful for any person to operate a sexually oriented business in the county without a valid sexually oriented business license.
- (b) *Employee license.* It shall be unlawful for any person to be an "employee," as defined in this article, of a sexually oriented business in the county without a valid sexually oriented business employee license, except that a person who is a licensee under a valid sexually oriented business license shall not be required to also obtain a sexually oriented business employee license.
- (c) *Application.* An applicant for a sexually oriented business license or a sexually oriented business employee license shall file in person at the office of the county business tax director a completed application made on a form provided by the business tax director. A sexually oriented business may designate an individual with an influential interest in the business to file its application for a sexually oriented business license in person on behalf of the business.

The application shall be signed under oath as required by subsection (d) herein and shall be notarized. An application shall be considered complete when it contains, for each person required to sign the application, the information and/or items required in this subsection (c), accompanied by the appropriate licensing fee:

- (1) The applicant's full legal name and any other names used by the applicant in the preceding five years.
- (2) Current business address or another mailing address for the applicant.
- (3) Written proof of age, in the form of a driver's license, a picture identification document containing the applicant's date of birth issued by a governmental agency, or a copy of a birth certificate accompanied by a picture identification document issued by a governmental agency.
- (4) If the application is for a sexually oriented business license, the business name, location, legal description, mailing address and phone number of the sexually oriented business.
- (5) If the application is for a sexually oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process.
- (6) A statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in this article, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable.
- (7) A statement of whether any sexually oriented business in which an applicant has had an influential interest, has, in the previous five years (and at a time during which the applicant had the influential interest):
 - (i) Been declared by a court of law to be a nuisance; or
 - (ii) Been subject to a court order of closure or padlocking.
- (8) An application for a sexually oriented business license shall be accompanied by a legal description of the property where the business is located and a sketch or diagram showing the configuration of the premises, including a statement of total floor area occupied by the business and a statement of floor area visible or accessible to patrons for any reason, excluding restrooms. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. Applicants who are required to comply with the stage, booth, and/or room configuration requirements of this article shall submit a diagram indicating that the setup and configuration of the premises meets the requirements of the applicable regulations. The business tax director may waive the requirements of this subsection (8) for a renewal application if the applicant adopts a legal description and a sketch or diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

The information provided pursuant to this subsection (c) shall be supplemented in writing by certified mail, return receipt requested, to the business tax director within ten working days of a change of circumstances which would render the information originally submitted false or incomplete.

- (d) *Signature.* A person who seeks a sexually oriented business employee license under this section shall sign the application for a license. If a person who seeks a sexually oriented business license under this section is an individual, he shall sign the application for a license as applicant. If a person who seeks a sexually oriented business license is other than an individual, each person with an influential interest in the sexually oriented business or in a legal entity that controls the sexually oriented business shall sign the application for a license as applicant. Each applicant must be qualified under this article and each applicant shall be considered a licensee if a license is granted.
- (e) *[Maintaining of information.]* The information provided by an applicant in connection with an application for a license under this article shall be maintained by the office of the business tax director on a confidential basis, and such information may be disclosed only as may be required, and only to the extent required, by court order.

(Ord. No. 042-08, 1-26-09)

Sec. 18-243. - Issuance of license.

- (a) *Business license.* Upon the filing of a completed application for a sexually oriented business license, the business tax director shall immediately issue a temporary license to the applicant if the completed application is from a preexisting sexually oriented business that has been in all respects lawfully operating in the county and the completed application, on its face, indicates that the applicant is entitled to an annual sexually oriented business license. The temporary license shall expire upon the final decision of the county to deny or grant an annual license. Within 30 days of the filing of a completed sexually oriented business license application, the business tax director shall either issue a license to the applicant or issue a written notice of intent to deny a license to the applicant. The business tax director shall issue a license unless:
 - (1) An applicant is less than 18 years of age.
 - (2) An applicant has failed to provide information required by this article for issuance of a license or has falsely answered a question or request for information on the application form.
 - (3) The license application fee required by this article has not been paid.
 - (4) The sexually oriented business, as defined herein, is not in compliance with the interior configuration requirements of this article or is not in compliance with locational requirements of this article or the locational requirements of any other part of the Coweta County Code of Ordinances.
 - (5) Any sexually oriented business in which an applicant has had an influential interest has, in the previous five years (and at a time during which the applicant had the influential interest):
 - (i) Been declared by a court of law to be a nuisance; or
 - (ii) Been subject to an order of closure or padlocking.

- (6) An applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this article.
- (b) *Employee license.* Upon the filing of a completed application for a sexually oriented business employee license, the business tax director shall immediately issue a temporary license to the applicant if the applicant seeks licensure to work in a licensed sexually oriented business and the completed application, on its face, indicates that the applicant is entitled to an annual sexually oriented business employee license. The temporary license shall expire upon the final decision of the county to deny or grant an annual license. Within 20 days of the filing of a completed sexually oriented business employee license application, the business tax director shall either issue a license to the applicant or issue a written notice of intent to deny a license to the applicant. The business tax director shall issue a license unless:
 - (1) The applicant is less than 18 years of age.
 - (2) The applicant has failed to provide information as required by this article for issuance of a license or has falsely answered a question or request for information on the application form.
 - (3) The license application fee required by this article has not been paid.
 - (4) Any sexually oriented business in which the applicant has had an influential interest has, in the previous five years (and at a time during which the applicant had the influential interest):
 - (i) Been declared by a court of law to be a nuisance; or
 - (ii) Been subject to an order of closure or padlocking.
 - (5) The applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this article.
- (c) [*License to be posted.*] The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the principal public entrance to the sexually oriented business so that it may be read at any time that the business is occupied by patrons or is open to the public. A sexually oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing.

(Ord. No. 042-08, 1-26-09)

Sec. 18-244. - Fees.

The initial license and annual renewal fees for sexually oriented business licenses and sexually oriented business employee licenses shall be as follows: \$100.00 for the initial fee for a sexually oriented business license and \$75.00 for annual renewal; \$50.00 for the initial sexually oriented business employee license and \$25.00 for annual renewal.

(Ord. No. 042-08, 1-26-09)

Sec. 18-245. - Inspection.

Sexually oriented businesses and sexually oriented business employees shall permit the business tax director and his or her agents to inspect, from time to time on an occasional basis, the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this article, during those times when the sexually oriented business is occupied by patrons or is open to the public. This section shall be narrowly construed by the county to authorize reasonable inspections of the licensed premises pursuant to this article, but not to authorize a harassing or excessive pattern of inspections.

(Ord. No. 042-08, 1-26-09)

Sec. 18-246. - Expiration and renewal of license.

- (a) Each license shall remain valid for a period of one calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in this article.
- (b) Application for renewal of an annual license should be made at least 90 days before the expiration date of the current annual license, and when made less than 90 days before the expiration date, the expiration of the current license will not be affected.

(Ord. No. 042-08, 1-26-09)

Sec. 18-247. - Suspension.

- (a) The business tax director shall issue a written notice of intent to suspend a sexually oriented business license for a period not to exceed 30 days if the sexually oriented business licensee has knowingly violated this article or has knowingly allowed an employee or any other person to violate this article.
- (b) The business tax director shall issue a written notice of intent to suspend a sexually oriented business employee license for a period not to exceed 30 days if the employee licensee has knowingly violated this article.

(Ord. No. 042-08, 1-26-09)

Sec. 18-248. - Revocation.

- (a) The business tax director shall issue a written notice of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if the licensee knowingly violates this article or has knowingly allowed an employee or any other person to violate this article and a suspension of the licensee's license has become effective within the previous 12-month period.
- (b) The business tax director shall issue a written notice of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if:

- (1) The licensee has knowingly given false information in the application for the sexually oriented business license or the sexually oriented business employee license;
 - (2) The licensee has knowingly or recklessly engaged in or allowed possession, use, or sale of controlled substances on the premises of the sexually oriented business;
 - (3) The licensee has knowingly or recklessly engaged in or allowed prostitution on the premises of the sexually oriented business;
 - (4) The licensee knowingly or recklessly operated the sexually oriented business during a period of time when the license was finally suspended or revoked;
 - (5) The licensee has knowingly or recklessly engaged in or allowed any specified sexual activity or specified criminal activity to occur in or on the premises of the sexually oriented business; or
 - (6) The licensee has knowingly or recklessly allowed a person under the age of 18 years to consume alcohol or appear in a state of semi-nudity or nudity on the premises of the sexually oriented business.
- (c) The fact that any relevant conviction is being appealed shall have no effect on the revocation of the license, provided that, if any conviction which serves as a basis of a license revocation is overturned or reversed on appeal, that conviction shall be treated as null and of no effect for revocation purposes.
- (d) When, after the notice and hearing procedure described in this article, the county revokes a license, the revocation shall continue for one year and the licensee shall not be issued a sexually oriented business license or sexually oriented business employee license for one year from the date revocation becomes effective.

(Ord. No. 042-08, 1-26-09)

Sec. 18-249. - Hearing; license denial, suspension, revocation; appeal.

- (a) When the business tax director issues a written notice of intent to deny, suspend, or revoke a license, the business tax director shall immediately send such notice, which shall include the specific grounds under this article for such action, to the applicant or licensee (respondent) by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the business tax director for the respondent. The notice shall also set forth the following: The respondent shall have ten days after the delivery of the written notice to submit, at the office of the business tax director, a written request for a hearing before a hearing officer. If the respondent does not request a hearing within said ten days, the business tax director's written notice shall become a final denial, suspension, or revocation, as the case may be, on the thirtieth day after it is issued, and shall be subject to the provisions of subsection (b) of this section.

If the respondent does make a written request for a hearing within said ten days, then the business tax director shall, within ten days after the submission of the request, send a notice to the respondent indicating the date, time, and place of the hearing. The hearing shall be conducted by the hearing officer not less than ten days nor more than 20 days after the date that the hearing notice is issued. The county shall provide for the hearing to be transcribed.

At the hearing, the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the business tax director's witnesses. The business tax director shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The hearing officer shall issue a final written decision, including specific reasons for the decision pursuant to this article, to the respondent within five days after the hearing.

If the decision is to deny, suspend, or revoke the license, the decision shall advise the respondent of the right to appeal such decision to a court of competent jurisdiction, and the decision shall not become effective until the thirtieth day after it is rendered. If the hearing officer's decision finds that no grounds exist for denial, suspension, or revocation of the license, the hearing officer shall, contemporaneously with the issuance of the decision, order the business tax director to immediately withdraw the intent to deny, suspend, or revoke the license and to notify the respondent in writing by certified mail of such action. If the respondent is not yet licensed, the business tax director shall contemporaneously therewith issue the license to the applicant.

