



City of Lilburn

in Gwinnett County

State of Georgia

Ordinance

Number:

2022-560

Date of Reading and Adoption: July 11, 2022

At the meeting of the Lilburn City Council held at 340 Main Street, Lilburn, Georgia.

AN ORDINANCE TO REPEAL AND REPLACE CHAPTER 62, TAXATION, ARTICLE II, OCCUPATION TAX, OF THE CODE OF ORDINANCES OF THE CITY OF LILBURN; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AND EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS: The Mayor and City Council find that Chapter 62, Article II of the Official Code of the City of Lilburn requires amendment to reflect the most effective and efficient business licensing and occupation tax procedures; and

WHEREAS: Chapter 1, Section 6 of the Official Code of the City of Lilburn provides a mechanism by which amendments may be made to the Official Code; and


WHEREAS: The Mayor and City Council met the requirement of Chapter 62, Section 77 of the Official Code of the City of Lilburn requiring a public hearing before adopting any ordinance or resolution regarding the occupation tax.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and City Council of the City of Lilburn, Georgia, sitting in regular session on July 11, 2022, that Chapter 62, Article II of the Official Code of the City of Lilburn is hereby repealed and replaced as set forth in **Exhibit A**.

BE IT FURTHER RESOLVED that all ordinances, regulations, or parts of the same in conflict with this ordinance are hereby rescinded to the extent of said conflict.

This ordinance is effective immediately upon adoption by recorded vote of the Mayor and City Council of the City of Lilburn.

SO ORDAINED this 11th day of July, 2022.


ATTEST: Rick Badie, City Clerk



Tim Dunn, Mayor

EXHIBIT A

Sec. 62-33. – Definitions.

As used in this article, the term:

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

Business means any business, trade, occupation, profession, avocation or calling of any kind for gain or profit, direct or indirect, provided that this shall not include any business operating in the city solely under a franchise granted by the city.

Disabled veteran shall mean a person who has served in the Armed Service of the United States and was terminated under conditions other than dishonorable. In addition, such “disabled veteran” must provide certification by the U.S. Department of Veteran Affairs as 25% or more disabled in the line of duty service during peace time or 10% or more disabled in the line of duty service during war-time as set forth in O.C.G.A. § 43-12-2; with further certification that such disability is likely to be permanent and continuing.

Dominant line, service or product means the type of business within a multiple line business from which the greatest amount of income is derived.

Flat fee means the amount assessed uniformly to all businesses and practitioners of professions and occupations in the city for the initial start-up, renewal, or re-opening of occupation tax accounts.

Governing authority means the Mayor and City Council of Lilburn.

Gross receipts means:

- (1) The total revenue of the business or practitioner for the calendar year, including, without limitation, the following:
 - a. Total income without deduction for the cost of goods sold or expenses incurred;
 - b. Gain from trading in stocks, bonds, capital assets or instruments of indebtedness;
 - c. Proceeds from commissions on the sale of property, goods or services;
 - d. Proceeds from fees charged for services rendered; and
 - e. Proceeds from rent, interest, royalty or dividend income.

- (2) The term "gross receipts" does not mean and shall not include the following:
 - a. Sales, use or excise tax;
 - b. Sales returns, allowances and discounts;
 - c. Interorganizational sales or transfers between or among the units of a parent-subsidiary controlled group of corporations as defined by 26 U.S.C. § 1563(a)(1), or between or among the units of a brother-sister controlled group of corporations as defined by 26 U.S.C. § 1563(a)(2), between or among a parent corporation, wholly owned subsidiaries of such parent corporation, and any corporation in which such parent corporation or one (1) or more of its wholly owned subsidiaries owns stock possessing at least thirty (30) percent of the total value of shares of all classes of

- stock of such partially owned corporations, or between or among wholly owned partnerships or other wholly owned entities;
- d. Payments made to a subcontractor or an independent agent for services which contributed to the gross receipts in issue; and
 - e. Governmental and foundation grants, charitable contributions or the interest income derived from such funds, received by a nonprofit organization which employs salaried practitioners otherwise covered by this chapter, if such funds constitute eighty (80) percent or more of the organization's receipts; and
 - f. Proceeds from sales of goods or services which are delivered to or received by customers who are outside the state at the time of delivery or receipt.

