

ARTICLE II. - OCCUPATION TAXES<sup>[2]</sup>

Footnotes:

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**State Law reference**— Taxation of businesses and practitioners of professions and occupations with one or more locations in a county or municipality, O.C.G.A. § 48-13-6; taxes on businesses and practitioners of professions and occupations with no location in state, O.C.G.A. § 48-13-7; prohibited practices in levying tax, O.C.G.A. § 48-13-13.

DIVISION 1. - GENERALLY

Sec. 18-19. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

*Employee*, except as otherwise specifically provided in this article, 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 W-2, but not a form IRS 1099.

*Gross receipts.*

- (1) The term "gross receipts" means total revenue of the business or practitioner for the period, including, without being limited to, 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 include the following:
  - a. Sales, use, or excise taxes;
  - b. Sales returns, allowances, and discounts;
  - c. Interorganizational sales or transfers between or among the units of a parent subsidiary controlled group of corporations, as defined by 26 USC 1563(a)(2), 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;
  - e. Governmental and foundation grants, charitable contributions or the interest income derived from such funds, received by a nonprofit organization which employs salaried practitioners otherwise covered by this chapter, if such funds constitute 80 percent or more of the organization's receipts; 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* includes any structure or vehicle where a business, profession, or occupation is conducted, but shall not include a temporary or construction work site which serves a single customer or project or a vehicle used for sales or delivery by a business or practitioner of a profession or occupation which has a location or office. The renter's or lessee's location which is the site of personal property which is rented or leased from another does not constitute a location or office for the personal property's owner, lessor, or the agent of the owner or lessor. The site of real property which is rented or leased to another does not constitute a location or office for the real property's owner, lessor, or the agent of the owner or

lessor unless the real property's owner, lessor, or the agent of the owner or lessor, in addition to showing the property to prospective lessees or tenants and performing maintenance or repair of the property, otherwise conducts the business of renting or leasing the real property at such site or otherwise conducts any other business, profession, or occupation at such site.

*Occupation tax* means a tax levied on persons, partnerships, corporations, or other entities for engaging in an occupation, profession, or business.

*Practitioner of professions and occupations* shall not include a practitioner who is an employee of a business that operates as a partnership, corporation or other business entity if the business pays an occupation tax.

*Regulatory fees* means payments, whether designated as license fees, permit fees, or by another name, which are required by the city as an exercise of its municipal 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 or registration fee. The term "regulatory fees" does not include required occupation taxes for businesses and professions located in the city.

(Code 2002, § 54-200; Ord. No. 2007110101, § 54-200, 11-1-2007; Ord. No. 20101216-C, § 1, 12-16-2010)

**Editor's note**— Amending Ord. No. 20101216-C refers to this section 18-19 by its former designation as section 54-200.

**State Law reference**— Definitions generally, O.C.G.A. § 48-13-5.

Sec. 18-20. - Registration and occupation license tax certificate required.

- (a) All persons, firms, companies (including limited liability companies), corporations, (including professional corporations) and other business entities, now or hereafter operating a business in the city, are hereby required to register their business or office, obtain an occupation tax certificate for their business or office, and pay the amount now or hereafter fixed as taxes and fees thereon as authorized under the provisions of O.C.G.A. § 48-13-1 et seq., as amended.
- (b) The occupation tax certificate shall serve as a business license. Additional business licenses may be required as established by the city.
- (c) Stock or manufacturing companies or other companies, subsidiaries, agencies, district offices, branch offices, corporations or individuals, having either their business proper or their general branch offices located within the city, and either represented by the officers of the company, or any agent, for the purpose of soliciting patronage for the same, or for the transaction of any business pertaining thereto, shall be required to obtain a occupation tax certificate.

(Code 2002, § 54-201; Ord. No. 2007110101, § 54-201, 11-1-2007)

Sec. 18-21. - Fee; basis.

(a) ~~(a)~~— *Payment of gross receipts tax.* Except as otherwise provided in this article, every business and practitioner subject to this article shall pay a tax based on the gross receipts of such business (the "occupation tax").