(b) If any court action challenging a licensing decision is initiated, the county shall prepare and transmit to the court a transcript of the hearing within 30 days after receiving written notice of the filing of the court action. The county shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings. The following shall apply to any sexually oriented business that is lawfully operating as a sexually oriented business, or any sexually oriented business employee that is lawfully employed as a sexually oriented business employee, on the date on which the completed business or employee application, as applicable, is filed with the business tax director: Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the county's enforcement of any denial, suspension, or revocation of a temporary license or annual license, the business tax director shall immediately issue the respondent a provisional license. The provisional license shall allow the respondent to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the court's entry of a judgment on the respondent's appeal or other action to restrain or otherwise enjoin the county's enforcement.

(Ord. No. 042-08, 1-26-09)

Sec. 18-250. - Transfer of license.

A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application.

(Ord. No. 042-08, 1-26-09)

Sec. 18-251. - Hours of operation.

No sexually oriented business shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day.

(Ord. No. 042-08, 1-26-09)

Sec. 18-252. - Regulations pertaining to exhibition of sexually explicit films on premises.

- (a) A person who operates or causes to be operated a sexually oriented business which exhibits in a booth or viewing room on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements:
- (1) Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain equipment for displaying films, video cassettes, digital video discs, or other video reproductions. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The business tax director may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
 - (2) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
 - (3) The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five foot-candles as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.
 - (4) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no specified sexual activity occurs in or on the licensed premises.
 - (5) It shall be the duty of the operator to post conspicuous signs in well-lighted entry areas of the business stating all of the following:
 - (i) That the occupancy of viewing rooms less than 150 square feet is limited to one person.
 - (ii) That specified sexual activity on the premises is prohibited.
 - (iii) That the making of openings between viewing rooms is prohibited.

- (iv) That violators will be required to leave the premises.
- (v) That violations of these regulations are unlawful.
- (6) It shall be the duty of the operator to enforce the regulations articulated in (5)(i) through (iv) above.
- (7) The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed 32 square feet of floor area. If the premises has two or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.
- (8) It shall be the duty of the operator to ensure that no porous materials are used for any wall, floor, or seat in any booth or viewing room.
- (b) It shall be unlawful for a person having a duty under subsections (a)(1) through (a)(8) to knowingly fail to fulfill that duty.
- (c) No patron shall knowingly enter or remain in a viewing room less than 150 square feet in area that is occupied by any other patron.
- (d) No patron shall knowingly be or remain within one foot of any other patron while in a viewing room that is 150 square feet or larger in area.
- (e) No person shall knowingly make any hole or opening between viewing rooms.

(Ord. No. 042-08, 1-26-09)

Sec. 18-253. - Loitering, exterior lighting and monitoring, and interior lighting requirements.

- (a) It shall be the duty of the operator of a sexually oriented business to:
 - (1) Ensure that at least two conspicuous signs stating that no loitering is permitted on the premises are posted on the premises;
 - (2) Designate one or more employees to monitor the activities of persons on the premises by visually inspecting the premises at least once every 90 minutes or inspecting the premises by use of video cameras and monitors; and
 - (3) Provide lighting to the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. Said lighting shall be of sufficient intensity to illuminate

every place to which customers are permitted access at an illumination of not less than one foot-candle as measured at the floor level. If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within an operator's station.

- (b) It shall be the duty of the operator of a sexually oriented business to ensure that the interior premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five foot-candles as measured at the floor level and the illumination must be maintained at all times that any customer is present in or on the premises.
- (c) No sexually oriented business shall erect a fence, wall, or similar barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right-of-way.
- (d) It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

(Ord. No. 042-08, 1-26-09)

Sec. 18-254. - Penalties and enforcement.

- (a) A person who knowingly violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this article shall, upon conviction, be punished by fines not to exceed \$1,000.00 per violation, or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. Each day a violation is committed, or permitted to continue, shall constitute a separate offense and shall be punished as such.
- (b) The operation of a sexually oriented business without a valid license in violation of this chapter shall constitute a nuisance, and any person who operates or causes to be operated such business shall be subject to a suit for injunctive relief as well as prosecution for criminal violations. The county's legal counsel is hereby authorized to institute civil proceedings necessary for the enforcement of this article to enjoin, prosecute, restrain, or correct violations hereof. Such proceedings shall be brought in the name of the county, provided, however, that nothing in this section and no action taken hereunder, shall be held to exclude such criminal or administrative proceedings as may be authorized by other provisions of this article, or any of the laws in force in the county or to exempt anyone violating this Code or any part of the said laws from any penalty which may be incurred.

(Ord. No. 042-08, 1-26-09)

Sec. 18-255. - Applicability of article to existing businesses.

All preexisting sexually oriented businesses lawfully operating in the county, in compliance with all state and local laws, prior to the effective date of this article, and all sexually oriented business employees working in the county prior to the effective date of this article, are hereby granted a de facto temporary license to continue operation or employment for a period of 90 days following the effective date of this article. By the end of said 90 days, all sexually oriented

businesses and sexually oriented business employees must conform to and abide by the requirements of this article.

(Ord. No. 042-08, 1-26-09)

Sec. 18-256. - Prohibited conduct.

- (a) No patron, employee, or any other person shall knowingly or intentionally, in a sexually oriented business, appear in a state of nudity or engage in a specified sexual activity.
- (b) No person shall knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the person is an employee who, while semi-nude, remains at least six feet from all patrons and on a stage at least 18 inches from the floor in a room of at least 600 square feet.
- (c) No employee who regularly appears semi-nude in a sexually oriented business shall knowingly or intentionally touch a customer or the clothing of a customer on the premises of a sexually oriented business.
- (d) No person shall sell, use, or consume alcoholic beverages on the premises of a sexually oriented business.
- (e) No person shall knowingly or recklessly allow a person under the age of 18 years to be or remain on the premises of a sexually oriented business.
- (f) No operator or licensee of a sexually oriented business shall knowingly violate the regulations in this section or knowingly allow an employee or any other person to violate the regulations in this section.
- (g) A sign in a form to be prescribed by the Business Tax Director, and summarizing the provisions of subsections (a), (b), (c), (d), and (e), shall be posted near the entrance of the sexually oriented business in such a manner as to be clearly visible to patrons upon entry. No person shall cover, obstruct, or obscure said sign.

(Ord. No. 042-08, 1-26-09)

Sec. 18-257. - Scierter required to prove violation or business licensee liability.

This article does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this article. Notwithstanding anything to the contrary, for the purposes of this article, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually oriented business licensee for purposes of finding a violation of this article, or for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

(Ord. No. 042-08, 1-26-09)

Sec. 18-258. - Failure of county to meet deadline not to risk applicant/licensee rights.

In the event that a county official is required to act or to do a thing pursuant to this article within a prescribed time, and fails to act or to do such thing within the time prescribed, said failure shall not prevent the exercise of constitutional rights of an applicant or licensee. If the act required of the county official under this article, and not completed in the time prescribed, includes approval of condition(s) necessary for approval by the county of an applicant or licensee's application for a sexually oriented business license or a sexually oriented business employee's license (including a renewal), the license shall be deemed granted and the business or employee allowed to commence operations or employment the day after the deadline for the county's action has passed.

(Ord. No. 042-08, 1-26-09)

Sec. 18-259. - Location of sexually oriented businesses.

- (a) It shall be unlawful to establish, operate, or cause to be operated a sexually oriented business in Coweta County, unless said sexually oriented business is at least:
 - (1) One thousand feet from any parcel occupied by another sexually oriented business or by any establishment licensed by the State of Georgia to sell alcohol at the premises; and
 - (2) One thousand feet from any parcel occupied by a school, religious institution, public park, recreation facility, licensed day-care center, or property used or zoned for residential purposes.
- (b) For the purpose of this section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from nearest point on a property boundary of the parcel occupied by the sexually oriented business to the nearest point on a property boundary or right-of-way associated with any of the land use(s) identified in subsection (a) above.
- (c) Notwithstanding anything to the contrary in the Coweta County Code of Ordinances, a nonconforming sexually oriented business, lawfully existing in all respects under law prior to the effective date of this article, may continue to operate for two years following that date in order to make a reasonable recoupment of its investment in its current location. At the conclusion of said two years, the use will no longer be recognized as a lawful nonconforming use, provided that a nonconforming sexually oriented business may apply for one or more six-month extensions of the original two-year period upon a showing of financial hardship. An application for an initial extension based upon financial hardship ("hardship exception") shall be made at least 60 days before the conclusion of the aforementioned two-year period. If a hardship extension is granted, subsequent applications for hardship extensions shall be made at least 60 days before the conclusion of the nonconforming sexually oriented business's current extension period.
- (d) Procedure for seeking hardship extension. An application for a hardship extension shall be filed in writing with the business tax director, and shall include evidence of purchase and improvement costs, income earned and lost, depreciation, and costs of relocation. Within ten days after receiving the application, the business tax director shall schedule a public hearing on the application before the hearing officer, which public hearing shall be conducted within

30 days after the business tax director's receipt of the application. Notice of the time and place of such public hearing shall be published at least ten days before the hearing in a newspaper of general circulation published within the county, and shall contain the particular location for which the hardship extension is requested.

The hearing officer shall issue a written decision within ten days after the public hearing on the application for a hardship extension. The hardship extension shall be granted upon a showing that the nonconforming sexually oriented business is unable to recoup its investments, made prior to the effective date of this article, in its current location unless the hardship extension is granted.

(Ord. No. 042-08, 1-26-09)

Sec. 18-260. - Severability.

This article and each section and provision of said article hereunder, are hereby declared to be independent divisions and subdivisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said article, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid. Should any procedural aspect of this article be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this article.

(Ord. No. 042-08, 1-26-09)

Sec. 18-261. - Conflicting code provisions repealed.

Any provision(s) in the Coweta County Code of Ordinances specifically in conflict with any provision in this article is hereby deemed inoperative and repealed.

(Ord. No. 042-08, 1-26-09)

Sec. 18-262. - Effective date.

This article shall become effective immediately after passage as provided by law.

(Ord. No. 042-08, 1-26-09)

Secs. 18-263—18-279. - Reserved.

ARTICLE VIII. - GOING-OUT-OF-BUSINESS AND SIMILAR SALES

Sec. 18-280. - Going-out-of-business and similar sales.

Prior to the commencement of a going-out-of-business sale or similar sale more specifically described herein, the business shall notify the business tax department of the start for such sale. Such sale shall be conducted for no more than 90 days. All additional signage must comply with and be permitted in accordance with the Coweta County Sign Ordinance. After expiration of the 90 days, it shall be unlawful to operate the business in any manner contrary to representations that were made about the nature of the sale by the existing business.