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 separate, physical 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.

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.

Occupation tax certificate shall mean the document issued by the City of Lilburn that serves as evidence of compliance with the provisions of this chapter.

Practitioner of profession or occupation is one who by state law requires state licensure regulating such profession or occupation. A separate occupation tax shall be required for each registered or licensed professional person, without regard to whether the person is fully engaged or employed in the profession, or whether the person performs all the duties customarily associated with the profession. Practitioners or professions and occupations shall not include a practitioner who is employed by a business, if the business pays an occupation tax based on profitability ratio in combination with gross receipts.

Regulatory fees mean 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 city. A regulatory fee does not include an administrative fee or registration fee. The city may require an occupation tax in connection with a regulatory 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.

Transfer of tax certificate shall mean only the transfer of a fully-paid business or occupation tax certificate from an existing location as specified in a duly issued certificate, to a different business location or office for the same business. Certificates may not be transferred in the case of a change in ownership or after expiration date of a certificate; in such cases a new application and certificate shall be required. Certificates may not be transferred when there is an outstanding unpaid amount.

Sec. 62-35. – 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 pertinent general and/or local laws and ordinances.

Sec. 62-36. – Imposition of administrative and regulatory fees generally.

- (a) (1) A non-prorated, non-refundable administrative fee shall be required on all business occupation tax accounts for the initial startup, renewal or re-opening of those accounts. The amount of the administrative fee shall be established by the rate resolution.
- (2) A transfer fee shall be imposed for the transfer of an occupation tax certificate. The amount of the transfer fee shall be established by the rate resolution.
- (b) A regulatory fee may be imposed on any business or practitioner of profession or occupation as provided under O.C.G.A. § 48-13-9.
- (c) Occupation taxes are levied as herein provided and are separate from administrative or regulatory fees.

Sec. 62-37. – Occupation tax levy; registration and issuance of occupation tax certificates.

- (a) As provided in this article and in accordance with state law, an occupation tax is hereby levied and assessed against all persons, sole proprietors, firms, corporations, partnerships, or any other form of business organization engaged in or operating any business, trade, profession or occupation in the City of Lilburn, Georgia. In the case of an out-of-state business with no location in Georgia which exerts substantial efforts within the state and city pursuant to O.C.G.A. § 48-13-7 or that owns personal or real property which generates income and which is located in the city, an occupation tax shall be levied and assessed on such businesses, trades, professions, or occupations.
- (b) All persons, sole proprietors, firms, corporations, partnerships, nonprofits, or any other form of business organization engaged in or operating any business, trade, profession or occupation in the City of Lilburn, Georgia, or any form of business otherwise identified in subsection (a) above, are hereby required to:
 - (1) Register their business or office with the city,
 - (2) Pay the amount now or hereafter fixed as taxes and fees as authorized under the provisions of this article and O.C.G.A. § 48-13-1 et seq., if any, and
 - (3) Obtain an occupation tax certificate or occupation tax exemption certificate for their business or office.
- (c) Each business shall identify on the registration form, all lines of business associated with the conduct of the business, including the dominant line.

- (d) No business shall conduct any line of business without first having that line of business registered with the finance director or designee and that line of business having been noted by the finance director or designee upon the occupation tax or occupation tax exemption certificate.
- (e) The tax certificates herein provided shall be issued by the finance director or the finance director's authorized agent.
- (f) The occupation tax certificate shall serve as proof of registration and full payment of the occupation tax. Additional regulatory fees may be required as established by the city.
- (g) All certificates granted under this article shall expire on January 31 of each year.
- (h) Certificate holders who desire to renew their certificates shall file an application with the finance director or designee on a form provided for renewal of the occupation tax certificate for the following year. Applications for renewal must be filed before the established due date of each year, with payment of tax being due on April 1. No renewal shall be granted after April 1 unless another date has been specified by the finance director or designee. Application for renewal received after April 1 may be subject to regulations for the granting of occupation tax certificates as if no previous occupation tax certificate had been held in the city.

