



FULTON COUNTY PURCHASING DEPARTMENT

Winner 2000- 2005 Achievement of Excellence in Procurement Award
National Purchasing Institute

Jerome Noble, Director



ADDENDUM NO. 1
Invitation to Bid – 06RFP51588YC
Business License Tax Collection and Audit Services
Fulton County, Georgia

August 3, 2006

Dear Vendors:

This addendum is in reference to the ITB – 06RFP51588YC
Business License Tax Collection and Audit Services

1. Ideally, in order to prepare the most accurate proposal possible, we'd like to know, or to have access to copies of, the following:

- A) Business License/Occupancy Tax revenues:
- B) Number of Business License/Occupancy Tax licenses issues last year (excluding Sandy Springs)
- C) How many new ones issued this year?
- D) Any known delinquencies? (including number of accounts, and total outstanding aggregate balance)
- E) Copy of Business License/Occupancy Tax forms/applications
- F) Copy of relevant ordinance

Response:

- A) \$6,203,255**
- B) 4,867**
- C) 1,225**
- D) This information is unavailable**
- E) See the attached Forms**
- F) See the attached documentation**

2. A) Hotel/Motel revenues (excluding Sandy Springs)
B) Number of hotel/motel taxpayers (excluding Sandy Springs)
C) Are there monthly filers or quarterly filers?
D) Any known delinquencies (including number of accounts, and total outstanding aggregate balance)?
E) Copy of hotel/motel tax forms
F) Copy of relevant ordinance

Response:

- A) \$511,453**



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- B) 16
- C) Monthly
- D) This information is unavailable
- E) See the attached forms
- F) See the attached documents

3. A) Excise tax (wholesale and mixed drink) revenues (excluding Sandy Springs)
- B) Number of Excise tax (wholesale and mixed drink) taxpayers (excluding Sandy Springs)
- C) Are they monthly filers or quarterly filers?
- D) Any known delinquencies (including number of accounts, and total outstanding aggregate balance)?
- E) Copy of excise tax (wholesale and mixed drink) tax forms
- F) Copy of relevant ordinance

Response:

- A) Whs \$1,650,461; MD 327,174
- B) 100
- C) Monthly
- D) None
- E) See the attached forms
- F) See the attached documentation

4. A) Exotic dancer revenues (excluding Sandy Springs)
- B) Number of current active dancer licenses (excluding Sandy Springs)
- C) Are these annual licenses? When are they to be renewed?
- D) Any known delinquencies (including: # of accounts and total outstanding aggregate balance)
- E) Copy of the current application
- F) Copy of relevant ordinance

Response:

- A) \$71,750
- B) 260
- C) Yes, the permits are renewed a year from issued date
- D) None
- E) See the attached forms
- F) See the attached documentation



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5. We are inquiring whether or not Fulton County will accept reviewed financial statements in lieu of audited financials.

Response: It is our intent to verify and understand the Offeror's financial capability. All submitted financial documents will be accepted and reviewed in accordance with the terms and conditions of the RFP.

6. Do vendors have the option on bidding on one part of the RFP, such as collections vs. having to bid on the proposal in its entirety?

Response: The County is seeking a turn key operation.

7. Request for a copy of the ordinance licenses and sanctions for delinquency.

Response: See attachment

8. Request for the estimated volume and respective dollar value of business license notices in 2005.

Response: See response to question number 1.

9. Estimated delinquency number and dollar value from 2005 for business license, hotel/motel tax and exotic dancer taxes.

Response: See response to question number 2.

10. To what extent will prior year supporting documentation for licenses be assessable (relevant to the compliance audit discovery/recovery process)?

Response: Documentation for the past three to five years will be available.

11. Estimated number of businesses to which hotel/motel taxes apply.

Response: See response to question number 2.

12 Request copies of the business license notice, hotel license notice/assessment guidelines, and exotic dancer tax assessment guidelines.

Response: See the attached documents.



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13. Estimated number of business licenses and respective tax estimated dollars applicable to Sandy Springs operators.

Response: Refer to response to question number 1.

14. What was Fulton County's NSF check fee for similar debt/tax bills?

Response: Please refer to the attached documents.

15. What estimated percentage of last year payments involved NSF payments and fees?

Response: This information is unavailable.

16. What was the 2005 average tax bill amount or relevant dollar range of most business license bills?

Response: This information is unavailable.

17. Which level of insurance coverage (section 7) applies to minority sub-contractors; not the prime contractor?

Response: The prime contractor is responsible for providing all insurance requirements provided in the RFP.

18. The first paragraph in Section 3, page 27 has been amended to read, **"Provide information which documents your firm's and subcontractor's qualifications to produce the required outcomes, including its ability, capacity and skill in providing the required services. The Proposer must provide at least three (3) projects which indicate relevant experience."**

19. **Copies of the attachments must be picked from the Purchasing Department located at 130 Peachtree Street, Suite 1168, Atlanta, GA 30303.**

For additional information regarding this addendum contact Malcolm Tyson, Assistant Purchasing Agent at (404) 730-5811.



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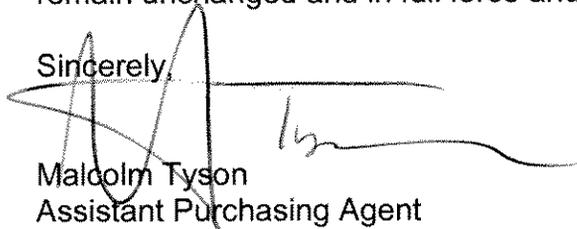


Jerome Noble, Director

The undersigned acknowledges receipt of this addendum by returning one (1) copy with their bid. Failure to return a signed copy of this addendum with your bid could render your bid to be non-responsive.

Except as provided herein, all terms and conditions in the bid referenced above remain unchanged and in full force and effect.

Sincerely,



Malcolm Tyson
Assistant Purchasing Agent

ACKNOWLEDGEMENT OF ADDENDUM

COMPANY NAME: _____

SIGNATURE: _____

TITLE: _____

DATE: _____

Chapter 18 BUSINESSES

***Cross reference(s)**--Alcoholic beverages, ch. 6; food service sanitation, § 34-151 et seq.; discrimination in places of public accommodations, § 38-31 et seq.; peddlers and solicitors, ch. 54; secondhand goods, ch. 66; ordinances pertaining to taxation, ch. 74; telecommunications, ch. 76; vehicles for hire, ch. 86; motion picture production on county property, § 102-566 et seq.; resolutions pertaining to taxation, ch. 170; resolutions pertaining to telecommunications, ch. 172.

ARTICLE I. IN GENERAL

Secs. 18-1--18-30. Reserved.

ARTICLE II. BUSINESS AND OCCUPATION TAXES*

***State law reference(s)**--Business and occupation taxes, O.C.G.A. § 48-13-5 et seq.

Sec. 18-31. Required.

All persons, firms, or corporations, including professional corporations, now or hereafter operating a business in Fulton County outside incorporated areas, are hereby required to register their business or office and obtain an occupation tax certificate therefore, and pay the amount now or hereafter fixed as taxes and fees thereon as authorized under the provisions of article 1 of chapter 13 of title 48 of the Official Code of Georgia, Annotated, as amended by Ga. L. 1993, p. 1292. 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 unincorporated area of Fulton County, 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 an occupation tax certificate.

(Res. No. 96-1287, § 1, 12-18-96)

State law reference(s)--Levy of occupation tax, O.C.G.A. § 48-13-6.

Sec. 18-32. Definitions.

As used in this article, the term:

- (1) "Administrative fee" means a component of an occupation tax which

approximates the reasonable cost of handling and processing the occupation tax.

(1.1) (A) Except as otherwise provided in subparagraph (B) of this paragraph, "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.

(B) An individual who performs work under the direction and supervision of one business or practitioner in accordance with the terms of a contract or agreement with another business which recruits such individual is an employee of the business or practitioner which issues to such individual for purposes of documenting compensation a form I.R.S. W-2.

(2) (A) "Gross receipts" means total revenue of the business or practitioner for the period, including without being limited to the following:

- (i) Total income without deduction for the cost of goods sold or expenses incurred;
- (ii) Gain from trading in stocks, bonds, capital assets, or instruments of indebtedness;
- (iii) Proceeds from commissions on the sale of property, goods, or services;
- (iv) Proceeds from fees charged for services rendered; and
- (v) Proceeds from rent, interest, royalty, or dividend income.

(C) Gross receipts shall not include the following:

- (i) Sales, use, or excise taxes;
- (ii) Sales returns, allowances, and discounts;
- (iii) Interorganizational sales or transfers between or among the units of a parent-subsidiary controlled group of corporations, as defined by 26 U.S.C. Section 1563(a) (1), between or among the units of a brother-sister controlled group of corporations, as defined by 26 U.S.C. Section 1563(a)(2), or between or among wholly owned partnerships or other wholly owned entities;
- (iv) Payments made to a subcontractor or an independent agent for services which contributed to the gross receipts in issue;
- (v) Governmental and foundation grants, charitable contributions, or the interest income derived from such funds, received by a nonprofit organization which employs salaried practitioners otherwise covered by this chapter, if such funds constitute 80 percent or more of the organization's

receipts; and

(vi) 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.

(3) "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 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.

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

(5) "Practitioners of professions and occupations" shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.

(6) "Regulatory fees" means payments, whether designated as license fees, permit fees, or by another name, which are required by Fulton County 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 Fulton County. A regulatory fee does not include an administrative fee or registration fee. Regulatory fees do not include required occupation taxes for businesses and professions located in unincorporated Fulton County.