- (a) It shall be unlawful for any business to conduct a "going-out-of-business" sale or similar type sale for more than 90 days from the start of such sale. For purposes of this article, the use of terminology such as "inventory liquidation," "fire sale," "damaged sale," "bankrupt sale," "close-out sale," or "emergency sale" shall constitute a similar type sale and shall be unlawful unless such representations are true and in no respect misleading as to the retailer's intention to discontinue operation or discontinue or permanently reduce the price of certain merchandise.
- (b) It shall be unlawful to advertise, for more than 100 days, by newspaper, radio, poster signs, or otherwise and thereby represent that a business is operating, offering or maintaining fire sales, inventory liquidation sales, damage sales, bankrupt sales, close-out or going-out-of-business sales whereby the public or the customers or any persons are led to believe that they are being offered merchandise at reduced rates on account of fire, damage, bankruptcy, liquidation, receivership, closing-out or going-out-of-business, when in fact the sales are not bona fide fire sales, damage sales, bankrupt sales, receivership sales, liquidation sales, close-out or going-out-of-business sales.
- (c) It shall be unlawful for anyone to represent by advertisement or otherwise that he or she is conducting in the county a sale of any goods, wares or merchandise, which are or have been, or which are claimed to be or have been, in or damaged by fire, or sold or purchased on account of fire, or which is property of any bankrupt or person who has failed in business, or has made a general assignment, or is or has been in voluntary or involuntary bankruptcy, or which are being sold or offered for sale in any other way than through the usual channels of sales, to sell or offer for sale in the county any goods, wares or merchandise not so circumstanced or affected or damaged, or to add or replenish any such goods, wares or merchandise with goods, wares or merchandise not so circumstanced or affected.
- (d) This article shall not apply to:
 - (1) Estate sales by an authorized agent of the deceased, according to law or by the provisions of the will;
 - (2) Sales of property conveyed by security deed, deed of trust, mortgage or judgment, or ordered to be sold according to the deed, mortgage, judgment or order;
 - (3) Sales of all agricultural produce and livestock arising from the labor of the seller or other labor under the seller's control, on or belonging to the seller's property, and not purchased or sold for speculation;
 - (4) All sales under legal process;
 - (5) Sales by a pawnbroker or loan company selling or offering for sale unredeemed pledges of goods, as provided by law; and

(6) Sales of automobiles by an auctioneer licensed under the laws of the State of Georgia.

(Ord. No. 013-10, 5-18-10)

DIVISION 1. - GENERALLY

Sec. 18-31. - Authority.

The authority to impose this license and tax is pursuant to O.C.G.A. §§ 48-13-1—48-13-26.

(Code 1985, § 10-1)

Sec. 18-32. - Business tax department established.

A business tax department is hereby created for the county. The department shall be composed of a director and any other employees as may be necessary. Subject to the direction of the county administrator, the supervision and control of the department is vested in the director.

(Code 1985, § 10-2)

Sec. 18-33. - Occupation tax required for business dealings in the county.

Every year, each person engaged in any business, trade, profession, or occupation in Coweta County, Georgia, whether with a location in unincorporated Coweta County or, in the case of an out-of-state business with no location in Georgia, exerting substantial efforts within the state pursuant to O.C.G.A. § 48-13-7, shall pay an occupation tax for said business, trade, profession, or occupation; which tax and any applicable registration shall be displayed in a conspicuous place in the place of business. If the taxpayer has no permanent business location in the county, such business tax registration shall be shown to the business tax director or this department or to any county enforcement officer upon request.

(Code 1985, § 10-3)

Sec. 18-34. - Construction of terms; definitions.

As used in this article, the term:

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

Director means the director of the business tax department of the county.

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

Gross receipts.

- (1) *Gross receipts* means the total revenue of the business or practitioner for the period, including without limitation to the following:
 - a. Total income without deduction for the cost of goods or expenses incurred;
 - b. Gain from trading in stocks, bonds, capital assets, or instruments of indebtedness;
 - c. Proceeds from commissions on the sale of property, goods, or services;
 - d. Proceeds from fees for services rendered; and
 - e. Proceeds from rent, interest, royalty, or dividend income.
- (2) *Gross receipts* shall not include the following:
 - a. Sales, use, or excise tax;
 - b. Sales returns, allowances, and discounts;
 - c. Interorganizational sales or transfers between or among the units of a parent-subsidiary controlled group of corporations as defined by 26 USC 1563(a)(1), or between or among the units of a brother-sister controlled group of corporations as defined by 26 USC 1563(a)(2);
 - d. Payments made to a subcontractor or an independent agent; and
 - e. Governmental and foundation grants, charitable contributions, or the interest income derived from such funds received by a nonprofit organization which employs salaried practitioners otherwise covered by this chapter, if such funds constitute 80 percent or more of the organization's receipts.

Location of office shall not include a temporary work site which serves a single customer or project.

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.

Person shall be held to include sole proprietors, corporations, partnerships, nonprofits, or any other form of business organization.

Practitioner of profession or occupation is one who by state law requires state licensure regulating such profession or occupation.

Practitioner of professions and occupations shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.

Regulatory fees means payments, whether designated as license fees, permit fees, or by another name, which are required by a local government as an exercise of its police power and as a part of or an aid to regulation of an occupation, profession, or business. The amount of a regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the county. A regulatory fee may not include an administrative fee. Development impact fees as defined by O.C.G.A. § 36-71-2(8) or other costs or conditions of zoning or land development are not regulatory fees.

(Code 1985, § 10-4)

Cross reference— Definitions generally, § 1-2.

Sec. 18-35. - Administrative fee charged.

A nonprorated, nonrefundable administrative fee in an amount determined by the board of commissioners and listed in the schedule of fees and charges shall be required on all business and occupation tax accounts for the initial start-up, renewal, or reopening of those accounts.

(Code 1985, § 10-5)

Sec. 18-36. - Regulatory fee charged.

A regulatory fee in an amount determined by the board of commissioners and listed in the schedule of fees and charges is imposed on the following professions and occupations:

- (1) Carnivals;
- (2) Taxicab, limousine and non-emergency transport operators;
- (3) Tattoo artists;
- (4) Stables;
- (5) Shooting galleries and firearm ranges;
- (6) Scrap metal processors;
- (7) Pawnbrokers;
- (8) Food service establishments;
- (9) Dealers in precious metals;
- (10) Peddlers;
- (11) Parking lots;
- (12) Nursing and personal care homes;
- (13) Newspaper vending boxes;
- (14) Modeling agencies;
- (15) Massage parlors;
- (16) Auto and motorcycle racing;
- (17) Boardinghouses;
- (18) Businesses that provide appearance bonds;
- (19) Boxing and wrestling promoters;
- (20) Hotels and motels;
- (21) Hypnotists;
- (22) Handwriting analysts;

- (23) Health clubs, gyms and spas;
- (24) Fortunetellers;
- (25) Escort services;
- (26) Burglar and fire alarm installers; and
- (27) Locksmiths.

This regulatory fee does not and shall not include an administrative fee.

(Code 1985, § 10-6; Ord. of 1-7-03; Ord. of 10-4-05)

Sec. 18-37. - Occupation tax levied; restrictions.

- (a) *Tax criteria.* 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 and/or upon the applicable out-of-state businesses with no location or office in Georgia pursuant to O.C.G.A. § 48-13-7 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 U.S. Office of Management and Budget, the U.S. Internal Revenue Service, North American Industry Classification System (NAICS) 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 and will be developed and updated from time to time by the business tax director.

Profitability ratio/tax class	Tax rate on gross receipts
Class 1	0.00050
Class 2	0.000625
Class 3	0.00075

Administrative Fee: \$35.00

Maximum Cap: \$12,000.00

- (c) *Restrictions.*

- (1) No business or practitioner shall be required to pay more than one occupation tax for each of its locations.
- (2) No occupation tax will be required upon more than 100 percent of a business's gross receipts.
- (3) No occupation tax will be required on receipts on which such tax has been levied in other localities or states.
- (4) An occupation tax shall be required from real estate brokers, agents, or companies whose offices are located outside the taxing jurisdiction and who sell property inside the taxing jurisdiction. This tax shall be based upon gross receipts only from real estate transactions with respect to property located within the unincorporated area of the county.
- (5) An occupation tax shall not be levied in any other manner except as described in this section.
- (6) Occupation taxes are limited to the gross receipts in the State of Georgia unless otherwise specified elsewhere in this chapter.
- (7) Out-of-state businesses with no location in Georgia shall be assessed occupation taxes based on the gross receipts of the business as defined in O.C.G.A. § 14-13-7 (see section 18-34) which are reasonably attributed to sales or services in the State of Georgia.

(Code 1985, § 10-7; Ord. No. 014-16, § 1, 4-26-16)

Sec. 18-38. - Exception for disabled veterans.

Any veteran obtaining a certificate of exemption from the State of Georgia, Department of Veterans Service, shall be exempted from purchasing a certificate under the provisions of this chapter. This exemption shall apply to one business at a time normally taxed hereunder and shall not apply to any additional businesses or locations as defined in section 18-34.

(Code 1985, § 10-8)

Sec. 18-39. - Administration; appeals; rate review.

- (a) Administration of this article shall be by the director hereunder unless otherwise provided in this article.
- (b) Appeals from any decision of the director or an authorized county official hereunder, shall be made in the same manner provided for appeals from decisions of these officials.
- (c) Review of rates and classifications provided shall be provided by the board of commissioners and the business tax rate review and appeals committee.

(Code 1985, § 10-9)

Sec. 18-40. - Administration of chapter and appeals.

- (a) The director shall enforce the provisions of this Code involving the application for an issuance of business certificates and the regulation of businesses unless otherwise provided in this Code.
- (b) Appeals from any decision of the director shall be made to the business tax rate review and appeal committee by any person aggrieved thereby in the manner provided in this Code.

(Code 1985, § 10-10)

Sec. 18-41. - Issuance; denial; appeal.

- (a) *Issuance.* Coweta County business tax certification shall be issued by the director or county official hereunder upon the receipt of the application, payment of applicable fees and taxes, and the determination that the provisions of this chapter have been satisfied.
- (b) *Denial.*
 - (1) The director or an authorized county official hereunder shall not issue a certificate to any business engaged in unlawful activity or in such a manner as to violate lawful ordinances adopted by the board of commissioners. Unlawful activity shall include, but not be limited to, activities in violation of the zoning regulations and heating, electrical, health and building codes.
 - (2) All business certificates will be granted upon the condition that applicable county taxes on all real and personal property and all health licenses, fees and permits associated with the applicant's business be paid by the due date. Any business not fulfilling this requirement is subject to revocation of the business certificate as stated in this chapter.
 - (3) Any applicant which is denied a certificate will receive a refund for the certificate fee only. The administrative fee is nonrefundable.
- (c) *Appeal.*
 - (1) If an applicant is denied a county business certificate by the director, the applicant may file a written appeal from the denial to the Coweta County business tax rate review and appeals committee. An appeal must be filed with the director within 30 days from the denial. The director shall schedule a hearing before the committee and notify the appellant of the time and place of the hearing. The committee shall hear evidence relating to the denial of the certificate and at the conclusion of the hearing enter an order which sets forth a finding of the facts and a recommendation as to the appropriate action to be taken by the board of commissioners. The director shall transmit to the board of commissioners the official file and the order of the committee. The board of commissioners, without holding a hearing, shall review the file and the findings of fact and recommendations of the committee. The board of commissioners shall have the authority to affirm the action of the director or issue an order directing the director to issue the business certificate upon payment of the appropriate taxes and fees.
 - (2) All appeal requests will be submitted with a nonrefundable processing fee as defined in the schedule of fees and charges. Any applicant which can prove to the satisfaction of the business tax director that he/she is indigent will have the appeals fee waived.

