

## **CHAPTER 5.10. BUSINESS OCCUPATION TAX AND REGULATIONS\***

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\*Cross references: Revenue and finance, tit. 3; application for license for tattoo establishment, § 8.10.080.

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## **ARTICLE I. BUSINESS OCCUPATION TAX**

5.10.010. Payment of tax required; applicability; display of license.

As of September 14, 1995, and for each calendar year thereafter beginning January 1, 1996, each person engaged in or commencing any business, trade, profession or occupation in the unincorporated area of Hall County, Georgia, or in the case of an out of state business with no location in Georgia pursuant to O.C.G.A. 48-13-7, shall pay an occupation tax for said business, trade, profession or occupation; [and] any applicable business license shall be displayed in a conspicuous place in the place of business, if the tax payer has a permanent business location in Hall County. If the tax payer has no permanent business location in Hall County, Georgia, such business tax registration shall be shown to the license inspector, Sheriff of Hall County, Georgia, to any of his deputies, or to the Hall County Marshal, upon his or their request.

(Code 1991, § 5.04.010; Res. of 9-14-95, § 1(5.04.010); Res. of 11-11-99, § 1)

5.10.020. Definitions.

- A. "Hall County, Georgia" as used herein shall be construed to mean the unincorporated area of Hall County, Georgia; wherever the term "county" is used herein, it shall be construed to mean the unincorporated area of Hall County, Georgia.
- B. As used herein the following terms shall apply:
  - 1. Administrative fee means a component of an occupational tax which approximates the reasonable cost of handling and processing the occupation tax.
  - 2. Board of commissioners means the governing body of Hall County, Georgia, and shall also include the terms "board" and "board of commissioners of Hall County."
  - 3. Business means any person who, in Hall County, engages in, causes to be engaged in or represents himself or herself to be engaged in any occupation or activity with the object of gain, benefit, or advantage, either directly or indirectly. This shall include any person advertising by any means, including but not limited to signs, cards, circulars, newspapers, etc., that he or she is engaged in a business of any kind.
  - 4. Business license means the certificate issued upon payment of the administrative fee, payment of the regulatory fee, if any, and the payment of the occupation tax. Only one business license certificate shall be issued, which shall demonstrate that the fees and tax have been paid.
  - 5. Dominant line means the type of business within a multiple line business that the greatest amount of income is derived from.
  - 6. Employee.
    - a. Any individual, owner, family member or relative who works 40 hours per week and whose work is performed under the direction and supervision of the employer who withholds FICA, federal income tax or state income tax from such individual's compensation or whose employer issues to such individual for purposes of documenting compensation a form IRS W-2, but not a form IRS 1099, shall be counted as an employee. Computation of employees who work less than 40 hours to produce full time equivalents is set out in 5.10.050(B). For purposes of this chapter, each business will have a minimum of one employee.
    - b. An individual who performs work under the direction and supervision of one business or practitioner in accordance with the terms of a contract or agreement with another business which recruits such individual is an employee of the business or practitioner which issues to such individual for purposes of documenting compensation a form IRS W-2.
  - 7. Engaged in business or carrying on business means doing or performing any act of selling any goods or services, or soliciting business, or offering any goods or services for sale primarily in an attempt to make a profit, including selling or performing services of the character of a wholesaler or retailer, or being involved in any of the functions performed as a manufacturer, or renting real or personal property; all of the foregoing performed either as an owner, operator or agent of any business, trade, profession, or occupation within Hall County.
  - 8. Flea markets as used herein shall mean a retail sales operation wherein one or more spaces are made available from which goods or wares are sold.
  - 9. Licensee means the person issued the license, his authorized employee in charge of the business of the licensee, or the person operating the business of the licensee.

10. Location or office shall include any structure or vehicle where a business, profession, or occupation is conducted, but shall not include a temporary or construction work site which serves a single customer or project or a vehicle used for sales or delivery by a business or practitioner of a profession or occupation which has a location or office. The renter's or lessee's location which is the site of personal property which is rented or leased from another does not constitute a location or office for the personal property's owner, lessor, or the agent of the owner or lessor. The site of real property which is rented or leased to another does not constitute a location or office for the real property's owner, lessor or the agent of the owner or lessor unless the real property's owner, lessor, or the agent of the owner or lessor, in addition to showing the property to prospective lessees or tenants and performing maintenance or repair of the property, otherwise conducts the business of renting or leasing the real property at such site or otherwise conducts any other business, profession, or occupation at such site.
11. Nonprofit organization means a corporation, club or group exempt from income taxation under the Internal Revenue Code and regulations thereunder as now existing or as hereafter amended, or regulations promulgated by the Secretary of State of Georgia, now existing or as hereafter amended.
12. 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.
13. Person, wherever used in this article, shall be held to include sole proprietors, corporations, partnerships or any other form of business organization.
14. Practitioner of a profession or occupation is one who by state law requires state licensure regulating such profession or occupation.
15. Practitioners of professions and occupations shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.
16. Registration, business registration, and business tax registration are all synonymous with "business license" and shall mean the certificate issued upon payment of the administrative fee, the regulatory fee, if any, and the occupation tax, if applicable. Only one business license certificate shall be issued, which shall demonstrate that the fees and tax have been paid.
17. Regulatory fees means payments, whether designated as license fees, permit fees or by another name, which are required by a local government as an exercise of its police power and as a part of or as an aid to regulation of an occupation, profession or business. The amount of a regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the county. A regulatory fee may not include an administrative fee or a registration 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.
18. Yard sale means sales of used household belongings by an individual at his principal residence or by a group of individuals combining such items for a group yard sale at one of their principal residences. Such sales may be held no more than four times in a calendar year, with each individual sale lasting no more than three consecutive days, and shall be exempt from the fee requirements of this chapter. All merchandise must be the property of the person(s) holding the sale and not be purchased for the purpose of resale. The term also includes garage sales, basement sales, or other similar usage. All other

sales of merchandise are considered retail sales, and subject to the provisions of this chapter.

(Code 1991, § 5.04.020; Res. of 9-14-95, § 1(5.04.020); Res. of 11-11-99, §§ 2--4)

Cross references: Definitions and rules of construction generally, § 1.20.010 et seq.

5.10.030. Purpose and scope of occupation tax.

- A. The occupation tax levied herein is for revenue purposes only and is not for regulatory purposes, nor is the payment of the occupation tax made a condition precedent to the practice of any profession which is classified in O.C.G.A. § 48-13-9©(1)--(18).
- B. The occupation tax applies to those businesses and occupations which are covered by the provisions of O.C.G.A. §§ 48-13-5--48-13-26.
- C. All other applicable businesses and occupations are taxed by the local government pursuant to the pertinent general and/or local law and ordinances.

(Code 1991, § 5.04.120; Res. of 9-14-95, § 1(5.04.030))

5.10.040. Administrative fee and regulatory fee structure.

- A. A non-prorated, non-refundable administrative fee of \$50.00 shall be required on all business occupation tax accounts for the initial start-up, renewal or reopening of those accounts.
- B. A regulatory fee will only be imposed as provided under O.C.G.A. § 48-13-9 on those businesses that require an application on an annual basis, and on those businesses which will require an application for the initial business license for the purpose of regulating the business in reference to character checks, or other verification that is necessary to legally permit operation of that business for the current licensing year. A regulatory fee may not include an administrative fee.
  - 1. Classifying businesses and practitioners of professions and occupations according to whether such businesses and practitioners have a location within the unincorporated area of Hall County and imposing and collecting differential regulatory fees on the basis of such a classification is prohibited.
  - 2. The regulatory fee is not a general revenue producing component of the license fee structure, and must reflect approximately the actual reasonable cost of the actual regulatory activity performed.
- C. Regulatory fees authorized by this chapter shall be paid before commencing business or the practice of a profession as a condition precedent for transacting business or practicing a profession.
- D. Regulatory fees may be paid after commencing business or the practice of a profession when:
  - 1. The work done or services provided are necessary for the health or safety of one or more individuals.
  - 2. The work done or services provided have no adverse affect on any other person; and
  - 3. Regulatory fees are tendered to the local government within two business days after commencing business or practice of a profession.
- E. Regulatory fees and administrative fees may not be pro-rated on businesses that close, dissolve, are sold or relocate outside unincorporated Hall County, or otherwise cease to operate in unincorporated Hall County, prior to the expiration of the license on December 31 of each calendar year.
- F. Any and all regulatory and/or administrative fees paid shall be non-refundable after the fact.