State law reference(s)--Definitions generally, O.C.G.A. § 48-13 -5.

Sec. 18-33. Fee; basis.

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"). The gross receipts tax shall be determined from the tables attached hereto as Exhibit B [not included in this Code]. The table applicable to each business is shown on Exhibit A [not included in this Code] attached hereto. Exhibit A and Exhibit B [not included in this Code] are adopted for the calendar year 2001 and shall continue in full force and effect until modified by action of the county commission. All businesses and occupations, other than those practitioners, listed in section 18-39 hereof shall be assessed the sum of \$75.00 as a nonrefundable administrative fee 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.

(Res. No. 96-1287, § 2, 12-18-96)

Sec. 18-34. Application for registration.

- (a) It shall be the duty of each person, firm or corporation subject to this article, to file with the tax commissioner'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 Standard Industrial Classifications Code and/or its North American Industry Classification System Code, its estimated gross receipts for the calendar year of the registration, computation of the amount of tax due including the administrative fee and per employee tax, a copy of the profit and loss statement, a copy of its Georgia Income Tax Return, and such other information as may be required by the tax commissioner's office to properly administer this article, including the information specified in section 18-36 hereof.
- (b) For businesses or practitioners with more than one type of service or product, including businesses or practitioners listed under and subject to O.C.G.A. § 48-13-16, the entire gross receipts shall be classified according to the dominant service or product based upon the information provided under subsection (a) hereof.
- (c) Each business or practitioner with a location or office situated in more than one jurisdiction, including businesses or practitioners with one or more location or office in Georgia and one or more location outside the state, Fulton County shall allocate the gross receipts as follows for occupation tax purposes in accordance with the following:
 - (1) Where the business or practitioner can reasonably allocate the dollar amount of gross receipts of the business or practitioner to one or more of the locations or offices on the basis of product manufactured in that location or office or the sales or other services provided in that location or office, Fulton County shall tax the gross receipts generated by the location or office within the State of Georgia; or
 - (2) Where the business or practitioner cannot reasonably allocate the dollar amount of gross receipts among multiple locations or offices, the business or practitioner shall divide the gross receipts reported to all local governments in this state by the number of locations or offices of the business or practitioner which contributed to the gross receipts reported to any local government in this state, and shall allocate an equal percentage of such gross receipts of the business or practitioner to each location or office.
 - (3) 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.
 - (4) In the event of a dispute between the business or practitioner and Fulton County as to the allocation under this Code section, the business or practitioner shall have the burden of proof as to the reasonableness of this allocation.
 - (5) Upon request, businesses or practitioners with a location or office situated in more than one jurisdiction shall provide to Fulton County the following:

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

(b) Information relating to the allocation of the business's or practitioner's gross receipts by other local governments.

(6) When Fulton County 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, Fulton County shall not tax any greater proportion of the gross receipts than authorized by the law.

(d) For each business and practitioner with no location or office within the State of Georgia, but which:

(1) Has one or more employees or agents who exert substantial efforts within the unincorporated part of the county for the purpose of soliciting business or serving customers or clients; or

(2) Owns personal or real property which generates income and which is located in the unincorporated part of the county, 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 of Georgia. If such business or practitioner provides to the tax commissioner 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 of Georgia, the business or practitioner shall be exempt from this article.

(e) The provisions of this section may be amended from time to time by resolution of the board of commissioners for the purpose of providing for exceptions to business and occupation taxes as provided under O.C.G.A. § 48-13-10(f).

(Res. No. 96-1287, § 4, 12-18-96)

State law reference(s)-- Code 1981, § 48-13-14, enacted by Ga. L. 1993, p. 1292, § 7; Ga. L. 1995, p. 419, § 1; Ga. L. 1999, p. 749, § 5.

Sec. 18-35. Payment of fee; separate locations; refunds.

(a) Following the filing of the application as provided for in section 18-34 of this article, 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) Certificate applicants for trade names and for separate business locations shall pay the nonrefundable administrative fee imposed hereby, in addition to the tax imposed by section 18-33 hereof. 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), the refund of the occupation tax levied herein is governed by O.C.G.A. § 48-5-380.

(Res. No. 96-1287, § 5, 12-18-96)

State law reference(s)-- O.C.G.A. § 48-5-380.

Sec. 18-36. Inspection of records.

It shall be the duty of all businesses subject to the tax and administrative fee imposed by section 18-33 hereof, with the exception of those businesses and practitioners electing to proceed under section 18-39(2) hereof, 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 tax commissioner's office all reports submitted to the sales tax unit of the Georgia Department of Revenue showing sales taking place in Georgia and other tax returns showing gross receipts. 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.

(Res. No. 96-1287, § 6, 12-18-96)

Sec. 18-37. 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 Tax Commissioner of Fulton County.

(Res. No. 96-1287, § 7, 12-18-96)

Sec. 18-38. 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 18-34. Such payments shall be due and payable 30 days following the commencement of the business.

(Res. No. 96-1287, § 8, 12-18-96)

State law reference(s)--Proration of fee authorized, O.C.G.A. § 48-13-22.

Sec. 18-39. 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:

- (1) The occupation tax resulting from application of the other provisions of this article; or
- (2) Four hundred dollars (\$400.00) for the year 1994 and subsequent years, but a practitioner paying according to this shall not be required to provide information relating to the gross receipts of such practitioner. For the purposes of this section, a "practitioner" shall include any individual holding license to practice any of the professions specified herein regardless of whether such individual shall practice as a professional corporation or professional association.

(Res. No. 96-1287, § 9, 12-18-96)

Sec. 18-40. Transfer; suspension; revocation.

- (a) No certificate issued hereunder may be transferred. Any new business or practitioner shall apply and register for a new certificate within thirty (30) days after the commencement of business.
- (b) Each certificate granted hereunder shall be subject to suspension or revocation for violation of any rule or regulation of this commission now in force or hereafter adopted.
- (c) Whenever, in the opinion of Fulton County, there is cause to suspend or revoke this certificate, a written notice of intention to suspend or revoke the certificate shall be furnished to the holder thereof. A hearing will be scheduled wherein the certificate holder may present his/her case before the board of commissioners or such board as the board of commissioners may designate. After the hearing the board may suspend or revoke this certificate if the grounds set forth below exist or in its discretion, the establishment is a threat or nuisance to public health, safety or welfare. The decision to suspend or revoke a certificate issued under this article shall be solely within the discretion of the board of commissioners or such board as the board of commissioners may designate. An occupation tax certificate may be suspended or revoked upon one or more of the following grounds, but is not limited to:
 - (1) The certificate holder is guilty of fraud in the business or occupation he/she practices, or fraud or deceit in being licensed to practice in that area;
 - (2) The certificate holder is engaged in his/her business or occupation under a false or assumed name, or is impersonating another practitioner of a like or different name;

- (3) The certificate holder is addicted to the habitual use of intoxicating liquors, narcotics, or stimulants to such an extent as to incapacitate such person to the extent that he/she is unable to perform his or her duties;
- (4) The certificate holder is guilty of fraudulent, false, misleading, or deceptive advertising or practices;
- (5) The certificate holder has been convicted of or has pled guilty or nolo contendere to any sexual offense as set out in Title 16, Chapter 6 of the Official Code of Georgia Annotated, 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 (5) years immediately prior to the filing of the application. If after having been granted a certificate, the applicant is found not to be of good moral character, or pleads guilty or enters a plea of nolo contendere to any of the above offenses, 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; or
- (7) Any other violation of this Ordinance.

(Res. No. 96-1287, § 10, 12-18-96)

Sec. 18-41. 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 thirty (30) days following the commencement of business pursuant to Section 18-38. The tax commissioner's office shall assess a penalty in the amount of ten percent of the amount owed for each calendar year or portion thereof for:
 - (1) Failure to pay occupation taxes and administrative fees when due;
 - (2) Failure to 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) Failure to register and obtain an occupation tax certificate within thirty (30) days of the commencement of business.

Delinquent taxes and fees are subject to interest at a rate of 1.5 percent per month. Payments required by the article herein may be collected in any suit at law or in equity, or the tax commissioner's office 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 tax commissioner, 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 of \$ 500.00 as provided by law of this state.

- (b) 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 (b) may be enforced by appropriate injunctive or other relief upon the application of the tax commissioner to the Superior Court of Fulton County.
- (c) 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 1.5 percent per month. 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 thirty (30) days following the commencement of business pursuant to Section 18-38. The tax commissioner's office 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 tax commissioner's office 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 tax commissioner, 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 law of this state.

(Res. No. 96-1287, § 11, 12-18-96)

State law reference(s)--Time for payment of occupation tax, O.C.G.A. § 48-13-20; penalty for late payment, O.C.G.A. § 48-13-21; issuance of executions against delinquent taxpayers, O.C.G.A. § 48-13-26.(No resolution has been passed for this provision); *Sexton v. Jonesboro*, 267 Ga. 571 (1997).

Sec. 18-42. Effective date.

This article shall become effective January 1, 2001. Annual registration and payment shall be conducted in accordance with the terms of this article.

(Res. No. 96-1287, § 12, 12-18-96)

Sec. 18-43. Proration of fee.

When any person or business commences business on or after July 1 in any year, the occupation tax authorized hereby shall be levied at the customary rate on the gross receipts of the business or practitioner from the commencement of the business, but the attendant administrative fee shall not be reduced.

(Res. No. 96-1287, § 13, 12-18-96)

State law reference(s)--Proration of fee authorized, O.C.G.A. § 48-13-22.

Sec. 18-44. Repealer; exceptions.

