

ORDINANCE NO. 06-_____

AN ORDINANCE

AN ORDINANCE ADOPTED TO AMEND THE DACULA MUNICIPAL CODE FOR THE CITY OF DACULA BY AMENDING CHAPTER 5.04, OCCUPATION TAX AND BUSINESS REGULATION; TO PROVIDE FOR AN EFFECTIVE DATE, TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

The Mayor and Council of the City of Dacula hereby ordain that the Dacula Municipal Code of the City of Dacula be amended by amending Chapter 5.04, OCCUPATION AND BUSINESS REGULATION ORDINANCE as follows:

SECTION 1.

Chapter 5.04, Occupation Tax and Business Regulation Ordinance per attached Exhibit "A" is hereby adopted for the City of Dacula and is incorporated herein as fully as though set out at length.

SECTION 2.

This Ordinance will be effective immediately upon its passage and approval.

SECTION 3.

All Ordinances or parts thereof in conflict herewith are hereby repealed.

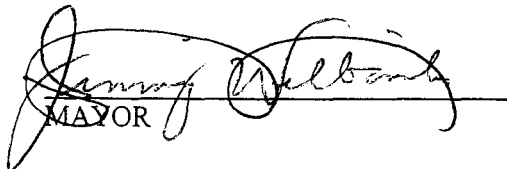
AND IT IS SO ORDAINED by the governing authority of the City of Dacula, this 6th day of April, 2006.

AYES: _____

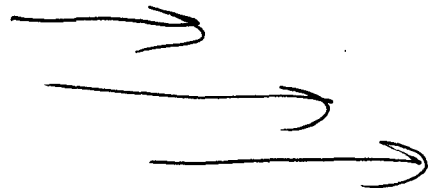
NAYES: _____

ATTEST: _____

CITY CLERK


MAYOR

Next page



CHAPTER 5.04

OCCUPATION TAX AND BUSINESS REGULATION ORDINANCE

GENERAL PROVISIONS

Section 5.04.001 Occupation Tax Imposed on Businesses In The City Subject to Applicable Regulations and Requirements

Each person engaged in any business, trade, profession, or occupation in the City of Dacula, Georgia, whether with a location in City of Dacula, or in the case of an out-of-state business with no location in the state and falling within the criteria of O.C.G.A. § 48-13-7, shall pay an occupation tax for such business, trade, profession or occupation. Moreover, each person engaged in any business, trade, profession or occupation in City of Dacula, Georgia who is subject to any applicable regulations and requirements that the city under its police powers has set forth in the articles of this chapter shall, prior to and during the operation of the business, trade, profession or occupation, comply with all applicable regulations and requirements.

Section 5.04.002 Construction Of Terms; Definitions

(A) Wherever the term "City of Dacula" is used herein, such term shall be construed to mean "City of Dacula, Georgia"; wherever the term "city" is used herein, in the context of a geographic area, it shall be construed to mean "City of Dacula, Georgia."

(B) As used in this ordinance, the term:

- (1) "**Administrative fee**" means a component of an occupation tax which approximates the reasonable cost of handling and processing the occupation tax.
- (2) "**Business**" means any business, trade, occupation, profession, avocation or calling of any kind for gain or profit, direct or indirectly, provided that this shall not include any business operating in the county solely under a franchise granted by the county.
- (3) "**City**" means the City of Dacula government, acting through its appointed officials and employees in the administration of this ordinance.
- (4) "**Disabled Veteran**" shall mean a person who has served in the armed services of the United States and was

terminated under conditions other than dishonorable. In addition said "disabled veteran" must provide certification by the U.S. Department of Veteran Affairs as twenty-five (25) or more percent disabled in line of duty service during peace-time or ten (10) or more percent disabled in 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.