(b) ~~(b)~~— *Fee class tables.* The gross receipts tax shall be calculated at a minimum include a base rate of \$100.00. Gross revenues are taxed using a fee class table based on profitability. The fee class tables are based on gross revenue using the North American Industry Classification System (NAICS) Code of the business belows established by ordinance and incorporated herein by reference.:

(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 city's business license office during regular business hours.

(1) ~~Variable chart for tax class No. 1. The worksheet for gross receipts for tax class No. 1 are as follows:~~

At least	But not more than	Variable (A) Multiply by
<del>\$ 0.00</del>	<del>\$ 99,999.00</del>	<del>0.0008500</del>
<del>100,000.00</del>	<del>399,999.00</del>	<del>0.0006600</del>
<del>400,000.00</del>	<del>699,999.00</del>	<del>0.0004913</del>
<del>700,000.00</del>	<del>999,999.00</del>	<del>0.0004766</del>
<del>1,000,000.00</del>	<del>1,299,999.00</del>	<del>0.0004500</del>
<del>1,300,000.00</del>	<del>1,999,999.00</del>	<del>0.0004328</del>
<del>2,000,000.00</del>	<del>3,499,999.00</del>	<del>0.0003740</del>
<del>3,500,000.00</del>	<del>5,999,999.00</del>	<del>0.0003576</del>
<del>6,000,000.00</del>	<del>13,999,999.00</del>	<del>0.0003061</del>
<del>14,000,000.00</del>	<del>99,999,999.00</del>	<del>0.0002662</del>

(2) ~~Variable chart for tax class No. 2. The worksheet for gross receipts for tax class No. 2 are as follows:~~

At least	But not more than	Variable (A) Multiply by
<del>\$ 0.00</del>	<del>\$ 99,999.00</del>	<del>0.001130</del>
<del>100,000.00</del>	<del>399,999.00</del>	<del>0.0008766</del>
<del>400,000.00</del>	<del>699,999.00</del>	<del>0.0006600</del>

700,000.00	999,999.00	0.0006366
1,000,000.00	1,299,999.00	0.0005966
1,300,000.00	1,999,999.00	0.0005857
2,000,000.00	3,499,999.00	0.0005020
3,500,000.00	5,999,999.00	0.0004744
6,000,000.00	13,999,999.00	0.0004223
14,000,000.00	99,999,999.00	0.0003538

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(3) *Variable chart for tax class No. 3.* The worksheet for gross receipts for tax class No. 3 are as follows:

At least	But not more than	Variable (A) Multiply by
\$ <del>0.00</del>	\$ <del>99,999.00</del>	0.0014100
100,000.00	399,999.00	0.0011000
400,000.00	699,999.00	0.0008233
700,000.00	999,999.00	0.0007933
1,000,000.00	1,299,999.00	0.0007433
1,300,000.00	1,999,999.00	0.0007371
2,000,000.00	3,499,999.00	0.0006320
3,500,000.00	5,999,999.00	0.0005904
6,000,000.00	13,999,999.00	0.0005282
14,000,000.00	99,999,999.00	0.0004423

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(4) *Variable chart for tax class No. 4.* The worksheet for gross receipts for tax class No. 4 are as follows:

At least	But not more than	Variable (A) Multiply by
\$ <del>0.00</del>	\$ <del>99,999.00</del>	0.0016900
<del>100,000.00</del>	<del>399,999.00</del>	<del>0.0013200</del>
<del>400,000.00</del>	<del>699,999.00</del>	<del>0.0009900</del>
<del>700,000.00</del>	<del>999,999.00</del>	<del>0.0009500</del>
<del>1,000,000.00</del>	<del>1,299,999.00</del>	<del>0.0008933</del>
<del>1,300,000.00</del>	<del>1,999,999.00</del>	<del>0.0008828</del>
<del>2,000,000.00</del>	<del>3,499,999.00</del>	<del>0.0007520</del>
<del>3,500,000.00</del>	<del>5,999,999.00</del>	<del>0.0007124</del>
<del>6,000,000.00</del>	<del>13,999,999.00</del>	<del>0.0006388</del>
<del>14,000,000.00</del>	<del>99,999,999.00</del>	<del>0.0005305</del>