All resolutions providing for occupation taxes and administrative fees in conflict with this article are hereby repealed, provided, however, that nothing herein shall affect any resolution providing for regulation of taxi-cabs or shall affect any resolution providing for the regulation of the sale of any form of alcoholic beverages and taxes imposed thereon, or any mixed drink tax or any hotel-motel tax, such taxes being due and payable in addition to the taxes and fees imposed hereby.

(Res. No. 96-1287, § 14, 12-18-96)

Sec. 18-45. Intent of article.

It is the intent of the article to impose the taxes and fees set forth in this article upon all businesses and practitioners operating in the unincorporated area of the county consistent with the requirements of the Constitution and laws of the State of Georgia. 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. The invalidity of any part of this article shall not affect the validity of the remaining portion hereof. In the event that this article may not be enforced against any class of business mentioned herein, such inability to enforce the same shall not affect its validity against the other business specified herein.

(Res. No. 96-1287, § 15, 12-18-96)

Sec. 18-46. Amendment of article.

After January 1, 1998, 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 still not be applicable to the repeal of any resolution promulgated pursuant to section 18-34(f) herein.

(Res. No. 96-1287, § 16, 12-18-96)

Sec. 18-47. Hearings for use of additional revenue.

In the event that the total amounts collected pursuant to this article for all types and classes of businesses, practitioners and organizations in any year is greater than the total amount so collected for the previous year, one or more public hearings shall be held as a part of the budget process of determining how to use the additional revenue.

(Res. No. 96-1287, § 17, 12-18-96)

Secs. 18-48--18-75. Reserved.

ARTICLE III. HOTEL/MOTEL OCCUPANCY TAX*

***State law references:** County hotel/motel occupancy tax, O.C.G.A. § 48-13-50 et seq.

Sec. 74-181. Definitions.

The following words, terms, and phrases are for the purpose of this article, and except where the context clearly indicates a different meaning, defined as follows:

County means Fulton County, Georgia.

Guestroom means a room occupied, or intended, arranged, or designed, for occupancy, by one or more occupants.

Hotel means any structure or any portion of a structure, including any lodginghouse, roominghouse, dormitory, Turkish bath, bachelor hotel, studio hotel, motel, auto court, inn, public club, or private club, containing guestrooms and which is occupied, or is intended or designed for occupancy, by guests, whether rent is paid in money, goods, labor, or otherwise. It does not include any jail, hospital, asylum, sanitarium, orphanage, prison, detention, or other buildings in which human beings are housed or detained under legal restraint.

Monthly period means the calendar months of any year.

Occupancy means the use or possession, or the right to the use or possession of any room or apartment in a hotel or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room.

Occupant means any person who, for a consideration, uses, possesses, or has the right to use or possess any room in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

Operator means any person operating a hotel in Fulton County, Georgia, including, but not limited to, the owner or proprietor of such premises, lessee, sublessee, mortgage in possession, licensee, or any other person otherwise operating such hotel.

Permanent resident means any occupant as of a given date who has or shall have occupied, or has or shall have the right of occupancy, of any guestroom in a hotel for at least ten consecutive days next preceding such date.

Person means an individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or other group or combination acting as a unit excepting the United States of America, the State of Georgia, and any political subdivision of either thereof upon which the county is without power to impose the tax herein provided.

Rent means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature, and also the amount for which credit is allowed by the operator to the occupant, without any deduction therefrom whatsoever.

Return means any return filed or required to be filed as herein provided.

Tax means the tax imposed by this article.

ARTICLE III. HOTEL/MOTEL OCCUPANCY TAX*

Tax commissioner means the Tax Commissioner of Fulton County.

(Code 1983, § 33-6-1)

Cross references: Definitions generally, § 1-2.

Sec. 74-182. Imposition and rate of tax.

(a) There shall be paid a tax of three percent of the rent for every occupancy of a guestroom in a hotel in Fulton County. The tax imposed by this article shall be paid upon any occupancy on and after May 1, 1975, although such occupancy is had pursuant to a contract, lease, or other arrangement made prior to such date. Where rent is paid, or charged or billed, or falls due on either a weekly, monthly, or other term basis, the rent so paid, charged, billed, or falling due shall be subject to the tax herein imposed to the extent that it covers any portion of the period from May 1, 1975; and such payment, bill, charge, or rent due shall be apportioned on the basis of the ratio of the number of days covered thereby. Where any tax has been paid therefor, the tax commissioner may, by regulation, provide for credit or refund of the amount of such tax upon application therefor as provided in section 74-187 of this article.

(b) For one continuous three-year period commencing on June 1, 1987, the tax payable under this section shall be six percent, and an amount equal to at least 60 percent of the total taxes collected under this section shall be expended for one or more of the following purposes:

- (1) Promoting tourism, conventions, and trade shows;
- (2) Supporting a facility owned or operated by a state authority for convention and trade show purposes, or any other similar or related purposes;
- (3) Supporting a facility owned or operated by a local authority or local government for convention and trade show purposes, or any other similar or related purposes, if such facility is substantially completed and in operation prior to July 1, 1987;
- (4) Supporting a facility owned or operated by a local government or local authority for convention and trade show purposes, or any other similar or related purposes, if the construction of such facility is funded or was funded in whole or in part by a grant of state funds; or
- (5) For some combination of such purposes.

Amounts so expended shall be expended only through a contract or contracts with the state, a department of state government, a state authority, or a private sector nonprofit organization, or through a contract or contracts with some combination of such entities, except that amounts expended for the purposes described in subsections (b)(3) and (b)(5) of this section may be so expended in any otherwise lawful manner.

(c) From and after June 1, 1990, the tax payable under this section shall be five percent; and an amount equal to the amount by which the total tax is collected exceeds the taxes which would be collected at a rate of three percent shall be expended for one or more of the purposes set forth in subsections (b)(1)--(b)(5) of this section.

(d) For purposes of this section, a "private sector nonprofit organization" may be a chamber of commerce, a convention and visitor's bureau, a regional travel association, or any other private group organized for similar purposes which is qualified as a nonprofit organization for federal income tax purposes under the Federal Internal Revenue Code.

(Code 1983, § 33-6-2)

State law references: Authority to levy tax, O.C.G.A. § 48-13-51.

ARTICLE III. HOTEL/MOTEL OCCUPANCY TAX*

Sec. 74-183. Persons liable for tax; extinguishment of liability.

Every person occupying a guestroom in a hotel in this county is liable for the tax. The liability is not extinguished until the tax has been paid to Fulton County except that a receipt from an operator maintaining a place of business in this county or from an operator who is authorized by the tax commissioner under such rules and regulations as he may prescribe, to collect the tax and who is, for the purposes of this article, regarded as an operator maintaining a place of business in this county, which receipt is given to the occupant pursuant to section 74-186 hereof, is sufficient to relieve the occupant from further liability for the tax to which the receipt refers.

(Code 1983, § 33-6-3)

Sec. 74-184. Collection of tax by operator; receipt to occupant; rules for collection schedules.

Every operator maintaining a place of business in Fulton County as provided in section 74-183, and renting guestrooms in Fulton County, not exempted under section 74-186 of this article shall, at the time of collecting the rent from the occupant and on demand shall, give the occupant a receipt therefor. In all cases of transactions upon credit or deferred payment, the payment of tax to the operator may be deferred in accordance therewith, and the operator shall be liable therefor at the time and to the extent that such credits are incurred in accordance with the rate of tax owing on the amount thereof. The board of commissioners shall have the power to adopt rules and regulations prescribing methods and schedules for the collection and payment of the tax.

(Code 1983, § 33-6-4)

Sec. 74-185. Unlawful advertising regarding tax.

It is unlawful for any operator to advertise or hold out or state to the public or to any guest directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rental of the guestroom, or that, if added, it or any part thereof will be refunded.

(Code 1983, § 33-6-5)

Sec. 74-186. Exemptions.

No tax shall be imposed hereunder:

- (1) Upon a permanent resident.
- (2) Upon a corporation or association organized and operated exclusively for religious, charitable, or educational purposes, or for one or more such purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(Code 1983, § 33-6-6)

State law references: Exemptions from tax, O.C.G.A. § 48-13-51.

Sec. 74-187. Registration of operator; form and contents; execution; certificate of authority.

ARTICLE III. HOTEL/MOTEL OCCUPANCY TAX*

(a) Every person engaging or about to engage in business as an operator of a hotel in Fulton County shall immediately register with the tax commissioner of the county, on a form provided by said officer. Persons engaged in such business must so register not later than 15 days after the date such tax becomes effective and is imposed as set forth in section 74-182, but such privilege or registration after the imposition of such tax shall not relieve any person from the obligation of payment or collection of tax on and after the date of imposition thereof, regardless of registration. Such registration shall set forth the name under which such person transacts business or intends to transact business, the location of his place or places of business, and such other information to facilitate the collection of the tax as the tax commissioner may require. The registration shall be signed by the owner if a natural person; in case of an association or partnership, by a member or partner; in case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the registration. The tax commissioner shall, within ten days after such registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, together with a duplicate thereof for each additional place of business of such registrant. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy. Such certificate shall be nonassignable and nontransferable and shall be surrendered immediately to the tax commissioner upon the cessation of business at the location named or upon its sale or transfer.

(b) If the tax commissioner deems it necessary in order to facilitate initial registration hereunder of persons engaged in business or prior to the date of imposition of tax as set forth on this article, he may prescribe provisions therefor other than those provided in this section. Such provisions shall be made to effect the purpose hereof. For such purposes, such provisions shall be in lieu of those provided herein. Such registration and the certificate thereof shall have the same effect as that provided herein.

