

ORDINANCE ORD-2024-12

ORDINANCE TO AMEND CHAPTER 34 OF THE CODE OF THE CITY OF LAWRENCEVILLE, GEORGIA REGARDING OCCUPATION TAX AND FOR OTHER PURPOSES

The City Council of the City of Lawrenceville, Georgia hereby ordains that the Code of the City of Lawrenceville, Georgia shall be amended as follows:

Section1:

That Article II. (Occupation Tax) of Chapter 34 (Taxation) is hereby amended by deleting Article II in its entirety and replacing the language to read as follows:

ARTICLE II. - OCCUPATION TAX

Sec. 34-23. - Definitions.

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

Administrative fee is the component of the occupation tax which approximates the reasonable cost of handling and processing the occupation tax.

Business means any trade, profession, occupation, avocation, person, sole proprietor, partnership, corporation, or other entity and the efforts or activities associated thereby for the purposes of raising revenue or producing income.

City means the City of Lawrenceville.

Chief Financial Officer means the Chief Financial Officer of the City or his designee.

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

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.

Gross receipts.

- (1) The term "gross receipts" means the 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" shall 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 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), between or among a parent corporation, wholly owned subsidiaries of such parent corporation, and any corporation in which such parent corporation or one or more of its wholly owned subsidiaries owns stock possessing at least 30 percent of the total value of shares of all classes of stock of such partially owned corporation, 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 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 means 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 in the city for revenue-raising purposes.

Occupation tax certificate means a document issued by the city acknowledging payment of the occupation tax and administrative fee.

Practitioners of professions and occupations are those individuals listed in O.C.G.A. § 48-13-9(c) but do not include a practitioner who is an employee of a business if such business pays an occupation tax.

Regulatory fee means payments, whether designated as license fees, permit fees, or by another name, which are required by a local government as an exercise of its police power and as a part of or an aid to regulation of an occupation, profession, or business. The amount of the regulatory fee shall approximate the cost of regulatory activity by the city. 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.

Regulatory fee certificate means a document issued by the city acknowledging payment of a regulatory fee.

Sec. 34-24. - Administrative Fee.

- (a) A nonprorated, nonrefundable administrative fee is required on all occupation tax accounts for the initial registration and all renewals thereafter. The administrative fee shall be One Hundred Dollars (\$100).
- (b) Occupation taxes levied hereinafter are separate from the administrative fee or regulatory fee.

Sec. 34-25. - Regulatory Fee.

- (a) A regulatory fee is imposed as provided under O.C.G.A. § 48-13-8 on applicable businesses and individuals. Businesses and individuals engaging in the occupations or businesses set forth in O.C.G.A. § 48-13-9(b) shall pay a nonrefundable regulatory fee as applicable. The regulatory fee shall be set by city council, from time to time by ordinance.
- (b) Every business, individual, and location subject to payment of a regulatory fee levied by this article shall display a current regulatory fee certificate in a conspicuous place at the location for which such certificate was issued. If the taxpayer does not have a permanent location within the city, the regulatory fee certificate or an unaltered duplicate of such certificate shall be shown to any code enforcement office, police officer, or other person charged with enforcing this article upon request.

Sec. 34-26. - Occupation Tax Levied; Limitations.

- (a) An occupation tax is imposed on those businesses and practitioners of professions and occupations, pursuant to O.C.G.A. § 48-13-6 , with one (1) or more locations or offices within the corporate limits of the city and, pursuant to O.C.G.A. § 48-13-7, upon out-of-state businesses with no location or office in the city but with employees or agents engaging in substantial efforts to solicit business or serve customers or clients in the State of Georgia or that own personal or real property located within the city which generates income in accordance with a fee schedule set by the mayor and council, from time to time by resolution.