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(5) *Variable chart for tax class No. 5. The worksheet for gross receipts for tax class No. 5 are as follows:*

At least	But not more than	Variable (A) Multiply by
\$ <del>0.00</del>	\$ <del>99,999.00</del>	0.0019700
<del>100,000.00</del>	<del>399,999.00</del>	<del>0.0015433</del>
<del>400,000.00</del>	<del>699,999.00</del>	<del>0.0011500</del>
<del>700,000.00</del>	<del>999,999.00</del>	<del>0.0011133</del>
<del>1,000,000.00</del>	<del>1,299,999.00</del>	<del>0.0010400</del>
<del>1,300,000.00</del>	<del>1,999,999.00</del>	<del>0.0010271</del>
<del>2,000,000.00</del>	<del>3,499,999.00</del>	<del>0.0008780</del>

3,500,000.00	5,999,999.00	0.0008308
6,000,000.00	13,999,999.00	0.0007392
14,000,000.00	99,999,999.00	0.0006193

(6) ~~Variable chart for tax class No. 6. The worksheet for gross receipts for tax class No. 6 are as follows:~~

At least	But not more than	Variable (A) Multiply by
\$ <del>0.00</del>	\$ <del>99,999.00</del>	0.0022600
100,000.00	399,999.00	0.0017600
400,000.00	699,999.00	0.0013200
700,000.00	999,999.00	0.0012666
1,000,000.00	1,299,999.00	0.0011900
1,300,000.00	1,999,999.00	0.0011728
2,000,000.00	3,499,999.00	0.0010033
3,500,000.00	5,999,999.00	0.0009500
6,000,000.00	13,999,999.00	0.0008448
14,000,000.00	99,999,999.00	0.0007077

(7) ~~Tax classification by SIC code. The following shall be the tax classification and descriptions for SIC codes:~~

SIC No.	Description	Tax Class
<del>01</del>	<del>Agricultural production—Crops</del>	<del>4</del>
<del>02</del>	<del>Agricultural production—Livestock</del>	<del>2</del>

07	Agricultural services	4
08	Forestry	2
09	Fishing, hunting, and trapping	3
10	Metal mining	1
11	Anthracite mining	1
12	Bituminous coal and lignite mining	1
13	Oil and gas extraction	5
14	Mining and quarrying of nonmetallic minerals, except fuels	2
15	Building construction—General contractors	2
16	Construction other than building—General contractors	2
17	Construction—Special trade contractors	4
20	Manufacturing—Food and kindred products	1
22	Manufacturing—Textile mill products	2
23	Manufacturing—Apparel and other finished textile products	2
24	Manufacturing—Lumber and wood products, except furniture	1
25	Manufacturing—Furniture and fixtures	2
26	Manufacturing—Paper and allied products	2
27	Manufacturing—Printing, publishing and allied industries	4
28	Manufacturing—Chemicals and allied products	3
29	Manufacturing—Petroleum and related products	3
30	Manufacturing—Rubber and miscellaneous plastic products	2

31	Manufacturing—Leather and leather products	2
32	Manufacturing—Stone, clay, glass, and concrete products	4
33	Manufacturing—Primary metal industries	4
34	Manufacturing—Fabricated metal products, except machinery and transportation equipment	2
35	Manufacturing—Machinery, except electrical	4
36	Manufacturing—Electrical and electrical machinery, equipment, and supplies	2
37	Manufacturing—Transportation equipment	2
38	Manufacturing—Measuring, analyzing, and controlling	
	Instruments, photographic, medical, and optical goods; watches and clocks	3
39	Manufacturing—Miscellaneous manufacturing equipment	2
40	Railroad transportation	4
41	Local and suburban transit and interurban highway passenger transportation	4
42	Motor freight transportation and warehousing	3
45	Transportation by air	1
46	Pipelines, except natural gas	2
47	Services incidental to transportation	2
48	Communication	2
49	Electrical, gas, and sanitary services (utilities)	2
50	Wholesale trade—Durable goods	2
51	Wholesale trade—Nondurable goods	1
52	Retail trade—Building materials, hardware, garden supply, and mobile home dealers	1