(Code 1983, § 33-6-7)

Sec. 74-188. Determinations, returns, and payments.

(a) *Due date of taxes.* The tax imposed by this article shall become due and payable from the occupant at the time of occupancy of any hotel in this county. All amounts of such taxes collected by any operator shall be due and payable to the Tax Commissioner of Fulton County monthly on or before the 20th day of every month next succeeding each respective monthly period as set forth in section 74-186.

(b) *Return; time of filing; persons required to file; execution.* On or before the 20th day of the month following each monthly period, a return for the preceding monthly period shall be filed with the tax commissioner in such form as the commissioner may prescribe, by every operator, liable for the payment of tax hereunder.

(c) *Contents of return.* All returns shall show the gross rent, rent from permanent residents, taxable rent, amount of tax collected or otherwise due for the related period, and such other information as required by the tax commissioner.

(d) *Delivery of return and remittance.* The person required to file the return shall deliver the return, together with the remittance of the net amount of tax due to the tax commissioner at Fulton County Administration Building, Atlanta, Georgia 30303.

(e) *Collection fee allowed operators.* Operators collecting the tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due, if said amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from state tax under O.C.G.A. tit. 48, ch. 8, art. 1 (O.C.G.A. § 48-8-1 et seq.), the Georgia Retailers

ARTICLE III. HOTEL/MOTEL OCCUPANCY TAX*

and Consumers Sales and Use Tax Act, as now or hereafter amended.

(f) *Extension of time for filing a return and paying tax.* For a good cause, the tax commissioner may extend but not to exceed one month, the time for making any return or payment of tax. No further extension of time may be granted. Any person to whom an extension of time has been granted, who makes a return and pays the tax within the period of extension shall pay in addition to the tax, interest on the amount thereof at the rate of three-quarters of one percent per month, or fraction thereof, for a period of such extension to the time of return and payment.

(Code 1983, § 33-6-8)

State law references: Commission for collection of tax, O.C.G.A. § 48-13-52.

Sec. 74-189. Deficiency determinations.

(a) *Recomputation of tax; authority to make; basis of recomputation.* If the tax commissioner is not satisfied with the return or returns of the tax or the amount of the tax required to be paid to the county by any person, the tax commissioner may compute and determine the amount required to be paid upon the basis of any information within the tax commissioner's possession or that may come into the tax commissioner's possession. One or more than one deficiency determinations may be made of the amount due for one or more than one period.

(b) *Interest on deficiency.* The amount of the determination, exclusive of penalties, shall bear interest at the rate of three-quarters of one percent per month, or fraction thereof from the 20th day after the close of the monthly period for which the amount or any portion thereof should have been returned until the day of payment.

(c) *Offsetting of overpayments.* In making a determination, the tax commissioner may offset overpayments for a period or periods against underpayments for another period or periods, against penalties, and against the interest on underpayments. The interest on underpayments shall be computed in the manner set forth in section 74-190(c).

(d) *Penalty; negligence or disregard of rules and regulations.* If any part of the deficiency for which a deficiency determination has been made is due to negligence or disregard of this chapter or other rules and regulations, a penalty of 15 percent of the amount of such deficiency shall be added thereto.

(e) *Penalty for fraud or intent to evade.* If any part of the deficiency for which a deficiency determination is made due to fraud or an intent to evade any provisions of this article or other authorized rules and regulations, a penalty of 25 percent of the deficiency shall be added thereto.

(f) *Notice of tax commissioner's determination; service of.* The tax commissioner or a designated representative thereof shall give to the operator written notice of his determination. The notice may be served personally or by mail; if by mail, service shall be pursuant to O.C.G.A. § 9-11-4 and shall be addressed to the operator at his address as it appears in the records of the tax commissioner. In case of service by mail of any notice required by this chapter the service is complete at the time of deposit in the United States post office.

(g) *Time within which notice of deficiency determination to be mailed.* Except in the case of fraud, intent to evade this article, or authorized rules or regulations, or failure to make a return, every notice of a deficiency determination shall be mailed within three years after the 20th day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period should last expire.

(Code 1983, § 33-6-9)

ARTICLE III. HOTEL/MOTEL OCCUPANCY TAX*

Sec. 74-190. Determination if no return made.

(a) *Estimate of gross receipts.* If any person fails to make a return, the tax commissioner shall make an estimate of the amount of the gross receipts of the person, or as the case may be, of the amount of the total rentals in this county which are subject to the tax. The estimate shall be made for the period or periods in respect to which the person failed to make the return and shall be based upon any information which is in the tax commissioner's possession or may come into his possession. Upon the basis of this estimate, the tax commissioner shall compute and determine the amount required to be paid the county adding to the sum thus arrived at a penalty equal to 15 percent thereof. One or more determinations may be made for one or for more than one period.

(b) *Manner of computation; offsets; interest.* In making a determination the tax commissioner may offset overpayments for a period or penalties against the interest on the underpayments. The interest on underpayments shall be computed in the manner set forth in this section.

(c) *Interest on amount found due.* The amount of the determination, exclusive of penalties, shall bear interest at the rate of three-quarters of one percent per month, or fraction thereof, from the 20th day of the month following the monthly period for which the amount or any portion thereof should have been returned until the day of payment.

(d) *Penalty for fraud or intent to evade.* If the failure of any person to file a return is due to fraud or an intent to evade this chapter or rules and regulations, a penalty of 25 percent of the amount required to be paid by the person, exclusive of penalties, shall be added thereto in addition to the 15 percent penalty provided in section 74-191.

(e) *Giving of notice; manner of service.* Promptly after making his determination, the tax commissioner shall give to the person written notice to be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

(Code 1983, § 33-6-10)

Sec. 74-191. Penalties and interest for failure to pay tax.

Any person who fails to pay any tax to the county or any amount of tax required to be collected and paid to the county within the time required shall pay a penalty of ten percent of the tax or amount of the tax, in addition to the tax or amount of tax, plus interest on the unpaid tax or any portion thereof as set forth in section 74-190(c).

(Code 1983, § 33-6-11)

Sec. 74-192. Collection of tax.

(a) *Security; tax commissioner may exact; amount; sale of; notice of sale; return of surplus.* The tax commissioner, whenever he deems it necessary to ensure compliance with this article, may require any person subject thereto to deposit with him such security as the tax commissioner may determine. The amount of the security shall be fixed by the tax commissioner, but shall not be greater than twice the persons' estimated average liability for the period for which he files returns, determined in such a manner as the tax commissioner deems proper, or \$10,000.00, whichever amount is the lesser. The amount of the security may be increased by the tax commissioner subject to the limitations herein provided. The tax commissioner may sell the security at public auction, with the approval of the Board of Commissioners of Fulton County, if it becomes necessary to do so in order to recover any tax or any amount required to be collected, interest or penalty due. Notice of the sale may be served upon the person who deposited the security personally or by mail; if by mail, service shall be made in the manner prescribed for service of a notice of a deficiency determination, and shall

ARTICLE III. HOTEL/MOTEL OCCUPANCY TAX*

be addressed to the person at his address as it appears in the records of the tax commissioner. Upon any sale, any surplus above the amounts due shall be returned to the person who deposited the security.

(b) *Notice of delinquency to persons holding, credits or property of delinquent; time for; duty of persons so notified.* If any person is delinquent in the payment of the amount required to be paid by him, or in the event a determination has been made against him which remains unpaid, the tax commissioner may, not later than three years after the payment became delinquent, give notice thereof by registered mail to all persons in the county having in their possession or under their control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent. After receiving the notice, the persons so notified shall neither transfer nor make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they receive the notice until the tax commissioner consents to a transfer or disposition or until 20 days elapse after the receipt of the notice. All persons so notified shall within five days after receipt of the notice advise the tax commissioner of all such credits, other personal property, or debts in their possession, under their control or owing by them.

(c) *Action for tax; time for.* At any time within three years after any tax or any amount of tax required to be collected becomes due and payable and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the tax commissioner may bring an action in the courts of this state, or any other state, or of the United States in the name of the county to collect the amount delinquent together with penalties and interest, court fees, filing fees, attorney's fees, and other legal fees incident thereto.

(d) *Duty of successors or assignees of operator to withhold tax from purchase money.* If any operator liable for any amount under this article sells out his business or quits the business, his successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the tax commissioner showing that he has been paid or a certificate stating that no amount is due.

(e) *Liability for failure to withhold; certificate of notice of amount due; time to enforce successor's liability.* If the purchaser of a business fails to withhold the purchase price as required, he becomes personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price, valued in money. Within 30 days after receiving a written request from the purchaser for a certificate, the tax commissioner shall either issue the certificate or mail a notice to the purchaser at his address as it appears on the records of the tax commissioner of the amount that must be paid as a condition of issuing the certificate. Failure of the tax commissioner to mail the notice will release the purchaser from any further obligation to withhold the purchase price as above provided. The time within which the obligation of a successor may be enforced shall start to run at the time the operator sells out his business or at the time that the determination against the operator becomes final, whichever event occurs the later.

(f) *Refund of tax, penalty, or interest paid more than once or erroneously or illegally collected.* Whenever the amount of any tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or received by the county under this article, it may be refunded, provided a verified claim in writing therefor, stating the specific ground upon which the claim is founded, is filed with the tax commissioner within three years from the date of payment. The claim shall be audited and shall be made on forms provided by the tax commissioner. If the claim is approved by the tax commissioner, the county manager, and the board of commissioners, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the person from whom it was collected or by whom paid and the balance may be refunded to such person, his administrators, or executors.

(Code 1983, § 33-6-12)

ARTICLE III. HOTEL/MOTEL OCCUPANCY TAX*

Sec. 74-193. Administration of article.