(Code 1985, § 10-11; Ord. of 9-12-96; Ord. of 10-5-04)

Sec. 18-42. - Reserved.

Editor's note— An ordinance of July 6, 2000, deleted § 18-42 in its entirety. Former § 18-42 pertained to conditional business certificates and derived from the 1985 Code and an ordinance of Oct. 20, 1998.

Sec. 18-43. - Business tax rate review and appeal committee.

The board of commissioners shall appoint five members to the Coweta County tax rate review and appeals committee. One member shall be appointed from each commission district and each member's term will run concurrent with that of the commissioner of the district from which the member is appointed. The committee's duties shall be as follows:

- (1) The committee shall select one of its members as presiding officer.
- (2) The committee shall adopt rules and procedures for conducting its business.
- (3) The committee shall serve as an appeals committee and all actions of the director of the business tax department including denial, suspension or revocation of a certificate, may be appealed to the committee in the manner set forth herein.
- (4) The committee shall annually review all business tax rates, fees, and categories of business subject to business tax and fees and make recommendations to the board of commissioners as to adjustments, if any, the committee considers appropriate in rate categories.
- (5) If any individual, firm or corporation subject to the payment of a business tax deems the tax to be unlawful, discriminatory or inequitable, it may pay the tax imposed by the board of commissioners under protest and then file a written request for review with the director of the business tax department. The request for review must be filed within 45 days from the date the tax is paid. The director shall, within 30 days from the date of receipt of the request for review from the licensee, schedule a conference with the licensee to review those matters set forth in the licensee's request for review. Within ten days from the date of the conference, a determination shall be made by the director in writing and a copy of the determination shall be sent to the licensee by certified mail. In the event the licensee is dissatisfied with the determination made by the director, it may, within 15 days from the date of receipt of the determination of the director, file its appeal to the county business tax and tax rate review and appeal committee. The appeal shall be in writing and shall be filed with the director of the county business tax department. The director shall, upon receipt of an appeal, schedule a hearing before the committee and notify the licensee of the date of the hearing. The committee shall hold a hearing and hear evidence and consider all matters relating to the licensee's appeal. Upon conclusion of the hearing, the committee shall enter a written finding of fact and make a written recommendation to the board of commissioners. The director of the county business tax department shall transmit the committee's findings and recommendations to the board of commissioners for appropriate action of the licensee's appeal. The board of commissioners is not required to follow the recommendations of the committee, but shall give the recommendations of the

committee careful consideration in reaching its final decision. Since the report from the committee to the board of commissioners shall contain a finding of fact, the board of commissioners shall not be required to conduct a hearing prior to making a final decision of the licensee's appeal. The board of commissioners shall notify the licensee taxpayer of its final decision. An appeal will then be set forth before the business tax rate review board as set forth in section 18-42(c)(1) and (2).

(Code 1985, § 10-13)

Sec. 18-44. - Display of certificate and registrations.

All persons shall exhibit and display all certificates issued to them under this Code in some conspicuous place in their business establishment at which address the certificate or registration was issued. Any transient or nonresident person, firm, or corporation doing business within the county shall carry the license or registration either upon his or her 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.

(Code 1985, § 10-14)

Sec. 18-45. - Revocation of certificate.

- (a) If any certificate holder, employee or business which has been issued a county business certificate by the director is engaged in unlawful activities, including violations of laws of the State of Georgia, appropriate county ordinances, applicable zoning regulations, or applicable heating, electrical, health, or building codes, the business certificate may be revoked in the manner provided herein. Where it is reported to the director if the director's preliminary investigation reveals that there may be a basis for revocation or suspension of the certificate, the business certificate holder will be notified to appear before the director and show cause on a date certain why his or her business certificate should not be revoked or suspended. The business certificate holder may appear in person at the hearing or be represented by counsel. At the conclusion of the hearing, the director, based upon evidence submitted at the hearing, shall enter an order making a finding of fact and then:
- (1) Find that the evidence does not authorize revocation or suspension;
 - (2) Issue a warning to business;
 - (3) Suspend business certificate and probate suspension;
 - (4) Revoke certificate and probate revocation;
 - (5) Suspend certificate; or
 - (6) Revoke certificate.
- (b) Within 30 days from the date of the order from the director, the business may appeal the decision by filing a notice of appeal to the business tax rate review and appeals committee. The hearing shall be scheduled and an order shall be issued by the committee which contains therein a finding of fact and a recommendation of appropriate action by the board of

commissioners. The board of commissioners, without the necessity of a hearing, based on the file and order of the committee, may affirm, overrule, or partially affirm, partially overrule the decision of the director, or take any other appropriate action regarding licensee.

(Code 1985, § 10-15)

Sec. 18-46. - Paying occupation tax of business with no location in Georgia.

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

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

(Code 1985, § 10-16)

Sec. 18-47. - Each line of business to be identified on business registration.

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

(Code 1985, § 10-17)

Sec. 18-48. - Number of businesses considered to be operating in county.

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

(Code 1985, § 10-18)

Sec. 18-49. - Professionals as classified in O.C.G.A. § 48-13-9(c)(1) through (18).

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

- (1) The occupation tax based on gross receipts combined with profitability ratios as set forth in this article; or
- (2) A fee of \$400.00 per practitioner who is licensed to provide the service, such tax to be paid at the practitioner's office or location; provided, however that a practitioner paying according to this subsection shall not be required to provide information to the local government relating to the gross receipts of the business or practitioner. The per

practitioner fee applies to each person in the business who qualifies as a practitioner under the state's regulatory guidelines and framework.

This election is to be made on an annual basis and must be done by January 1 of each year.

(Code 1985, § 10-19)

Sec. 18-50. - Practitioners exclusively practicing for a government.

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

(Code 1985, § 10-20)

Sec. 18-51. - Purpose and scope of tax.

The occupation tax levied herein is for revenue purposes only and is not for regulatory purposes. (The occupation tax only applies to those businesses and occupations which are covered by the provisions of O.C.G.A. §§ 48-13-5—48-13-26.) All other applicable businesses and occupations are taxed by the local government pursuant to the pertinent general and/or local law and ordinance.

(Code 1985, § 10-21)

Sec. 18-52. - When tax due and payable; effect of transacting business when tax delinquent.

- (a) Each such occupation tax shall be for the calendar year 1995 and succeeding calendar years thereafter unless otherwise specifically provided. Said registration and occupation tax shall be payable January 1 of each year and shall, if not paid by April 15 of each year, be subject to penalties for delinquency as prescribed in section 18-72 of this article. On any new profession, trade, or calling begun in county in 1995 or succeeding years thereafter, the registration and tax shall be delinquent if not obtained immediately upon beginning business and a penalty in the amount of ten percent of the tax and interest calculated monthly in the amount of 1½ percent of the tax shall be assessed. The percentage shall be a 1½ percent penalty and a 1½ percent interest calculated monthly for all subsequent years. The business shall submit a revenue statement based on prior year's gross receipts on a form provided by the business tax director. The tax registration herein provided for shall be issued by the business tax director and if any person, firm, or corporation whose duty it is to obtain a registration shall, after said registration or occupation tax becomes delinquent, transact or offer to transact, in county, any of the kind of profession, trade, or calling subject to this article without having first obtained said registration, such offender shall, upon conviction by the magistrate judge, be punished as provided in section 1-15.
- (b) In addition to the above remedies, the business tax department may proceed to collect in the same manner as provided by law for tax executions.

(Code 1985, § 10-22; Ord. of 2-21-95(2); Ord. of 4-1-03; Ord. No. 014-16 § 2, 4-26-16)

Sec. 18-53. - Allocation of gross receipts of business with multiple intrastate or interstate locations.

For those businesses that 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 county location. 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 county and elsewhere and allotted to those locations. Upon request, the business or practitioner with 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; and
- (2) Information relating to the allocation of the business's or practitioner's gross receipts by other local governments. 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.

(Code 1985, § 10-23)

Sec. 18-54. - Location of business.

- (a) *One location authorized.* A business certificate granted under this article shall not authorize the holder thereof to exercise or carry on a trade, business or profession named herein at any other place than mentioned in the certificate, except as otherwise provided herein.
- (b) *Change of location.* Any person moving from one location to another shall notify the director of this move and the new address in writing on a form provided by the director of business tax no later than the date of moving. A new certificate will be issued at the new location if the location conforms to the zoning regulations of the county.

(Code 1985, § 10-24)

Sec. 18-55. - Transfer of certificate.

Business certificates shall not be transferable, 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 certificate shall be required for the new owner of the business.

(Code 1985, § 10-25)

Sec. 18-56. - Expiration of certificate.

The certificate referred to in this article shall automatically expire on December 31 after the year of its issuance.

(Code 1985, § 10-26)

Sec. 18-57. - Exemption on grounds that business is operated for charitable purpose.

No business on which a business registration or occupation tax is levied by this chapter shall be exempt from said registration or tax on the ground that such business is operated for a charitable purpose, unless 100 percent of the entire proceeds from said business are devoted to such purpose.

(Code 1985, § 10-27)

Sec. 18-58. - Evidence of state registration required if applicable; state registration to be displayed; additional requirements for issuance of certificate.

- (a) Each person who is licensed by the secretary of state pursuant to O.C.G.A. tit. 43 shall provide evidence of proper and current state licensure before the county registration may be issued.
- (b) Each person who is licensed by the state shall post the state license in a conspicuous place in the licensee's place of business and shall keep the license there at all times while the license remains valid.
- (c) In addition to the requirements of section 18-34, the following businesses shall meet the listed additional requirements before the director may issue a license under section 18-41:

Ambulance service —state license required.

Auctioneer —state license required.

Auto parts (used and reconditioned)—state license required.

Auto salvage yard —state license required.

Automobile dealer —state license required.

Barbershop —state license required.

Beauty shop —state license required.

Bondsman —sheriff's department approval required.

Burglar alarm installation —low voltage state license required/notify sheriff's department.

Carnivals or amusement rides —proof of liability insurance/approval of sheriff's department.

Catering (including trucks)—approval of health department.

Chemical manufacturing or sales —approval of fire department.

Day care center —state department of human resources license required.

Day care home —certificate of registration from state department of human resources.