- (b) The city shall not require the payment of more than one (1) occupation tax for each location of a business or practitioner.
- (c) A business or practitioner which is subject to an occupation tax by another local government and claiming an exemption from or limitation to the occupation tax imposed by this article shall submit documentation as to current payment of the occupation tax to the other local government and the basis of such tax.
 - (1) If a business or practitioner with no location or office in Georgia provides to the city 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, then the business or practitioner shall be exempt from the occupation tax. This limitation shall only apply when the business or practitioner has provided to the city satisfactory proof as to the applicability of this subsection.
 - (2) A business or practitioner with no location or office in Georgia shall only be required to pay occupation tax to the local government in Georgia where the largest dollar volume of business is done or service is performed by such business or practitioner. This limitation shall only apply when the business or practitioner has provided to the city satisfactory proof as to the applicability of this subsection.
 - (3) A business or practitioner which has locations in Georgia subject to occupation tax by more than one (1) local government in Georgia shall only be subject to occupation tax by the city for the gross receipts generated within the corporate limits of the city. This limitation shall only apply when the business or practitioner has provided to the city satisfactory proof of current payment of the other local government.
- (d) If a business or practitioner commences business in the city on or after July 1 in any year, the occupation tax for the remaining portion of the year shall be fifty (50) percent of the tax imposed for the entire year. The administrative fee shall not be reduced.
- (e) If a business or practitioner does not know the amount of gross receipts generated by the business or practitioner in the calendar year for which occupation tax is due, then the business or practitioner shall file a return estimating the gross receipts. If such estimate is not accurate, any overpayment of the occupation tax may be credited to the business or practitioner's account for future tax liability, offset against other amounts due and owing to the city for any reason or paid to the business or practitioner at the discretion of the Chief Financial Officer.
- (f) An occupation tax shall be required from 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 boundaries of the city.
- (g) Attorneys subject to the occupation tax pursuant to this article shall be responsible for paying such fee by March 1 of each year for the previous year. The penalty for failure to pay such occupation tax shall be as defined in section 34-36 of this article, provided that no criminal sanctions shall be imposed by the city.

Sec. 34-27. - Occupation Tax Structure.

- (a) The tax rate imposed by this article shall be based on gross receipts of the business or practitioner in combination with the profitability ratio 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. The tax rate as described shall be as follows:

Tax Class	Tax Rate
1	0.065%
2	0.078%
3	0.091%
4	0.104%
5	0.117%
6	0.130%

In order to phase in the structure over a period of time, there shall be an exemption as follows:

Year	Amount
2025	\$50,000 or 70% of gross receipts, whichever is higher
2026	\$50,000 or 35% of gross receipts, whichever is higher
2027 and beyond	\$50,000

- (b) The maximum occupation tax permitted under this article shall be Twenty-Five Thousand Dollars (\$25,000) for any single occupation tax certificate.

Sec. 34-28. - Practitioners of Professions and Occupations.

- (a) Practitioners of professions and occupations as defined in this article shall pay the occupation tax as set forth in Section 34-27 above or shall pay an occupation tax fee per practitioner as set forth below. On the tax return for 2024 or such later time as the practitioner first commences business in the city, the practitioner shall elect a method of taxation. Such election may be changed for subsequent calendar years only by a written request filed by the practitioner on or before March 1 of the year in which the election is to be changed.
- (b) The fee per practitioner shall be as follows:

Year	Amount
2025	\$200
2026	\$300
2027 and beyond	\$400

Sec. 34-29. - Occupation Tax Certificate.

Every business, practitioner, and location subject to payment of the occupation tax levied by this article shall display a current occupation tax certificate in a conspicuous place at the

location for which such certificate was issued. If the taxpayer does not have a permanent location within the city, the occupation tax certificate shall be shown to any code enforcement officer, police officer, or other person charged with enforcing this article upon request.

Sec 34-30. - Exemptions.

- (a) No occupation tax shall be levied on the following:
- (1) 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;
 - (2) Those businesses regulated by the Georgia Public Service Commission and the Georgia Department of Public Safety;
 - (3) Those electrical service businesses organized under O.C.G.A. Title 46, Chapter 3.
 - (4) Any farm operating for the production from or on the land of agricultural products, but not including any agribusiness;
 - (5) Agricultural product cooperative marketing associations pursuant to O.C.G.A. § 2-10-105;
 - (6) Motor common carriers pursuant to O.C.G.A. § 46-7-15;
 - (7) Persons purchasing guano, meats, meal, flour, bran, cottonseed, or cottonseed meal or hulls in carload lots for distribution among the purchasers for use and not sale pursuant to O.C.G.A. § 48-5-355;
 - (8) Pursuant to O.C.G.A. § 48-5-356 for persons selling or introducing into the city agricultural products or livestock, including animal products, raised in this state when the sale and introduction are made by the producer of the product and the sale is made within ninety (90) days of the introduction of the product into the city;
 - (9) Insurance companies governed by O.C.G.A. § 33-8-8 (see Chapter 34, Article 1, Code of the City of Lawrenceville, Georgia)
 - (10) Depository institutions pursuant to O.C.G.A. § 48-6-93 (see Chapter 34, Article 3, Code of the City of Lawrenceville, Georgia);
 - (11) Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55;
 - (12) Disabled veterans and blind persons pursuant to the requirements and qualifications of O.C.G.A. §43-12-2; or
 - (13) Any business where the levy of such occupation tax is prohibited by the laws of the State of Georgia or the United States.
- (b) The exemptions and limitations contained in this article shall not be construed to repeal or otherwise affect in any way any franchise fees, business taxes, or other fees or taxes otherwise allowed by law.