(Code 1991, § 5.04.030; Res. of 9-14-95, § 1(5.04.040); Res. of 11-11-99, §§ 5, 6)

5.10.050. Occupation tax levied; amount.

- A. An occupation tax is levied upon those businesses and practitioners of professions and occupations with one or more locations or offices within unincorporated areas of Hall County, Georgia, and 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: The tax shall be levied on the number of employees of the business or practitioner.
- B. The occupation tax shall be determined according to the number of employees of the business or practitioner as computed on a full-time position basis or full-time position equivalent basis, provided that, for the purpose of this computation, an employee who works 40 hours or more weekly shall be considered a full-time employee and that the average weekly hours of employees who work less than 40 hours weekly shall be added and such sum shall be divided by 40 to produce full-time position equivalents. The occupation tax shall be levied as follows:\*

0-1 Employee	\$116	36-50 Employees	\$1221
2 Employees	\$195	51-75 Employees	\$1498
3-4 Employees	\$297	76-100 Employees	\$1738
5-7 Employees	\$415	101-150 Employees	\$2145
8-10 Employees	\$516	151-200 Employees	\$2498
11-15 Employees	\$649	201-300 Employees	\$3101
16-20 Employees	\$763	301-500 Employees	\$4140
21-27 Employees	\$895	501-1000 Employees	\$6378
28-35 Employees	\$1023	Over 1000 Employees	\$8703

\*The above fee schedule includes a \$50.00 non-prorated, non-refundable administrative fee as required on all business occupation tax accounts for the initial start-up, renewal or reopening of those accounts. Sec.5.10.040

Update 1-9-04 (Code 1991, § 5.04.040; Res. of 9-14-95, § 1(5.04.050))

5.10.060. Occupation tax restrictions; transfer of business license.

- A. Hall County shall not require an additional occupational tax on those businesses that have paid the occupation tax in other localities or states on the business's or practitioner's sales or services in Georgia, provided that those businesses or practitioners were taxed in full compliance with O.C.G.A. §§ 48-13-7 and 48-13-14, and show proof of payment of the occupation tax.
- B. Hall County shall not require an occupation tax from those real estate brokers, agents or companies whose offices are located outside the unincorporated areas of Hall County, Georgia, and sell property inside the unincorporated areas of Hall County, Georgia.
- C. The business license shall not be transferable to another person, firm or corporation in the same location. The business license may be transferred from one location to another provided the ownership of the business remains the same.

(Code 1991, § 5.04.040; Res. of 9-14-95, § 1(5.04.060))

5.10.070. RESERVED

5.10.080. Payment of occupation tax by businesses with no location in state.

If not exempt pursuant to O.C.G.A. § 48-13-7(f), the board of commissioners of Hall County, Georgia, requires a registration and the assessment of an occupation tax on those businesses and practitioners of professions with no location or office in the State of Georgia providing the largest dollar volume of business in Georgia is done or performed in the unincorporated area of Hall County, and the business or practitioner:

A. Has one or more employees or agents who exert substantial efforts within the unincorporated area of Hall County, Georgia, for the purpose of soliciting business or serving customers or clients.

(Code 1991, § 5.04.070; Res. of 9-14-95, § 1(5.04.080); Res. of 11-11-99, § 7)

5.10.090. Each line of business to be identified on business registration.

The business registration/business license certificate of each business operated in the county shall identify the line or lines of business that the business conducts. No business shall conduct any line of business without first having that line of business registered with the business license department and that line of business being noted by the business license department upon the business license certificate which is to be displayed by the business owner.

(Code 1991, § 5.04.080; Res. of 9-14-95, § 1(5.04.090))

5.10.100. Each location considered separate business.

Where a person conducts business at more than one store or location, each store or location shall be considered a separate business for the purpose of occupation tax; however, no more than one occupation tax shall be required for each location.

(Code 1991, § 5.04.090; Res. of 9-14-95, § 1(5.04.100))

5.10.110. Occupation tax on professionals.

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

- A. The occupation tax based on number of employees [as provided] in section 5.10.050 of this chapter.
- B. 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. The per practitioner fee shall include all persons in the business who qualify as a practitioner under the state's regulatory guidelines and framework.

(Code 1991, § 5.04.100; Res. of 9-14-95, § 1(5.04.110))

5.10.120. Exemption for practitioners exclusively practicing for 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, or instrumentalities of the United States, shall not be required to obtain a license or pay an occupation tax for that practice.

(Code 1991, § 5.04.110; Res. of 9-14-95, § 1(5.04.120))

5.10.130. Allocation of employees of business with multiple locations.

A. For those businesses that have multiple locations inside and outside of the county where the employees can be allocated to each location, the number of employees used to determine the

occupation tax assessed will be those employees attributed to each county location. In the case of an employee who works for the same business or practitioner in more than one municipal corporation or county, the municipal corporation or county in which the employee works for the longest period of time within the calendar year shall be authorized to count the individual as an employee who is employed within the local government's geographic jurisdiction for purposes of occupation tax. Upon request, the business or practitioner with a location or office situated in more than one jurisdiction shall provide to the county the following:

1. Payroll and personnel records necessary to allocate the number of employees of the business or practitioner; and
  2. Information relating to the allocation of the business's or practitioner's number of employees by other local governments.
- B. Where the business has locations outside of the county and taxation is levied for a criteria other than number of employees in the other local government's jurisdiction, the county shall not assess more than the allotted share of number of employees for the local operation.

(Code 1991, § 5.04.140; Res. of 9-14-95, § 1(5.04.140))

#### 5.10.140. Miscellaneous exemptions.

No occupation tax, regulatory fee or administrative fee shall be levied on the following:

- A. Any state or local authority or nonprofit organization;
- B. Veterans with a ten percent or greater disability, upon presentation of a certificate of exemption from the state director of veterans services;
- C. Blind persons, upon presentation of a certificate of exemption from the judge of probate court of Hall County;
- D. Such other businesses as are exempt by federal or state statute;
- E. Agricultural production of crops and livestock, except poultry hatcheries, forestry and fishing, and hunting and trapping.
- F. Sale of produce, fruits and vegetables grown by the seller when the point of sale is on the property where grown;
- G. Reserved;
- H. Reserved;
- I. The builder of a single home or outbuilding for his own use. This exemption does not extend to subcontractors or persons acting in a construction management capacity;
- J. Service performed by a unit of government, but not a private contractor for a unit of government.

(Code 1991, § 5.04.150; Res. of 9-14-95, § 1(5.04.150); Res. of 11-11-99, §§ 8--10)

#### 5.10.150. Evidence of state registration required if applicable.

Each person who is licensed under O.C.G.A. tit. 43 by the state license examining boards shall provide evidence of proper state licensure before the county business license may be issued.

(Code 1991, § 5.04.160; Res. of 9-14-95, § 1(5.04.160))

#### 5.10.160. Evidence of qualification required if applicable.

- A. Any business required to obtain health permits, bonds, certificate of qualification, certificates of competency, certificate of occupancy, or any other regulatory matter shall first, before the issuance of a county business license, show evidence of such qualification.