Sec. 62-38. – Occupation tax structure; restrictions.

- (a) Except as otherwise provided in this article, the occupation tax shall be based upon the gross receipts of the business or practitioner in combination with the profitability ratio for the type of business, profession or occupation.
- (b) The occupation tax amount shall be determined by the sum of the following:
 - (1) An administrative fee; and
 - (2) A gross receipts tax calculated using a tax class table based on profitability ratios for the type of business, profession or occupation as measured by nationwide averages derived from statistics, classifications or other information published by the United States Office of Management and Budget, the United States Internal Revenue Service or successor agencies of the United States in combination with the gross receipts for each business, trade, profession, or occupation. The tax class table ranges are based on the North American Industry Classification System (NAICS) Code of the business as established by ordinance as follows:

Profitability Ratio/ Tax Class	Rate on Gross Receipts
1	0.00050
2	0.00060
3	0.00070
4	0.00080
5	0.00090
6	0.00100

- (3) At any time the governing authority approves a rate change for occupation taxes, all businesses and practitioners of professions and occupations whose accounts are billed prior to the effective rate change date shall have 10 days after the effective rate change to pay their occupation tax as originally billed together with any late fees and penalties.

- (c) A listing of businesses and their assigned tax classes along with a listing of the NAICS code applicable to each business is available for inspection in the finance director's office during regular business hours.
- (d) On an annual basis and by April 30 of each year, practitioners of professions as described in O.C.G.A. § 48-13-9(c)(1) through (18) shall elect as their entire occupation tax one (1) of the following:
 - (1) The occupation tax resulting from application of the other provisions of this article; or
 - (2) A fee of four hundred dollars (\$400.00) per practitioner who is licensed to provide the service, such as 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 practitioner fee applies to each person in the business who qualifies as a practitioner under the state's regulatory guidelines and framework.
- (e) Lawyers as described in O.C.G.A. § 48-13-9(c)(1) subject to payment of an occupation tax, as elected in subsection (d) of this section, shall not be subject to the penalties described in section 62-50 of this article; however, the finance director may seek to enforce payment of an occupation tax due the city by lawyers through any and all available legal remedies afforded by law.
- (f) For businesses or practitioners with more than one type of service or product, the industry class for the calculation of the occupation tax on the gross receipts of the business, profession or occupation shall be based on the dominant line, service, or product.
- (g) Out of state businesses with no location in the state shall be required to pay occupation tax to only one 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. Gross receipts of a business or practitioner with no location in Georgia shall include only those gross receipts which are reasonably attributable to sales or services in the State of Georgia.
- (h) No business or practitioner shall be required to pay more than one occupation tax for each of its locations, except that the entire gross receipts for businesses or practitioners with multiple services or products shall be taxed according to the dominant service or product.
- (i) No occupation tax will be required for more than one hundred (100) percent of a business's gross receipts when occupation taxes of all local governments are added together.
- (j) No occupation tax will be required on gross receipts on which such tax has been levied in other localities or states.
- (k) No occupation tax shall be prorated.
- (l) The minimum amount of taxes due under this article shall be established by the rate resolution.
- (m) The city shall not require the payment of a fee by whatever name in any amount by a business or practitioner for the cost of ascertaining whether such a business or practitioner has paid occupation tax to another local government.
- (n) Occupation tax exemptions shall be granted as provided for in this chapter. The finance director or designee shall be responsible for promulgating guidance for making application for and granting occupational tax exemptions.
- (o) An occupation tax shall not be levied in any other manner except as provided herein.

- (a) No occupation tax shall be levied upon real estate brokers except at the place where any such real estate broker shall maintain a principal or branch office. Payment of the occupation tax by the real estate broker shall permit the broker and the broker's affiliated associate brokers to engage in all of the brokerage activities described in O.C.G.A. § 43-40-1 without further taxing. No additional occupation tax shall be required of the broker's affiliated associate brokers or salespersons; provided however, that subject to the limitations of subsection (b) below, the city shall have the power to levy and collect an occupation tax upon real estate brokers transacting business within the boundaries of the city, which tax shall be based upon gross receipts derived from transactions with respect to property located within the municipal boundaries of the city.
- (b) The city may impose an occupation tax upon real estate brokers based upon gross receipts only for real estate transactions with respect to property located within its corporate limits.