Sec. 34-31. - Evidence of State Registration When Required.

Each person who is licensed under O.C.G.A. Title 43 by the examining boards of the secretary of state's office shall provide evidence of proper and current state licensure before any city occupation tax certificate or regulatory fee certificate may be issued.

Sec. 34-32. - Evidence of Qualification Required if Applicable.

- (a) Any business required to obtain health permits, fire inspections, bonds, certificates of qualification, certificates of competency, or any other regulatory matter shall first, before the issuance of an occupation tax certificate or a regulatory fee certificate, show evidence of such qualification.
- (b) Any business required to submit an annual application for continuance of the business shall do so before the registration is issued.

Sec. 34-33. - Filing Returns; Other Information Required or Requested.

- (a) On or before March 1 of each year, an individual, business, or practitioner subject to this occupation tax article shall file with the Chief Financial Officer, on a form approved by and available from the city, a signed return attesting to the gross receipts and number of employees of such business or practitioner during the preceding calendar year ending on December 31.
- (b) Individuals, businesses, and practitioners doing business in the city shall submit to the Chief Financial Officer or make available to the city within thirty (30) days or such longer time period as the city deems appropriate such information as may be required or requested by the city to determine the applicability and amount of the occupation tax or regulatory fee or to facilitate levying or collection of the occupation tax or regulatory fee(s). Such information may include, but is not limited to, the following:
 - (1) Name under which business is to be conducted.
 - (2) Local business address.
 - (3) Mailing address of business, if other than local address.
 - (4) Description of business activity to be conducted.
 - (5) Applicant's name, social security number and association with business. (Applicant shall be local manager, business owner, or corporate officer.)
 - (6) If a partnership or proprietorship, social security number of each individual. If a corporation, tax identification number and list of officers' names and titles.
 - (7) Name, address and telephone number of owner of the property where the business is located.
 - (8) Evidence of state or county certification, as applicable.
 - (9) Statement that the applicant (including all partners or the officers and local manager, if a corporation) has never been convicted of a felony.

- (10) Agreement by applicant that the city may investigate his/her background and use such in deciding on the granting of authority to conduct business in the city.
- (11) Statement that the applicant has never been denied the authority to conduct the business herein described, except as noted.
- (12) Statement affirming validity of the information provided.
- (13) Quarterly wage statements and W-3 transmittal forms furnished to other governmental entities, including the state and federal governments.

Sec. 34-34. - Inspections of Books and Records; Audits; Confidential Information.

- (a) The city, through its officers, agents, employees, or representatives, shall have the right to inspect the books or records of any business for which returns have been based upon the gross receipts. Upon demand of the Chief Financial Officer, such books or records shall be submitted for inspection by a representative or agent of the city within thirty (30) days. Independent auditors or bookkeepers employed by the city shall be classified as agents for the purposes of this article. Failure of submission of such books and records within thirty (30) days shall be subject to section 34-37. If it is determined that a deficiency exists as a result of under reporting, payment of additional occupation taxes required to be paid under this article shall be assessed including interest as provided by state law and penalties provided for by this Code. Notwithstanding the foregoing, no attorney shall be required to disclose any information that would violate attorney/client privilege.
- (b) Except as provided in subsection (c) of this section, information provided by a business or practitioner of an occupation or profession for the purpose of determining the amount of occupation tax for the business or practitioner is confidential and exempt from disclosure under O.C.G.A. § 50-18-70 et seq.
- (c) Information provided to the city by a business or practitioner of an occupation or profession 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) Nothing herein shall be construed to prohibit the publication by the city of statistics, so classified as to prevent the identification of particular reports or returns and items thereof.

Sec. 34-35. - Business Classifications for Determining Tax Levy.

- (a) For the purpose of this article, every person engaged in business requiring the payment of occupational taxes is classified in accordance to the major line of business as defined by the North American Industrial Classification System (NAICS), and profitability classes are assigned in accordance with Statistics of Income, Business Income Tax Returns, United States Treasury Department, or Internal Revenue Service. The Chief Financial Officer shall review assignment of businesses to profitability classes on a biannual basis and shall administratively reassign businesses as necessary to the then most accurate profitability class.