(a) *Authority of tax commissioner.* The tax commissioner shall administer and enforce the provisions of this article for the imposition.

(b) *Rules and regulations.* The tax commissioner shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with this article or other laws of Fulton County and the State of Georgia, or the constitution of this state or the United States for the administration and enforcement of the provisions of this article and the collection of the taxes hereunder.

(c) *Records required from operators; form.* Every operator renting guestrooms in the county shall keep such records, receipts, invoices, and other pertinent papers in such form as the tax commissioner may require.

(d) *Examination of records; audits.* The tax commissioner or any person authorized in writing by him may examine the books, papers, records, financial reports, equipment and other facilities of any person renting guestrooms and any person liable for the tax and may investigate the character of the business of the person in order to verify the accuracy of any return made, or if no return is made by the person, to ascertain and determine the amount required to be paid.

(e) *Authority to require reports; contents.* In administration of the tax, the tax commissioner may require the filing of reports by any person or class of persons having in his or their possession or custody information relating to rentals of guestrooms which are subject to the tax. The reports shall be filed with the tax commissioner when the tax commissioner requires and shall set forth the rental charged for each occupancy, the date or dates of occupancy, and such other information as the tax commissioner may require.

(f) *Disclosure of business operators; limitation on rule.* The tax commissioner or any person having an administrative duty under this article shall not make known in any manner whatever the business affairs, operations, or information obtained by audit of books, papers, records, financial reports, equipment, and other facilities of any operator of any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, or expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person not having such administrative duty under this article. Successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, may be given information as to the items included in the measure and amount of unpaid tax or amounts of tax required to be collected, interest and penalties.

(Code 1983, § 33-6-13)

Secs. 74-194--74-225. Reserved.

**INSTRUCTIONS FOR FILING NEW APPLICATION FOR
BUSINESS OCCUPATIONAL TAX CERTIFICATE**

Enter Current Year (Only) in space provided at top of page.

1. Business name is the name used by the business for signs, marketing or advertising.
2. The business address is the physical location of the business. Post Office Box Numbers, Mail Drops, Mail Box Etc. and similar mail forwarders are not acceptable for a business address.
3. Enter City, State, and Zip of physical address.
4. Enter business telephone number and fax number.
5. Circle type of ownership.
6. Enter name of the corporation/partnership.
7. Enter name of the sole proprietor.
8. Mailing Address is the location where correspondence from the Business Tax Office should be sent, including renewal notices, invoices and updates. Post Office Boxes, Mail Drops, and Mail Box Etc. are acceptable.
9. City, State, Zip of mailing address.
10. Enter name of the person that the Business Tax Office should contact for any matter related to the business tax returns, business status, business activity, etc.
11. Fed ID is the identification number issued by the Internal Revenue Service.
Sales Tax ID is the number issued by the Georgia Department of Revenue to report sales tax.
SSN is the Social Security Number used on reports to the IRS.
12. Enter the date that the business opened in unincorporated Fulton County.
13. Enter the number of employees working at the business.
14. Enter an estimate of gross receipts for the current year less allowable deductions: Sales, Use, or Excise Tax; interorganizational sales; payments to sub-contractors; out-of-state sales; and sales returns and allowances.
15. Circle appropriate answers.
16. Circle appropriate answer.
17. Circle appropriate answer.
18. Describe the primary business activity.

**FULTON COUNTY GEORGIA, DEPARTMENT OF FINANCE
NEW APPLICATION FOR BUSINESS OCCUPATIONAL TAX CERTIFICATE**

YEAR _____

- 1. Business Name _____
- 2. Business Address _____ Suite or Apt. No. _____
- 3. City, State, Zip _____
- 4. Business Telephone Number _____ Fax Number _____
- (Circle One)
- 5. Type of Ownership: GA Corporation Foreign Corporation Sole Owner Partnership Other _____
- 6. Corporate Name _____
- 7. Owner's Name _____
- 8. Mailing Address (if different from above) _____
- 9. City, State, Zip _____
- 10. Contact Person _____ Phone number _____
- 11. Fed ID _____ Sales Tax ID _____ SSN (Owner) _____
- ** Corporations and partnerships must provide the name of all officers or partners, their titles, mailing addresses and SSN's on a separate sheet of paper.**
- 12. Date business commenced in unincorporated Fulton County _____
- 13. Number of Employees (minimum is 1) _____
- 14. Estimate of gross receipts for the year or remainder of the year \$ _____
- 15. Is this a home-based occupation? Yes No Have you registered your trade name? Yes No
- 16. Will your business be an adult entertainment establishment (sexually oriented business) as defined by the Fulton County Code, or will it offer any form of adult entertainment? Yes No
- 17. Is this business required by the State of Georgia to have a state license? Yes No
If yes, please submit a copy.
- 18. Give a description of primary business activity.

FOR OFFICE USE ONLY

Account Number _____ NAICS _____ Fee Class _____ Staff Initial _____

PLEASE COMPLETE THE APPLICATION IN FULL
ALL NEW APPLICATIONS MUST BE PRESENTED IN PERSON WITH PROPER IDENTIFICATION

Make check or money order payable to: **Fulton County Finance department**

PENALTIES

The Department of Finance shall assess a penalty in the amount of ten percent of the amount owed for each calendar year or portion thereof for:

1. Failure to pay occupation taxes and administrative fees when due;
2. Failure to 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. Failure to register and obtain an occupation tax certificate within thirty (30) days of the commencement of business.

Delinquent taxes and fees are subject to interest at a rate of 1.5 percent per month.

Issuance of a business occupational tax certificate is not to be considered as an approval of said business use and in no way confirms that said business meets the requirements of the Fulton County Zoning Resolution or the conditions of zoning approval.

The applicant must apply separately for zoning approval to the appropriate Fulton County Department. Any incidence of "nonconformity" relating to the above zoning requirements will subject the certificate holder to possible revocation of the certificate.

Printed Name

Date

Signature

Title

Business Name

As an applicant for a home-based occupational tax certificate, I have received a copy of Article 4.12 of the Zoning Resolution of Fulton County entitled "Home Occupation". If not applicable write "NA" on the signature line below.

Signature

Date



**FINANCE DEPARTMENT
FULTON COUNTY, GEORGIA
HOTEL/MOTEL OCCUPANCY TAX RETURN**

Month of _____

Trade Name of Business _____ Account # _____

Address _____ City _____ Zip _____

Every Business required to pay business occupation taxes to Fulton County for operating hotel, motel, inn, lodge, tourist camp tourist cabin, bed and breakfast and any other place in which rooms, lodging or accommodations are provided for value, are required to collect from each person occupying a room. A tax of 7% of the charges for the accommodations. The tax is collected monthly on a calendar month basis. The taxes due are to be remitted on or before the 20th of the month succeeding collection. When paid timely, the licensee may deduct and retain three percent (3%) of the amount of the tax as a vender's credit. For failure to pay by the due date, the licensee not only loses vender's credit, but is subject to paying a penalty and interest on the tax due. The penalty is 10% of the amount due and interest three-fourths of one percent (.75%) per month or fraction thereof that the tax is delinquent.

This return is subject to audit:

- 1. Gross rent (first ten days of permanent residents stay is taxable) \$ _____
 - 2. Tax (7% of line 1) \$ _____
 - 3. Vender's Credit (deduct 3% of first \$ 3,000 of line 2, and 1/2% of amount in excess of \$3000 on line 2. if not delinquent) \$ _____
 - 4. Penalty (add 15% of line 2, if delinquent) \$ _____
 - 5. Interest (add .75% compounded for each month or fraction thereof line 2 is delinquent) \$ _____
- TOTAL AMOUNT DUE \$ _____

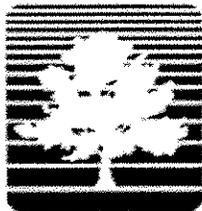
I DECLARE UNDER PENALTIES PRESCRIBED THAT THE INFORMATION PROVIDED IN THIS RETURN IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Signed _____ Title _____
Date _____

Please Make check payable to Fulton County Finance Department

Return original to the Fulton County Finance Department, Business Tax Division, 141 Pryor Street Suite 7001, Atlanta, GA 30303
Phone (404) 730-7720 Fax (404) 335-8666.

Mailed return must be postmarked on or before the 20th of the month.



**FINANCE DEPARTMENT
FULTON COUNTY, GEORGIA**

TAX RETURN ON SALES OF LIQUOR BY THE DRINK

REQUIRED OF ALL LICENSEES WITH A CONSUMPTION ON PREMISES - DISTILLED SPIRITS LICENSE

FULTON COUNTY

Month _____ Year _____

Trade Name of Business:

Business Location:

Account Number

License Number

THIS RETURN IS SUBJECT TO AUDIT

Each person and/or business licensed for consumption on the premises of distilled spirits in unincorporated Fulton County must collect a tax of three percent (3%) on the sale of liquor by the drink. This tax is due and payable to the Fulton County Finance department monthly on or before the 20th day of the month following the month the tax was collected. Returns remitted by mail must be postmarked by the 20th of the month due. For example the tax collected for the month of January is due and payable on or before February 20th. Then paid timely the licensee may deduct and retain three (3%) of the first \$3,000 of tax and one-half percent (1/2%) of the amount of tax in excess of \$3,000 as a vendor's credit. For failure to pay by the due date the licensee loses the vendor's credit and is subject to paying a penalty and interest on the tax due. The penalty is fifteen percent (15%) of the amount due. The interest rate is three-fourths of 1% (.75%) per month or fraction thereof on the delinquent tax.