B. Any business required to submit an annual application for continuance of that business shall do so before the business license is issued.  
(Code 1991, § 5.04.170; Res. of 9-14-95, § 1(5.04.170))

5.10.170. Liability of officers and agents; registration required; failure to obtain registration.

All persons subject to the occupation taxes provided in this chapter shall be required to obtain the necessary registration for said business prescribed in this chapter, 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 business license. Every person commencing business in Hall 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 the county any of the kinds of business, trade, profession or occupation subject to this chapter without first having so obtained said registration shall be subject to penalties provided herein, and, upon conviction, be punished as provided in section 5.10.190 of this chapter.

(Code 1991, § 5.04.180; Res. of 9-14-95, § 1(5.04.180))

5.10.180. Delinquent fees or tax; effect of transacting business when tax delinquent.

- A. Each such registration shall be for the calendar year in which the registration was obtained unless otherwise specifically provided. If any fees or occupation tax due under this chapter remain due and unpaid for 90 days from their due date, the person liable for the fees or tax shall be subject to and shall pay a penalty of ten percent of the fees or tax due. Interest on delinquent fees and tax shall be assessed at one percent for each month or fraction thereof of delinquency. Said penalty and interest 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, the administrative fee and the regulatory fee, and shall have the same lien and priority as the occupation tax to which the penalty is applied. On renewal registrations, applicable penalties and interest fees shall be collected based on the annual due date of January 1.
- B. The business license herein provided for shall be issued by the business license director, and, if any person, firm or corporation whose duty it is to obtain a business license 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 subject to this chapter, without having first obtained said business license, such offender shall be subject to the penalties provided in section 5.10.190 below.
- C. In addition to the above remedies, the business license director may proceed to direct the Hall County Marshal or the Hall County Sheriff to collect [such fee or tax] in the same manner as provided by law for tax executions.

(Code 1991, § 5.04.190; Res. of 9-14-95, § 1(5.04.190))

5.10.190. Violation of chapter; penalty.

A. In addition to other remedies available to the County for the collection of special taxes, occupation taxes and regulatory fees due the County from persons subject to the tax or fee who fail or refuse to pay the tax or fee, the officer charged with the collection of the tax or fee shall issue executions against the delinquent taxpayers for any or all of the following:

1. The amount of the taxes or fees due when the taxes or fees become due.

2. Any penalty imposed by subsection (A) of Section 5.10.180 of the Official Code of Hall County, Georgia.

3. Any interest imposed by 5.10.180(A) of the Official Code of Hall County, Georgia;

B. The court of competent jurisdiction (Hall County Magistrate Court) for the enforcement of ordinances of the local government which has levied the tax or imposed the fee may impose a civil fine for failure to pay the occupation tax or regulatory fee. Such a civil fine shall not exceed \$500.00 and may be enforced by the contempt power of the court.

C. Any person, firm, corporation, association or partnership violating any provision of this Chapter as the same exists or as it may hereinafter be amended, or shall fail to do anything required by this Chapter as the same exists or as it may hereafter be amended, shall be guilty of a misdemeanor, amenable to the process of the Magistrate or State Court of Hall County, and upon conviction, shall be punished as provided in the Official Code of Hall County, Georgia § 1.50.020 for each violation in the discretion of the Court.

Revised by Ordinance Adopt 6/10/2004

#### 5.10.200. Business inspectors.

The business license director and his duly designated assistants or their successors shall be classified as deputy business inspectors with full subpoena and arresting powers in conjunction with any violation pertaining to the Business Occupation Tax and Regulations Resolution for 1995 (this chapter) and succeeding years thereafter.

(Code 1991, § 5.04.210; Res. of 9-14-95, § 1(5.04.210))

#### 5.10.210. Businesses not covered by chapter.

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

A. Those businesses regulated by the Georgia Public Service Commission.

B. Those electrical service businesses organized under O.C.G.A. tit. 46, ch. 3.

C. Any farm operation for the production from or on the land of agricultural products, but not including agribusiness.

(Code 1991, § 5.04.220; Res. of 9-14-95, § 1(5.04.220))

#### 5.10.220. Occupation tax inapplicable where levy prohibited or exempted by law.

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

(Code 1991, § 5.04.230; Res. of 9-14-95, § 1(5.04.230))

#### 5.10.230. Date when occupation tax due and payable.

The amount of occupation tax shall be due and payable to the said county, at the business license office of the county on January 1 each year, and delinquent if not paid within 90 days from the due date. In the event that any person commences business on any date after January 1, in any year, the tax shall be due and payable within 30 days of the date of the commencement of the business.

(Code 1991, § 5.04.240; Res. of 9-14-95, § 1(5.04.240); Res. of 11-11-99, § 12)

5.10.240. Payment of occupation tax by newly established businesses.

In the case of a business subject to occupation tax for a calendar year, which was not conducted for any period of time in the unincorporated area of Hall County in the preceding year, the owner, proprietor, manager or executive officer of the business liable for occupation tax shall estimate the number of employees from the commencing date to the end of the calendar year and such tax shall be paid as provided in section 5.10.050. When any person commences business on or after July 1, in any year, the occupation tax for the remaining portion of the year shall be 50 percent of the tax imposed for the entire year and shall be due and payable within 30 days from the commencement of the business. The administrative fee and the regulatory fee shall not be reduced.

(Code 1991, § 5.04.250; Res. of 9-14-95, § 1(5.04.250); Res. of 11-11-99, § 13)

5.10.250. Reserved.

Editor's note: Res. of 11-11-99, § 14, repealed § 5.10.250, which pertained to confidentiality of returns. See the Code Comparative Table.

5.10.260. Inspection of books and records.

In any case, the business license director of the county, through his officers, agents, employees or representatives, may inspect the books of the business upon which the applications are made. The business license director or his designee shall have the right to inspect the books or records of the business for which the application was made in the county, and upon demand of the business license director or his designee 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 business license currently existing to do business in the county. Adequate records shall be kept in Hall County, Georgia, for examination by the business license director or his designee at his discretion. If, after examination of the books or records, it is determined that a deficiency occurs as a result of under reporting, a penalty of ten percent of the deficiency and an additional one percent of the deficiency for each month or fraction thereof that the deficiency was due and unpaid shall be assessed.

(Code 1991, § 5.04.280; Res. of 9-14-95, § 1(5.04.280))

5.10.270. Revocation of business license for failure to pay tax, file returns, or permit inspection of books.

Except for a person whose qualifications to practice his or her profession are determined by the general laws of the State of Georgia, [upon] the failure of any business to pay said occupation tax or any part thereof before it becomes delinquent as above provided, any business license granted by the county under this chapter permitting the owner of said business to do business in the county for the current year shall be, ipso facto, revoked. No new business license shall be granted by the county for the operation of a business for which any part of the occupation tax herein provided for is at that time unpaid, or to a person who has failed to submit adequate records as requested.

(Code 1991, § 5.04.290; Res. of 9-14-95, § 1(5.04.290))

5.10.280. Effect of noncompliance; continuing in business after business license revocation.

Any person, or their manager, agent or employee, who does business in the county after the business license for said business has been revoked as herein provided; any person, or their manager, agent or employee, who is hereby required to make returns showing the number of employees and who fails to make said returns within the time and in the manner herein provided, or refuses to amend such returns so as to set forth the correct information, or who shall make false returns; and any person, or their manager, agent or employee, who refuses to permit an inspection of books in their charge when the officer(s), agent(s), employee(s) or representative(s) of the county request such inspection, during normal business hours, for the purpose of determining the accuracy of the returns herein provided for, shall be subject to the penalties provided in section 5.10.190 of this chapter.