- (b) Classifications by business profitability to be established by the city council are incorporated herein by reference and adopted for use in the application of this article. All separate businesses engaged in more than one (1) business activity shall be classified on the basis of their dominant business activity at each location where business is done; except, that a person whose dominant business activity is legally exempt as defined by this article shall be classified according to such person's principal subsidiary business, if any, which is subject to the levy and assessment of occupation taxes.
- (c) The occupation tax shall be determined by applying the business' gross receipts returned to the city to the business' profitability classification established for each business type. Gross revenues above the exemption amount are taxed using a tax class table based on profitability.
- (d) A copy of business classifications shall be maintained in the office of the Chief Financial Officer and shall be available for inspection by all interested persons.

Sec. 34-36. - Date Due; Penalty.

- (a) Any occupation tax or regulatory fee due pursuant to this article shall be due and payable annually on March 1 or at such other time as may be designated by the city. In the event that any person commences business or initially engages in a regulated activity in the city after January 1 in any year, the tax or fee shall be due and payable on the date of the commencement of the regulated activity. In the event that any non-regulated individual or business subject to occupation tax under this article commences business in the city after January 1 in any year, the tax shall be due and payment thirty (30) days following the commencement of the business.
- (b) Any individual, business, or practitioner subject to any administrative fee, occupation tax, or regulatory fee imposed by this article and is delinquent shall be charged interest at a rate of 1.5 percent per month.
- (c) Any individual, business, or practitioner subject to any occupation tax or regulatory fee imposed by this article which is unpaid for ninety (90) days after the date on which payment was due shall be subject to a penalty of ten (10) percent of the tax or fee.

Sec. 34-37. - Enforcement; Violations.

- (a) It is the duty of the Chief Financial Officer to administer and enforce the provisions of this article to perform all functions necessary to administer and enforce this article and to summon violators of this article to appear before the municipal court. The Chief Financial Officer may issue executions against individuals, businesses, and practitioners for taxes and fees which are due and owing.
- (b) The Chief Financial Officer shall issue executions against individuals, businesses, and practitioners for taxes and fees which are due and owing. Such executions shall bear interest at the rate authorized by O.C.G.A. § 48-2-40 or, if such statute should be repealed, one (1) percent per month. The lien shall cover the property of the individual, business, or practitioner liable for payment of the delinquent administrative fee, occupation tax, or

regulatory fee and become fixed as of the date and time the administrative fee, occupation tax, or regulatory fee became delinquent. The execution shall be levied by the Chief Financial Officer upon property of the delinquent tax or fee payer located in the city and sufficient property shall be advertised and sold to pay the amount of the execution, including penalty, interest and costs. All other proceedings in relation thereto shall be as provided by the Code and Charter of the city and the laws of Georgia. The defendants at execution shall have the rights of defense, by affidavit of illegality of the tax or otherwise as provided by the Charter of the city and the laws of Georgia in regard to tax executions.

- (c) Individuals, businesses, and practitioner who fail or refuse to pay any administrative fee, occupation tax, or regulatory fee charged pursuant to this article shall be subject to the penalties provided herein and in section 1-16 of the Code of the City of Lawrenceville, Georgia.
- (d) Individuals, businesses, and practitioners who fail or refuse to make a timely or truthful tax return or make available truthful and accurate information the city requests or requires for determining applicability or amount of occupation tax or regulatory fee, or for levying or collecting such occupation tax or regulatory fee shall be subject to the penalties provided herein and in section 1-16 of the Code of the City of Lawrenceville.
- (e) Individuals, businesses, and practitioners who are delinquent in payment of any tax, fee, charge, utility bill, or other debt owed to the city shall not be issued an occupation tax certificate until such tax, fee, charge, utility bill, or other debt has been paid.

Sec. 34-38. - Public Hearing.

The city shall conduct at least one (1) public hearing before adopting any ordinance which will increase the occupation tax rate specified herein.

Sec. 34-39. - Prior Ordinance.

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

Sec. 34-40 – 34-56. - Reserved.

Section 2:

Except as specifically amended as set forth above, all other sections, subsections, sub-subsections, paragraphs, etc. of Article II of Chapter 34 shall remain in full force and affect.

Section 3:

All ordinances, regulations, or parts of the same in conflict with this ordinance are hereby rescinded to the extent of said conflict and only to the extent of said conflict.

Section 4:

If any section, article, paragraph, sentence, clause, phrase, or word in this ordinance, or application thereof to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance; and the City Council hereby declares it would have passed such remaining portions of the ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 5:

This ordinance shall become effective upon its adoption by the City Council.

IT IS SO ORDAINED this 16th day of September, 2024.

David R. Still, Mayor

Attest:

Karen Pierce, City Clerk