Gross Sales for the month:

Food \$ _____ Beer\$ _____ Wine\$ _____

| | |
|--|-----------------|
| 1. Gross Sales of liquor-by-the-drink | \$ _____ |
| 2. Tax (3% of line 1) | \$ _____ |
| 3. Vendor's Credit (deduct 3% of first \$3,000 of amount on line 2, and 1/2% of amount in excess of \$3,000 on line 2 if not delinquent) | \$ _____ |
| 4. Penalty (add 15% of line 2 if delinquent) | \$ _____ |
| 5. Interest (add .75% compounded for each month of fraction thereof line 2 if delinquent) | \$ _____ |
| TOTAL AMOUNT DUE | \$ _____ |

I DECLARE UNDER PENALTIES PRESCRIBED THAT THE INFORMATION PROVIDED IN THIS RETURN IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Signed _____ Title _____
Date _____

Please make check payable to Fulton County Finance Department

Return original to Fulton County Finance Department, Business Tax Division, 141 Pryor Street Suite 7001, Atlanta, GA 30303
Atlanta GA 30303 Phone 404-730-7720 Fax 404-335-8666

Mail original to Fulton County Finance Department at above address. Maintain copy for your records.
USE OF ANY OTHER FORM STRICTLY PROHIBITED **ALCOHFO2**



FULTON COUNTY GEORGIA DEPARTMENT OF FINANCE
BUSINESS TAX DIVISION
141 PRYOR STREET – SUITE 7001
ATLANTA, GA 30303
TELEPHONE (404) 730-7720 FAX (404) 335-8666

DATE: _____

TO: FULTON COUNTY POLICE – RECORDS DIVISION

FROM: DEPARTMENT OF FINANCE – BUSINESS TAX DIVISION

SUBJECT: BACKGROUND INVESTIGATION (ADULT ENTERTAINMENT)

THE INDIVIDUAL LISTED BELOW HAS MADE AN APPLICATION TO THE DEPARTMENT OF FINANCE FOR AN (ADULT ENTERTAINMENT PERMIT)

NAME: _____

D.O.B. _____

SSN: _____

ADULT ENTERTAINMENT ESTABLISHMENT
(PLEASE CIRCLE ONE)

BABES
FANNIES, INC.
RILEY'S

NEW PERMIT - (\$350.00)
RENEWAL PERMIT - (\$50.00)
(NONREFUNDABLE)

PLEASE ADVISE THIS OFFICE IF THE APPLICANT HAS A CRIMINAL RECORD.

THANK YOU,

BUSINESS TAX DIVISION

*PLEASE FORWARD BACKGROUND INVESTIGATION RESULTS TO THE DEPARTMENT OF FINANCE/BUSINESS TAX DIVISION.

CHAPTER 18 BUSINESSES
ARTICLE III. ADULT ENTERTAINMENT ESTABLISHMENTS

DIVISION 1. GENERALLY

Sec. 18-76 Purpose and Preamble.

The purpose of this Article is to regulate adult entertainment establishments with the intention that, through this ordinance, many types of criminal activities frequently engendered by such businesses and the adverse effect on property values and on the public health, safety, and welfare of the County, and on its citizens and property, and on the character of its neighborhoods and development, will be curtailed and/or prevented. This Article is not intended as a de facto prohibition of legally protected forms of expression. This Article is intended to represent a balancing of competing interests: reduced criminal activity and protection of neighborhoods and development through the regulation of adult entertainment establishments versus any legally protected rights of adult entertainment establishments and patrons. This Article is not intended to allow or license any business, establishment, or activity which would otherwise be unlawful.

Sec. 18-77 Severability and conflict.

1. Should any section or provision of this Article be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this Article as a whole nor any part hereof other than the part so declared to be invalid or unconstitutional.
2. Should any section or provision of this Article be in conflict with any other ordinance, rule, regulation, or law, the more restrictive section or provision shall prevail.

Sec. 18-78 Definitions.

As used in this Article, the following words or phrases shall have the following meanings:

1. "Adult bookstore" is a bookstore having as a preponderance of its publications, books, magazines, periodicals, videotapes, and other media which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.
2. "Adult entertainment" means the permitting, performing, or engaging in live acts:
 - a. Of touching, caressing, or fondling of the breasts, buttocks, anus, vulva, or genitals;

- b. Of displaying of any portion of the areola of the female breast or any portion of his or her pubic hair, cleft of the buttocks, anus, vulva, or genitals;
 - c. Of displaying of pubic hair, anus, vulva, or genitals; or
 - d. Which simulate sexual intercourse (homosexual or heterosexual), masturbation, sodomy, bestiality, oral copulation, or flagellation.
3. "Adult entertainment establishment" means the premises of any facility upon which an adult entertainment business or adult bookstore operates or upon which such defined activities occur. The definition of an adult entertainment establishment shall not apply to nor prohibit the live performance of legitimate plays, operas, ballets, or concerts at a concert house, museum, or educational institution or facility holding an alcoholic beverage license, which derives less than 20 percent of its gross receipts from the sale of alcoholic beverages.
4. "Board of Commissioners/ Board" means the Board of Commissioners of Fulton County, Georgia or its designee(s).
5. "Church" means a temple, building, or other house of religious worship consecrated to the honor of God or other supreme being and religion; or an assembly of persons united by the profession of the same religious faith, meeting together routinely for religious worship. This shall include, on the same lot, accessory structures and uses such as a minister's or caretaker's residence.
6. "County" means Fulton County, Georgia.
7. "Good moral character", with respect to a person, is defined as the lack of a conviction of, or plead of guilty or nolo contendere to, a drug or alcohol related felony or sex-related crime in the past five years and the lack of an outstanding arrest for a drug or alcohol-related felony or sex-related crime.
8. "Employee". For the purposes of this Article, an employee is a compensated worker in an adult entertainment establishment, regardless of the method of compensation. Independent contractors shall be considered employees and shall be required to have permits as employees, regardless of the business relationship with the owner or licensee of any adult entertainment establishment.
9. "Minor" means any person who has not attained the age of 18 years.
10. "Preponderance" is defined as the state of being greater than, and not equal to, 50 percent.

11. "Specified anatomical areas" shall include less than completely and opaquely covered human genitals, pubic regions, buttocks, or female breasts below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.
12. "Specified sexual activities" shall include any of the following: human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse (homosexual or heterosexual) or sodomy; fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts.

Sec. 18-79 Regulations.

The following regulations shall apply to all adult entertainment establishments, as defined in the preceding section:

1. All employees of an adult entertainment establishment shall be required to obtain an individual employee permit in accordance with the provisions of this Article.
2. All adult entertainment establishments shall be required to obtain an occupation tax certificate (formally known as a business license) from the Fulton County Tax Commissioner's Office in accordance with the provisions set forth in § 18-31, *et seq.* of the Fulton County Code. In addition to the occupation tax certificate, all such establishments shall obtain an adult entertainment license for its operation in accordance with this Article.
3. No person, firm, partnership, corporation, or other entity shall advertise, or cause to be advertised, an adult entertainment establishment without a valid adult entertainment establishment license issued pursuant to this Article. Such license shall be displayed in a prominent place on the premises at all times.
4. An adult entertainment establishment licensee shall maintain and retain for a period of 3 years records showing the names, addresses, and ages of all persons employed as dancers. All records are subject to inspection at any time by the Fulton County Tax Commissioner's Office and/ or Police Department.
5. No adult entertainment establishment licensee shall employ or contract with a person as a dancer who is under the age of 18 years or a person not licensed pursuant to this Article.
6. It is unlawful for a licensee to admit or permit the admission of anyone under 18 years of age into an adult entertainment establishment. Furthermore, it is unlawful for any person to sell, barter, or give to any minor any service, material, device, or thing sold or offered for sale by an adult entertainment establishment.

7. Adult entertainment establishments shall be closed between the hours of 2:55 a.m. and 9:00 a.m. on Sundays and between 4:00 a.m. and 9:00 a.m. on all other days.
8. No employee shall fondle or caress any patron and no patron shall fondle or caress any employee.
9. All dancing and adult entertainment shall occur on a stage intended for that purpose which is raised at least 2 feet from the next-highest level of the remainder of the floor and which is permanently affixed to the flooring of the establishment. No patron shall be permitted on such a stage. All such stages are subject to and must conform with any applicable building and fire code(s).
10. No tips for any employee shall be placed on the person of the performer except by hand to hand contact. No employee shall solicit any pay or gratuity from any patron.
11. Employees of an adult entertainment establishment shall be not less than 18 years of age.
12. All premises licensed under this Article shall be fully lighted both inside and outside, except during hours when the establishment is not open for business. Interior lighting shall be at least negative (-) 3 foot candles per square foot.
13. No person shall conduct any illegal activity in or upon any premises licensed under this Article.
14. No licensee shall suffer or permit an employee or any person on the premises to insert an object into her vagina or her or his anal orifice, except for personal hygiene or medical related-reasons.
15. No licensee shall suffer or permit a male employee or any person on the premises to exhibit an unclothed erect penis.
16. No person, while on licensed premises, shall, while nude or semi-nude, be permitted to sit upon or straddle the leg, legs, lap or body of any patron, spectator, employee or other person therein.
17. No alcoholic beverages of any kind shall be sold, possessed or consumed on the premises of an adult entertainment establishment.
18. No adult entertainment establishment shall be conducted, operated or licensed if any adult entertainment activity on the premises is visible from the exterior of the premises.

