

**WALTON COUNTY, GEORGIA  
ORDINANCE NUMBER \_\_\_\_**

**AN ORDINANCE  
BY THE BOARD OF COMMISSIONERS  
OF WALTON COUNTY**

An Ordinance to amend the Code of Walton County, Georgia, Chapter 18 regarding Businesses, so as to impose an occupation tax on businesses and practitioners subject to the jurisdiction of Walton County; to provide definitions; to provide penalties and enforcement; to repeal conflicting ordinances; to provide an effective date; and for other purposes.

**WHEREAS**, O.C.G.A. § 48-13-1 et seq. authorizes the governing authority of each county to provide by local ordinance or resolution for the levy, assessment, and collection of an occupation tax on those businesses and practitioners of professions and occupations with one or more locations or offices in the unincorporated part of the county;

**WHEREAS**, pursuant to O.C.G.A. § 48-13-1 et seq., Walton County has provided by local ordinance for the levy, assessment, and collection of an occupation tax; and

**WHEREAS**, Walton County desires to amend said ordinance for the purpose of protecting and preserving the public health, safety, and welfare.

**NOW THEREFORE, BE IT ORDAINED AND RESOLVED BY THE BOARD OF COMMISSIONERS OF WALTON COUNTY, GEORGIA** as follows:

1.

The Code of Walton County, Georgia is hereby amended by repealing Article II of Chapter 18 in its entirety and inserting the following article in lieu thereof:

**ARTICLE II. OCCUPATION TAXES**

**Sec. 18-31. Definitions.**

The following words, terms and phrases shall, for the purposes of this article, have the following meaning:

- (a) “Department” means the Planning and Development Department of Walton County.

- (b) “Employee” means an individual whose work is performed under the direction and supervision of an employer who withholds FICA, federal income tax, or state income tax from such individual’s compensation or issues to such individual for purposes of documenting compensation a form I.R.S. W-2 but not a form I.R.S. 1099. Notwithstanding the foregoing, 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 that issues to such individual for purposes of documenting compensation a form I.R.S. W-2.
- (c) “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.
- (d) “Occupation tax” means a tax levied for revenue purposes on persons, partnerships, corporations, or other entities for engaging in an occupation, profession, or business.
- (e) “Practitioners of professions and occupations” shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.

**Sec. 18-32. Purpose and Scope of Tax.**

The occupation tax levied herein is not for regulatory purposes, but rather revenue purposes only. Occupation tax payment is not a condition precedent for transacting business or practicing a profession or occupation in the unincorporated part of the county.

**Sec. 18-33. Occupation Tax Levied; Computation of Full-Time Employees; Occupation Tax Schedule; Limitations.**

- (a) An occupation tax based upon number of employees is levied upon businesses and practitioners of professions and occupations that either:

- (1) Have one or more locations or offices within the unincorporated part of the county; or
  - (2) Are out-of-state businesses or practitioners with no location or office in the unincorporated part of the county but:
    - (i) Have one or more employees or agents who exert substantial efforts within the unincorporated part of the county for the purpose of soliciting business or serving customers or clients; or
    - (ii) Own personal or real property which generates income and which is located in the unincorporated part of the county.
- (b) The occupation tax is levied based on the number of employees of the business or practitioner together with a flat fee. For occupation tax purposes, the number of employees of the business or practitioner shall be the sum of the number of full-time employees and the number of full-time position equivalents, with full-time employees being employees who works 40 hours or more weekly and full-time position equivalents being the sum of the average weekly hours of employees who work less than 40 hours divided by 40. With respect to businesses or practitioners with no location or office in Georgia, only those employees engaged in substantial efforts within Georgia shall be counted by the county for occupation tax purposes.
- (c) The occupation tax is levied in accordance with the following schedule: \$75.00 flat fee + \$10.00 per employee.
- (d) In the event a business or practitioner commences business on or after July 1 in any year, the occupation tax for that year shall be 50 percent of the tax due, except that a practitioner of a profession or occupation listed in paragraphs (1) through (18) of O.C.G.A. § 48-13-9(c) who elects as his or her occupation tax the amount described in Sec. 18-34 shall receive no reduction in such amount.
- (e) A business or practitioner that is subject to occupation tax by more than one local government in Georgia shall only be subject to occupation tax by the county for the number of employees who are employed within the unincorporated part of the county. This limitation shall only apply when the business or practitioner has provided to the county satisfactory proof of current payment of the occupation tax of the other local government(s). Additionally, an employee who works for the same business or practitioner in more than one city or county shall be counted by the county for occupation tax purposes only if the employee works for the longest period of time within the calendar year in the unincorporated part of the county.
- (f) A business or practitioner with no location or office in Georgia shall only be required to pay occupation tax to the county if it is the local government in Georgia where the largest dollar volume of business is done or service is performed by such business or practitioner. This limitation shall only apply when the business or practitioner has provided to the county satisfactory proof of the applicability of this subsection. Additionally, if a business or practitioner with no location or office in Georgia provides to the county proof of payment of a local business or occupation tax in another state that purports