(Code 1991, § 5.04.300; Res. of 9-14-95, § 1(5.04.300))

#### 5.10.290. Execution for delinquent occupation tax.

In addition to the other remedies herein provided for the collection of the occupation tax herein levied, the tax commissioner of Hall County, upon any tax becoming delinquent and remaining unpaid, shall issue execution for the correct amount of said tax against the person liable for said tax, which execution shall bear interest at the rate of one percent per month from the date when such tax or installment becomes delinquent, and the lien shall cover the property of the person liable for said tax, all as provided by the resolutions of Hall County, Georgia, and the laws of Georgia. The lien of said occupation tax shall become fixed on and dated from the time when such tax becomes delinquent. The execution shall be levied by the sheriff of Hall County upon the property of the person liable for said tax, 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 the resolutions of Hall 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 resolutions of Hall County and the laws of Georgia in regard to tax executions. When a nulla bona entry has been entered by proper authority upon an execution issued by the tax commissioner of Hall County, Georgia, 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, penalties and costs accrued on the tax, the person may collect any fees and charges due the person as though the person had never defaulted in the payment of the taxes.

(Code 1991, § 5.04.310; Res. of 9-14-95, § 1(5.04.310))

#### 5.10.300. Amendments.

Subject to the provisions of section 5.10.340, this chapter 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 board of commissioners to assess and collect any of the taxes or other charges prescribed. Said amendment may increase or lower the amounts and tax rates of any occupation and may change the classification thereof. The payment of any occupation tax provided for shall not be construed as prohibiting the levy or collection by the county of additional occupation taxes upon the same person, property or business.

(Code 1991, § 5.04.320; Res. of 9-14-95, § 1(5.04.320))

5.10.310. Payment of tax or assessment levied under prior ordinance or resolution.

This chapter does not repeal or affect the force of any part of any ordinance or resolution heretofore passed where taxes levied under such prior ordinance or resolution have not been paid in full. So much and such parts of ordinances and/or resolutions heretofore and hereafter passed as provided for the issuing and enforcing of execution for any tax or assessment required by such ordinances or resolutions, 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 resolution, 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 1991, § 5.04.330; Res. of 9-14-95, § 1(5.04.330))

5.10.320. Enforcement of chapter.

It is hereby made the duty of the business license director, the Hall County Marshal, and the Hall County Sheriff's Department to see that the provisions of this chapter relating to business occupation taxes and regulations are observed; and to summon all violators of the same to appear before the magistrate court of Hall County or the state court of Hall County. It is hereby made the further duty of the business license director, the Hall County Marshal and/or the sheriff, and their designees and assistants, to inspect all business licenses issued by the county, as often as in their judgment it may seem necessary, to determine whether the business license held is the proper one for the business sought to be transacted thereunder.

(Code 1991, § 5.04.340; Res. of 9-14-95, § 1(5.04.340))

5.10.330. Provisions of chapter to remain in effect until amended by board of commissioners.

This chapter shall remain in full force and effect until changed by amendment adopted by the board of commissioners. All provisions hereof relating to any form of tax herein levied shall remain in full force and effect until such taxes have been paid in full.

(Code 1991, § 5.04.350; Res. of 9-14-95, § 1(5.04.350))

5.10.340. Public hearing required before adoption of tax.

The board of commissioners shall conduct at least one public hearing before adopting any resolution which will affect the occupation tax as set forth in this chapter.

(Code 1991, § 5.04.360; Res. of 9-14-95, § 1(5.04.360))

5.10.350. Authority to establish exemption or reduction in tax.

- A. The board of commissioners may by subsequent resolution provide for an exemption or reduction in occupation tax or a credit against occupation tax owed to [by] one or more types of businesses or practitioners of occupations or professions as part of a plan for economic development or attracting, encouraging, or maintaining selected types of businesses or practitioners of selected occupations or professions. Such exemptions or reductions in occupation tax shall not be arbitrary or capricious.
- B. Exemptions or reductions in occupation tax pursuant to paragraph A of this section may include but shall not be limited to the following:
  - 1. Absolute dollar amount limitations on the total amount of tax, either by criterion or combination of criteria used for classification or for businesses and practitioners, provided that a jurisdiction which provides an absolute dollar amount limitation on the

total amount of tax shall levy and collect such maximum tax only once on each business entity or practitioner even if a business or practitioner has more than one office or location within the jurisdiction;

2. Tax credits for the retention or creation of jobs, or for jobs of a specific description, including but not limited to entry level jobs or jobs with compensation of a specified range;
3. Tax credits for other taxes paid to the local government, including but not limited to ad valorem taxes;
4. A tax exemption or a lower rate of taxation for sales to customers outside the jurisdiction of Hall County;
5. A credit or rebate to businesses or practitioners who paid occupation taxes in the previous year;
6. A limitation on the dollar or percentage amount of increase in tax from a base year to a subsequent year, provided that the limitation is made applicable to new businesses or practitioners by imputing the number of employees of the subsequent year to the base year in calculating tax for the base year, tax for the subsequent year and the increase in tax; and
7. A credit or reduction as an adjustment for seasonal fluctuations in the number of employees, other fluctuations in the number of employees, increases or decreases in the number of employees, or temporary employees.

(Code 1991, § 5.04.370; Res. of 9-14-95, § 1(5.04.370))

5.10.360. 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 1991, § 5.04.380; Res. of 9-14-95, § 1(5.04.380))

5.10.370. Public hearing on use of increased revenue.

In any year when revenue from occupation taxes is greater than revenue from occupation taxes for the preceding year in Hall County, one or more public hearings shall be held by the board of commissioners of Hall County as part of the process of determining how to use the additional revenue.

(Res. of 9-14-95, § 1(5.04.390))

## **ARTICLE II. BUSINESS REGULATIONS**

5.10.380. General authority to impose regulatory fees.

Business regulatory fees shall be levied, assessed, collected and paid on and by those individuals, firms or corporations doing business or practicing a trade in the unincorporated area of Hall County, Georgia, in such sums and in such categories as set forth in section 5.10.570 of this chapter. The fees and taxes imposed herein and the categories of business and trade upon which such fees and taxes are imposed may be modified or changed by subsequent resolution of the board of commissioners of the county.

(Code 1991, § 5.04.400; Res. of 9-14-95, § 1(5.04.400))

#### 5.10.385. Regulatory fee exemptions.

Examples of businesses and practitioners of professions and occupations which local governments are not authorized to subject to regulatory fees include, but are expressly not limited to, the following:

1. Lawyers;
2. Physicians licensed under Chapter 34 of Title 43 of the Official Code of Georgia;
3. Osteopaths licensed under Chapter 34 of Title 43 of the Official Code of Georgia;
4. Chiropractors;
5. Podiatrists;
6. Dentists;
7. Optometrists;
8. Psychologists;
9. Veterinarians;
10. Landscape architects;
11. Land surveyors;
12. Practitioners of physiotherapy;
13. Public accountants;
14. Embalmers;
15. Funeral directors;
16. Civil, mechanical, hydraulic, or electrical engineers;
17. Architects;
18. Marriage and family therapists, social workers, and professional counselors;
19. Dealers of motor vehicles, as defined in paragraph 1 of the Official Code of Georgia, Section 10-1-622;
20. Owners or operators of bona fide coin operated amusement machines, as defined in the Official Code of Georgia, Section 48-17-1, and owners or operators of businesses where bona fide coin operated amusement machines are available for commercial use and play by the public, provided that such amusement machines have affixed current stickers showing payment of annual permit fees, in accordance with the Official Code of Georgia, Section 48-17-9;
21. Merchants or dealers as defined in the Official Code of Georgia, Section 48-5-354 as to their deliveries to businesses and practitioners of professions and occupations in areas zoned for commercial use; and
22. Any other business, profession, or occupation for which state licensure or registration is required by state law, unless the state law regulating such business, profession, or occupation specifically allows for regulation by local governments.  
(Res. of 11-11-99, § 15)

#### 5.10.390. Business license transfer.

The business license shall not be transferable to another person, firm or corporation in the same location. The business license may be transferred from one business location to another provided the ownership of the business remains the same.