53	Retail trade—General merchandise stores	1
54	Retail trade—Food stores	1
55	Retail trade—Automotive dealers and gasoline service stations	1
56	Retail trade—Apparel and accessory stores	2
57	Retail trade—Furniture, home furnishings and equipment stores	2
58	Retail trade—Eating and drinking places	2
59	Retail trade—Other	2
60	Banking	6
61	Credit agencies other than banks	6
62	Security and commodity brokers, dealers, exchanges and services	5
65	Real estate	6
66	Combinations of real estate, insurance, loans or law offices	5
67	Holding and other investment offices	6
72	Services—Personal	5
73	Services—Business	5
75	Automotive repair, automotive services, and garages	3
76	Miscellaneous repair services	3
78	Services—Motion pictures	5
79	Services—Amusement and recreation except motion pictures	4
80	Health services	5
81	Legal services	6

82	Educational services	5
83	Social services	6
84	Museums, art galleries, botanical and zoological gardens	5
86	Membership organizations	6
893	Accounting, auditing, and bookkeeping services	6
899	Services—Not elsewhere classified	5

~~(d)~~ ~~(e)~~—*Adoption and continuance of fees.* The fees described in this section are adopted for the fiscal year 2007 and shall continue in full force and effect until modified by action of the mayor and city council.

~~(e)~~ ~~(d)~~—*Nonrefundable administrative fee assessed.* All businesses and occupations, other than those practitioners listed in section 18-51, shall be assessed a nonrefundable administrative fee as set by resolution of council for handling and processing business occupation tax registrations, which is a component of the occupation tax for new and existing businesses and is separately identified in the registration process.

(Code 2002, § 54-202; Ord. No. 2007110101, § 54-202, 11-1-2007)

Secs. 18-22—18-45. - Reserved.

DIVISION 2. - PROCEDURE

Sec. 18-46. - Application for registration.

- (a) It shall be the duty of each person, firm, company (including limited liability companies) corporation (including professional corporations) or other business entity subject to this article to file with the city tax collector's office on or before March 31 of each calendar year an application for registration under this article setting forth all activities of each business, its North American Industry Classification System and/or its revenue code, its estimated gross receipts for the calendar year of the registration, computation of the amount of tax due including the administrative fee, a copy of the profit-and-loss statement, a copy of its state income tax return, and such other information as may be required by the city tax collector's office to properly administer this article, including the information specified in section 18-48. 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 under this subsection.
- (b) Each business or practitioner with a location or office situated in more than one jurisdiction, including businesses or practitioners with one or more locations or offices in the state and one or more locations outside the state, the city shall allocate the gross receipts as follows for occupation tax purposes in accordance with the following:
- (1) Where the business or practitioner:
    - a. 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 product manufactured in that location

or office or the sales or other serviced provided in that location or office, the city shall tax the gross receipts generated by the location or office within the state; or

- b. 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 or practitioner to each location or office.
- (2) 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.
  - (3) 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.
  - (4) Upon request, businesses or practitioners with a location or office situated in more than one jurisdiction shall provide to the city the following:
    - a. Financial information necessary to allocate the gross receipts of the business or practitioner;
    - b. Information relating to the allocation of the business's or practitioner's gross receipts by other local governments;
    - c. When the city levies an occupation tax on a business or practitioner which has locations encompassed by other jurisdictions and the other jurisdictions use different criteria for taxation, the city shall not tax any greater proportion of the gross receipts than authorized by the law; and
    - d. For each business and practitioner with no location or office within the state, but which:
      - 1. Has one or more employees or agents who exert substantial efforts within the city 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 the city, gross receipts of such business or practitioner for purposes of this section shall include only those gross receipts reasonably attributable to sales or services in the state.

If such business or practitioner provides to the city tax collector 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 the state, the business or practitioner shall be exempt from this article.
- (c) The provisions of this section may be amended from time to time by ordinance by the mayor and city council for the purpose of providing for exceptions to business and occupation taxes as provided under O.C.G.A. § 48-13-10(f).