- (5) **"Dominant line"** means the type of business within a multiple line business from which the greatest amount of income is derived.
- (6) **"Engaged in business"** means any person, whether acting as an owner, operator or agent in any business within the county, shall be deemed to be engaged in business when performing any act of selling any goods or services, soliciting business or offering goods or services for sale for payment in an attempt to make a profit; including sales or services of a wholesaler, retailer or manufacturer.
- (7) **"Governing Authority"** means the elected Mayor and Council of the City of Dacula.
- (8) (a) **"Gross receipts"** means the total revenue of the business or practitioner for the period, including without limitation:
 - (i) Total income without deduction for the cost of goods or expenses incurred;
 - (ii) Gain from trading in stocks, bonds, capital assets or instruments of indebtedness;
 - (iii) Proceeds from commissions on the sale of property, goods or services;
 - (iv) Proceeds from fees for services rendered; and
 - (v) Proceeds from rent, interest, royalty or dividend income.

(b) Gross receipts shall not include the following:

 - (i) Sales, use, or excise tax;
 - (ii) Sales returns, allowances and discounts;
 - (iii) Interorganizational sales or transfers between or among the units of a parent-subsidary controlled group of corporations as defined by 26 U.S.C. Sec.1563(a)(1), between or among the units of a brother-sister controlled group of corporations as defined by 26 U.S.C. Sec. 1563 (a)(2), or between or among apparent 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; (iv) Payments made to a subcontractor or an independent agent;

(v) Governmental and foundation grants, charitable contributions, or the interest income derived from such funds, received by a nonprofit organization which employs salaried practitioners otherwise covered by this ordinance, if such funds constitute 80 percent or more of the organization's receipts; and

(vi) Proceeds from sales to customers outside the state.

- (9) **"Licensing and Revenue Manager"** means the City official who shall be the administrator of the occupational tax function, and who may be assisted by subordinates and who shall have the primary responsibility for the implementation of this ordinance.
- (10) **"Location or office"** shall include any structure or vehicle where a business, profession, or occupation is conducted, but shall not include a temporary or construction work site which serves a single customer or project or a vehicle used for sales or delivery by a business or practitioner of a profession or occupation which has a location or office. The renter's or lessee's location which is the site of personal property which is rented or leased from another does not constitute a location or office for the personal property's owner, lessor, or the agent of the owner or lessor. The site of real property which is rented or leased to another does not constitute a location or office from the real property's owner, lessor, or the agent of the owner or lessor unless the real property's owner, lessor or agent of the owner or lessor, in addition to showing the property to prospective lessees or tenants and performing maintenance or repair to the property, otherwise conducts the business of renting or leasing the real property as such site or otherwise conducts any other business, profession or occupation as such site.
- (11) **"Occupation tax"** means a tax levied on persons, partnerships, corporations or other entities for engaging in an occupation, profession or business for revenue raising purposes.
- (12) **"Occupation Tax Certificate"** shall mean that document issued by the Licensing and Revenue Manager, which,

- when properly annotated or validated by the Licensing and Revenue Manager, shall serve as evidence of compliance with the provisions of this ordinance.
- (13) **"Permit"** shall mean a work permit for employment in a regulated business, issued by the Town Marshall or designee in conformance with the provisions of the ordinance.
 - (14) **"Person"** wherever used in this ordinance shall be held to include sole proprietors, corporations, partnerships, professional practitioners or any other form of business organization.
 - (15) **"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.
 - (16) **"Practitioners of professions and occupations"** shall not include a practitioner who is an employee of a business, if the business pays an occupation tax based upon profitability ratio in combination with gross receipts.
 - (17) **"Regulatory fees"** 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 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 may not include an administrative fee. Development impact fees as defined by paragraph 8 of O.C.G.A. Sec. 36-71-2 or other costs or conditions of zoning or land development are not regulatory fees.
 - (18) **"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 situs. 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.

- (19) "Yard Sales, Garage Sales, Bake Sales" shall mean events that occur not as a part of any business enterprise or profession, but instead are sponsored and operated by a private individual or group, normally for purposes of financially supporting special events or endeavors for non-profit or charitable groups.

(C) **Gender** - For convenience in sentence construction, use of the male pronoun has been selected; however, the term "he", "his", or any other masculine usage may be construed as "she", "her", or any other feminine usage as may be appropriate.

