

CHAPTER 32: LICENSING AND BUSINESS REGULATION

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ARTICLE I. OCCUPATION TAX

Section 32-101 Occupation Tax

1. **Occupation Tax Required; Occupation Tax Required for Business Dealing in the County.**
 - A. For the year 1995 and succeeding years thereafter, each person engaged in any business, trade, profession, or occupation in Newton County, Georgia, whether with a location in Newton County or in the case of an out-of-state business with no location in Georgia exerting substantial efforts within the state pursuant to O.C.G.A. § 48-13-7, shall pay an occupation tax for said business, trade, profession, or occupation; which tax and any applicable registration shall be displayed in a conspicuous place in the place of business, if the taxpayer has a permanent business location in Newton County, Georgia. If the taxpayer has no permanent business location in Newton County, Georgia, such business tax registration shall be shown to the County Clerk or his/her designee or to any police officer of said, Newton County Georgia, upon request.
2. **Construction of Terms; Definitions.**
 - A. As used in this section, the term:
 - (1) **Administrative Fee** means a component of an occupation tax which approximates the reasonable cost of handling and processing the occupation tax.
 - (2) **In Towns or Cities** means within one (1) mile of villages, towns, or cities.
 - (3) **Location of 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.

- (4) **Occupation Tax** means a tax levied on persons, partnerships, corporations, or other entities for engaging in an occupation, profession, or business and enacted by a local government as a revenue-raising ordinance or resolution.
- (5) **Regulatory Fees** means payments, whether designated as license fees, permit fees, or by another name, which are required by 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 local government. A regulatory fee may not include an administrative fee. Regulatory fees do not include development impact fees as defined by paragraph (8) of Code Section 36-71-2 or other costs or conditions of zoning or land development.
- (6) **Dominant Line** means the type of business, within a multiple-line business, that the greatest amount of income is derived from.
- (7) **Person** shall be held to include sole proprietors, corporations, partnerships, nonprofit, or any other form of business organization, but specifically excludes charitable nonprofit organizations which utilize fifty percent (50%) of their proceeds for charitable purposes.
- (8) **Practitioner of Profession or Occupation** is one who by state law requires state licensure regulating such profession or occupation.
- (9) **Practitioners of Professions and Occupations** shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.
- (10) **Employee** means an individual whose work is performed under the direction and supervision of the employer and whose employer 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 I.R.S. W-2 but not a form I.R.S. 1099.
- (11) **Gross Receipts.**
 - (a) Means total revenue of the business or practitioner for the period, including without being limited to the following:
 - (i) Total income without deduction for the cost of goods sold or expenses incurred;
 - (ii) Gain from trading in stocks, bonds, capital assets, or instruments of indebtedness;
 - (iii) Proceeds from commissions on the sale of property, goods, or services;
 - (iv) Proceeds from fees charged for services rendered; and
 - (v) Proceeds from rent, interest, royalty, or dividend income.
 - (b) Gross receipts shall not include the following:
 - (i) Sales, use, or excise taxes;
 - (ii) Sales returns, allowances, and discounts;
 - (iii) Interorganizational sales or transfers between or among the units of a parent-subsidiary controlled group of corporations, as defined by 26 U.S.C. Section 1563(a)(1), between or among the units of a brother-sister controlled group of corporations, as defined by 26 U.S.C. Section 1563(a)(2), or between or among wholly owned partnerships or other wholly owned entities;
 - (iv) Payments made to a subcontractor or an independent agent;
 - (v) Governmental and foundation grants, charitable contributions, or the interest income derived from such funds, received by a nonprofit organization which employs salaried practitioners otherwise covered by this chapter, if such funds constitute eighty percent (80%) or more of the organization's receipts; and
 - (vi) Proceeds from sales to customers outside the state.

3. Administrative and Regulatory Fee Structure; Occupation Tax Structure.

- A. A non-prorated, non-refundable administrative fee of five dollars (\$5.00) shall be required on all business and occupation tax accounts for the initial start-up, renewal, or reopening of those accounts.
- B. A regulatory fee will be imposed as provided under O.C.G.A. § 48-13-9 on those applicable businesses. A regulatory fee may not include an administrative fee.
- C. The regulatory fee schedule for persons in occupations and professions is to be determined by the Board of Commissioners.