Sec. 62-40. – Tax certificate and/or exemption certificate to be displayed for inspection.

The occupation tax certificate and/or occupation tax exemption certificate shall be displayed in a conspicuous place in the place of business if the taxpayer has a permanent business location in the city. If the taxpayer has no permanent business location in the city, such occupation tax certificate or occupation tax exemption certificate shall be shown, upon request, to a city police officer, the finance director, or the finance director's authorized agent.

Sec. 62-41. – Application for registration; filing of return showing actual gross receipts during calendar year.

- (a) It shall be the duty of every person, sole proprietor, firm, corporation, partnership, nonprofit or any other form of business organization engaged in or operating any business, trade, profession or occupation subject to this article, to file with the finance director or finance director's designee an application for registration prior to the commencement of business in the city. An occupation tax return, including full payment of taxes and fees shall, be filed with the finance director or finance director's designee by the due date for payment of occupation taxes. The initial application for registration under this article shall set forth all activities of each business, its North American Industry Classification System (NAICS) code, its estimated gross receipts, computation of the amount of tax due, including the administrative fee, and such other information as may be required by the finance director or designee to properly administer this article.
- (b) Subsequent returns shall be made on such forms as the finance director or designee may specify and set forth the actual amount of the gross receipts of such business during the preceding calendar year, all activities of the business, including the dominant line of business activity, computation of the amount of tax due, including the administrative fee, and such other information as may be required by the finance director or designee to properly administer this article.
- (c) For businesses or practitioners with more than one type of service or product, the entire gross receipts shall be classified according to the dominant service or product based upon the information provided on the application or return.
- (d) The finance director or designee shall require a taxpayer subject to the provisions of this article to provide a copy of the business's profit and loss statement or a similar such

statement from a Certified Public Accountant, or a copy of the business's federal or state income tax return at the time of filing the occupation tax return.

Sec. 62-42. – The number of businesses considered operating in city; separate business locations.

- (a) Where a business or practitioner conducts business at more than one fixed location in the city, each location or place shall be considered a separate business for the purpose of the occupation tax levy.
- (b) Each person, firm, or corporation operating under various trade names must secure a separate occupation tax certificate for each trade name issued. In addition, a separate occupation tax certificate must be secured for each business location.
- (c) Certificate applicants for trade names and for separate business locations shall pay the non-refundable administrative fee imposed herein, in addition to the occupation tax levied by this article.

Sec. 62-43. – Allocation of gross receipts of business with multiple intrastate or interstate locations.

- (a) Each business or practitioner with a location or office situated in more than one jurisdiction, including business or practitioners with one or more locations or offices in Georgia and one or more locations outside the state, the city shall allocate the gross receipts for occupation tax purposes in accordance with one of the following methods:
 - (1) Where the business or practitioner can reasonably allocate the dollar amount of gross receipts of the business or practitioner to one or more of the locations or offices on the basis of the product manufactured in that location or office or the sales or other services provided in that location or office, the city shall tax the gross receipts generated by the location or office within the jurisdiction of the city; or
 - (2) Where the business or practitioner cannot reasonably allocate the dollar amount of gross receipts among multiple locations or offices, the business or practitioner shall divide the gross receipts reported to all local governments in this state by the number of locations or offices of the business or practitioner which contributed to the gross receipts reported to any local government in this state, and shall allocate an equal percentage of such gross receipts of the business to each location or office.
- (b) In no instance shall the sum of the portions of the total gross receipts of a business or practitioner taxed by all local governments exceed 100 percent of the total gross receipts of the business or practitioner.
- (c) In the event of a dispute between the business or practitioner and the city as to the allocation under this section, the business or practitioner shall have the burden of proof as to the reasonableness of this allocation.
- (d) Upon request, businesses or practitioners with a location or office situated in more than one jurisdiction shall provide to any local government authorized to levy an occupation tax upon such business or practitioner the following:
 - (1) Financial information necessary to allocate the gross receipts of the business or practitioner; and
 - (2) Information relating to the allocation of the business's or practitioner's gross receipts by other local governments.
- (e) When more than one local government levies occupation tax on a business or practitioner which has locations encompassed by more than one local government and the other

jurisdictions use different criteria for taxation, the city shall not tax any greater proportion of the gross receipts than authorized by law.