**Section 5.04.003 Administrative And Transfer Fee Structure;
Regulatory Fee Levied; Fees Separate From
Taxes**

(A) (1) A non-prorated, non-refundable administrative fee of \$60.00 shall be required on all occupation tax accounts for the initial start up, renewal or re-opening of those accounts.

(2) A transfer fee not to exceed \$20.00 may be imposed for the transfer of an occupation tax certificate.

(B) A regulatory fee is imposed as provided under O.C.G.A. Sec. 48-13-8 and Sec. 48-13-9 on applicable businesses. A regulatory fee should cover the approximate cost of any regulatory function and may not be used as a revenue-raising tool. A regulatory fee may not include an administrative fee.

(C) Occupation taxes are levied as hereinafter provided, and are separate from administrative or regulatory fees.

Section 5.04.004 Occupation Tax Levied; Structure

(A) An occupation tax shall be levied upon those businesses and practitioners of professions and occupations with one or more locations or offices in the city or upon out-of-state businesses with no location or office in Georgia falling within the criteria of O.C.G.A. Sec. 48-13-7. The tax shall be based upon the following criteria: 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 State Internal Revenue Service or successor agencies of the United States.

(B) Occupation tax schedule: The tax rate determined by profitability ratios in combination with gross receipts for each business, trade, profession or occupation shall be as follows:

**Profitability Ratios with Gross Receipts
by Class**

<u>Profitability Ratio/ Tax Class</u>	<u>Rate on Gross Receipts</u>
1	.0004
2	.0005
3	.0006
4	.0007
5	.0008
6	.0009

(C) Each new or renewal certificate holder shall pay an annual tax in an amount determined by the schedule outlined in subsection (B) of this section.

**Section 5.04.005 Professionals As Classified In O.C.G.A. Sec.
48-13-9(c), Paragraphs 1 through 18**

(A) Practitioners of professions as described in O.C.G.A. Sec. 48-13-9(c)(1) through (18) shall elect as their entire occupation tax one of the following:

- (1) The occupation tax based on gross receipts combined with profitability ratios as set forth in Section 5.04.004.
- (2) A fee of \$400.00 per practitioner who is registered to provide the service at the practitioner's office or location; provided, however, that a practitioner paying according to this paragraph shall not be required to provide information to the local government relating to the gross receipts of the business or practitioner. The per-practitioner fee includes each person in the business who qualifies and is registered or licensed as a practitioner under the state's regulatory guidelines.

(B) Practitioners of professions and occupations authorized under this section are, but not limited to:

- (1) Architects.
- (2) Chiropractors.
- (3) Civil, mechanical, hydraulic or electrical engineers.
- (4) Dentist.
- (5) Embalmers.
- (6) Funeral directors.
- (7) Land surveyors.
- (8) Landscape architects.
- (9) Lawyers.
- (10) Marriage and family therapists, social workers, and professional counselors.
- (11) Optometrists.
- (12) Osteopaths.
- (13) Physicians.
- (14) Podiatrists.
- (15) Practitioners of physiotherapy.
- (16) Psychologists.
- (17) Public accountants.
- (18) Veterinarians.

Section 5.04.006 Occupation Tax Exclusions And Limitations

(A) Limits upon tax levied:

- (1) The city shall not require the payment of more than one occupation tax for each location that a business or practitioner shall have, nor shall the county require that a business pay an occupation tax upon more than 100 percent of its gross receipts.
- (2) Notwithstanding the foregoing, where more than one business exists at a location, the gross receipts of each business will be taxed separately, and a separate application and tax certificate shall be required for each business.

(B) Exemption for Payments Made Elsewhere - The city shall not require an occupation tax in any tax year for those receipts that were simultaneously taxed for purposes of an occupation tax in other localities within the state of Georgia; provided however that those tax payments were legitimate, were made pursuant to a bona fide occupational tax structure, and further were not made primarily in an effort to avoid payment of occupation tax in City of Dacula. The City shall not tax in any event gross receipts which are proceeds from outside the State,

as defined in Section 5.04.002 (B) (8) (b) subsection (vi).

(C) The maximum occupation tax permitted under this ordinance shall be \$20,000.00 for any single occupation tax certificate.