Delicatessen —health and fire department approval.

Employment agency —license from state department of labor if fee paid by employee.

Explosives, sales/distribution —license from state fire marshal.

Fire alarm installation —notify fire department.

Guns, firearms, ammunition —state and federal license required.

Hatchery —license required from state department of agriculture.

Ice cream shops —health department approval required.

Locksmith —approval of sheriff's department.

Lodginghouses and roominghouses —certificate from state department of human resources required.

Meat packing plant —license required from state department of agriculture.

Meats/retail from truck —license required from state department of agriculture.

Meats/wholesale —license required from state department of agriculture.

Nursing home, including convalescent home —certificate from state department of human resources.

Pawnbrokers —approval of sheriff's department required.

Pest control —state license required.

Polygraph examiner —state license required.

Private detective or investigator —state license required.

Professionals —state license required.

Restaurants —approval of health and fire department.

Roominghouses —certificate from state department of human resources.

Sanitoriums —certificate from state department of human resources.

Shooting gallery —fire and sheriff's department approval.

Skating rinks —fire department approval.

Spas —proof of \$20,000.00 bond or letter of exemption from state department of consumer affairs.

Tattoo shop —approval of the county board of health and copy of the state medical license by physician in charge of tattooing.

Wrecker service —approval of sheriff's department and amber light permit.

(Code 1985, § 10-28)

Sec. 18-59. - Evidence of qualification required if applicable.

Any business required to obtain health permits, bonds, certificates of qualification or certificates of competency, meet all zoning regulations, or any other regulatory matter shall first,

before the issuance of a county business registration, show evidence that such requirements have been met.

(Code 1985, § 10-29)

Sec. 18-60. - Liability of officers and agents; registration required; failure to obtain.

All persons subject to the occupation tax levy pursuant to this article shall be required to obtain the necessary registration for said business as described in this article, and in default thereof the officer or agent soliciting for or representing such persons shall be subject to the same penalty as other persons who fail to obtain a registration. Every person commencing business in the county after January 1 of each year shall likewise obtain the registration herein provided for before commencing the same; and any person transacting, or offering to transact in county, any of the kinds of business, trade, profession, or occupation without first having so obtained said registration, shall be subject to penalties provided thereof.

(Code 1985, § 10-30)

Sec. 18-61. - Requirements, deadlines and penalties for business licenses.

- (a) Applicant for registration shall be a U.S. citizen or maintain a permanent alien residency status and shall provide documentation thereof including federal ID or sales tax ID at the time of registration.
- (b) Each such registration shall contain a copy of the business' tax return or a current profit and loss statement. Each such registration shall be due no later than April 15 for the calendar year in which the registration is obtained unless otherwise specifically provided. There is hereby imposed a penalty upon each business which fails to apply for and obtain an appropriate business registration and pay all tax and fees as provided herein by April 15 of each year, and by April 15 each year hereafter. Every person commencing business in the county after January 1 of each year shall obtain the registration required before commencing such business.
- (c) Any person transacting or offering to transact in the county any business, trade, profession, or occupation without first having obtained said registration shall be subject to the penalties provided. Said penalties shall be in addition to all other penalties, civil and criminal herein provided; and may be collected by the remedies herein provided for collection of the occupation tax, and shall have the same lien and priority as the occupation tax to which the penalty is applied.
- (d) The registration herein provided for shall be issued by the business tax department, and if any person, firm, or corporation whose duty it is to obtain a registration shall after said occupation tax becomes delinquent, transact or offer to transact, in the county, any of the kind of business, trade, profession, or occupation without having first obtained said registration, such offender shall be subject to the penalties provided herein.

(Ord. No. 040-08, 12-16-08)

Editor's note— Ord. No. 040-08, adopted Dec. 18, 2008 amended § 18-61 in its entirety to read as herein set out. Former § 18-61 pertained to similar subject matter and derived from the 1985 Code, and an ordinance adopted Feb. 21, 1995.

Sec. 18-62. - Penalties for violation.

Any person violating any provisions of this article shall, upon conviction before the magistrate judge, be punished as provided in section 1-15.

(Code 1985, § 10-32)

Sec. 18-63. - Businesses not covered by article.

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

- (1) Those businesses regulated by the Georgia Public Service Commission.
- (2) Those electrical service businesses organized under O.C.G.A. tit. 46, ch. 3.
- (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. § 2-10-105.
- (5) Insurance companies governed by O.C.G.A. § 33-8-8 et seq.
- (6) Motor common carriers governed by O.C.G.A. § 46-7-15.
- (7) Those businesses governed by O.C.G.A. § 48-5-355. (Businesses that purchase carload lots of guano, meats, meal, flour, bran, cottonseed, or cottonseed meal and hulls.)
- (8) Agricultural products and livestock raised in the State of Georgia governed by O.C.G.A. § 48-5-356.
- (9) Depository financial institutions governed by O.C.G.A. § 48-6-93.
- (10) Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55.

(Code 1985, § 10-33)

Sec. 18-64. - Occupation tax inapplicable where prohibited by law or provided for pursuant to other existing law.

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

(Code 1985, § 10-34)

Sec. 18-65. - Occupation taxes levied on business transacted during previous calendar year.

All occupation taxes levied under this article are levied on the amount of business transacted during the previous calendar year.

(Code 1985, § 10-35)

Sec. 18-66. - Payment of occupation tax by newly established businesses.

In the case of a business subject to occupation tax for a calendar year, which was not conducted for any period of time in the corporate limits of county in the preceding year, the owner, or individual engaged in said business liable for the occupation tax shall estimate the gross volume of revenues from commencing date to the end of the calendar year, and such amount shall be paid in accordance with the provisions of this chapter.

(Code 1985, § 10-36)

Sec. 18-67. - 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, said business shall be required to obtain the necessary registration for each location and line and pay an occupation tax in accordance with the prevailing taxing method and tax rate for each location and line.

(Code 1985, § 10-37)

Sec. 18-68. - Returns confidential.

Except in the case of judicial proceedings or other proceedings necessary to collect the occupation tax hereby levied, it shall be unlawful for any officer, employee, agent, or clerk of county, or any other person to divulge or make known in any manner the amount of gross receipts or any particulars set forth or disclosed in any occupation tax return required under this article. All contents of said return shall be confidential and open only to the officials, employees, agents, or clerks of the county using said returns for the purpose of this occupation tax levy and the collection of the tax. Independent auditors or bookkeepers employed by the county shall be classed as "employees." Nothing herein shall be construed to prohibit the publication by county officials of statistics, so classified as to prevent the identification of particular reports or returns and items thereof, or the inspection of the records by duly qualified employees of the tax departments of the State of Georgia, the United States, and other local governments.

(Code 1985, § 10-38)

Sec. 18-69. - Inspections of books and records.

- (a) In any case the business tax department of the county, through its officers, agents, employees, or representatives, may inspect the books of the business for which the returns are made. The business tax department officer shall have the right to inspect the books or records for the business of which the return was made in Coweta County, Georgia, and upon demand of the

business tax department, such books or records shall be submitted for inspection by a representative of the county within 30 days. Failure of submission of such books or records within 30 days shall be grounds for revocation of the tax registration currently existing to do business in the county. Adequate records shall be kept in Coweta County, Georgia, for examination by the business tax department at that officer's discretion.

- (b) If, after examination of the books or records, it is determined that a deficiency occurs as a result of under reporting, a six-percent penalty and a two-percent interest monthly will be assessed for the period delinquent.

(Code 1985, § 10-39)

Sec. 18-70. - Tax registration to be revoked for failure to pay tax, file returns, permit inspection of books.

Upon the failure of any business to pay said occupation tax or any part thereof before it becomes delinquent, or upon failure to make any of said returns within the time required herein, or upon failure to make a true return, or upon failure to amend a return to set forth the truth, or upon failure to permit inspection of its books as above provided, any business tax registration granted by the county under this chapter permitting the owner of said business to do business for the current year shall be, ipso facto, revoked. This revocation may be reviewed, however, as provided in section 18-43 of this article. This issue to be determined by investigation and hearing shall be in violation of the provisions of this section.

(Code 1985, § 10-40)

Sec. 18-71. - Effect of failure to comply with ordinance provisions; continuing in business after tax registration revocation.

Any persons, their managers, agents, or employees, who do business in said county after the registration for said business has been revoked as above, hereby required to make occupation tax returns, and who fail to make said returns within the time and in the manner herein provided, who 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 business hours, for the purpose of determining the accuracy of the returns herein provided for, shall be subject to penalties provided in this article.

(Code 1985, § 10-41)

Sec. 18-72. - Lien taken for delinquent occupation tax.

- (a) In addition to the other remedies herein provided for the collection of the occupation tax herein levied, the business tax department of Coweta County, Georgia, upon any tax or installment of said 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 of two percent per month from the date when such

tax or installment becomes delinquent, and the lien shall cover the property (in the county) of the person, partnership, or corporation liable for said tax, all as provided by the ordinances of said county and the laws of Georgia. The lien of said occupation tax shall become fixed on and date from the time when such tax or any installment thereof becomes delinquent.

- (b) The execution shall be levied by the business tax department of said county upon the property of defendant located in said jurisdiction, 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 ordinance 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 the applicable laws in regard to tax executions. When a nulla bona entry has been entered by proper authority upon an execution issued by the business tax department 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 or her as though he or she had never defaulted in the payment of the taxes.

(Code 1985, § 10-42)

Sec. 18-73. - Amendment, repeal of provision.

The ordinance from which this article derives shall be subject to amendment or repeal, in whole or in part, at any time, and no such amendment or repeal shall be construed to deny the right of the commission to assess and collect any of the taxes or other charges prescribed. Said amendment may increase or lower the amounts and tax rates of any occupation and may change the classification thereof. The payment of any occupation tax provided for shall not be construed as prohibiting the levy or collection by the jurisdiction of additional occupation taxes upon the same person, property, or business.

(Code 1985, § 10-43)

Sec. 18-74. - Applications of provisions to prior ordinance.

The ordinance from which this article derives does not repeal or affect the force of any part of any ordinance heretofore passed where taxes levied under such prior ordinance have not been paid in full. So much and such parts of ordinances heretofore and hereinafter passed as provided for the issuing and enforcing of execution for any tax or assessment required by such ordinances, or that imposed fines or penalties for the nonpayment of such tax, or for failure to pay regulatory fees provided for in said ordinance or ordinances, or failure to comply with any other provisions hereof, shall continue and remain in force until such tax, regulatory fee, or assessment shall be fully paid.

(Code 1985, § 10-44)

Sec. 18-75. - Enforcement of provisions.

It is hereby made the duty of the business tax department to see that the revisions of this chapter relating to occupation taxes are observed.

(Code 1985, § 10-45)

Sec. 18-76. - Provisions to remain in full force and effect until changed by governing body.