Sec. 62-44. – When tax due and payable; delinquency.

- (a) All occupation taxes shall be due and payable annually on January 31.
- (b) In the event that any person commences business on any date after January 31, the occupation tax shall be due and payable 30 days following the commencement of business.
- (c) Each new business or professional practitioner, commencing business in the city and subject to the occupation tax levy pursuant to this article, shall pay to the city as its occupation tax an amount based upon the business' estimated gross receipts for the calendar year in which it commences business. If such tax remains due and unpaid for 90 days from the due date, the business will be subject to penalties and interest for delinquency on the unpaid tax.
- (d) Penalties for delinquency on any unpaid tax as prescribed in this article shall be assessed according to section 62-50.

Sec. 62-45. – Refunds of taxes and license fees.

- (a) In any case in which it is determined that an erroneous or illegal collection of any tax or license fee has been made by the city or that a taxpayer has voluntarily or involuntarily overpaid a tax or license fee, the taxpayer from whom the tax or license fee was collected may file a written claim for a refund of the tax or license fee. The written claim shall set forth a detailed justification for the request for refund. The finance director or designee shall presume that the collection of any tax or license fee that has been made by the city was not made in error or made illegally, but the taxpayer may provide documentation with the written claim for a refund to overcome this presumption.
- (b) All claims for refunds of license fees made by a taxpayer shall be made within one year of the date the license fee was paid. All claims for refunds of taxes must be filed within three years of the date the tax was paid.
- (c) Within 90 days of the filing of a written claim for a refund, the finance director or designee shall make the determination of whether the claim should be granted or denied. The decision shall be made in writing, and the taxpayer shall be provided a copy of said decision.

Sec. 62-46. – Exceptions; businesses not covered by this chapter.

- (a) No business on which a business registration or occupation tax is levied by this article shall be exempt from said registration or tax on the ground that such business is operated for a charitable purpose unless such charitable nonprofit organization provides proof of a federal nonprofit identification number.
- (b) The occupation tax shall not apply to 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 instrumentality of the United States, the state or a municipality or county of the state.
- (c) The following businesses are not covered by the provisions of this article, but may be assessed an occupation tax or other type of tax pursuant to the provisions of other general laws of the state or city:
 - (1) Those businesses regulated by the Georgia Public Service Commission.
 - (2) Those electrical service businesses organized under O.C.G.A. § 46-3-1 et seq.

- (3) Any farm operation for the production from or on the land of agricultural products, but not including agribusiness.
 - (4) Cooperative marketing associations governed by O.C.G.A. § 2-10-105.
 - (5) Insurance companies governed by O.C.G.A. § 33-8-8, et seq.
 - (6) Motor common carriers governed by O.C.G.A. § 46-7-15.
 - (7) Those businesses governed by O.C.G.A. § 48-5-355.
 - (8) Agricultural products and livestock raised in the State of Georgia governed by O.C.G.A. § 48-5-356.
 - (9) Depository financial institutions governed by O.C.G.A. § 48-6-93.
 - (10) Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55.
- (d) Specifically exempt from occupation taxes are the following:
- (1) Any business majority-owned by a disabled veteran, or any practitioner who is a disabled veteran as provided for in O.C.G.A. § 43-12-2. Such disabled veterans shall be required to file the necessary application forms and obtain a tax certificate.
 - (2) Any business owned by non-profit organizations and operated for charitable purposes with 80% or more of the entire gross receipts from said business devoted to direct support of such charitable purposes. The exemption from the occupation tax shall not extend to the flat fee except however that any single organization, in any tax year, shall be required to pay the flat fee only on the first certificate obtained, and any additional certificates for other lines or locations shall be issued without charge.
 - (3) Yard sales, garage sales, and bake sales occurring not more than once in any six-month period. Such events shall be limited to three consecutive days per event and subject to any health, zoning, or other regulatory ordinances as may be in effect, and shall be subject to regulatory fees.