4. Occupation Tax Levied; Restrictions.

A. An occupation tax shall be levied upon those businesses and practitioners of professions and occupations with one or more locations or offices in Newton County 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:

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

B. Occupation Tax Schedule.

(1) **Number of Employees.** The tax rate determined by number of employees for each business, trade, profession, or occupation is as follows and will be developed and updated from time to time by the Board of Commissioners.

Employees	Tax Liability
1-3	Flat Fee of \$50.00
4-9	\$14.00 per employee
10-99	\$140.00 plus \$3.00 for each employee in excess of 9
100-500	\$430.00 plus \$2.00 for each employee in excess of 99
over 500	\$1,250.00 plus \$1.00 for each employee in excess of 500

C. No export tax shall be imposed upon any item manufactured or produced in this state and shipped by the manufacturer or producer for sale outside the state.

D. No county, or district shall levy or collect any capitation tax whatsoever, except street tax.

E.

(1) It shall be unlawful for the state or any county, airport authority, district, or other political subdivision to levy or collect a tax, fee, head charge, or other charge, directly or indirectly, on:

- (a) Persons traveling in air commerce, whether on regularly scheduled commercial airlines, chartered air flights, or in privately owned civil aircraft;
- (b) The carriage of persons traveling in air commerce; or
- (c) The sale of air transportation or on the gross receipts derived from air transportation.

(2) This Code section shall not be construed to prohibit the state or any county, airport authority, district, or other political subdivision:

- (a) From levying or collecting any property, income, franchise, sale, use, or other tax otherwise authorized by law; or
- (b) Which owns or operates an airport from levying or collecting reasonable rental charges, landing fees, license fees, permit fees, and other service charges for the use of airport facilities and related facilities from aircraft owners, operators, persons selling or providing goods or services to the owners or operators or to the public, and others, when otherwise allowed by law.

5. Paying Occupation Tax of Business with No Location in Georgia.

A. Registration and assessment of an occupation tax are hereby imposed on those business and practitioners of professions with no location or office in the state of Georgia if the business's largest dollar volume of business in Georgia is in Newton County and the business or practitioner:

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

B. Reserved.

C. This article supersedes any provisions of local law authorizing such taxes.

D. Local governments levying occupation tax according to section 4-114(5) shall comply with O.C.G.A. § 48-13-10 through 48-13-13, except that: gross receipts of a business or practitioner for purposes of this Code section shall include only those gross receipts reasonably attributable to sales or services in this state; employees shall include only those employees engaged in substantial efforts within this state; and nation-wide profitability ratios shall apply only to types of business transacted within this state.

E. Businesses and practitioners subject to § 4-114(5) shall be required to pay occupation tax to only one (1) local government in this state, the local government for the municipal corporation or

county in which the largest dollar volume of business is done or service is performed by the individual business or practitioner.