to tax the business's or practitioner's sales or services in this state, then the business or practitioner shall be exempt from this occupation tax.

**Sec. 18-34. Practitioners of Professions and Occupations.**

Practitioners of professions and occupations listed in paragraphs (1) through (18) of O.C.G.A. § 48-13-9(c) shall pay the occupation tax as set forth in Sec. 18-33 above or an occupation tax of \$200.00 per practitioner.

**Sec. 18-35. Exemptions.**

(a) No occupation tax shall be levied on the following:

- (1) Any business operated for a charitable purpose, provided that at least 50 percent of the entire proceeds from such business are devoted to such purpose;
- (2) Any practitioner whose office is maintained by and who is employed in practice exclusively by the United States, the State of Georgia, a city or county of the State of Georgia, or instrumentality of the United States, the State of Georgia, or a city or county of the State of Georgia;
- (3) Any state or local authority, nonprofit organization, or vendor operating under a contract with a tax-exempt agricultural fair, as that term is defined in O.C.G.A. § 2-2-8;
- (4) Those businesses regulated by the Public Services Commission and the Department of Public Safety;
- (5) Those electrical service businesses organized under Chapter 3 of Title 46 of the Official Code of Georgia;
- (6) Any farm operation for the production from or on the land of agricultural products, but not including any agribusiness;
- (7) Real estate brokers, except if they maintain a principal or branch office in the unincorporated part of the county;
- (8) Any disabled veteran of any war or armed conflict in which any branch of the armed forces of the United States engaged, whether under the United States command or otherwise, provided such person receives a certificate of exemption issued by the commissioner of veterans service pursuant to O.C.G.A. § 43-12-1;
- (9) Any blind person, provided such person receives a certificate of exemption issued by the commissioner of veterans service pursuant to O.C.G.A. § 43-12-1;
- (10) Any veteran of peace-time service in the United States armed forces who has a physical disability incurred during the period of such service, provided such person receives a certificate of exemption issued by the commissioner of veterans service pursuant to O.C.G.A. § 43-12-1;
- (11) Insurance companies pursuant to O.C.G.A. § 33-8-8;

- (12) Nonprofit agricultural product cooperating marketing associations pursuant to O.C.G.A. § 2-10-105;
  - (13) Motor carriers pursuant to O.C.G.A. § 40-1-116;
  - (14) Depository financial institutions pursuant to O.C.G.A. § 48-6-93;
  - (15) Facilities operated by a charitable trust pursuant to O.C.G.A. § 48-13-55; or
  - (16) Any business on which the levy of such occupation tax is prohibited by the laws of the State of Georgia or the United States.
- (b) The exemptions and limitations contained in this ordinance shall not be construed to repeal or otherwise affect in any way any franchise fees, business taxes or other fees or taxes otherwise allowed by law.

**Sec. 18-36. Classification of Businesses and Practitioners.**

- (a) Businesses and practitioners with more than one type of service or product shall be classified for occupation tax purposes according to their dominant service or product.
- (b) Each location of a business or practitioner in the unincorporated part of the county shall be classified for occupation tax purposes as a separate business.

**Sec. 18-37. Filing Returns; Other Information Required or Requested.**

- (a) On or before January 1 of each year, a business or practitioner subject to this occupation tax ordinance shall file with the Department, on a form approved by and available from the Department, a signed return attesting to the number of employees of such business or practitioner during the calendar year.
- (b) Businesses and practitioners doing business in the unincorporated part of the county shall submit or make available to the Department such information as may be required or requested by the Department to determine the applicability and amount of the occupation tax or to facilitate levying or collecting the occupation tax.