This article shall remain in full force and effect until changed by amendment adopted by the commission. 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.

(Code 1985, § 10-46)

Sec. 18-77. - Requirement of public hearing before tax increase.

After January 1, 1996, the commission shall conduct at least one public hearing before adopting any ordinance or resolution which will increase the rate of occupation tax as set forth in this article.

(Code 1985, § 10-47)

Sec. 18-78. - Option to establish exemption or reduction in occupation tax.

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

(Code 1985, § 10-48)

Sec. 18-79. - Conflicts between specific and general provisions.

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

(Code 1985, § 10-49)

Secs. 18-80—18-95. - Reserved.

Sec. 18-31. - Authority.

The authority to impose this license and tax is pursuant to O.C.G.A. §§ 48-13-1—48-13-26.

(Code 1985, § 10-1)

Sec. 18-32. - Business tax department established.

A business tax department is hereby created for the county. The department shall be composed of a director and any other employees as may be necessary. Subject to the direction of the county administrator, the supervision and control of the department is vested in the director.

(Code 1985, § 10-2)

Sec. 18-33. - Occupation tax required for business dealings in the county.

Every year, each person engaged in any business, trade, profession, or occupation in Coweta County, Georgia, whether with a location in unincorporated Coweta County or, in the case of an out-of-state business with no location in Georgia, exerting substantial efforts within the state pursuant to O.C.G.A. § 48-13-7, shall pay an occupation tax for said business, trade, profession, or occupation; which tax and any applicable registration shall be displayed in a conspicuous place in the place of business. If the taxpayer has no permanent business location in the county, such business tax registration shall be shown to the business tax director or this department or to any county enforcement officer upon request.

(Code 1985, § 10-3)

Sec. 18-34. - Construction of terms; definitions.

As used in this article, the term:

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

Director means the director of the business tax department of the county.

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

Gross receipts.

- (1) *Gross receipts* means the total revenue of the business or practitioner for the period, including without limitation to the following:
 - a. Total income without deduction for the cost of goods or expenses incurred;
 - b. Gain from trading in stocks, bonds, capital assets, or instruments of indebtedness;
 - c. Proceeds from commissions on the sale of property, goods, or services;
 - d. Proceeds from fees for services rendered; and
 - e. Proceeds from rent, interest, royalty, or dividend income.
- (2) *Gross receipts* shall not include the following:
 - a. Sales, use, or excise tax;
 - b. Sales returns, allowances, and discounts;

- c. Interorganizational sales or transfers between or among the units of a parent-subsubsidiary controlled group of corporations as defined by 26 USC 1563(a)(1), or between or among the units of a brother-sister controlled group of corporations as defined by 26 USC 1563(a)(2);
- d. Payments made to a subcontractor or an independent agent; and
- e. Governmental and foundation grants, charitable contributions, or the interest income derived from such funds received by a nonprofit organization which employs salaried practitioners otherwise covered by this chapter, if such funds constitute 80 percent or more of the organization's receipts.

Location of office shall not include a temporary work site which serves a single customer or project.

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.

Person shall be held to include sole proprietors, corporations, partnerships, nonprofits, or any other form of business organization.

Practitioner of profession or occupation is one who by state law requires state licensure regulating such profession or occupation.

Practitioner of professions and occupations shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.

Regulatory fees means payments, whether designated as license fees, permit fees, or by another name, which are required by a local government as an exercise of its police power and as a part of or an aid to regulation of an occupation, profession, or business. The amount of a regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the county. A regulatory fee may not include an administrative fee. Development impact fees as defined by O.C.G.A. § 36-71-2(8) or other costs or conditions of zoning or land development are not regulatory fees.

(Code 1985, § 10-4)

Cross reference— Definitions generally, § 1-2.

Sec. 18-35. - Administrative fee charged.

A nonprorated, nonrefundable administrative fee in an amount determined by the board of commissioners and listed in the schedule of fees and charges shall be required on all business and occupation tax accounts for the initial start-up, renewal, or reopening of those accounts.

(Code 1985, § 10-5)

Sec. 18-36. - Regulatory fee charged.

A regulatory fee in an amount determined by the board of commissioners and listed in the schedule of fees and charges is imposed on the following professions and occupations:

- (1) Carnivals;
- (2) Taxicab, limousine and non-emergency transport operators;
- (3) Tattoo artists;
- (4) Stables;
- (5) Shooting galleries and firearm ranges;
- (6) Scrap metal processors;
- (7) Pawnbrokers;
- (8) Food service establishments;
- (9) Dealers in precious metals;
- (10) Peddlers;
- (11) Parking lots;
- (12) Nursing and personal care homes;
- (13) Newspaper vending boxes;
- (14) Modeling agencies;
- (15) Massage parlors;
- (16) Auto and motorcycle racing;
- (17) Boardinghouses;
- (18) Businesses that provide appearance bonds;
- (19) Boxing and wrestling promoters;
- (20) Hotels and motels;
- (21) Hypnotists;
- (22) Handwriting analysts;
- (23) Health clubs, gyms and spas;
- (24) Fortunetellers;
- (25) Escort services;
- (26) Burglar and fire alarm installers; and
- (27) Locksmiths.

This regulatory fee does not and shall not include an administrative fee.

(Code 1985, § 10-6; Ord. of 1-7-03; Ord. of 10-4-05)

Sec. 18-37. - Occupation tax levied; restrictions.

- (a) *Tax criteria.* 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 and/or upon the applicable out-of-state businesses with no location or office in Georgia pursuant to O.C.G.A. § 48-13-7 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 U.S. Office of Management and Budget, the U.S. Internal Revenue Service, North American Industry Classification System (NAICS) 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 and will be developed and updated from time to time by the business tax director.

Profitability ratio/tax class	Tax rate on gross receipts
Class 1	0.00050
Class 2	0.000625
Class 3	0.00075

Administrative Fee: \$35.00

Maximum Cap: \$12,000.00

- (c) *Restrictions.*
- (1) No business or practitioner shall be required to pay more than one occupation tax for each of its locations.
 - (2) No occupation tax will be required upon more than 100 percent of a business's gross receipts.
 - (3) No occupation tax will be required on receipts on which such tax has been levied in other localities or states.
 - (4) An occupation tax shall be required from real estate brokers, agents, or companies whose offices are located outside the taxing jurisdiction and who sell property inside the taxing jurisdiction. This tax shall be based upon gross receipts only from real estate transactions with respect to property located within the unincorporated area of the county.
 - (5) An occupation tax shall not be levied in any other manner except as described in this section.

- (6) Occupation taxes are limited to the gross receipts in the State of Georgia unless otherwise specified elsewhere in this chapter.
- (7) Out-of-state businesses with no location in Georgia shall be assessed occupation taxes based on the gross receipts of the business as defined in O.C.G.A. § 14-13-7 (see section 18-34) which are reasonably attributed to sales or services in the State of Georgia.

(Code 1985, § 10-7; Ord. No. 014-16, § 1, 4-26-16)

Sec. 18-38. - Exception for disabled veterans.

Any veteran obtaining a certificate of exemption from the State of Georgia, Department of Veterans Service, shall be exempted from purchasing a certificate under the provisions of this chapter. This exemption shall apply to one business at a time normally taxed hereunder and shall not apply to any additional businesses or locations as defined in section 18-34.

(Code 1985, § 10-8)

Sec. 18-39. - Administration; appeals; rate review.

- (a) Administration of this article shall be by the director hereunder unless otherwise provided in this article.
- (b) Appeals from any decision of the director or an authorized county official hereunder, shall be made in the same manner provided for appeals from decisions of these officials.
- (c) Review of rates and classifications provided shall be provided by the board of commissioners and the business tax rate review and appeals committee.

(Code 1985, § 10-9)

Sec. 18-40. - Administration of chapter and appeals.

- (a) The director shall enforce the provisions of this Code involving the application for an issuance of business certificates and the regulation of businesses unless otherwise provided in this Code.
- (b) Appeals from any decision of the director shall be made to the business tax rate review and appeal committee by any person aggrieved thereby in the manner provided in this Code.

(Code 1985, § 10-10)

Sec. 18-41. - Issuance; denial; appeal.

- (a) *Issuance.* Coweta County business tax certification shall be issued by the director or county official hereunder upon the receipt of the application, payment of applicable fees and taxes, and the determination that the provisions of this chapter have been satisfied.
- (b) *Denial.*

- (1) The director or an authorized county official hereunder shall not issue a certificate to any business engaged in unlawful activity or in such a manner as to violate lawful ordinances adopted by the board of commissioners. Unlawful activity shall include, but not be limited to, activities in violation of the zoning regulations and heating, electrical, health and building codes.
- (2) All business certificates will be granted upon the condition that applicable county taxes on all real and personal property and all health licenses, fees and permits associated with the applicant's business be paid by the due date. Any business not fulfilling this requirement is subject to revocation of the business certificate as stated in this chapter.
- (3) Any applicant which is denied a certificate will receive a refund for the certificate fee only. The administrative fee is nonrefundable.

(c) *Appeal.*

- (1) If an applicant is denied a county business certificate by the director, the applicant may file a written appeal from the denial to the Coweta County business tax rate review and appeals committee. An appeal must be filed with the director within 30 days from the denial. The director shall schedule a hearing before the committee and notify the appellant of the time and place of the hearing. The committee shall hear evidence relating to the denial of the certificate and at the conclusion of the hearing enter an order which sets forth a finding of the facts and a recommendation as to the appropriate action to be taken by the board of commissioners. The director shall transmit to the board of commissioners the official file and the order of the committee. The board of commissioners, without holding a hearing, shall review the file and the findings of fact and recommendations of the committee. The board of commissioners shall have the authority to affirm the action of the director or issue an order directing the director to issue the business certificate upon payment of the appropriate taxes and fees.
- (2) All appeal requests will be submitted with a nonrefundable processing fee as defined in the schedule of fees and charges. Any applicant which can prove to the satisfaction of the business tax director that he/she is indigent will have the appeals fee waived.

(Code 1985, § 10-11; Ord. of 9-12-96; Ord. of 10-5-04)

Sec. 18-42. - Reserved.

Editor's note— An ordinance of July 6, 2000, deleted § 18-42 in its entirety. Former § 18-42 pertained to conditional business certificates and derived from the 1985 Code and an ordinance of Oct. 20, 1998.

Sec. 18-43. - Business tax rate review and appeal committee.