- F. If a business or practitioner subject to § 4-114(5) provides to the local government in this state which is authorized to levy occupation tax on such business or practitioner proof of payment of a local business or occupation tax in another state which purports to tax the business's or practitioner's sales or services in this state, the business or practitioner shall be exempt from local occupation tax in this state.
6. **Business With One or More Locations in Georgia.**
- A. Except as to those businesses and practitioners of professions and occupations excluded by subsection (a) of Code Section 48-13-16, the governing authority of each county is authorized but not required to provide by local ordinance or resolution for the levy, assessment, and collection of 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 and to provide for the punishment of violation of such a local ordinance or resolution. The governing authority of each county is authorized to classify businesses and practitioners of professions and occupations and to assess different taxes on different classes of businesses and practitioners. The governing authority of each county is authorized to provide by local ordinance or resolution for requiring information from businesses and practitioners of professions and occupations doing business in the unincorporated part of the county regarding the site of any location or office and payment of occupation taxes or regulatory fees to other local governments and to provide for the punishment for violation of such a local ordinance or resolution. This article supersedes any provision of local law authorizing such taxes.
- B. After the effective date of this Act, any local government shall conduct at least one (1) public hearing before adopting any ordinance or resolution regarding the occupation tax.
7. **Each Line of Business to Be Identified on Business Registration.** The business registration of each business operated in the County shall identify the dominant 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 County Clerk's Office and that line of business being noted by the County Clerk upon the business registration form which is to be displayed by the business owner.
8. **The Number of Businesses Considered to Be Operating In the County.** Where a person conducts business at more than one (1) fixed location, each location or place shall be considered a separate business for the purpose of occupation tax.
9. **Professionals As Classified in O.C.G.A. §48-13-9(c), Paragraphs 1 through 18.** Practitioners of professions as described in O.C.G.A. § 48-18-9(c)(1) through (18) shall elect as their entire occupation tax one of the following:
- A. The occupation tax based on Number of Employees.
- B. A fee of one hundred dollars (\$100.00) per practitioner who is licensed to provide the service, such tax to be paid at the practitioner's office or location; provided, however, that a practitioner paying according to this paragraph shall not be required to provide information to the local government relating to the gross receipts of the business or practitioner. The per-practitioner fee applies to each person in the business who qualifies as a practitioner under the state's regulatory guidelines and framework.
- C. This election is to be made on an annual basis and must be done prior to December 1 each year.
10. **Practitioners Exclusively Practicing for a Government.** Any practitioner whose office is maintained by and who is employed in practice exclusively by the United States, the state, a municipality or county of the state, instrumentalities of the United States, the state, or a municipality or county of the state shall not be required to obtain a license or pay an occupation tax for that practice.
11. **Purpose and Scope of Tax.** The occupation tax levied herein is for revenue purposes only and is not for regulatory purposes, nor is the payment of the tax made a condition precedent to the practice of any such profession, trade, or calling. The occupation tax only applies to those businesses and occupations which are covered by the provisions of O.C.G.A. §§ 48-13-5 to 48-13-26. All other applicable businesses and occupations are taxed by the local government pursuant to the pertinent general and/or local law and ordinance.

12. **When Tax Due and Payable; Effect of Transacting Business When Tax Delinquent.**
- A. Each such occupation tax shall be for the calendar year 1995 and succeeding calendar years thereafter unless otherwise specifically provided. Said registration and occupation tax shall be payable January 1 of each year and shall, if not paid by March 15 of each year, be subject to penalties for delinquency as prescribed in this section. On any new profession, trade, or calling begun in Newton County in 1995 or succeeding years thereafter, the registration and tax shall be delinquent if not obtained immediately upon beginning business and a fifty percent (50%) penalty imposed. The tax registration herein provided for shall be issued by the County Clerk's Office and if any person, firm, or corporation whose duty it is to obtain a registration shall, after said registration or occupation tax becomes delinquent, transact or offer to transact, in Newton County, any of the kind of profession, trade, or calling subject to this ordinance without having first obtained said registration, such offender shall, be punished by a fine not to exceed two hundred dollars (\$200.00), or imprisonment not to exceed sixty (60) days, either or both in the discretion of the presiding judge.
 - B. In addition to the above remedies, the county may proceed to collect in the same manner as provided by law for tax executions.
13. **Exemption on Grounds That Business is Operated for Charitable Purposes.** No business on which a business registration or occupation tax is levied by this Ordinance shall be exempt from said registration or tax on the ground that such business is operated for a charitable purpose, unless eighty percent (80%) or more of the entire proceeds from said business are devoted to such purpose.
14. **Evidence of State Registration Required If Applicable; State Registration to Be Displayed.**
- A. Each person who is licensed by the Secretary of State pursuant to Title 43 of the O.C.G.A. shall provide evidence of proper and correct state license before the Newton County registration may be issued.
 - B. Each person who is licensed by the state shall post the state license in a conspicuous place in the licensee's place of business and shall keep the license there at all times while the license remains valid.
15. **Evidence of Qualification Required If Applicable.** Any business required to obtain health permits, bonds, certificates of qualification, certificates of competency, or any other regulatory matter shall first, before the issuance of a county business registration, show evidence that such requirements have been met.
16. **Liability of Officers and Agents; Registration Required; Failure to Obtain.** All persons subject to the occupation tax levy pursuant to this ordinance shall be required to obtain the necessary registration for said business as described in this ordinance, and in default thereof the officer or agent soliciting for or representing such persons shall be subject to the same penalty as other persons who fail to obtain a registration. Every person commencing business in Newton 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 without first having so obtained said registration, shall be subject to penalties provided thereof.
17. **When Registration and Tax Due and Payable; Effect of Transacting Business When Tax Delinquent.**
- A. Each such registration shall be for the calendar year in which the registration was obtained unless otherwise specifically provided. There is hereby imposed a penalty upon each business which fails to apply for and obtain an appropriate business registration and pay all tax and fees as provided herein before January 31 of each year, and on January 31 each year hereafter. Every person commencing business in the county after January 1 of each year shall obtain the registration required before commencing such business. Any person transacting or offering to transact in the county any business, trade, profession, or occupation without first having obtained said registration shall be subject to the penalties provided in section 4-115(16). Said penalties shall be in addition to all other penalties, civil and criminal herein provided; and may be collected by the remedies herein provided for collection of the occupation tax, and shall have the same lien and priority as the occupation tax to which the penalty is applied.
 - B. The registration herein provided for shall be issued by the County Clerk's Office, and if any person, firm, or corporation whose duty it is to obtain a registration shall, after said occupation tax becomes delinquent, transact or offer to transact, in the county, any of the kind of business, trade, profession, or occupation without having first obtained said registration, such offender shall be subject to the penalties provided thereof.