(D) Occupational tax exemptions shall be granted as provided for in this ordinance. The Licensing and Revenue Manager shall be responsible for promulgating guidelines for making application for and granting occupational tax exemptions.

(E) The occupation tax for an existing business may not increase by an amount greater than \$5,000.00 from any tax year to the immediately following tax year; the occupation tax for a newly established business may not exceed \$5,000.00 in its initial year of operation.

(F) An occupation tax shall not be levied in any other manner except as provided for herein.

Section 5.04.007 Computation, Applications, Returns; General Procedures

(A) Use of Estimated Information for Returns - All occupation taxes levied hereunder are computed on the volume of business to be conducted during the current calendar year. However, for the convenience of the city and the business community, each business or professional subject to the levy of an occupation tax shall, on or before the dates set forth, file with the licensing and revenue manager the application and return provided for, showing the gross receipts of that business during the preceding calendar year. This return shall be used as the basis for making estimated payments on the tax due for the current calendar year. The final actual amount of tax payable in a calendar year shall be computed and paid based upon the final return of taxable gross receipts to be made after the end of the year.

(B) Final Returns - The owner or responsible official of each business subject to the occupation tax shall, after the end of the taxable year, and on or before February 15 or the due date established by the licensing and revenue manager of the ensuing year, file with the manager a signed application and return, in the form required, setting forth the amount of gross receipts for the business for the preceding calendar year. This form will be used to determine the final tax due for the year just ended, and as an estimate of the gross receipts and occupation tax for

the current year.

(C) Part Year Returns - Where the business subject to the tax levied herein has been conducted for less than the full preceding calendar year, the amount of actual gross receipts shall be included on the return. Such return shall also include a figure that when combined with the actual receipts, will be a reasonable estimate of an annualized, whole-year gross receipts.

(D) Newly Established Businesses - In the case of a newly established business subject to occupation tax in the current year, and for which no business was conducted within the city in the previous calendar year, the owner or responsible official shall, on or before actual commencement of business, file a return estimating the gross receipts for the current calendar year, and the tax shall be computed thereon. The tax shall become due 30 days from filing of the return, and shall be delinquent if not paid within 30 days of the due date. Notwithstanding the foregoing, if a lawyer begins business after January 1 of the occupation tax year, the tax and administrative fee on such business shall be due and payable on December 31 of the year in which the business begins.

(E) False or Fraudulent Returns or Estimates - Failure to supply complete or accurate information is punishable as specified within this chapter.

(F) Dates - Filing or payment dates may be extended upon written order of the licensing and revenue manager.

Section 5.04.008 Submission Of Final Return Showing Gross Receipts Required, Procedures Where Tax Overpaid Or Underpaid; Refunds

(A) Not later than February 15 or the established due date, the owner or responsible official for each business subject to an occupation tax shall file in the format specified by the Licensing and Revenue Manager, a final return setting forth the total amount of gross receipts for the business during the immediately preceding year.

(B) If the amount of occupation tax required herein, computed based upon the final return, is more than the amount of occupation tax previously paid by the business based upon an estimated filing, the difference amount shall be due and payable not later than April 1 of the year following the year in which

the tax was incurred, and shall become delinquent if not so paid.

(C) If the amount paid for occupation tax during the immediately preceding year, computed on the estimated gross receipts for the period, is more than the amount due as computed upon the final actual return, the overpayment difference shall be refundable to the business, or alternately, if the business enterprise remains in existence, the overpayment may be credited towards the estimated occupation tax due for the current year.

(D) It shall be the duty of the Licensing and Revenue Manager to at least annually provide a statement of estimated and final tax computations, along with a schedule of payments and final status of the account of each business for the immediately preceding year.

(E) Refunds - Refund of the occupation tax shall be permitted where there has occurred a clerical error in the submission of a return or application, or where there has been discovered a clerical error in business classification or tax computation, or where there has been a voluntary or involuntary overpayment of the tax. Written requests for refund of the occupation tax or any part thereof, must be filed with the Licensing and Revenue Manager by the owner or responsible business official, and the request shall set forth a detailed justification for claim for refund. The administrative fee is non-refundable.