The board of commissioners shall appoint five members to the Coweta County tax rate review and appeals committee. One member shall be appointed from each commission district and each member's term will run concurrent with that of the commissioner of the district from which the member is appointed. The committee's duties shall be as follows:

- (1) The committee shall select one of its members as presiding officer.
- (2) The committee shall adopt rules and procedures for conducting its business.
- (3) The committee shall serve as an appeals committee and all actions of the director of the business tax department including denial, suspension or revocation of a certificate, may be appealed to the committee in the manner set forth herein.
- (4) The committee shall annually review all business tax rates, fees, and categories of business subject to business tax and fees and make recommendations to the board of commissioners as to adjustments, if any, the committee considers appropriate in rate categories.
- (5) If any individual, firm or corporation subject to the payment of a business tax deems the tax to be unlawful, discriminatory or inequitable, it may pay the tax imposed by the board of commissioners under protest and then file a written request for review with the director of the business tax department. The request for review must be filed within 45 days from the date the tax is paid. The director shall, within 30 days from the date of receipt of the request for review from the licensee, schedule a conference with the licensee to review those matters set forth in the licensee's request for review. Within ten days from the date of the conference, a determination shall be made by the director in writing and a copy of the determination shall be sent to the licensee by certified mail. In the event the licensee is dissatisfied with the determination made by the director, it may, within 15 days from the date of receipt of the determination of the director, file its appeal to the county business tax and tax rate review and appeal committee. The appeal shall be in writing and shall be filed with the director of the county business tax department. The director shall, upon receipt of an appeal, schedule a hearing before the committee and notify the licensee of the date of the hearing. The committee shall hold a hearing and hear evidence and consider all matters relating to the licensee's appeal. Upon conclusion of the hearing, the committee shall enter a written finding of fact and make a written recommendation to the board of commissioners. The director of the county business tax department shall transmit the committee's findings and recommendations to the board of commissioners for appropriate action of the licensee's appeal. The board of commissioners is not required to follow the recommendations of the committee, but shall give the recommendations of the committee careful consideration in reaching its final decision. Since the report from the committee to the board of commissioners shall contain a finding of fact, the board of commissioners shall not be required to conduct a hearing prior to making a final decision of the licensee's appeal. The board of commissioners shall notify the licensee taxpayer of its final decision. An appeal will then be set forth before the business tax rate review board as set forth in section 18-42(c)(1) and (2).

(Code 1985, § 10-13)

Sec. 18-44. - Display of certificate and registrations.

All persons shall exhibit and display all certificates issued to them under this Code in some conspicuous place in their business establishment at which address the certificate or registration was issued. Any transient or nonresident person, firm, or corporation doing business within the

county shall carry the license or registration either upon his or her 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.

(Code 1985, § 10-14)

Sec. 18-45. - Revocation of certificate.

- (a) If any certificate holder, employee or business which has been issued a county business certificate by the director is engaged in unlawful activities, including violations of laws of the State of Georgia, appropriate county ordinances, applicable zoning regulations, or applicable heating, electrical, health, or building codes, the business certificate may be revoked in the manner provided herein. Where it is reported to the director if the director's preliminary investigation reveals that there may be a basis for revocation or suspension of the certificate, the business certificate holder will be notified to appear before the director and show cause on a date certain why his or her business certificate should not be revoked or suspended. The business certificate holder may appear in person at the hearing or be represented by counsel. At the conclusion of the hearing, the director, based upon evidence submitted at the hearing, shall enter an order making a finding of fact and then:
- (1) Find that the evidence does not authorize revocation or suspension;
 - (2) Issue a warning to business;
 - (3) Suspend business certificate and probate suspension;
 - (4) Revoke certificate and probate revocation;
 - (5) Suspend certificate; or
 - (6) Revoke certificate.
- (b) Within 30 days from the date of the order from the director, the business may appeal the decision by filing a notice of appeal to the business tax rate review and appeals committee. The hearing shall be scheduled and an order shall be issued by the committee which contains therein a finding of fact and a recommendation of appropriate action by the board of commissioners. The board of commissioners, without the necessity of a hearing, based on the file and order of the committee, may affirm, overrule, or partially affirm, partially overrule the decision of the director, or take any other appropriate action regarding licensee.

(Code 1985, § 10-15)

Sec. 18-46. - Paying occupation tax of business with no location in Georgia.

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

- (1) Has one or more employees or agents who exert substantial efforts within the jurisdiction of county for the purpose of soliciting business or serving customers or clients; or

- (2) Owns personal or real property which generates income and which is located within the jurisdiction of county.

(Code 1985, § 10-16)

Sec. 18-47. - Each line of business to be identified on business registration.

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

(Code 1985, § 10-17)

Sec. 18-48. - Number of businesses considered to be operating in county.

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

(Code 1985, § 10-18)

Sec. 18-49. - Professionals as classified in O.C.G.A. § 48-13-9(c)(1) through (18).

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

- (1) The occupation tax based on gross receipts combined with profitability ratios as set forth in this article; or
- (2) A fee of \$400.00 per practitioner who is licensed to provide the service, such tax to be paid at the practitioner's office or location; provided, however that a practitioner paying according to this subsection shall not be required to provide information to the local government relating to the gross receipts of the business or practitioner. The per practitioner fee applies to each person in the business who qualifies as a practitioner under the state's regulatory guidelines and framework.

This election is to be made on an annual basis and must be done by January 1 of each year.

(Code 1985, § 10-19)

Sec. 18-50. - Practitioners exclusively practicing for a government.

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

(Code 1985, § 10-20)

Sec. 18-51. - Purpose and scope of tax.

The occupation tax levied herein is for revenue purposes only and is not for regulatory purposes. (The occupation tax only applies to those businesses and occupations which are covered by the provisions of O.C.G.A. §§ 48-13-5—48-13-26.) All other applicable businesses and occupations are taxed by the local government pursuant to the pertinent general and/or local law and ordinance.

(Code 1985, § 10-21)

Sec. 18-52. - When tax due and payable; effect of transacting business when tax delinquent.

- (a) Each such occupation tax shall be for the calendar year 1995 and succeeding calendar years thereafter unless otherwise specifically provided. Said registration and occupation tax shall be payable January 1 of each year and shall, if not paid by April 15 of each year, be subject to penalties for delinquency as prescribed in section 18-72 of this article. On any new profession, trade, or calling begun in county in 1995 or succeeding years thereafter, the registration and tax shall be delinquent if not obtained immediately upon beginning business and a penalty in the amount of ten percent of the tax and interest calculated monthly in the amount of 1½ percent of the tax shall be assessed. The percentage shall be a 1½ percent penalty and a 1½ percent interest calculated monthly for all subsequent years. The business shall submit a revenue statement based on prior year's gross receipts on a form provided by the business tax director. The tax registration herein provided for shall be issued by the business tax director and if any person, firm, or corporation whose duty it is to obtain a registration shall, after said registration or occupation tax becomes delinquent, transact or offer to transact, in county, any of the kind of profession, trade, or calling subject to this article without having first obtained said registration, such offender shall, upon conviction by the magistrate judge, be punished as provided in section 1-15.
- (b) In addition to the above remedies, the business tax department may proceed to collect in the same manner as provided by law for tax executions.

(Code 1985, § 10-22; Ord. of 2-21-95(2); Ord. of 4-1-03; Ord. No. 014-16 § 2, 4-26-16)

Sec. 18-53. - Allocation of gross receipts of business with multiple intrastate or interstate locations.

For those businesses that 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 county location. 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 county and elsewhere and allotted to those locations. Upon request, the business or practitioner with 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; and
- (2) Information relating to the allocation of the business's or practitioner's gross receipts by other local governments. 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.

(Code 1985, § 10-23)

Sec. 18-54. - Location of business.

- (a) *One location authorized.* A business certificate granted under this article shall not authorize the holder thereof to exercise or carry on a trade, business or profession named herein at any other place than mentioned in the certificate, except as otherwise provided herein.
- (b) *Change of location.* Any person moving from one location to another shall notify the director of this move and the new address in writing on a form provided by the director of business tax no later than the date of moving. A new certificate will be issued at the new location if the location conforms to the zoning regulations of the county.

(Code 1985, § 10-24)

Sec. 18-55. - Transfer of certificate.

Business certificates shall not be transferable, 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 certificate shall be required for the new owner of the business.

(Code 1985, § 10-25)

Sec. 18-56. - Expiration of certificate.

The certificate referred to in this article shall automatically expire on December 31 after the year of its issuance.

(Code 1985, § 10-26)

Sec. 18-57. - Exemption on grounds that business is operated for charitable purpose.

No business on which a business registration or occupation tax is levied by this chapter shall be exempt from said registration or tax on the ground that such business is operated for a charitable purpose, unless 100 percent of the entire proceeds from said business are devoted to such purpose.

(Code 1985, § 10-27)

Sec. 18-58. - Evidence of state registration required if applicable; state registration to be displayed; additional requirements for issuance of certificate.

- (a) Each person who is licensed by the secretary of state pursuant to O.C.G.A. tit. 43 shall provide evidence of proper and current state licensure before the county registration may be issued.
- (b) Each person who is licensed by the state shall post the state license in a conspicuous place in the licensee's place of business and shall keep the license there at all times while the license remains valid.
- (c) In addition to the requirements of section 18-34, the following businesses shall meet the listed additional requirements before the director may issue a license under section 18-41:

Ambulance service —state license required.

Auctioneer —state license required.

Auto parts (used and reconditioned)—state license required.

Auto salvage yard —state license required.

Automobile dealer —state license required.

Barbershop —state license required.

Beauty shop —state license required.

Bondsman —sheriff's department approval required.

Burglar alarm installation —low voltage state license required/notify sheriff's department.

Carnivals or amusement rides —proof of liability insurance/approval of sheriff's department.

Catering (including trucks)—approval of health department.

Chemical manufacturing or sales —approval of fire department.

Day care center —state department of human resources license required.

Day care home —certificate of registration from state department of human resources.

Delicatessen —health and fire department approval.

Employment agency —license from state department of labor if fee paid by employee.

Explosives, sales/distribution —license from state fire marshal.

Fire alarm installation —notify fire department.

Guns, firearms, ammunition —state and federal license required.

Hatchery —license required from state department of agriculture.

Ice cream shops —health department approval required.

Locksmith —approval of sheriff's department.

Lodginghouses and roominghouses —certificate from state department of human resources required.

Meat packing plant —license required from state department of agriculture.

Meats/retail from truck —license required from state department of agriculture.

Meats/wholesale —license required from state department of agriculture.

Nursing home, including convalescent home —certificate from state department of human resources.

Pawnbrokers —approval of sheriff's department required.

Pest control —state license required.

Polygraph examiner —state license required.

Private detective or investigator —state license required.

Professionals —state license required.

Restaurants —approval of health and fire department.

Roominghouses —certificate from state department of human resources.

Sanitoriums —certificate from state department of human resources.

Shooting gallery —fire and sheriff's department approval.

Skating rinks —fire department approval.

Spas —proof of \$20,000.00 bond or letter of exemption from state department of consumer affairs.

Tattoo shop —approval of the county board of health and copy of the state medical license by physician in charge of tattooing.

Wrecker service —approval of sheriff's department and amber light permit.

(Code 1985, § 10-28)

Sec. 18-59. - Evidence of qualification required if applicable.