(Code 2002, § 54-203; Ord. No. 2007110101, § 54-203, 11-1-2007)

Sec. 18-47. - Payment of fee; separate locations; refunds.

- (a) Following the filing of the application as provided for in section 18-46, each business or professional practitioner subject to this Code shall remit payment in full for all taxes and fees due not later than March 31 of the year in which the application is filed. 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.
- (b) Applicants for certificates for trade names and for separate business locations shall pay the nonrefundable administrative fee imposed hereby, in addition to the tax imposed by section 18-21. In

the event a business ceases to operate after the issuance of an occupation tax certificate, no refund of the fee or tax shall be granted.

- (c) Except as provided in subsection (b) of this section, the refund of the occupation tax levied herein is governed by O.C.G.A. § 48-5-380.

(Code 2002, § 54-204; Ord. No. 2007110101, § 54-204, 11-1-2007)

Sec. 18-48. - Inspection of records.

- (a) It shall be the duty of all businesses subject to the tax and administrative fee imposed by section 18-21 with the exception of those businesses and practitioners electing to proceed under section 18-51, to maintain and to provide as a part of their business occupation tax registration such records as will establish gross receipts as herein defined, including, but not limited to, profit-and-loss statements prepared on a calendar-year basis, and method of allocation of revenue for businesses and practitioners maintaining locations in other counties and municipalities, if applicable. Such businesses and practitioners shall also make available for inspection by representatives of the city tax collector's office all reports submitted to the sales tax unit of the state department of revenue showing sales taking place in the state and other tax returns showing gross receipts.
- (b) Lending institutions and any other organization engaged in the lending of money at interest and/or for a fee or commission and otherwise subject to the requirements of this article shall provide, for each lending transaction, a loan term sheet or other summary showing the amount of such loan, the interest rate thereon, and total fees, interest and/or commissions to be charged on such loan, assuming payment in the normal course of business.

(Code 2002, § 54-205; Ord. No. 2007110101, § 54-205, 11-1-2007)

Sec. 18-49. - Termination of business.

It shall be the duty of each business and practitioner subject to fees and occupation taxes under this article when it shall cease to do business or practice to return its current occupation tax certificate, together with a statement as to the date of termination of doing business or practice to the city tax collector.

(Code 2002, § 54-206; Ord. No. 2007110101, § 54-206, 11-1-2007)

Sec. 18-50. - Commencement of business after January 1.

Businesses and practitioners which do not commence operation by January 1 of any year shall pay the amount of administrative fees and occupation taxes set forth in this article based on anticipated revenue for the balance of the calendar year as provided in section 18-46. Such payments shall be due and payable 30 days following the commencement of the business.

(Code 2002, § 54-207; Ord. No. 2007110101, § 54-207, 11-1-2007)

Sec. 18-51. - Professional occupation tax.

Notwithstanding any other provision of this article there is hereby imposed upon practitioners of law, medicine, osteopathy, chiropractic, podiatry, dentistry, optometry, applied psychology, veterinary, landscape architecture, land surveying, massage therapy and physiotherapy, public accounting, embalming, funeral directing, civil mechanical, hydraulic and electrical engineering, architecture, marriage and family therapists, social workers, and professional counselors, as their entire occupation tax one of the following, at the practitioner's election:

- (a) The occupation tax resulting from application of the other provisions of this article; or

- (b) A fee of \$300.00 per practitioner, but a practitioner paying according to this subsection shall not be required to provide information relating to gross receipts. The per-practitioner fee applies to each person holding a license to practice any of the professions specified herein.
- (c) Payment of the occupation tax may be made by a partnership, corporation or other business entity composed of practitioners subject to the election in this section.
- (d) 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, shall not be required to pay an occupation tax for that practice.

(Code 2002, § 54-208; Ord. No. 2007110101, § 54-208, 11-1-2007; Ord. No. 20101216-C, § 2, 12-16-2010; Ord. No. 2014-21, § 1, 10-16-2014)

**Editor's note**— Amending Ord. No. 20101216-C refers to this section 18-51 by its former designation as section 54-208.