(F) Evidence of gross receipts generated during any period may be substantiated by a certified copy of Schedule C of Form 1040 filed with the Internal Revenue Service by the certificate holder; and shall be required to be submitted upon request of the Licensing and Revenue Manager.

Section 5.04.009 Applications Required Annually; General
Form; Posting.

(A) Every person, firm, company, or corporation engaged in business as of January 1 of the taxable year, and subject to the occupation tax shall, on or before February 15 or the established due date of each year, make an application for occupation tax certificate in writing to the licensing and revenue manager, or designee, in the form and manner required setting forth hereafter the following information:

(1) Name of the person, firm, company, or corporation; including the complete address of the resident agent or other responsible official of the business.

(2) Location, telephone number, and mailing address at which trade, business, or profession is to be conducted;

(3) Exact nature of the trade, business, or profession for which the occupation tax certificate is requested;

(4) Other information as shall be required by the city in order to compute the administrative fee and occupation tax; including without limit, the number of registered or licensed professionals, previous calendar or fiscal year gross receipts, projections of gross receipts for the current taxable year, federal tax identification or social security account number, or other information as may be required for the administration of this chapter.

(5) All such information therein required being given by the owner, a member of the firm, an officer of the corporation, or an authorized employee, agent, or accountant having knowledge of actual business done, which application shall identify the individual making the return and shall be certified to be true, correct, and complete to the best of his knowledge and belief.

(B) Applications by newly established businesses are due prior to commencing business operations.

(C) Any applicable certificate shall be shown to the licensing and revenue manger or his designees, or to the Town Marshall or his designees upon request.

(D) This section shall not apply to lawyers.

**Section 5.04.010 Business Required To Furnish Names of
Persons to Call in Emergency Situations**

(A) All commercial businesses operating within the confines of City of Dacula, Georgia, having a permanent or leased premises, and not considered a home occupancy enterprise, shall furnish to the Licensing and Revenue Manager the names, addresses, and phone numbers of two (2) persons who may be reached in the event of an emergency by the police or fire departments.

(B) The Gwinnett County Police Department shall issue a decal containing a code number to said business which shall be posted on the front door of the business. The Gwinnett County Police Department will maintain the name records for each decal with code number as a means of identifying the proper record to consult in the event of an emergency.

(C) All commercial businesses as currently defined in paragraph A, of this section, and currently operating in the City of Dacula, Georgia, shall have sixty (60) days from the effective date of this section to comply with its provisions.

(D) All new commercial businesses, except lawyers and those businesses considered a home occupancy enterprise which begin operation after the effective date of this section, shall comply with this section as a condition precedent to the issuance of an occupation tax certificate.

(E) It shall be the responsibility of the president of a corporation, which is domiciled in City of Dacula, Georgia, to comply with this section. If a foreign corporation not domiciled in City of Dacula, Georgia, operates in City of Dacula, Georgia, it shall be the responsibility of its local manager to comply with this section. In all other cases, the owner of the business shall furnish the information required under this section.

(F) Any person who shall cease operating the business for which a code number has been issued shall notify the Licensing and Revenue Manager, in writing within ten (10) days of ceasing business.

(G) It shall be the responsibility of the president of the corporation, local manager, or owner of a business to notify the Licensing and Revenue Manager of any changes in personnel to be notified in the event of an emergency. This notification will be made in writing within ten (10) days of the effective date of the change.

(H) The Gwinnett County Police Department shall be responsible for enforcement.

(I) Any person violating this section by not posting the decal/code number, or not keeping the list of names current, shall be punished as for a misdemeanor with the payment of a \$25.00 fine. Subsection (I) shall not apply to lawyers.

**Section 5.04.011 Paying Occupation Tax Of Business With No
Location In Georgia**

The registration and the assessment of an occupation tax is hereby imposed on those businesses or practitioners with no location or office in the state of Georgia if the business' largest dollar volume of business in Georgia is in City of Dacula and the business or practitioner:

- (1) Has one or more employees or agents who exert substantial efforts within the jurisdiction of City of Dacula 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 within the jurisdiction of the City of Dacula.