18. **Penalty.** Any person violating any provisions of this ordinance shall, upon conviction before the county judge, be fined in an amount not exceeding two hundred dollars (\$200.00) or imprisonment not exceeding sixty (60) days.
19. **Issuance; Denial of Occupational Tax Receipt.**
- A. A Newton County Business License shall be issued by the Clerk hereunder upon the receipt of the application; payment of the application fee and all business and occupation taxes; and the determination that the provisions of this Ordinance have been satisfied.
 - B. The Clerk hereunder shall not issue a license to any business engaged in an unlawful activity or in such a manner as to violate lawful ordinances adopted by the Board of Commissioners. Unlawful activity shall include, but not be limited to, activities in violation of the zoning regulations and heating, electrical, health and building codes or ordinances of Newton County.
20. **Revocation of Business Tax Registration; Appeal.**
- A. If any holder of a Newton County Business License issued by the Clerk is engaged in unlawful activities including the operation of the licensed business, including violations of the laws of the State of Georgia, appropriate county or municipal ordinances, applicable zoning regulations, or applicable heating, electrical, health or building codes, the business license may be revoked in the manner provided herein. Where it is reported to the Clerk that a holder of a Newton County Business License is engaged in unlawful activities, a preliminary investigation shall be conducted by the Clerk in order to attempt to determine that there may be a basis for the reports. If the Clerk's preliminary investigation reveals that there may be a basis for revocation or suspension of the license, the license holder will be notified to appear before the Clerk and show cause on a date certain why his or her business license should not be revoked or suspended.

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The licensee may appear in person at the hearing or be represented by counsel. At the conclusion of the hearing, the Clerk, based upon evidence submitted at the hearing shall enter an order making a finding of fact and then:

- (1) Find that the evidence does not authorize revocation or suspension;
 - (2) Issue a warning to licensee;
 - (3) Suspend license and probate suspension;
 - (4) Revoke license and probate revocation;
 - (5) Suspend license; or revoke license.
- B. Within thirty (30) days from the date of the order from the Clerk, the licensee may appeal the decision, by filing a notice of appeal with the Clerk, to the Newton County Business License and Tax Rate Review and Appeal Committee. The Clerk shall promptly notify the Chairman, who shall schedule a hearing before the Committee and notify the licensee of the time and date of the hearing. At the conclusion of the hearing the Committee shall enter an order which contains therein a finding of fact and a recommendation of appropriate action by the Board of Commissioners. The Board of Commissioners, without the necessity of a hearing, based on the file and order of the committee, may affirm, overrule or partially affirm and partially overrule the decision of the Clerk.
 - C. The Board of Commissioners is authorized to:
 - (1) Find in favor of the licensee;
 - (2) Issue a warning to licensee;
 - (3) Suspend the license and probate suspension;
 - (4) Revoke the license and probate revocation;
 - (5) Suspend license;
 - (6) Revoke license;
 - (7) Take any other appropriate action regarding licensee.
 - D. In addition to the above, the Newton County Board of Commissioners shall have the right to revoke any license issued under this ordinance, whenever a person doing business under such license shall violate any law or ordinance of the United States, or of the State of Georgia or of the County in pursuance of such business conducted under such license, or when it shall be proved before the Newton County Board of Commissioners that the health, morals, interest and convenience of the public demand the revocation of such license.
 - E. All actions of the Board of Commissioners revoking, suspending, or otherwise affecting a Newton County Business License shall be spread upon the minutes of the Board at the time of the meeting at which such action was taken or hearing held.

- F. A license may be suspended or revoked by the Clerk for failure of a licensee to comply with the provisions of this article or where the licensee furnished fraudulent or false information in the license application.

21. Appeal.

- A. Appeals from any decision of the Clerk shall be made to the Newton County Business License and Tax Rate Review and Appeal Committee by any person aggrieved thereby in the manner provided in this Ordinance.
- B. If an applicant is denied a Newton County Business License by the Clerk, the applicant may file a written appeal from the denial to the Newton County Business License and Tax Rate Review and Appeal Committee. An appeal must be filed with the Clerk within thirty (30) days from the denial. The Clerk shall promptly notify the Chairman, who shall schedule a hearing before the Committee and notify the applicant of the time and place of the hearing. The Committee shall hear evidence relating to the denial of the license and at the conclusion of the hearing enter an order which sets forth a finding of the facts and a recommendation as to appropriate action to be taken by the Board of Commissioners.

The Clerk shall transmit to the Board of Commissioners the official file and the order of the Committee. The Board of Commissioners shall have the authority to affirm the action of the Clerk or issue an order directing the Clerk to issue the business license upon the payment of the appropriate taxes and fees.

- C. No license shall be denied, suspended or revoked without the opportunity for a hearing.
- D. The Clerk shall provide written notice to the owner-applicant and licensee of his order to deny, suspend or revoke the license. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the owner-applicant and licensee of the right to appeal under the provisions of this article. Any owner-applicant or licensee who is aggrieved or adversely affected by a final action of the Clerk may have a review thereof in accordance with the appeals procedures specified in this Section.

22. Newton County Business License and Tax Rate Review and Appeal Committee.

- A. As the need arises from time to time, the Chairman, on an ad hoc basis, shall create a committee to be known as the Newton County Business License and Tax Rate Review and Appeal Committee.
- B. Two members of the Board of Commissioners, duly elected and serving shall be chosen to serve on the Committee.
- C. The members can choose not to serve on the basis of schedule conflicts or conflicts in interest.
- D. It shall be the duty of the Clerk to schedule the required hearing, within a reasonable time, such that two members of the Board of Commissioners will be able to attend the hearing appeal.
- E. If a hearing cannot be scheduled and held within forty-five (45) days from the date of appeal, then the appeal shall be made directly to the Board of Commissioners and the hearing held during the next regularly scheduled meeting of the Board of Commissioners following the expiration of forty-five (45) days from the date of appeal.
- F. The Committee shall not be compensated and its duties shall be as follows:
 - (1) The Board of Commissioners shall adopt rules and procedures for conducting the Committee's business.
 - (2) The Committee shall serve as an appeal Committee and all actions of the Clerk including denial, suspension or revocation of a license may be appealed to the Committee in the manner set forth herein.
 - (3) The Committee shall annually review all business license tax rates and categories of business subject to a business license tax and make recommendations to the Board of Commissioners as to adjustments, if any, the Committee considers appropriate in rate categories. The Board of Commissioners shall select the members to serve on the Committee for the purpose of making this review at its first regularly scheduled meeting in September of each year or as soon thereafter as is practicable. The Recommendations of the Committee shall be presented to the Board of Commissioners at its last regularly scheduled meeting in December of each year.
 - (4) If any individual, firm or corporation subject to the payment of a business license tax deems the tax to be unlawful, discriminatory or under protest and then file a written request for review with the Clerk of the Board of Commissioners. The request for review must be filed within forty-five (45) days from the date the tax is paid. The Clerk shall, within thirty (30) days from the date of receipt of the request for review from the licensee, schedule a