Sec. 62-47. – Transfer of occupation tax certificates.

- (a) Any business required to register with the city shall notify the finance director or designee of any change in location or change in name prior to the day of the move or the effective date of the change. Any business moving to a new location within the city or changing their business name shall pay an administrative fee to the finance director or designee for the processing and issuance of a new occupation tax certificate. The administrative fee shall be established by rate resolution.
- (b) A transfer of ownership shall be considered in the same light as the termination of the business and the establishment of a new business. A new occupation tax certificate shall be required for the new owner of the business.

Sec. 62-48. – Occupation tax certificate qualifications.

- (a) No occupation tax certificate required by this chapter shall be granted to any person who is not a citizen of the United States or a registered resident alien. Where the owner-applicant is a partnership or corporation, the provisions of this section shall apply to all its partners, officers, managers, and majority stockholders.
- (b) Where an applicant is a corporation, a certificate will be issued jointly to the corporation, president or chief executive officer, and to the majority stockholder. Where the applicant is a partnership, the certificate may be issued to a partner or general partner.

- (c) Each person who is licensed by the Secretary of State pursuant to Title 43 of the Official Code of Georgia Annotated shall provide evidence of proper and current state licensure before the occupation tax certificate may be issued.
- (d) 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.
- (e) Any business required to obtain health permits, fire inspections, bonds, certificates of qualification, certificates of competency or other regulatory matters shall first, before the issuance of a city occupation tax certificate, show evidence of such qualification; and it shall further be required that all such qualifications or certificates be maintained and kept current so long as the business remains in operation.
- (f) Any business required to submit an annual application for continuance of that business shall do so before the certificate is issued.

Sec. 62-49. – Liability of officers and agents; registration required; failure to obtain.

All businesses subject to the occupation tax levy pursuant to this article shall be required to obtain the necessary tax certificate for said business as described in this article.

- (a) For those businesses required to identify a registered agent under the Code of Lilburn, those businesses liable for occupation taxes and in default thereof shall cause said registered agent representing such business to be subject to the same penalty as other persons who fail to obtain a tax certificate.
- (b) For those corporations not required to identify a registered agent under the Code of Lilburn, those corporations liable for occupation taxes and in default thereof shall cause the corporation's chief executive officer, chief financial officer, or president to be subject to the same penalty as other businesses who fail to obtain a tax certificate.
- (c) For those partnerships not required to identify a registered agent under the Code of Lilburn, those partnerships liable for occupation taxes and in default thereof shall cause partnership's chief executive officer, chief financial officer, or managing partner to be subject to the same penalty as other businesses who fail to obtain a tax certificate.
- (d) Every business commencing sales or services for the business in the city after January 1 of each year shall likewise obtain the tax certificate herein provided and any business transacting or offering to transact in the city any kind of business, trade, profession or occupation to which this article applies without first having so obtained said tax certificate, shall be in violation of this article and be subject to penalties as provided in this article.

Sec. 62-50. – Penalty of article violation.

- (a) If any person, firm or corporation whose duty it is to obtain an occupation tax certificate shall be delinquent in payment of taxes or fees due under this article, such offender, upon conviction of the municipal judge, shall be subject to penalties for delinquency as prescribed in this section.
- (b) The city shall assess a penalty in the amount of ten (10) percent of the amount owed for each calendar year or portion thereof for:
 - (1) Failure to pay occupation taxes and administrative fees ninety (90) days from the date such taxes and fees are due;