**Section 5.04.012 Each Line Of Business To Be Identified On
Business Registration**

The business registration of each business operated in the City shall identify the line or lines of business that the business conducts. No business shall conduct any line of business without first having that line of business registered with the Licensing and Revenue office and that line of business being noted by the Licensing and Revenue office upon the business occupation tax certificate which is to be displayed by the business owner.

**Section 5.04.013 The Number Of Businesses Considered
Operating In City**

Where a person conducts business at more than one store or place, each store, location, outlet, or place shall be considered a separate business for the purpose of occupation tax.

**Section 5.04.014 Practitioners Exclusively Practicing For The
Government**

Any practitioner whose office is maintained by and who is employed in practice exclusively by the United States, the state, a municipality or county of the state, instrumentalities of the United States, the state or a municipality or county of

the state, shall not be required to obtain an occupation tax certificate or pay an occupation tax for that practice.

Section 5.04.015 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. Secs. 48-13-5 to 48-13-26. All other applicable businesses and occupations are taxed by the local government pursuant to pertinent general state and local laws and ordinances. The payment of any tax levied herein shall not constitute a grant or authorization to engage in a business, profession, or trade; nor shall any such payment constitute a waiver of any regulation, ordinance, or rule that otherwise might apply. Except as provided for herein, the tax or fees so levied shall be in addition to any other tax or charge as may be imposed.

Section 5.04.016 When Tax Due And Payable; Penalties

(A) Any registration and occupation tax levied hereunder shall be payable January 1 of each year and shall be delinquent if not paid by April 1 of each year, and be subject to penalties for delinquency as prescribed in subsections (c), (d), and (e) below. Notwithstanding the foregoing, occupation taxes and administrative fees for lawyers shall be due and payable on December 31 of the year in which the tax is incurred. Any lawyer failing to pay the occupation tax and administrative fees by April 1 of the year following the year that the taxes were incurred shall be considered delinquent and shall be subject to penalties for delinquency as prescribed in subsections (d) and (e) below.

(B) On any new profession, trade or calling begun in the City of Dacula, the certificate shall be delinquent if payment is not received within 30 days of first commencing operations and a penalty shall be imposed. Notwithstanding the foregoing, occupation taxes and administrative fees for lawyers beginning business after January 1 of the occupation tax year shall be due and payable on December 31 of the year in which the tax is incurred. Any lawyer failing to pay the occupation tax before April 1 of year following the year in which the taxes were

incurred shall be considered delinquent and a penalty shall be imposed.

(C) If any person, firm, or corporation whose duty it is to obtain a registration, fails to file returns, obtain registrations or pay taxes when due, or who is found to have violated other provisions of this chapter as herein specified; such offender shall, upon conviction by the judge of the municipal court, be punished by a fine not to exceed \$1,000.00, or imprisonment not to exceed 90 days, either or both in the discretion of the municipal court judge. This subsection shall not apply to lawyers.

(D) There is hereby imposed a penalty upon each business which fails to pay all taxes and fees as provided herein. The penalty for failure to make any payment required within this chapter shall be assessed in the amount of not more than ten percent of the administrative fee and occupation tax determined to be due and owing under the provisions of this chapter for the first 30 days or fraction thereof of delinquency and an additional penalty not to exceed one and one-half percent of the administrative fee and occupation tax for each additional month or fraction thereof of delinquency.

(E) In addition to the above remedies, the sheriff or tax commissioner may proceed to collect delinquent sums in the same manner as provided by law for tax executions.

**Section 5.04.017 Allocation of Gross Receipts of Business
with Multiple Intra or Interstate Locations**

For those businesses who have multiple locations inside and outside of the City where the gross receipts can be allocated to each location, the gross receipts used to determine the occupation tax assessed will be those gross receipts attributed to each City of Dacula location. In the case where the dollar amount of gross receipts attributed locally cannot be determined in those businesses with multiple locations, the total gross receipts will be divided by the total number of locations in the City of Dacula and elsewhere and allotted to those locations. Upon request, the business or practitioner with a location or office situated in more than one jurisdiction shall provide to the City the following:

(1) Financial information necessary to allocate the gross receipts of the business or practitioner;

(2) Information relating to the allocation of the business' or practitioner's gross receipts by other local governments; and

(3) Occupation tax payments made to other jurisdictions.