conference with the licensee to review those matters set forth in the licensee's request for review. Within ten (10) days from the date of the conference, a determination shall be made by the Clerk in writing and a copy of the determination shall be sent to the licensee by certified mail. In the event the licensee is dissatisfied with the determination made by the Clerk it may, within fifteen (15) days from the date of receipt of the determination of the Clerk, file its appeal to the Newton County Business License and Tax Rate Review and Appeal Committee. The appeal shall be in writing and shall be filed with the Clerk. The Clerk shall, upon receipt of an appeal, notify the Chairman, who shall schedule a hearing before the Committee and notify the licensee of the date of the hearing. The Committee shall hold a hearing and hear evidence and consider all matters relating to the licensee's appeal. Upon conclusion of the hearing, the Committee shall enter a written finding of fact and make a written recommendation to the Board of Commissioners. The Clerk shall transmit the Committee's findings and recommendations of the Committee's findings and recommendations of the Committee, but shall give the recommendations of the committee careful consideration in reaching its final decision.

As the report from the Committee to the Board of Commissioners shall contain a finding of fact, the Board of Commissioners shall not be required to conduct a hearing prior to making a final decision of the licensee's appeal. The Board of Commissioners shall notify the licensee taxpayer of its final decision.

23. **Display of License.** All persons shall exhibit and display all licenses and registrations issued to them under this Ordinance in some conspicuous place in their business establishment at which address the license or registration was issued. Any transient or nonresident person, firm or corporation doing business within the county shall carry the license or registration either upon his or her person or in any vehicle or other conveyance which is used in the business and the person shall exhibit the same to any authorized enforcement or police officer.
24. **Exception for Disabled Veterans.** Any Veterans with a ten percent (10%) or greater disability shall be exempt from any business and occupation tax under this section or any license fee required by this section; provided however, this exemption shall apply only to one (1) business at a time normally taxed hereunder and shall not apply to any additional businesses or locations to which this section applies.
25. **Businesses Not Covered by this Ordinance.** The following businesses are not covered by the provisions of this section but may be assessed an occupation tax or other type of tax pursuant to the provisions of other general laws of the State of Georgia or by local law:
 - A. Those businesses regulated by the Georgia Public Service Commission.
 - B. Those electrical service businesses organized under Chapter 3 of Title 46 of the O.C.G.A.
 - C. Any farm operation for the production from or on the land of agricultural products, but not including agribusiness.
 - D. Cooperative marketing associations governed by O.C.G.A. § 2-10-105.
 - E. Insurance companies governed by O.C.G.A. § 33-8-8, et seq.
 - F. Motor common carriers governed by O.C.G.A. § 46-7-15.
 - G. Those businesses governed by O.C.G.A. § 48-5-355. (Businesses that purchase carload lots of guano, meats, meal, flour, bran, cottonseed, or cottonseed meal and hulls.)
 - H. Depository financial institutions governed by O.C.G.A. § 48-6-93.
 - I. Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55.
26. **Returns Confidential.** Except in the case of judicial proceedings or other proceedings necessary to collect the occupation tax hereby levied, it shall be unlawful for any officer, employee, agent, or clerk of Newton County, or any other person to divulge or make known in any manner the amount of gross receipts or any particulars set forth or disclosed in any occupation tax return required under this Ordinance. All contents of said return shall be confidential and open only to the officials, employees, agents, or clerks of the Newton County using said returns for the purpose of this occupation tax levy and the collection of the tax. Independent auditors or bookkeepers employed by the Newton County shall be classed as "employees." Nothing herein shall be construed to prohibit the publication by Newton County officials of statistics, so classified as to prevent the identification of particular reports or returns and items thereof, or the inspection of the records by duly qualified employees of the tax departments of the State of Georgia, the United States, and other local governments.
27. **Inspections of Books and Records.** In any case the County Clerk of Newton County, through its officers, agents, employees, or representatives, may inspect the books of the business for which the returns are made. The County Clerk shall have the right to inspect the books or records for the business