Any business required to obtain health permits, bonds, certificates of qualification or certificates of competency, meet all zoning regulations, or any other regulatory matter shall first, before the issuance of a county business registration, show evidence that such requirements have been met.

(Code 1985, § 10-29)

Sec. 18-60. - Liability of officers and agents; registration required; failure to obtain.

All persons subject to the occupation tax levy pursuant to this article shall be required to obtain the necessary registration for said business as described in this article, and in default thereof the officer or agent soliciting for or representing such persons shall be subject to the same penalty as other persons who fail to obtain a registration. Every person commencing business in the county after January 1 of each year shall likewise obtain the registration herein provided for before commencing the same; and any person transacting, or offering to transact in county, any of the

kinds of business, trade, profession, or occupation without first having so obtained said registration, shall be subject to penalties provided thereof.

(Code 1985, § 10-30)

Sec. 18-61. - Requirements, deadlines and penalties for business licenses.

- (a) Applicant for registration shall be a U.S. citizen or maintain a permanent alien residency status and shall provide documentation thereof including federal ID or sales tax ID at the time of registration.
- (b) Each such registration shall contain a copy of the business' tax return or a current profit and loss statement. Each such registration shall be due no later than April 15 for the calendar year in which the registration is obtained unless otherwise specifically provided. There is hereby imposed a penalty upon each business which fails to apply for and obtain an appropriate business registration and pay all tax and fees as provided herein by April 15 of each year, and by April 15 each year hereafter. Every person commencing business in the county after January 1 of each year shall obtain the registration required before commencing such business.
- (c) Any person transacting or offering to transact in the county any business, trade, profession, or occupation without first having obtained said registration shall be subject to the penalties provided. Said penalties shall be in addition to all other penalties, civil and criminal herein provided; and may be collected by the remedies herein provided for collection of the occupation tax, and shall have the same lien and priority as the occupation tax to which the penalty is applied.
- (d) The registration herein provided for shall be issued by the business tax department, and if any person, firm, or corporation whose duty it is to obtain a registration shall after said occupation tax becomes delinquent, transact or offer to transact, in the county, any of the kind of business, trade, profession, or occupation without having first obtained said registration, such offender shall be subject to the penalties provided herein.

(Ord. No. 040-08, 12-16-08)

Editor's note— Ord. No. 040-08, adopted Dec. 18, 2008 amended § 18-61 in its entirety to read as herein set out. Former § 18-61 pertained to similar subject matter and derived from the 1985 Code, and an ordinance adopted Feb. 21, 1995.

Sec. 18-62. - Penalties for violation.

Any person violating any provisions of this article shall, upon conviction before the magistrate judge, be punished as provided in section 1-15.

(Code 1985, § 10-32)

Sec. 18-63. - Businesses not covered by article.

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

- (1) Those businesses regulated by the Georgia Public Service Commission.
- (2) Those electrical service businesses organized under O.C.G.A. tit. 46, ch. 3.
- (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. § 2-10-105.
- (5) Insurance companies governed by O.C.G.A. § 33-8-8 et seq.
- (6) Motor common carriers governed by O.C.G.A. § 46-7-15.
- (7) Those businesses governed by O.C.G.A. § 48-5-355. (Businesses that purchase carload lots of guano, meats, meal, flour, bran, cottonseed, or cottonseed meal and hulls.)
- (8) Agricultural products and livestock raised in the State of Georgia governed by O.C.G.A. § 48-5-356.
- (9) Depository financial institutions governed by O.C.G.A. § 48-6-93.
- (10) Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55.

(Code 1985, § 10-33)

Sec. 18-64. - Occupation tax inapplicable where prohibited by law or provided for pursuant to other existing law.

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

(Code 1985, § 10-34)

Sec. 18-65. - Occupation taxes levied on business transacted during previous calendar year.

All occupation taxes levied under this article are levied on the amount of business transacted during the previous calendar year.

(Code 1985, § 10-35)

Sec. 18-66. - Payment of occupation tax by newly established businesses.

In the case of a business subject to occupation tax for a calendar year, which was not conducted for any period of time in the corporate limits of county in the preceding year, the owner, or individual engaged in said business liable for the occupation tax shall estimate the gross volume of revenues from commencing date to the end of the calendar year, and such amount shall be paid in accordance with the provisions of this chapter.

(Code 1985, § 10-36)

Sec. 18-67. - 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, said business shall be required to obtain the necessary registration for each location and line and pay an occupation tax in accordance with the prevailing taxing method and tax rate for each location and line.

(Code 1985, § 10-37)

Sec. 18-68. - Returns confidential.

Except in the case of judicial proceedings or other proceedings necessary to collect the occupation tax hereby levied, it shall be unlawful for any officer, employee, agent, or clerk of county, or any other person to divulge or make known in any manner the amount of gross receipts or any particulars set forth or disclosed in any occupation tax return required under this article. All contents of said return shall be confidential and open only to the officials, employees, agents, or clerks of the county using said returns for the purpose of this occupation tax levy and the collection of the tax. Independent auditors or bookkeepers employed by the county shall be classed as "employees." Nothing herein shall be construed to prohibit the publication by county officials of statistics, so classified as to prevent the identification of particular reports or returns and items thereof, or the inspection of the records by duly qualified employees of the tax departments of the State of Georgia, the United States, and other local governments.

(Code 1985, § 10-38)

Sec. 18-69. - Inspections of books and records.

- (a) In any case the business tax department of the county, through its officers, agents, employees, or representatives, may inspect the books of the business for which the returns are made. The business tax department officer shall have the right to inspect the books or records for the business of which the return was made in Coweta County, Georgia, and upon demand of the business tax department, such books or records shall be submitted for inspection by a representative of the county within 30 days. Failure of submission of such books or records within 30 days shall be grounds for revocation of the tax registration currently existing to do business in the county. Adequate records shall be kept in Coweta County, Georgia, for examination by the business tax department at that officer's discretion.
- (b) If, after examination of the books or records, it is determined that a deficiency occurs as a result of under reporting, a six-percent penalty and a two-percent interest monthly will be assessed for the period delinquent.

(Code 1985, § 10-39)

Sec. 18-70. - Tax registration to be revoked for failure to pay tax, file returns, permit inspection of books.

Upon the failure of any business to pay said occupation tax or any part thereof before it becomes delinquent, or upon failure to make any of said returns within the time required herein, or upon failure to make a true return, or upon failure to amend a return to set forth the truth, or upon failure to permit inspection of its books as above provided, any business tax registration granted by the county under this chapter permitting the owner of said business to do business for the current year shall be, ipso facto, revoked. This revocation may be reviewed, however, as provided in section 18-43 of this article. This issue to be determined by investigation and hearing shall be in violation of the provisions of this section.

(Code 1985, § 10-40)

Sec. 18-71. - Effect of failure to comply with ordinance provisions; continuing in business after tax registration revocation.

Any persons, their managers, agents, or employees, who do business in said county after the registration for said business has been revoked as above, hereby required to make occupation tax returns, and who fail to make said returns within the time and in the manner herein provided, who 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 business hours, for the purpose of determining the accuracy of the returns herein provided for, shall be subject to penalties provided in this article.

(Code 1985, § 10-41)

Sec. 18-72. - Lien taken for delinquent occupation tax.

- (a) In addition to the other remedies herein provided for the collection of the occupation tax herein levied, the business tax department of Coweta County, Georgia, upon any tax or installment of said 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 of two percent per month from the date when such tax or installment becomes delinquent, and the lien shall cover the property (in the county) of the person, partnership, or corporation liable for said tax, all as provided by the ordinances of said county and the laws of Georgia. The lien of said occupation tax shall become fixed on and date from the time when such tax or any installment thereof becomes delinquent.
- (b) The execution shall be levied by the business tax department of said county upon the property of defendant located in said jurisdiction, 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 ordinance 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 the applicable laws in regard to tax executions. When a nulla bona entry has been entered by proper authority upon an execution issued by the business tax department 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 or her as though he or she had never defaulted in the payment of the taxes.

(Code 1985, § 10-42)

Sec. 18-73. - Amendment, repeal of provision.

The ordinance from which this article derives shall be subject to amendment or repeal, in whole or in part, at any time, and no such amendment or repeal shall be construed to deny the right of the commission to assess and collect any of the taxes or other charges prescribed. Said amendment may increase or lower the amounts and tax rates of any occupation and may change the classification thereof. The payment of any occupation tax provided for shall not be construed as prohibiting the levy or collection by the jurisdiction of additional occupation taxes upon the same person, property, or business.

(Code 1985, § 10-43)

Sec. 18-74. - Applications of provisions to prior ordinance.

The ordinance from which this article derives does not repeal or affect the force of any part of any ordinance heretofore passed where taxes levied under such prior ordinance have not been paid in full. So much and such parts of ordinances heretofore and hereinafter passed as provided for the issuing and enforcing of execution for any tax or assessment required by such ordinances, or that imposed fines or penalties for the nonpayment of such tax, or for failure to pay regulatory fees provided for in said ordinance or ordinances, or failure to comply with any other provisions hereof, shall continue and remain in force until such tax, regulatory fee, or assessment shall be fully paid.

(Code 1985, § 10-44)

Sec. 18-75. - Enforcement of provisions.

It is hereby made the duty of the business tax department to see that the revisions of this chapter relating to occupation taxes are observed.

(Code 1985, § 10-45)

Sec. 18-76. - Provisions to remain in full force and effect until changed by governing body.

This article shall remain in full force and effect until changed by amendment adopted by the commission. 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.

(Code 1985, § 10-46)

Sec. 18-77. - Requirement of public hearing before tax increase.

After January 1, 1996, the commission shall conduct at least one public hearing before adopting any ordinance or resolution which will increase the rate of occupation tax as set forth in this article.

(Code 1985, § 10-47)

Sec. 18-78. - Option to establish exemption or reduction in occupation tax.

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

(Code 1985, § 10-48)

Sec. 18-79. - Conflicts between specific and general provisions.

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

(Code 1985, § 10-49)

Secs. 18-80—18-95. - Reserved.

DIVISION 2. - SCHEDULES OF TAXES AND FEES

Sec. 18-96. - Reserved.

Editor's note— Ord. No. 014-16 § 3, adopted April 26, 2016, repealed § 18-96, which pertained to schedule of taxes and derived from the Code of 1985, § 10-58.

Sec. 18-97. - Schedule of fees applicable to practitioner of professions and occupations regulated under O.C.G.A. § 48-13-9.

Regulatory fees authorized by O.C.G.A. § 48-13-9 for businesses or practitioners of professions or occupations shall be as set forth in the schedule of fees and charges.

(Code 1985, § 10-59)

Secs. 18-98—18-115. - Reserved.

Sec. 18-96. - Reserved.

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(Code 1985, § 10-59)

Secs. 18-98—18-115. - Reserved.