- (2) Failure to file a return and pay all taxes and fees postmarked or received by April 30 of any calendar year, when the business or practitioner was in operation the preceding calendar year.
- (c) Occupation taxes and fees not paid within ninety (90) days of the due date are subject to interest at a rate of one and one-half (1.5) percent per month.
 - (d) Payments required by the article herein may be collected in any suit at law or equity, or the city may cause executions to issue against the person, firm or corporation liable for the payment. Executions shall be levied and sold together with all costs thereof, by the city, or city's designees, as the county ex officio sheriff. In addition, any person whose duty it is to register any business or practice and obtain any occupation tax certificate and fails to do so, or who fails to pay the occupation tax or administrative fee required by this article, or who makes any deliberate or substantial and material false statement on an application or provides materially false information in support of an application, shall be denied an occupation tax certificate, shall be required to surrender any existing such occupation tax certificate and be deemed to have no such occupation tax certificate for purposes hereof, and shall be punished in accordance with the city ordinances or as otherwise allowed by state law.
 - (e) If the taxes and fees required under this article remain unpaid after the due date, the business or practitioner shall not collect any gross receipts. The provisions of this subsection may be enforced by appropriate injunctive or other relief upon the application of the city to the county superior court.
 - (f) Practitioners of law may collect gross receipts without applying for and obtaining an occupation tax certificate. However, practitioners of law must pay the occupation tax levied herein.
 - (g) The city is empowered to prosecute persons violating the municipal ordinances of the city by failing to pay the special taxes, occupational taxes or regulatory fees of the city in the Lilburn Municipal Court. This remedy shall be in addition to all other remedies provided for by local law or by state law. There shall be no imposition of criminal penalties upon those professions licensed by the state.
 - (h) In addition to the above remedies, the finance director or authorized agent may proceed to collect in the same manner as provided by law for tax executions.
 - (i) All other violators of this chapter shall, upon conviction before the judge of the city's municipal court, be fined an amount not exceeding \$1,000.00 or imprisoned not exceeding 60 days of imprisonment, either or both in the discretion of the judge. Citations issued by the finance director or designee shall be heard in municipal court.

Sec. 62-51. – Occupation tax inapplicable where prohibited by law or provided for pursuant to other existing law.

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

Sec. 62-52. – Occupation taxes levied on business to be transacted during calendar year; filing of returns showing gross receipts during preceding calendar year.

- (a) All occupation taxes levied by this article are levied on the amount of business to be transacted during the calendar year. However, for the convenience of both the city and the taxpayer to eliminate the necessity of making numerous returns, those businesses subject

to the occupation tax levied in Section 62-37 hereof shall, on or before the times hereinafter set forth, file with the finance director the returns hereinafter specifically provided for, showing the gross receipts of that business during the preceding calendar year. This return shall be used as an estimate for making payments on the occupation tax for the current calendar year.

- (b) The owner, proprietor, manager, secretary, or other authorized officer of the business subject to said occupation tax of the current calendar year shall, at the end of the preceding year, and on or before January 31 of the current calendar year, file with the finance director on a form furnished by the finance director, a signed return setting forth the amount of gross receipts of such business for the entire preceding calendar year to be used as an estimate of the gross receipts for the current year. Such other additional and supporting documentation as may be required by the finance director under this section or by state law shall also be provided to the finance director along with the signed return.
- (c) Where a business subject to the occupation tax for the calendar year has been conducted for only a part of the preceding year, the amount of gross receipts for such part shall be set forth in said return. Said return shall also show a figure putting the receipts for such part of a year on an annual basis, which figure shall bear the same ratio to the amount of gross receipts for such part year as the full year bears to such part. Said figure shall be used as the estimate of the gross receipts of the business for the current calendar year.

Sec. 62-53. – Returns confidential.

- (a) Except as provided in subsection (c) of this section, or as may otherwise be provided for in federal or state law, information on gross receipts received by a business or practitioner of an occupation or profession provided to a local government for the purpose of determining the amount of occupation tax for the business or practitioner is confidential and exempt from inspection or disclosure.
- (b) Violation of the confidentiality provision in subsection (a) of this section shall be unlawful and upon conviction shall be punished as an ordinance violation.
- (c) Information on gross receipts received by a business or practitioner of an occupation or profession provided to a local government for the purpose of determining the amount of occupation tax for the business or practitioner may be disclosed to the governing authority of another local government for occupation tax purposes or pursuant to court order or for the purpose of collection of occupation tax or prosecution for failure or refusal to pay occupation tax.
- (d) In the event a taxpayer completes one or more forms in order to comply with a local government's ordinance or resolution imposing either an occupation tax or a regulatory fee and any such form fails to disclose the social security number or the appropriate federal or state taxpayer identification number, or other identification numbers, if required by the local government, such omission shall be reported in a timely manner to the state revenue commissioner.