19. No booth, screen, partition or other obstruction shall be permitted within the interior of any such establishment so as to prevent a clear view throughout the premises, except for separate offices, kitchens, restrooms or other areas not frequented by patrons.
20. All premises shall be kept clean and in proper sanitary condition and in accordance with all state laws and local ordinances. Adequate facilities, equipment, and supplies shall be provided to meet this requirement and adequate ventilation and illumination shall be provided to permit a thorough, complete cleaning of the entire licensed premises. Trash and garbage shall not be permitted to accumulate or to become a nuisance on or in the immediate vicinity of the licensed premises but shall be disposed of daily or more frequently if necessary to prevent accumulation. The licensee or his designee shall make sanitary inspections of the premises at least every 15 days and shall record his findings on forms supplied by the Fulton County Health Department. Each licensed premises shall post and maintain in a readily accessible place a schedule for maintaining the sanitation of the premises.

Sec. 18-80 Unlawful operation declared nuisance; compliance with state laws, local ordinances, regulations, and codes required.

1. Any adult entertainment establishment operated, conducted or maintained contrary to the provisions of this Article is hereby declared to be unlawful and a public nuisance. The County may, in addition to or in lieu of all other remedies, commence an action or proceeding for abatement, removal or enjoinder thereof, in the manner provided by law.
2. No adult entertainment establishment shall be conducted on any premises which do not comply with all current zoning, building code, health, fire, and other applicable County ordinances and state laws and regulations.

DIVISION 2. LICENSE AND PERMIT

Sec. 18-81 Adult entertainment establishment employees and employee permits.

1. Approval for employment. Before any person may work in an adult entertainment establishment, the person shall file an application for an employee permit with the Alcohol and Business Tax Division of the Fulton County Tax Commissioner's Office on forms provided by said office. A non-refundable investigation fee of \$50.00 and a \$300.00 permit fee for all employees shall accompany the permit application. The

Tax Commissioner's Office shall issue a receipt showing that such fee has been paid.

2. Said application shall contain the following:
 - a. Name, address, date of birth, sex, and social security number of applicant;
 - b. The name, address, and phone number of the adult entertainment establishment applicant will be employed with; and
 - c. A fingerprint of applicant made by the Fulton County Police Department. Fingerprints must be made at least 15 days prior to the issuance of an employee permit to allow for the investigation of the applicant. Said fingerprints shall be attached to the application for the permit.
3. The Fulton County Business Tax Division must be notified of any change in the above information (such as employment with another adult entertainment establishment or name or address change) within 15 days of such change.
4. Any material omission or untrue or misleading information contained in or left out of an employee permit application shall be unlawful and shall be cause for a denial, suspension or revocation thereof, and shall be punishable as a violation of this Ordinance.
5. The County shall have 30 days from the date the application is submitted to investigate the information presented in the permit application. If the employee is found to be of good moral character as defined in this Article, and all other application requirements are met, the Tax Commissioner shall grant approval of the permit and send notification to the employee via U.S. mail to the address listed on the application. If no decision is issued within the 30 day period, the employee's permit shall automatically issue on the 40th day. Upon approval, the employee may begin working on the regulated premises.
6. If approval is denied, the prospective employee may, within 10 days of notice of said denial, apply to the Board of Commissioners for a hearing. The Board shall consider the appeal at its next regularly scheduled meeting at which time it shall make a decision to grant or deny the permit in accordance with the requirements of this section. The decision of the Board of Commissioners with regard to whether or not to grant or deny the permit is a final action.
7. Each employee permit is valid for a period of 1 year from the date of issuance. Renewal permits shall be granted for a non-refundable fee of \$50.00 subject to an

updated investigation by the Fulton County Police Department based upon the information contained in the employee's application on file at the time of the renewal.

8. No permit issued under this section shall be suspended or revoked except for due cause as defined in this section, and after a hearing before the Board of Commissioners following written notice to the holder of such permit of the time, place, and purpose of such hearing, along with a summary of the charge(s) upon which such hearing shall be held. Such notice shall be addressed to the employee via U.S. mail to the address listed on the application form. Three days' notice shall be deemed reasonable, but shorter or longer periods of notice shall be authorized as the circumstances may justify. The decision of the Board with regard to the suspension or revocation of an employee's permit is a final action; therefore, any appeal of such decision may be pursued by an application for Writ of Certiorari by the prospective employee within 30 days of the Board's decision.
9. The following shall constitute due cause for the suspension or revocation of an employee permit:
 - a. If an employee has been granted an employee permit under the terms of this section but his/ her permit application is later found to have contained any material omission or untrue or misleading information.
 - b. If an employee pleads guilty or nolo contendere or is arrested for or convicted of a drug or alcohol related felony, sex-related crime, or a crime involving moral turpitude.

Sec. 18-82 Application for an adult entertainment establishment license.

1. Any person or business entity desiring to operate an adult entertainment establishment within Fulton County shall be required to obtain, in addition to the occupation tax certificate, an adult entertainment establishment license ("license") issued by the Fulton County Tax Commissioner's Office.
2. It is unlawful for any person or business entity to operate within Fulton County any adult entertainment establishment, as defined in this Article, without a valid adult entertainment establishment license. No such license so issued shall condone or make legal any activity thereunder if the same is deemed illegal or unlawful under the laws of the State of Georgia or the United States.
3. A non-refundable processing fee of \$6,000.00 shall accompany the adult entertainment license application to defray, in part, the cost of investigation and report required by this Article. The Tax Commissioner's Office shall issue a receipt showing that such fee has been paid.

7. If the applicant, any partners, members, managers, corporate officers or directors have been convicted of, or pleaded guilty or nolo contendere to, a drug or alcohol related felony or sex-related crime in the past five years or has an outstanding arrest for a drug or alcohol-related felony or sex-related crime, a complete description of any such crime including date of violation, date of conviction, jurisdiction, and any disposition, including any fine or sentence imposed and whether terms of disposition have been fully completed.
8. If applicant is a person doing business under a trade name, a copy of the trade name properly recorded.
9. Address of the premises to be regulated and whether the premises are owned or rented.
10. A statement that said adult entertainment establishment meets all applicable County ordinances and state laws and regulations.
11. Each application for an adult entertainment establishment license shall be verified and acknowledged under oath to be true and correct by:
 - a. The applicant if the applicant is an individual;
 - b. By the managing or general partner if the applicant is a partnership;
 - c. By the president of the corporation if the applicant is a corporation;
 - d. By the members or manager(s) of a limited liability company; or
 - e. By the chief administrative official if the applicant is any other organization or association.
12. Each application must be complete in its entirety before being accepted by the County for filing and processing. All applicants shall furnish all data, information, and records pertinent to obtaining an adult entertainment establishment license which is requested by the County and failure to furnish such data, information, and records shall suspend the application process until the data, information and records are submitted and if not submitted within 30 days from the date of such request, the application shall be deemed withdrawn.

Sec. 18-84 Application investigation.

The County shall have 45 days (unless the application is suspended by the failure of the applicant to provide data, information or records as reasonably requested by the County to complete the investigation) from the receipt of a completed application to make a decision in which to grant or deny an adult entertainment establishment license. The Tax Commissioner shall make a recommendation to the Board of Commissioners regarding the

approval or denial of the license and the hearing regarding the same. In the event the Board of Commissioners has not granted or denied the application within 45 days (unless the application is suspended by the failure of the applicant to provide data, information or records as reasonably requested by the County to complete the investigation), the license shall automatically issue and the applicant shall have the right to operate its adult entertainment establishment.

Sec. 18-85 General qualifications of applicant.

No license for an adult entertainment establishment provided for by this Article shall be issued to or held by:

1. Any applicant who has not paid all required fees and taxes for a business at that location.
2. Any person or business entity who is not of good moral character as defined in this Article, is not qualified to hold and conduct business according to the laws of the United States, State of Georgia or Fulton County, or who has had any license for an adult entertainment establishment or for the sale of alcoholic beverages in Fulton County or any other state or political subdivision thereof previously suspended or revoked.
3. Any applicant whose license had been rejected or withdrawn without permission of the Board of Commissioners within 7 days immediately preceding the date set for the hearing before the Board, unless at least 1 year shall have expired from such rejection or withdrawal of said application. This requirement shall not apply where the applicant applies for a new location that had not been rejected or withdrawn within the 1 year period.
4. Any applicant where there is evidence that, even though there is compliance with the minimum distance requirements as set forth in the Zoning Resolution, the type and number of schools or churches or other such facilities in the vicinity of the adult entertainment establishment causes minors to frequent the immediate area.
5. Any applicant if applicant is a previous holder of any license under this Article or of an alcoholic beverage license, the manner in which the applicant conducted the business thereunder as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinance relating to such business;
6. An applicant if the applicant's spouse could not meet the qualifications of an applicant, particularly if it appears that the applicant's spouse or another person is using the applicant as a guise or "dummy" to obtain a license.

Sec. 18-86 Notice of intent to operate an adult entertainment establishment.

1. Newspaper Advertisement

- a. The applicant for an adult entertainment license under this Article shall give notice that an application has been filed by publication of an advertisement once a week for 2 consecutive weeks prior to the date of consideration of the application by the Board of Commissioners in the newspaper in which legal advertisements are published in Fulton County. Said notice need not appear on the same day as legal advertisements are regularly published.
- b. The advertisement shall not appear more than 30 days prior to the date of such consideration. The advertisement shall be of type not smaller than ten-point capital and lower case and shall be at least a one-inch column.
- c. The advertisement shall contain a particular description of the location of the proposed business and the name of the applicant or business designees named in § 18-83 (6) and the time and place of the Board of Commissioners' hearing at which time the license shall be considered.