(Code 1991, § 5.04.410; Res. of 9-14-95, § 1(5.04.410))

5.10.400. Business license application; investigation; action by business license director; restrictions.

All applications for a business license shall be on forms prepared by the business license director.

- A. The application shall include:
  - 1. The name of the business;
  - 2. The location of the business;
  - 3. The mailing address of the business;
  - 4. The name and address of the owner of the business, and, if a corporation, the name of the person responsible for corporate affairs in unincorporated Hall County;
  - 5. The name of the manager at the business location;
  - 6. The nature of the business or businesses;
  - 7. The number of employees or such other information as may be required to assess the occupation tax;
  - 8. Such other information as may be required to carry out the provisions of this chapter.
- B. Upon completion of the application and the payment of the tax and fees, the business license director shall make such investigations and require such reports as necessary to carry out this chapter. Upon receipt of the necessary reports and investigations, the business license director shall either issue the business license or refer the application to the board of commissioners. If the application is referred to the board of commissioners, the applicant shall be notified in person or by certified mail, return receipt requested.
- C. The limited hours of operation, restrictions and other special circumstances pertaining to the operation of a business licensed by the county shall be entered directly onto the business license before the same is issued and delivered over to the business license applicant.
- D. Business owner must be a citizen of the United States or a legal alien. In the case of a legal alien, the owner must furnish current alien registration card or picture identification and documentation from the United States Immigration and Naturalization Service authorizing the legal alien to work in the United States.
- E. All business owners must be 18 years of age when applying for a business license.
- F. All Sole Proprietor business owners must show a photo ID when applying for a business license. If the ownership of the business is a partnership, then photo ID must be provided on all partners associated with the business. If the ownership of the business is a corporation or LLC, then ID must be provided on the President, CEO, or Managing Member of the business, as is indicated by the Georgia Secretary of State's office. Businesses who indicate ownership by a Corporation, or LLC must additionally provide evidence that the corporation is registered with the Georgia Secretary of State's office, and that the corporation is current and in compliance with the Georgia Secretary of State's office. All foreign corporations must also register with the Georgia Secretary of State's office.
- G. All delinquent and current State and County ad valorem taxes assessed against the business, whether such business is a proprietorship, general partnership, limited partnership, limited liability/limited partnership, limited liability company or corporation, shall be paid prior to the issuance of a business license.

(Code 1991, § 5.04.420; Res. of 9-14-95, § 1(5.04.420); Res. of 11-11-99, § 16)

5.10.410. Issuance of business license by board of commissioners.

Whenever an application is referred to the board of commissioners under section 5.04.420 of this chapter, the board of commissioners shall make such investigation and hold such hearings as it

shall determine. The board of commissioners may either issue the business license, issue the business license with conditions, or deny the business license, as necessary, in the opinion of the board of commissioners, to safeguard the public health, safety and general welfare and security of the county.

(Code 1991, § 5.04.430; Res. of 9-14-95, § 1(5.04.430))

5.10.420. Special requirements for licensing of certain businesses.

- A. The power to issue a business license to a tourist camp, cabin camp, tourist house, road house, public dance hall or similar establishment as defined in O.C.G.A. §§ 43-21-50 and 31-28-1 shall be reserved specifically to the board of commissioners.
- B. The power to issue a business license for the operation of a flea market, outdoor exhibition, outdoor performance, outdoor musical festival or other places of outdoor public assembly shall be reserved specifically for the board of commissioners.
- C. The board of commissioners shall make such investigations and hold such hearings as necessary to assess the impact of the businesses set forth in this section upon the health, safety and general welfare and security of the county. The application for a business license for any of the businesses set forth in this section shall set forth conclusive evidence:
  1. That the applicant shall provide sufficient security people, at the expense of the applicant, to control the public and enforce all laws within the area occupied by the business and/or event;
  2. That the applicant shall provide adequate emergency medical facilities, at the expense of the applicant, to provide sufficient emergency medical care for members of the public who patronize his business and/or event;
  3. That the applicant shall provide adequate maintenance personnel to clean the area occupied by the business as well as those areas which are adjacent to the area occupied by the business and which are littered as a result of the business, event and/or its patrons;
  4. That a study has been prepared establishing the adequacy of the business facility for the use as applied for and further establishing the adequacy of the public roads to handle the access to the business facility for the number of anticipated patrons;
  5. That the applicant shall provide adequate toilet facilities such that a minimum of one toilet fixture per 100 patrons is provided;
  6. That the applicant shall provide adequate drinking water for the members of the public who patronize his business and/or event.
- D. The board of commissioners may either issue the business license, issue the business license with conditions, or deny the business license as necessary, in the opinion of the board of commissioners, to safeguard the public health, safety and general welfare and security of the county.
- E. The failure of the applicant for a business license for a business set forth in this section to make the required application in sufficient time for the board of commissioners to consider the application at two successive regular meetings of said board of commissioners prior to the beginning of the operation of the business shall result in the automatic denial of the business license; provided, however, that a renewal of a business license for a business set forth in this section may be considered and acted upon in one regular meeting if no objections to the issuance of the renewal business license are raised. However, if any objections are raised, the renewal must be considered at two successive regular meetings of the board of commissioners.

- F. Businesses permitted under this section shall not operate on Sundays between 10:00 a.m. and 12:30 p.m., ending activity at 7:00 p.m. on Sundays and at midnight on other nights. (This does not apply to non-noisemaking activity.)
- G. The specifically enumerated requirements set forth in subsections C(1) through C(6) of this section shall not apply to any business and/or event when the anticipated attendance is less than 10,000 people.
- H. 1. Subject to the provisions of this section, the board of commissioners may issue a special events business license to an applicant who intends to conduct one or more outdoor exhibitions, outdoor performances, outdoor musical festivals or other events involving an outdoor public assembly. The procedure for the issuance of the business license shall be the same as the procedure for the issuance of other business licenses under this section. The applicant for a special events business license shall include in his application a list of the events he anticipates conducting during the term of the business license.
2. Prior to conducting an event, a special events business licensee must notify the business license director in writing of the event. The business license director will determine whether the planned event is of a character or type similar to those listed in the licensee's application. In making this determination, the business license director shall consider the number of persons expected to attend, the noise or other disruptions associated with the event, the impact on the area surrounding the licensed premises, the adequacy of facilities (medical, toilets, drinking water, etc.) at the licensed premises, and any and all other matters relevant to the determination. Failure to have listed the specific planned event on the application does not preclude the business license director from determining that the planned event is of a same or similar character to those listed on the application. If the business license director determines that the event is of a same or similar character to those listed on the application, he will authorize the event. If the business license director determines that the event is not of a same or similar character to those listed on the application, he will deny the licensee the authority to conduct the event. If the business license director is unable to make a determination, he will refer the matter to the board of commissioners, who will review the matter and make a decision at the first regular meeting following referral of the matter to them. If the business license director makes a determination adverse to the licensee, the licensee may request that the matter be referred to the board of commissioners and the board of commissioners will review the matter and make a decision at the first regular meeting following referral of the matter to them.
3. The special events business license shall only authorize events by the licensee at the licensed premises. The business license shall not authorize events by persons renting or leasing the licensed premises from the licensee.

(Code 1991, § 5.04.440; Res. of 9-14-95, § 1(5.04.440); Res. of 6-6-00(2), § 1)

Cross references: Background investigation required for operators of certain businesses, § 5.10.550; health and safety, tit. 8; public peace, morals and welfare, tit. 9.