- of which the return was made in Newton County, Georgia, and upon demand of the County Clerk such books or records shall be submitted for inspection by a representative of the County Clerk within thirty (30) days. Failure of submission of such books or records within thirty (30) days shall be grounds for revocation of the tax registration currently existing to do business in Newton County. Adequate records shall be kept in Newton County, Georgia, for examination by the County Clerk at that officer's discretion.
- 28. Tax Registration to be Revoked for Failure to Pay Tax, File Returns, Permit Inspection of Books.** Upon the failure of any business to pay said occupation tax or any part thereof before it becomes delinquent, or upon failure to make any of said returns within the time required herein, or upon failure to make a true return, or upon failure to amend a return to set forth the truth, or upon failure to permit inspection of its books as above provided, any business tax registration granted by Newton County under this Ordinance permitting the owner of said business to do business for the current year shall be, ipso facto, revoked. No new business tax registration shall be granted by Newton County for the operation of a business for which any part of the occupation tax herein provided for is at that time unpaid, or to an individual, firm, or corporation who has failed to submit adequate records as requested by the County Clerk in accordance with provisions found in Paragraph 26. In the case of those practitioners where the local government cannot suspend the right of the practitioner to conduct business, the imposition of civil penalties shall be permitted and pursued by the local government in the case of delinquent occupation tax.
- 29. Effect of Failure to Comply with Ordinance Provisions; Continuing in Business After Tax Registration Revocation.** Any persons, their managers, agents, or employees, who do business in said Newton County after the registration for said business has been revoked as above, hereby required to make occupation tax returns, and who fail to make said returns within the time and in the manner herein provided, who refuse to amend such returns so as to set forth the truth, or who shall make false returns; and any persons, their managers, agents, or employees who refuse to permit an inspection of books in their charge when the officers, agents, employees, or representatives of the Newton County request such inspection, during business hours, for the purpose of determining the accuracy of the returns herein provided for, shall be subject to penalties provided herein. In the case of those practitioners where the local government cannot suspend the right of the practitioner to conduct business, the imposition of civil penalties shall be permitted and pursued by the local government in the case of delinquent occupation tax. These penalties may consist of either a percentage of the amount due or a flat fee fine.
- 30. Lien Taken for Delinquent Occupation Tax.** In addition to the other remedies herein provided for the collection of the occupation tax herein levied, the County Clerk of Newton County, Georgia, upon any tax or installment of said tax becoming delinquent and remaining unpaid, shall issue execution for the correct amount of said tax against the persons, partnership, or corporation liable for said tax which said execution shall bear interest at the rate of ten percent (10%) per annum from the date when such tax or installment becomes delinquent, and the lien shall cover the property in the Newton County of the person, partnership, or corporation liable for said tax, all as provided by the ordinances of said county and the laws of Georgia. The lien of said occupation tax shall become fixed on and date from the time when such tax or any installment thereof becomes delinquent. The execution shall be levied by the marshal or other appropriate officer of Newton County upon the property of defendant located in said jurisdiction, and sufficient property shall be advertised and sold to pay the amount of said execution, with interest and costs. All other proceedings in relation thereto shall be had as is provided by Ordinances of Newton County and the laws of Georgia, and the defendant in said execution shall have rights of defense, by affidavit of illegality and otherwise, which are provided by the applicable laws in regard to tax executions. When a nulla bona entry has been entered by proper authority upon an execution issued by the County Clerk against any person defaulting on the occupation tax, the person against whom the entry was made shall not be allowed or entitled to have or collect any fees or charges whatsoever for services rendered after the entry of the nulla bona.