Sec. 18-52. - Transferability; denial; suspension; revocation.

- (a) *Transfer.* No certificate issued hereunder may be transferred. Any new business or practitioner shall apply and register for a new certificate within 30 days after the commencement of business; provided, however, that such application shall confer no right to operate any business which would otherwise be prohibited by any state or federal law or city ordinance.
- (b) *Denial, suspension and revocation.* Each application submitted or certificate granted hereunder shall be subject to denial, suspension or revocation for violation of any statute, ordinance, rule or regulation now in force or hereafter adopted which governs or relates to the operation of the business in question.
- (c) *Procedure.* Whenever the city tax collector determines there is cause to deny, suspend or revoke the occupation tax certificate, the tax collector must give the certificate holder ten days' written notice of intention to deny, suspend or revoke the occupation tax certificate. A hearing will be scheduled wherein the certificate holder may present a defense to the denial, suspension or revocation before the mayor or such board as the mayor and city council may designate. The ten days' written notice must include the time, place, and purpose of such hearing, and a statement of the charges upon which such hearing shall be held. After the hearing, the mayor and city council may deny, suspend or revoke the occupation tax certificate issued hereunder if any of the grounds set forth in this subsection exist. An occupation tax certificate may be denied, suspended or revoked upon one or more of the following grounds:
  - (1) The applicant or certificate holder is guilty of fraud in the operation of the business or occupation he practices or fraud or deceit in being licensed to practice in that area;
  - (2) The applicant or certificate holder is engaged in the business or occupation under a false or assumed name, or is impersonating another practitioner of a like or different name;
  - (3) The applicant or certificate holder is addicted to the habitual use of intoxicating liquors, narcotics, or stimulants to such an extent he is unable to perform his duties under the business or occupation;
  - (4) The applicant or certificate holder is guilty of fraudulent, false, misleading, or deceptive advertising or practices;
  - (5) The applicant or certificate holder has been convicted of or has pled guilty or nolo contendere to any sexual offense as set out in O.C.G.A. § 16-6-1 et seq., or to any offense involving the lottery, illegal possession or sale of narcotics or alcoholic beverages or possession or receiving of stolen property, for a period of five years immediately prior to the filing of the application. If after having been granted a certificate, the applicant pleads guilty, is convicted of, or enters a plea of nolo contendere to any of the offenses herein, said certificate shall be subject to suspension and/or revocation;

- (6) The original application or renewal thereof, contains materially false information, or the applicant has deliberately sought to falsify information contained therein;
  - (7) The business or establishment is not authorized to operate within the city, or within the zoning district within which it is located, or is otherwise not in conformity with locational requirements of any of the city's ordinances;
  - (8) The business or establishment is a threat or nuisance to public health, safety or welfare; or
  - (9) Any other violation of this article.
- (d) *Hearing; rendering a decision for violation.* After the tax collector makes a recommendation to the mayor and city council to deny an application for, or to suspend or revoke an occupation tax certificate issued hereunder, the mayor and city council, or such board as the mayor and city council may designate, will conduct a hearing to hear evidence relevant to the alleged violation. At the hearing, the tax collector proceeds first and presents all evidence and argument in support of the recommendation to deny an application for, or to suspend or revoke, the occupation tax certificate issued hereunder. The mayor and city council members will have the right to ask questions at any time. After the tax collector makes his presentation, the applicant or certificate holder or its legal counsel, will present evidence and argument as to why the occupation tax certificate should be issued, or if issued, why it should not be suspended or revoked. The mayor and city council members will have the right to ask questions at any time. After hearing all of the evidence and arguments of the parties, the mayor and city council will render a decision. The denial, suspension or revocation decision is final unless the applicant or certificate holder files an appeal by petition for writ of certiorari to the superior court of the county within 30 days of the date of the decision.

(Code 2002, § 54-209; Ord. No. 2007110101, § 54-209, 11-1-2007)

Sec. 18-53. - Payment; penalty for late payment; issuance of executions against delinquent taxpayers.