Sec. 62-54. – Inspection of books and records.

In any case the finance director, through its officers, agents, employees or representatives, may inspect the books of the person or business for which the returns are made. The finance director shall have the right to inspect the books or records for the business of which the return was made in the city, and upon written demand of the finance director, such books and records shall be submitted for

inspection by a representative of the city within thirty (30) days of the written demand. Failure of submission of such books or records within thirty (30) days shall be grounds for revocation of the occupation tax certificate currently existing to do business in the city. Adequate records shall be kept in the city for examination by the finance director at his or her 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 (10) percent of tax due over ninety (90) days will be assessed for the period delinquent.

Sec. 62-55. – Revocation of occupation tax certificate for failure to pay tax or fees, file returns, permit inspection of books.

- (a) Upon the failure of any business to pay said occupation tax, fees, 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 provided in this article, any tax certificate granted by the city under this article permitting the owner of said business to do business in the city for the current year shall be, ipso facto, revoked. No new occupation tax certificate shall be granted by the city for the operation of a business for which any part of the occupation tax or fees herein provided is at that time unpaid, or to an individual, firm or corporation who has failed to submit adequate records as requested by the finance director in accordance with provisions found in section 62-54.
- (b) In the event that any business or certificate holder shall be cited for any violation of the Code of Ordinances of the City of Lilburn, Georgia, the finance director or designee may suspend or revoke any business or occupation tax certificate granted by the city under this chapter.

Sec. 62-56. – Administration and appeals.

Appeals regarding tax certificate decision of the finance director or designee shall be before the city manager.

Sec 62-57. – Notices.

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

Sec. 62-58. – Effect of failure to comply with chapter provisions; continuing in business after tax certificate revocation.

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

Sec. 62- 59.- Lien taken for delinquent occupation tax.

- (a) In addition to the other remedies herein provided for the collection of occupation taxes or regulatory fees due the city from businesses or practitioners subject to said taxes or fees who fail or refuse to pay the taxes or fees, the finance director or authorized agent, may 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) A penalty of ten (10) percent interest on the tax and fee after ninety (90) days from the due date of the tax or fee as provided in this article.
 - (3) Interest in the amount of one and one-half (1.5) percent interest per month as provided under Section 62-50.
- (b) The lien shall cover the taxpayer's property located within the city as provided by the city's ordinances and charter and the laws of Georgia.
- (c) The lien of said occupation tax or regulatory fee shall become fixed on and date from the time when such tax or fee becomes delinquent. The execution may be levied by the finance director, the director's authorized agent, or the city police department upon the property of defendant located in said city, 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 city's ordinances and charter 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 city's charter and the laws of Georgia in regard to tax executions.
- (d) When a nulla bona entry has been entered by proper authority upon an execution issued by the finance director 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.

Sec. 62-60. – Amendment, repeal of provision.

This article 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 council 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.

Sec. 62-61. – Enforcement of provisions.

It is hereby made the duty of the finance director, or designee, to see that the provisions of this chapter relating to occupation taxes are observed; and where applicable to summon all violators of the same to appear before the municipal court. It is hereby the further duty of the finance director, or designee, to inspect all certificates issued by the city, along with the books and records of the various businesses holding certificates, as often as in his/her judgment it may seem necessary to determine whether the certificate held is the proper one for the business sought to be transacted there under. The chief of police, or designee, shall have the authority to check businesses within Lilburn for proper certificates issued by the city; and to issue citations for violations of thereof.

Sec. 62-62. – Provisions to remain in full force and effect until changed by the governing authority.

This chapter shall remain in full force and effect until changed by amendment adopted by the governing authority. 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.

Sec. 62-63. – Requirement of public hearing.

The governing authority shall conduct at least one public hearing before adopting any ordinance or resolution regarding the occupation tax.

Sec. 62-64. – Conflicts between specific and general provisions.

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