**Sec. 18-38. Date Due; Penalty and Interest.**

- (a) Any occupation tax due pursuant to this ordinance shall be due and payable annually on January 1. In the event that a business or practitioner commences business after January 1 in any year, the tax for that year shall be due and payable 30 days following the commencement of the business.
- (b) Businesses and practitioners liable for an occupation tax imposed by this ordinance which remains due and unpaid for 90 days from the due date of the tax shall be subject to and shall pay a penalty of 10 percent of the tax due, and interest at the rate of 1.5 percent per month.

**Sec. 18-39. Occupation Tax Certificate.**

- (a) Upon the receipt of a signed tax return in accordance with this ordinance, payment of any and all taxes, penalties, and interest due pursuant to this ordinance, and satisfactory evidence of compliance with any and all other requirements of this ordinance, the county shall issue an occupation tax certificate to the business or practitioner.
- (b) Businesses and practitioners subject to this occupation tax ordinance shall post the county occupation tax certificate issued to them in a conspicuous place in their place of business and shall keep the certificate there at all times while the certificate remains valid, provided that if a business or practitioner has no permanent business location in the county, such occupation tax certificate shall be shown to any officer of the county upon request.
- (c) The issuance of an occupation tax certificate to a business or practitioner shall not authorize that business or practitioner to engage in or carry on business or to perform any other activity in violation of federal, state or local law nor shall it relieve that business or practitioner from its obligation to ensure compliance with all federal, state and local laws, including but not limited to the Comprehensive Land Development Ordinance and Subdivision Regulations for Walton County, Georgia.

**Sec. 18-40. Evidence of Personal Property Ad Valorem Tax Payment Required.**

Businesses and practitioners subject to this occupation tax ordinance shall first, before the issuance of a county occupation tax certificate, show evidence that all personal property ad valorem taxes due and payable to the county have been paid.

**Sec. 18-41. Evidence of State License Required.**

Each person subject to this occupation tax ordinance who is also licensed by the State of Georgia 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. Additionally, such licensee shall first, before the issuance of a county occupation tax certificate, show evidence of such licensure.

**Sec. 18-42. Enforcement; Violations.**

- (a) The Department, in addition to the Walton County Sheriff's Office, shall have full authority to administer and enforce the provisions of this ordinance, to perform all functions necessary to administer and enforce this ordinance, to issue citations to violators of this ordinance, and to summon violators of this ordinance to appear before the Magistrate Court.
- (b) The Department shall issue executions against businesses and practitioners for taxes which are due and owing, along with any penalties and interest imposed by Sec. 18-38. Such executions shall bear interest at the rate authorized by O.C.G.A. § 48-2-40 or, if such statute should be repealed or ruled invalid by a

court of competent jurisdiction, one percent per month. The lien shall cover the property of the business or practitioner liable for payment of the delinquent occupation tax and become fixed as of the date and time the occupation tax became delinquent. The execution may be levied by the Department upon property of the delinquent tax payer located in the county and sufficient property may be advertised and sold to pay the amount of the execution, including penalties, interest and costs.

- (c) Businesses and practitioners who fail or refuse to pay any occupation tax imposed pursuant to this ordinance may be subject to a civil fine not to exceed \$500.00, which fine shall be imposed by the Magistrate Court and may be enforced by the contempt power of the Magistrate Court.

**Sec. 18-43. Public Hearings.**

- (a) The county shall conduct at least one public hearing before adopting any ordinance or resolution which will increase the occupation tax rate specified in Sec. 18-33.
- (b) In any year when revenue from occupation taxes is greater than revenue from occupation taxes for the preceding year, the county shall hold at least one public hearing as part of the process of determining how to use the additional revenue.

**Sec. 18-44. Prior Ordinance.**

To the extent that any occupation taxes are owed pursuant to an ordinance passed prior to this one, such amounts remain due and owing and the provisions of that prior ordinance will remain in effect with respect to such unpaid occupation taxes until such time as they are paid in full.

**Secs. 18-45—18-90. Reserved.**

2.

Except as specified hereinabove, all remaining portions of the Code of Walton County, Georgia shall continue in full force and effect, and shall remain unaffected by this amendment.

3.

It is the express intent of the Walton County Board of Commissioners that this Ordinance be consistent with both federal and state law. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

4.

All Ordinances and provisions of the Code of Walton County, Georgia which conflict with any part of this Ordinance are hereby repealed.

5.

This Ordinance shall become effective immediately upon passage.

**SO ORDAINED** this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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Kevin W. Little, Chairman  
Walton County Board of Commissioners

Attest: \_\_\_\_\_

Leta P. Talbird, County Clerk  
Walton County, Georgia

[COUNTY SEAL]