5.10.430. Grounds for denial of business license.

The board of commissioners may deny a business license to any business engaged in an unlawful activity or operated in such a manner as to violate lawful ordinances or resolutions adopted by the board of commissioners of the county. Unlawful activity shall include, but not be limited to, activities in violation of the zoning regulations and the electrical, health, building and fire codes of the county.

(Code 1991, § 5.04.450; Res. of 9-14-95, § 1(5.04.450))

5.10.440. Going-out-of-business sales and similar sales.

- A. All persons shall secure from the county a special business license pursuant to the provisions of this section before selling or offering to sell any goods at a sale advertised or held out by any means to be one of the following kinds:
1. Going-out-of-business sales;
  2. Removal of business sales; or
  3. Fire and other altered stock sale.
- B. For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them by this section:
1. Fire and other altered goods sale means a sale held out in such a manner as to reasonably cause the public to believe that the sale will offer goods damaged or altered by fire, smoke, water, or other means.
  2. Going-out-of-business sale means a sale held out in such a manner as to reasonably cause the public to believe that upon the disposal of the stock of goods on hand the business will cease and be discontinued, including but not limited to the following sales: adjustors, adjustment, alteration, assignee's, bankrupt, benefit of administrator's, benefit of creditor's, benefit of trustee's, building coming down, closing, creditor's committee, creditor's end, executor's final days, forced out, forced out-of-business, insolvent's last days, lease expire, liquidation, loss of lease, mortgage sale, receiver's, trustee's quitting business and other like sales.
  3. Goods means any goods, wares, merchandise or other property capable of being the object of a sale regulated under this section.
  4. Removal of business sale means a sale held out in such manner as to reasonably cause the public to believe that the person conducting the sale will cease and discontinue business at the place of sale upon disposal of the stock of goods on hand and will then move to and resume business at a new location in the county or will then continue business from other existing locations in the county.
- C. A person desiring to conduct a sale regulated by this section shall make a written application to the county, setting forth and containing the following information:
1. The true name and address of the owner of the goods to be the object of the sale;
  2. The true name and address of the person from whom he purchased the goods to be sold, the price therefor, and, if not purchased, the manner of such acquisition;
  3. A description of the place where such sale is to be held;
  4. The nature of the occupancy, whether by lease or sublease, and the effective date of termination of such occupancy;
  5. The dates of the period of time in which the sale is to be conducted;
  6. A full and complete statement of the facts in regard to the sale, including the reason for the urgent and expeditious disposal of goods thereby and the manner in which the sale will be conducted;
  7. The means to be employed in advertising such sale, together with the proposed content of any advertisement;
  8. A complete and detailed inventory of the goods to be sold at such sale as disclosed by the applicant's records. Such inventory shall be attached to and become part of the required application.

- (a) All goods included in such inventory shall have been purchased by the applicant for resale on bona fide orders without cancellation privileges and shall not comprise goods purchased on consignment.
  - (b) Such inventory shall not include goods ordered in contemplation of conducting a sale regulated hereunder. Any unusual purchase or additions to the stock of goods of the business hereby affected within ten days before the filing of an application hereunder shall be deemed to be of such character.
- D. Any applicant for a business license under this section shall submit to the county a business regulatory fee of \$100.00 with his application.
- E. Any person who has not been the owner of the business advertised or described in the application for a business license under this section for a period of at least 12 months prior to the date of the proposed sale shall not be granted a business license except upon the approval of the county commissioners; provided that, upon the death of a person doing business in this county, his heirs, devisees or legatees shall have the right to apply at any time for a business license under this section.
- F. Where a person applying for a business license under this section operates more than one place of business, the business license issued shall apply only to the one store or branch specified in the application. No other store or branch shall advertise or represent that it is cooperating with it or in any way participating in the licensed sale. Nor shall the store or branch conducting the licensed sale advertise or represent that any other store or branch is cooperating with it or participating in any way in the licensed sale.
- G. A business license issued under this section shall authorize the sale described in the application for a period of not more than three calendar months following the issuance thereof; provided that a longer period shall be designated by the county commission upon good cause shown, but not to exceed 30 additional days.
- H. A business license issued under this section shall authorize only the one type of sale described in the application at the location named therein.
- I. Any business license provided for or by this section shall not be assignable or transferable.
- J. Upon being issued a business license under this section for a going-out-of-business sale, the licensee shall surrender to the county all other business licenses he may hold at the time applicable to the location and goods covered by the application for a business license under this section.
- K. Any person who has held a sale, as regulated under this section, at the location stated in the application, within one year last past from the date of such application shall not be granted a license, except upon the approval of the county commission.
- L. A business license issued under this paragraph [section] shall authorize only the sale of goods described in the inventory attached to the application.
- M. A licensee under this section shall:
  - 1. Adhere to inventory. Make no additions whatsoever, during the period of the licensed sale, to the stock of goods set forth in the inventory attached to the application for license;
  - 2. Advertise properly. Refrain from employing any untrue, deceptive or misleading advertising;
  - 3. Adhere to advertising. Conduct the licensed sale in strict conformity with any advertising or holding out incident thereto;

4. Keep duplicate inventory. Keep available at the place of sale a duplicate copy of the inventory submitted with the application and shall present such duplicate to inspecting officials upon request; and
  5. Segregate non-inventoried goods. Keep any other goods separate and apart from the goods listed in the filed inventory as being objects of sale and shall make such distinction clear to the public by placing tags on all inventoried goods in and out of the place of sale apprising the public of the status of all such goods.
- N. It is unlawful for any person to advertise by newspapers, radio, posters or otherwise and represent that he is operating, offering or maintaining fire sales, wreck sales, bankrupt sales, closing-out or going-out-of-business sales and similar businesses, whereby the public is led to believe that it is being offered merchandise at reduced rates on account of fire, wrecks, bankruptcies, closing out or discontinuance of business, when in fact such sales are not bona fide, but are fakes and frauds, and the advertisement and representations are untrue and false.
- O. It is unlawful for any person to advertise by sign, posters, handbills or otherwise that he or any business entity is operating, offering or maintaining fire sales, wreck sales, bankrupt sales, closing-out or going-out-of-business sales or similar sales for more than a four-month period. In the event such advertising is continued for a period of time in excess of four-months, such shall constitute prima facie evidence of a violation of this section; provided, however, any individual or business entity having just cause or reason requiring the extension of such sales for more than the four-month period may, prior to expiration of the four-month period, petition the county commission for a continuance of time within which to complete such sales, and the county commission, in its discretion, upon a showing of good cause, may but shall not be required to grant an extension of time. The commission's decision on whether or not to grant such additional time for the advertising and the conducting of the sales shall be final.
- P. It is also unlawful for any person, conducting any sale, except judicial sales, whether the same is by auction or otherwise, of any goods, wares or merchandise which are claimed to be or have been in or damaged by fire, or which are claimed to be or have been sold or purchased on account of any fire, or which are or have been or which are claimed to be the property of any bankrupt 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 trade, to sell or offer for sale in such sale any goods, wares or merchandise not so affected or damaged or to add to or to permit to be added to or to bring into or permit to be brought into any store, warehouse or any building in the county, for the purpose of adding to such goods, wares or merchandise not so circumstanced or affected and which are on hand in any such store, warehouse or other building for the purpose of being sold at such sale.
- Q. The provisions of this section shall not apply to or affect the following persons:
1. Persons acting pursuant to an order or process of a court of competent jurisdiction;
  2. Persons acting in accordance with their powers and duties as public officials;
  3. Duly licensed auctioneers, selling at auction;
  4. Any publisher of a newspaper, magazine or other publication who publishes in good faith any advertisement, without knowledge of its false, deceptive or misleading character, or without knowledge that the provisions of this section have not been complied with.