(4) Where the business has locations outside of the City and taxation is levied for a criteria other than gross receipts in the other local governments, the City shall not assess more than the allotted share of gross receipts for the local operation.

Section 5.04.018 Location Of Business; Applicability Of Certificate

An occupation tax certificate granted under this ordinance shall apply only to the location, owner and the business lines included within the certificate.

Section 5.04.019 Change Of Location

Any person moving from one location to another shall notify the Licensing and Revenue Manager in writing in the format specified of the move and the new address no later than the day of moving. Upon surrender of the original occupation tax certificate to the City, and upon submission of the required information, a new certificate will be issued for the new location as long as the new location conforms to the zoning or fire codes and other applicable regulations of the County.

Section 5.04.020 Transfer Of Occupation Tax Certificates

Occupation tax certificates shall not be transferable, except for a change in location, and 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.

Section 5.04.021 Occupation Tax Certificate Qualifications

(A) No occupation tax certificate required by this ordinance shall be granted to any person who is not a citizen of the United States or a registered resident alien. Where the owner-

the issuance of a City 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.

(B) Any business required to submit an annual application for continuance of that business shall do so before the certificate is issued.

Section 5.04.027 Ommitted.

**Section 5.040.28 Liability Of Officer And Agents;
Registration Required; Failure To Obtain**

All persons subject to the occupation taxes provided in this ordinance shall be required to make application for and obtain the necessary certificate for said business prescribed in this ordinance, and in default thereof the officer or agent soliciting for or representing such persons shall be subject to the same penalty as other persons who fail to obtain a certificate. Every person commencing business in the City of Dacula after January 1 of each year shall likewise pay the required fees or taxes and obtain the registration herein provided for on or before the date required. Failure to comply with provisions shall make the officer or agent subject to penalties provided therefore. Notwithstanding the foregoing, this section shall not apply to lawyers. Lawyers shall not be required to apply for or obtain an occupation tax certificate.

Section 5.04.029 When Registration And Returns Due; Penalties

(A) Each registration period and tax certificate shall be for the calendar year unless otherwise specifically provided. Failure to make application for and obtain where applicable an appropriate occupation tax certificate, or make estimated or final returns of gross receipts when due, shall incur a penalty of not more than \$25.00 for each month or fractional part thereof for which the return or application is overdue. Such penalties shall be in addition to all other penalties herein provided; and may be collected by the remedies herein provided for collection of the occupation tax, and shall have the same lien and priority as the occupation tax to which the penalty is applied.

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.

Section 5.04.022 Exemption On Grounds That Business Operated For Charitable Purpose

Businesses owned by non-profit organizations, and operated for charitable purposes may apply annually for an exemption from the occupation tax. Such application shall be in the format required by the Licensing and Revenue Manager, and shall contain such supplemental information, including without limitation, a copy of the organization's approval of exemption from federal income taxation, as may be necessary. The exemption shall be effective for that taxable year. No enterprise on which a business registration or occupation tax is levied by this ordinance shall be exempt from said registration or tax on the ground that such business is operated for a charitable purpose, unless eighty percent (80%) or more of the entire gross receipts from said business are devoted to direct support of such charitable purpose. Any number of locations and lines of business may be granted such exemption, provided however that a separate application shall be required for each location and line of business for which an exemption is sought. The exemption from the occupation tax shall not extend to the administrative fee except however that any single organization, in any tax year, shall be required to pay the administrative fee only on the first certificate obtained, and any additional certificates for other lines or locations shall be issued without charge.

Section 5.04.023 Exemption For Disabled Veterans

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 shall be exempt from the payment of any administrative fee and occupation tax levied herein; provided however that this exemption shall apply to only one business or occupation taxed hereunder, and shall not apply to any other

businesses or locations. Such disabled veterans shall be required to file the necessary application forms, and obtain a tax certificate.