- (a) Any occupation tax with its associated administrative fees hereunder shall be due and payable by March 31 of each calendar year. If the business or practice was not in operation on January 1, the occupation tax with its associated administrative fees shall be due and payable 30 days following the commencement of business pursuant to section 18-50. The city shall assess a penalty in the amount of ten percent of the amount owed for each calendar year or portion thereof for failure to:
  - (1) Pay occupation taxes and administrative fees when due;
  - (2) File an application by March 31 of any calendar year, when the business or practitioner was in operation the preceding calendar year; and/or
  - (3) Register and obtain an occupation tax certificate within 30 days of the commencement of business.
- (b) Delinquent taxes and fees are subject to interest at a rate of one percent per month. Payments required by the article herein may be collected in any suit at law or in 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 designee, as ex officio sheriff of the county. 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 subject to a civil fine according to the maximum amount allowable under state law.
- (c) No business and/or practitioner subject to this article shall collect any gross receipts as defined herein unless such business and/or practitioner shall have applied for a business tax certificate and/or license as required hereunder. Upon application for a business tax certificate, any such business and/or practitioner may thereupon collect gross receipts, including those incurred but not collected during the

period prior to the application, but such business and/or practitioner shall be subject to the penalties of subsection (a) of this section. If the taxes and fees remain unpaid after the due date, the business and/or practitioner shall not collect any gross receipts as defined herein. The provisions of this subsection may be enforced by appropriate injunctive or other relief upon the application of the city to the superior court of the county.

- (d) Practitioners of law may collect gross receipts as defined herein without applying for and obtaining a business tax certificate. However, practitioners of law must pay the occupation tax levied herein. Delinquent taxes and fees are subject to interest at a rate of one percent per month. Any occupation tax with its associated administrative fees hereunder, shall be due and payable by March 31 of each fiscal year. If the business or practice was not in operation on January 1, the occupation tax with its associated administrative fees shall be due and payable 30 days following the commencement of business pursuant to section 18-50. The city shall assess a penalty in the amount of ten percent of the amount owed for each calendar year or portion thereof for failure to pay the occupation tax required by the article herein may be collected in any suit at law or in 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 its designee, as ex-officio sheriff of the county. In addition, failure to pay the occupation tax required by this article shall subject the person, firm, or corporation to a civil fine of \$500.00 as provided by state law.
- (e) A business registration application or certificate under this chapter may be denied, suspended or revoked if the applicant or licensee has failed to pay any fee to the city, has failed to make a return or pay a tax due to the tax clerk of the city, the city business license department, or any other agency of the government or has otherwise failed to comply with the provisions of this chapter or any other chapter of this Code of Ordinances.

(Code 2002, § 54-210; Ord. No. 2007110101, § 54-210, 11-1-2007; Ord. No. 20050303, 3-3-2005)

**Editor's note**— Amending Ord. No. 20050303 incorrectly refers to this section 18-53 as section 19-53.

Sec. 18-54. - Proration of fee.  
No license fee shall be prorated.

(Code 2002, § 54-212; Ord. No. 2007110101, § 54-212, 11-1-2007)

Sec. 18-55. - Intent of article.

It is the intent of the article to impose the taxes set forth in this article upon all businesses and practitioners operating in the city consistent with the requirements of the constitution and laws of the state. In the event that the fees imposed hereby shall not be authorized on any business and practitioner or taxes and fees shall be in excess of the maximum amount authorized by law, such taxes and fees shall be imposed only to the extent authorized by law.

(Code 2002, § 54-214; Ord. No. 2007110101, § 54-214, 11-1-2007)

Sec. 18-56. - Amendment of article.

This article may be amended so as to increase the occupation tax on any business or practitioner only after the conduct of at least one public hearing pertaining thereto, but this provision shall not be applicable to the repeal of any resolution promulgated pursuant to section 18-46.

(Code 2002, § 54-216; Ord. No. 2007110101, § 54-216, 11-1-2007)

Secs. 18-57—18-85. - Reserved.