If, at any time after the entry of nulla bona has been made, the person against whom the execution issues pays the tax in full together with all interest and costs accrued on the tax, the person may collect any fees and charges due him or her as though he or she had never defaulted in the payment of the taxes.

31. **Amendment, Repeal of Provision.** This Ordinance shall be subject to amendment or repeal, in whole or in part, at any time, and no such amendment or repeal shall be construed to deny the right of the Commission to assess and collect any of the taxes or other charges prescribed. Said amendment may increase or lower the amounts and tax rates of any occupation and may change the classification thereof. The payment of any occupation tax provided for shall not be construed as prohibiting the levy or collection by the jurisdiction of additional occupation taxes upon the same person, property, or business.
32. **Applications of Provisions to Prior Ordinance.** This Ordinance does not repeal or affect the force of any part of any ordinance heretofore passed where taxes levied under such prior ordinance have not been paid in full. So much and such parts of ordinances heretofore and hereinafter passed as provided for the issuing and enforcing of execution for any tax or assessment required by such ordinances, or that imposed fines or penalties for the nonpayment of such tax, or for failure to pay regulatory fees provided for in said ordinance or ordinances, or failure to comply with any other provisions hereof, shall continue and remain in force until such tax, regulatory fee, or assessment shall be fully paid.
33. **Provisions to Remain in Full Force and Effect Until Changed by Governing Body.** This Ordinance shall remain in full force and effect until changed by amendment adopted by the Commission. All provisions hereto relating to any form of tax herein levied shall remain in full force and effect until such taxes have been paid in full.
34. **Requirement of Public Hearing Before Tax Increase.** After January 1, 1996, the Commission shall conduct at least one public hearing before adopting any ordinance or resolution which will increase the rate of occupation tax as set forth in this ordinance.
35. **Option to Establish Exemption or Reduction in Occupation Tax.** The Commission may by subsequent ordinance or resolution provide for an exemption or reduction in occupation tax to one or more types of businesses or practitioners of occupations or professions as part of a plan for economic development or attracting or encouraging selected types of businesses or practitioners of selected occupations or professions. Such exemptions or reductions in occupation tax shall not be arbitrary or capricious, and the reasons shall be set forth in (the minutes of the governing authority or a plan).
36. **Conflicts Between Specific and General Provisions.** Where there is an apparent conflict in this Ordinance between specific and general provisions, it is the intention hereof that the specific shall control.

(Adopted 1/3/95)

ARTICLE II. BUSINESSES REGULATED

Section 32-201 Alcoholic Beverage Ordinance

1. **General Provisions.**
 - A. **Wine and Malt Beverages; License Required.** No wine, beer or other malt beverage may be manufactured, distributed, or sold in the unincorporated area of Newton County, Georgia, whether at wholesale or retail, by the package or by the drink, for on-premises consumption or off-premises consumption, except under a license granted by the Board of Commissioners of Newton County, Georgia (hereinafter referred to as the "Board"), upon the terms and conditions hereinafter provided.
 - B. **Sale of Distilled Spirits and Liquor For Consumption on Premises.** No distilled spirits may be sold by the drink for consumption only on the premises in the unincorporated area of Newton County, Georgia.
 - C. **Manufacture and Sale of Distilled Spirits by the Package.** No distilled spirits may be manufactured or sold in the unincorporated area of Newton County, Georgia.
 - D. **Definitions.** For the purpose of this Article, the following definitions shall apply:
 - (1) **Applicant.** The person, partner, firm or corporation, as owner, or other entity authorized to represent the business making application for the license.
 - (2) **Board.** The Board of Commissioners of Newton County, Georgia.
 - (3) **Clerk.** The Clerk serving the Board of Commissioners of Newton County, Georgia.
 - (4) **Distilled Spirits.** Any alcoholic beverage obtained by distillation or containing more than twenty-one percent (21%) alcohol by volume, including, but not limited to, all fortified wine as defined in Section 3-1-2(9) of the Official Code of Georgia as now or hereafter amended.