Section 5.04.024 Yard Sales, Garage Sales, and Bake Sales

A private individual or group may conduct, not more than once in any six-month period, a sale of used items, baked goods or other food items, and which shall not be subject to the provisions of this ordinance except as herein provided. Such events shall be limited to three (3) 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. The exclusion granted in this section shall not be available to flea market operators, promoters, performances or other such enterprises or any other business-related operations. The Licensing and Revenue Manager shall promulgate the necessary administrative regulations to implement this section.

**Section 5.04.025 Evidence Of State Registration Required If
Applicable; State Registration To Be
Displayed; Other Registrations Or Permits**

(A) Each person who is licensed under Title 43 of the state license examining boards shall provide evidence of proper and current state licensure before the city certificate can be issued.

(B) Each person who is licensed by the state shall post the state license in a conspicuous public place in the licensee's place of business and shall keep the license there at all times while the license remains valid.

(C) It shall in every case be the duty of the owner or responsible business official to ascertain that all applicable registrations, permits, or licenses are obtained and are properly issued and in force, and are displayed as required.

**Section 5.04.026 Evidence Of Qualification Required If
Applicable**

(A) Any business required to obtain health permits, fire inspections, bonds, certificates of qualification, certificates of competency or other regulatory matters shall first, before

(B) The tax certificate provided for herein shall be issued by the licensing and revenue manager and if any person, firm, or corporation whose duty it is to obtain a certificate shall fail to pay taxes when due or obtain the required certificate, subject to this chapter, such offender shall, upon having been convicted by a Municipal Court, be punished as provided for in section 5.04.032. This subsection shall not apply to lawyers.

(C) In addition to any other remedies provided hereunder, any delinquent occupation taxes, fees, or interest may be transferred to the tax commissioner who may proceed to collect the overdue amount in the same manner as provided for by law for tax executions.

Section 5.04.030 Transient Or Nonresident Business Owners

Any transient or nonresident person, firm, or corporation doing business within the City shall have in their possession proof of registration from where the business is domiciled upon his person or in any vehicle or other conveyance which is used in the business and the person shall exhibit the same to any authorized enforcement or police officer. This section shall not apply to lawyers.

Sections 5.04.031 Certificate Expiration; Renewal; Transfer

(A) All occupation tax certificates granted under the provisions of this ordinance shall expire on March 31 of each year.

(B) Certificate holders who desire to renew their certificates shall file an application with all applicable fees with the Licensing and Revenue Manager on the 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 Licensing and Revenue Manager. Applications 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 this County.

(C) All occupation tax certificates granted hereunder shall be for the full calendar year and are not subject to proration.

(D) Transfer of certificate shall be in accordance with Section 5.04.020.

(E) It shall be the duty of the renewal applicant to obtain renewal permits as may be required by this or any other ordinance.

Section 5.04.032 Penalty Of Violation

Any person violating any provisions of this ordinance shall, upon conviction before the Judge of the Municipal Court, be fined in an amount not exceeding \$1,000.00 or imprisoned not exceeding ninety (90) days of imprisonment, either or both in the discretion of the Municipal Court Judge. Citations issued by the Licensing and Revenue Manager or designee shall be heard before the Municipal Court of the City of Dacula. This section shall not apply to lawyers.

Section 5.04.033 Businesses Not Covered By This Chapter

The following businesses are not covered by the provisions of this ordinance but may be assessed an occupation tax or other type of tax pursuant to the provisions of other general laws of the State of Georgia or by act of local law.

- (1) Those businesses regulated by the Georgia Public Service Commission.
- (2) Those electrical service businesses organized under Chapter 3 of title 46 of the Official Code of Georgia Annotated.
- (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. Sec. 2-10-105.
- (5) Insurance companies governed by O.C.G.A. Sec. 33-8-8.
- (6) Motor common carriers governed by O.C.G.A. Sec. 46-7-15.
- (7) Those businesses governed by O.C.G.A. Sec. 48-5-355.
- (8) Agricultural products and livestock raised in the State of Georgia governed by O.C.G.A. Sec. 48-5-356.
- (9) Depository financial institutions governed by O.C.G.A. Sec. 48-6-93.
- (10) Facilities operated by a charitable trust governed