(Code 1991, § 5.04.460; Res. of 9-14-95, § 1(5.04.460))

5.10.450. Failure to pay regulatory fee; collection of delinquent fees.

Any person, firm or corporation required to pay a regulatory fee and who fails to do so during the required period of collection shall be deemed to be delinquent. When any fee becomes delinquent under this chapter, collection and penalties shall be as provided for in section 5.10.180 and section 5.10.190 of this chapter.

(Code 1991, § 5.04.470; Res. of 9-14-95, § 1(5.04.470))

#### 5.10.460. Grounds for revocation of business license.

The board of commissioners shall have the right, after notice and hearing, to revoke any business license issued hereunder on the following grounds:

- A. Violation of this chapter.
- B.
  - 1. Violation of other laws and resolutions of the county pertaining to the carrying on of such business as would affect the health, safety, and welfare of the public or the county.
  - 2. Violation of a law of the United States or the State of Georgia, which affects the public health, welfare and safety.
- C. Fraudulent business practices.
- D. Failure of a licensee for a business which is so required by section 5.10.420 to provide the following enumerated items:
  - 1. Sufficient security people, at the expense of the licensee, to control the public and enforce all laws within the area occupied by the business and/or event.
  - 2. Adequate emergency medical facilities, at the expense of the licensee, to provide sufficient emergency medical care for members of the public who patronize his business and/or event.
  - 3. Adequate maintenance personnel to clean the area occupied by the business as well as those areas which are adjacent to the area occupied by the business and which are littered as a result of the business, event, and/or its patrons.
  - 4. Adequate toilet facilities such that a minimum of one toilet facility per 100 patrons is provided.
  - 5. Adequate drinking water for members of the public who patronize his business and/or event.
- E. The business constitutes a nuisance. For the purposes hereof, a nuisance is defined as follows: A nuisance is anything that works hurt, inconvenience, or damage to another; and the fact that the act done may otherwise be lawful shall not keep it from being a nuisance. The inconvenience complained of shall not be fanciful, or such as would affect only one of fastidious taste, but it shall be such as would affect an ordinary reasonable person.

(Code 1991, § 5.04.480; Res. of 9-14-95, § 1(5.04.480))

#### 5.10.470. Preliminary investigation on revocation of business license.

Where it is reported to the business license director that a holder of a county business license is engaged in any activity which could form the basis for a revocation of said business license under section 5.10.460, a preliminary investigation shall be conducted by the business license director in order to determine whether or not there is a basis for the reports. If the business license director's preliminary investigation reveals that there may be a basis for revocation or suspension of the business license, the business license holder will be notified to appear before the board of commissioners for a hearing under the provisions of section 5.10.490.

(Code 1991, § 5.04.490; Res. of 9-14-95, § 1(5.04.490))

5.10.480. Seizure of business license.

- A. If the sheriff of the county shall find that a business of a certain category listed below is in violation of a law of the State of Georgia or in violation of a law or resolution of the county and that the continued operation of the business would create a clear and present danger to the health, safety and general welfare and security of the county, the sheriff shall be empowered to seize and temporarily suspend the business license of the business. The sheriff shall deliver the business license to the clerk of the board of commissioners upon the next working day of the clerk. The chairman of the board of commissioners shall then schedule a special hearing of the board of commissioners to consider further action upon the order within five days of the date upon which the clerk of the board of commissioners received the business license from the sheriff.
- B. The provisions of this section shall be limited to the following businesses:
  - 1. Tourist camps, cabin camps, tourist houses, roadhouses, public dance halls or similar establishments as defined in Ga. Code Ann. ch. 52-3 [O.C.G.A. § 43-21-1 et seq.];
  - 2. Flea markets, outdoor exhibitions, outdoor performances, outdoor musical festivals or other places of outdoor public assembly;
  - 3. Auctions of property other than real estate, billiard rooms, game rooms, canvassers and solicitors, second hand sales, pawn brokers, precious metal dealers, private detectives and detective agencies, carnivals, circuses, traveling shows, taxi services, limousine services, and bounty hunters.

(Code 1991, § 5.04.500; Res. of 9-14-95, § 1(5.04.500); Res. of 6-6-00(2), § 1)

5.10.490. Hearing on revocation of business license.

- A. When a matter is transmitted by the business license director or the sheriff to the clerk of the board of commissioners for possible suspension or revocation, the chairman of the board of commissioners shall schedule a hearing before the board of commissioners. The board of commissioners shall make such investigations as it deems necessary and shall conduct the hearing as the chairman shall see fit.
- B. The licensee shall be notified in person or by mail at his business address of the date and time of the hearing. The licensee may appear in person or be represented by counsel.
- C. At the conclusion of the hearing, the board of commissioners, 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; or
  - 2. Issue a warning to the licensee; or
  - 3. Suspend the business license and probate the suspension; or
  - 4. Revoke the business license and probate the revocation; or
  - 5. Suspend the business license; or
  - 6. Revoke the business license; or
  - 7. Take any other appropriate action regarding the license.

(Code 1991, § 5.04.510; Res. of 9-14-95, § 1(5.04.510))

5.10.500. Appeal of decision of administrative official.

- A. Any person, firm or corporation may appeal any action, order, decision, or determination of the business license director or any other administrative official to the board of commissioners. The appeal is limited to an alleged error of the official from which the appeal is taken.

- B. The appeal shall be filed in writing with the clerk of the board of commissioners within 15 days following the date on which the alleged error was made. Upon receiving the appeal, the clerk shall schedule a hearing before the board of commissioners and notify all parties to the appeal by mail at their business address of the time and date of the appeal hearing.
- C. All parties to the appeal may appear in person or be represented by counsel.
- D. The board of commissioners shall conduct the hearing as the chairman shall see fit. At the conclusion of the hearing, the board of commissioners shall enter an order making a finding of fact and shall have all the powers of the official from which the appeal was taken.

(Code 1991, § 5.04.520; Res. of 9-14-95, § 1(5.04.520))

#### 5.10.510. Board of commissioners' decisions final.

Any decision, order, requirement or determination of the board of commissioners of the county shall be a final administrative determination. Any application for relief from an official action of the board of commissioners shall be as set forth in section 5.10.600 of this chapter.

(Code 1991, § 5.04.530; Res. of 9-14-95, § 1(5.04.530))

#### 5.10.520. Requirements for businesses exempted from fees.

Even though a person, firm or corporation may be exempt under section 5.10.140.A from paying an administrative fee, regulatory fee, and occupation tax, or exempt from paying the administrative fee and occupation tax under section 5.10.140.B, C and D, such person, firm or corporation shall apply to the business license director for a free business license to engage in or carry on any business, occupation or use provided for herein, and shall submit proper credentials showing that the applicant is entitled to exempt status. The applicant shall comply with all other provisions of this chapter and all other rules, regulations and resolutions of the county, and upon failure to do so shall be subject to the penalties of this chapter or any other appropriate resolution of the county.

(Code 1991, § 5.04.540; Res. of 9-14-95, § 1(5.04.540))

#### 5.10.530. Right of entry.

The business license director, the sheriff, or their authorized representatives shall have the power to enter any premises during the normal business hours of the business for the purpose of enforcement of this chapter.

(Code 1991, § 5.04.550; Res. of 9-14-95, § 1(5.04.550))

#### 5.10.540. Business license for canvassers and solicitors.

- A. Any person, firm or corporation engaging or offering as a canvasser or solicitor in person or by telephone at residences and places of business in the unincorporated areas of the county, for the purpose of soliciting orders, sales, subscriptions, contributions, or conducting business of any kind, shall first obtain a business license from the business license director, and in addition thereto must secure identification badges from the business license director for each canvasser or solicitor. Canvassers and solicitors for nonprofit organizations who are regularly enrolled in a public or private school in the county shall not be required to obtain identification badges.
- B. All such persons, firms, or corporations must file an application for a business license with the business license director, which application shall contain identification and the signature of each person so canvassing or soliciting, the name and address of the employer or sponsor,

and the proposed method of operation in the county, including the time and area of such operation, limited to daylight hours only.

- C. Licenses shall be granted or refused after an investigation of the applicant and any canvassers or solicitors named in the application. No license or badge shall be issued to any applicant, canvasser, or solicitor who shall have a conviction for a crime of moral turpitude, a pending charge for an offense involving the elements of assault and battery, or any civil judgment involving unethical or improper business actions, including but not limited to actions which would constitute fraud and deceit under the laws of the state.

(Code 1991, § 5.04.560; Res. of 9-14-95, § 1(5.04.560); Res. of 1-23-03, § 1)

#### 5.10.550. Background investigation required for operators of certain businesses.

- A. Persons, firms or corporations engaged in the following businesses, trades or professions shall be investigated prior to the issuance of a business license:
  - 1. Operators of tourist camps, camp cabins, tourist houses, roadhouses, public dance halls or similar establishments as defined under O.C.G.A. Sections 43-12-50 and 31-28-1.
  - 2. Operators of flea markets, outdoor exhibitors, outdoor performances, outdoor musical festivals, and outdoor public assemblies as defined in section 5.10.420.
  - 3. Auctioneers of property other than real estate, owners and/or operators of billiard rooms or game rooms, canvassers and solicitors, (except those exempted from obtaining identification badges under the provisions of section 5.10.540 A., second hand sales, pawn brokerages, precious metal dealers, carnivals, circuses, traveling shows, taxi services, limousine services, tattoo artists, tattoo operators and bounty hunters.
  - 4. Transient persons as defined in O.C.G.A. Section 92-107 (now repealed).
- B. No license shall be issued to any business type listed in paragraph A. to any person or business where any individual having an interest either as owner, partner, principal stockholder or licensee, whether such interest is direct or indirect, or beneficial or absolute, has been convicted or has taken a plea of nolo contendere within ten years for conviction involving moral turpitude, or five years immediately prior to the filing of the application for any felony or misdemeanor of any state or of the United States or any municipal or county ordinance which would have any effect on the applicant's ability to properly conduct such a business, except traffic offenses. The term "conviction" as used in this Section shall include an adjudication of guilt or plea of guilty, plea of nolo contendere or forfeiture of a bond when charged with a crime.
- C. The board of commissioners on appeal, may waive any conviction as a disqualification if it finds that it would have no material effect upon the applicant's ability to properly conduct its business if such license were granted. Upon payment by the applicant of a fee in the amount of \$100.00 the Business license director shall schedule a hearing before the Hall County Board of Commissioners for its consideration as to whether a license be granted.
- D. Any person desiring to operate a tattoo establishment or desiring to operate as a tattoo operator or tattoo artist shall make application for a business license to the Business License Office of Hall County, Georgia. The minimum age of each applicant shall be 18 years of age. Applicants shall furnish two photographs showing a front and side picture of the full face of the applicant, size two and one-half inches by two inches. Applicants shall present a medical certificate from a medical doctor certifying that the person is sound physically and mentally, has good eyesight and is not affected with a disease which can be communicated through openings in the human skin. The applicant shall also submit the exposure control plan which has been approved by the Hall County Health Department prior to the issuance of the

business license, and shall further comply with all requirements of the Hall County Tattoo Resolution designated as Chapter 8.10 of the Official Code of Hall County, Georgia. (Code 1991, § 5.04.570; Res. of 9-14-95, § 1(5.04.570); Res. of 6-6-00(2), § 1; Res. of 1-23-03, § 2)

Cross references: Special requirements for licensing of certain businesses, § 5.10.420; tattoo establishments, ch. 8.10; public peace, morals and welfare, tit. 9.

#### 5.10.560. Prohibited businesses.

No person shall practice any of the following trades, occupations or professions in the county:

- A. Astrologers, bookmaking and bookmaking services, clairvoyants, fortune-tellers, gambling or gambling establishments, games of chance, palmists and phrenologists and such other occupations as prohibited by law.
- B. Reserved.
- C. The sale of drug consumption paraphernalia or drug enhancement paraphernalia (head shops) by persons other than those legally licensed as a pharmacist.
- D. No business activity listed in section 5.10.420 shall be conducted within the unincorporated areas of Hall County prior to being approved in accordance with section 5.10.420.

(Code 1991, § 5.04.580; Res. of 9-14-95, § 1(5.04.580); Res. of 6-6-00(2), § 1)

Cross references: Public peace, morals and welfare, tit. 9.0

#### 5.10.570. Amount of regulatory fees.

The regulatory fees set forth herein shall apply to the following businesses or portions thereof, and shall be in addition to the administrative fee and the occupation tax imposed in article I:

- A. Sheriff approval or background checks: \$15.00 each.
- B. Identification badges: \$10.00 each.
- C. Address change or business name change requiring reissuance of business license: \$5.00.
- D. Permits requiring board of commissioners' approval:
  - 1. New applications: \$100.00.
  - 2. Renewal applications: \$50.00.
  - 3. Going-out-of-business sale: \$100.00.
- E. Registration and regulatory fees shall be non-refundable after the fact. Upon written request the occupation tax may be refunded, if the application is not approved or is canceled.

(Code 1991, § 5.04.590; Res. of 9-14-95, § 1(5.04.590))

#### 5.10.580. Additional restrictions on certain businesses.

- A. Door to door canvassers or solicitors shall be limited to daylight hours only and must display badges issued by Hall County while canvassing or soliciting.
- B. All food sales or merchandise sales from vehicles require written permission from the property owner.
- C. Flea markets: No public sales before noon on Sundays; before noon operations limited to loading and unloading.
- D. Establishments permitting public dancing must close by 12:30 a.m. weeknights, except Thursday and Friday nights, when they may remain open until 2:00 a.m. There will be no Sunday operation.

E. Race tracks: Racing is prohibited between 10:00 a.m. and 12:30 p.m. on Sundays, ending racing activity at 7:00 p.m. on Sunday and at midnight on other nights. There will be a 1:00 a.m. extension for an unforeseen delay only due to extenuating circumstances.

(Code 1991, § 5.04.600; Res. of 9-14-95, § 1(5.04.600))

#### 5.10.590. Amendments.

This chapter may be amended from time to time, and all persons, businesses, occupations, trades and uses subject to this chapter shall be subject to such amendment.

(Code 1991, § 5.04.610; Res. of 9-14-95, § 1(5.04.610))

#### 5.10.600. Appeal of decisions of board of commissioners.

A. Any person, firm or corporation who may have a substantial interest in any decision of the board of commissioners may appeal from any final decision of the board of commissioners to the superior court of Hall County by filing with the clerk of the court a notice of appeal in writing setting forth plainly, fully and distinctly wherein such decision is contrary to law. Such notice of appeal shall be filed within 30 days after the decision of the board of commissioners is rendered. A copy of the notice of appeal shall be served on the clerk of the board of commissioners. Upon the filing of a notice of appeal, the clerk of the superior court shall give immediate notice thereof to the clerk of the board of commissioners, and within 30 days from the time of such notice the clerk of the board of commissioners shall cause to be filed with the clerk of the superior court a duly certified copy of the minutes of the proceedings had before the board of commissioners and the decision of the board of commissioners.

B. In the event of an appeal to the superior court, the appellants shall bear the cost of preparing the necessary documents as required by the court.

(Code 1991, § 5.04.620; Res. of 9-14-95, § 1(5.04.620))