2. Signage on Property

The applicant shall cause to be placed upon the location of the proposed business a sign stating the following: "A Fulton County Adult Entertainment License has been applied for. Any objection to this application must be made at or prior to _____ o'clock _____, on the day of _____, 20____, in Assembly Hall located at 141 Pryor Street, S.W. Atlanta, Georgia, which is the date and time of Board of Commissioners' hearing." The sign shall be at least 18 inches by 24 inches in size and shall face toward all public streets, sidewalks or other public property which adjoins the location so as to be clearly visible by persons using such public area. The sign shall be posted on the property from the date of the first publication of the newspaper advertisement through the date of the consideration by the Board.

Sec. 18-87 Adult entertainment license notice of denial; appeal.

In the event the application for an adult entertainment establishment license is denied by the Board of Commissioners, the applicant shall be notified in writing of such denial within 10 days by U.S. mail. A decision by the Board of Commissioners regarding denial of said license is a final action; therefore, any appeal of such decision shall be pursued by application for Writ of Certiorari filed with the Superior Court of Fulton County within 30 days of the decision.

Sec. 18-88 Renewal of adult entertainment licenses.

Each adult entertainment license is valid for a period of 1 year from the date of issuance. The license may be renewed provided that the licensee continues to meet the requirements set out in this Article. Renewal applications are due 2 months prior to the expiration of the license and shall include a non-refundable renewal fee of \$4,000.00 prior to an updated investigation by the Fulton County Police based upon the information contained on file at the time of the renewal. In the event no action is taken on the renewal application by the expiration date of the previously issued license, the licensee shall have the right to continue operation for the renewal year.

Sec. 18-89 Adult entertainment licenses are nontransferable.

No license for an adult entertainment establishment may be sold, transferred or assigned by a licensee, or by operation of law, to any other person(s) or business entity. Any such sale, transfer or assignment, or attempted sale, transfer or assignment, shall be deemed to constitute a voluntary surrender of such license and such license shall thereafter be null and void; provided and excepting, however, that if the licensee is a partnership and one or more of the partners should die, one or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without effecting a surrender or termination of such license, and in such case, the license, upon notification to the County, shall be placed in the name of the surviving partner. A license issued to a corporation shall be deemed terminated and void when either any outstanding stock of the corporation is sold, transferred or assigned after the issuance of a license, or any stock authorized but not issued at the time of the granting of such license is thereafter issued and sold, transferred or assigned. A license issued to a limited liability company shall be deemed terminated and void when any member(s) and manager(s) are added who have not been previously identified on the license application.

Sec. 18-90 Change of location or name of adult entertainment establishment.

1. No licensee shall change the location of the establishment without obtaining a new license. An application for a license due to a change of location is subject to all requirements of this Article.
2. Upon change of the name of the establishment, the licensee must notify the Alcohol and Business Tax Division of the Fulton County Tax Commissioner's Office within 30 days prior to the change.
3. No licensee shall operate, conduct, manage, engage in, or carry on an adult entertainment establishment under any name other than his name and the name of the business as specified on his or her adult entertainment license.

Sec. 18-91 Procedure for suspension or revocation of an adult entertainment license.

1. No license issued under this Article shall be suspended or revoked except for due cause as defined in this section, and after a hearing before the Board of Commissioners following written notice to the holder of such license of the time, place and purpose of such hearing, along with a summary of the charge(s) upon which such hearing shall be held. Such notice shall be addressed to the licensee at the last address the licensee provided to the County. Three days' notice shall be deemed reasonable, but shorter or longer periods of notice shall be authorized as the circumstances may justify.
2. The following shall constitute due cause for suspension or revocation of a license:
 - a. The violation of any federal or state laws or regulations or local ordinances by either the applicant or business entity that owns, in whole or in part, the adult entertainment establishment;
 - b. A determination that said applicant / business designees named in § 18-83(6) no longer meet the requirement of having good moral character, as defined in this Article or that any person or business entity is not qualified to hold and conduct business according to the laws of the United States, State of Georgia or Fulton County;
 - c. If it is discovered that the license application (or renewal application) is found to have contained any material omission or untrue or misleading information;
or
 - d. A violation of any other section of this Article.
3. Following the Board of Commissioners' hearing on this matter, the Board may suspend or revoke the license of the adult entertainment establishment. The decision of the Board with regard to the suspension or revocation of an adult entertainment establishment license is a final action; therefore, any appeal of such decision shall be pursued by application for Writ of Certiorari filed with the Superior Court of Fulton County within 30 days of the decision.
4. When any adult entertainment establishment license is revoked or suspended, all signs indicating that such business is conducted on the premises shall be removed, both outside and inside, during the period of revocation or suspension.

FINANCE

06-0471 Request approval of a Resolution to amend Article V of Chapter 74 of the Fulton County Code of Laws so as to transfer the duties related to the administration of the Depository Financial Institutions Ordinance from the Office of the Tax Commissioner to Director of the Fulton County Department of Finance.

*File
KMS
Business
License
Resolution*

1 **RESOLUTION TO AMEND ARTICLE V OF CHAPTER 74 OF THE FULTON**
2 **COUNTY CODE OF LAWS SO AS TO TRANSFER THE DUTIES RELATED TO**
3 **THE ADMINISTRATION OF THE DEPOSITORY FINANCIAL INSTITUTIONS**
4 **ORDINANCE FROM THE OFFICE OF THE TAX COMMISSIONER TO THE**
5 **FULTON COUNTY DEPARTMENT OF FINANCE; TO PROVIDE FOR AN**
6 **EFFECTIVE DATE; AND FOR OTHER PURPOSES**
7

8 **WHEREAS**, the Fulton County Board of Commissioners (“Board”) has authority pursuant to
9 O.C.G.A. § 48-6-93 to impose a business license tax on depository financial institutions in
10 unincorporated Fulton County; and

11 **WHEREAS**, state law does not designate which county office, officer, or department must
12 administer the levy, assessment and collection of business and occupational taxes; and

13 **WHEREAS**, Fulton County presently levies, assesses, and collects business licenses taxes on
14 depository financial institutions within the unincorporated areas of Fulton County; and

15 **WHEREAS**, Article V of Chapter 74 of the Fulton County Code of Laws (“Depository
16 Financial Institutions Ordinance”) currently places the duties related to the levy, assessment and
17 collection of taxes in the Office of the Tax Commissioner; and

18 **WHEREAS**, the Tax Commissioner of Fulton County has determined that his Office will no
19 longer perform those administrative functions; and

20 **WHEREAS**, the Board of Commissioners finds that the Fulton County Department of
21 Finance is an appropriate office to exercise the administrative functions of the Depository Financial
22 Institutions Ordinance; and

23 **WHEREAS**, the Board of Commissioners further finds that the above public-interest goals
24 will be served by transferring the duties related to the administration of the Depository Financial
25 Institutions Ordinance from the Office of the Tax Commissioner to the Department of Finance;

1 APPROVED AS TO FORM:

2

3

4

5 Overtis Hicks Brantley, County Attorney

EXHIBIT A

ARTICLE V. DEPOSITORY FINANCIAL INSTITUTIONS*

*State law references: Local license tax on depository financial institutions, O.C.G.A. § 48-6-93.

Sec. 74-301. 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:

Bank means any financial institution chartered under the laws of any state or under the laws of the United States which is authorized to receive deposits in this state and which has a corporate structure authorizing the issuance of capital stock.

Department of finance shall mean the department of Finance of Fulton County.

Director of finance shall mean the director of the department of finance of Fulton County or the director's designee.

Depository financial institution means a bank or a savings and loan association.

Gross receipts shall mean gross receipts as defined in O.C.G.A. § 48-6-93.

Savings and loan association means any financial institution, other than a credit union, chartered under the laws of any state or under the laws of the United States which is authorized to receive deposits in this state and which has a mutual corporate form.

(Ord. No. 97-0264, § 33-7-62, 3-5-97)

Cross references: Definitions generally, § 1-2.

Sec. 74-302. Tax levied; rate.

In accordance with O.C.G.A. § 48-6-93, there is hereby levied for the year 1997 and for each year thereafter an annual business license tax upon all depository financial institutions located within unincorporated Fulton County at a rate of 0.25 percent of the gross receipts of said depository financial institutions.

(Ord. No. 97-0264, § 33-7-61, 3-5-97)

Sec. 74-303. Minimum business license tax.

The minimum annual amount of business license tax due from any depository financial institution pursuant to O.C.G.A. § 48-6-91(a) shall be \$1,000.00.

(Ord. No. 97-0264, § 33-7-63, 3-5-97)

Sec. 74-304. Filing of return.

Pursuant to O.C.G.A. § 48-6-91(c), each depository financial institution subject to the tax levied by this article shall file a return of the gross receipts with the Director of Finance on or before March 1 of the year following the year in which such gross receipts are measured. Said return shall be in the manner and the form prescribed by the commissioner of the department of revenue, based on the allocation method set forth in O.C.G.A. § 48-6-93(d). The return shall provide the information necessary to determine the portion of the taxpayer's Georgia gross receipts to be allocated to each taxing jurisdiction in which such institution has an office. The Director of Finance shall assess and collect the tax levied pursuant to this article based upon the information provided in said return.

(Ord. No. 97-0264, § 33-7-64, 3-5-97)

Sec. 74-305. Due date of taxes.

Taxes levied pursuant to this article shall be paid to the Director of Finance at the time of filing the return.

(Ord. No. 97-0264, § 33-7-65, 3-5-97)

Sec. 74-306. Administrative provisions.

The Director of Finance is hereby directed to forward a copy of this article to each depository financial institution located in unincorporated Fulton County and to the home office of each such depository financial institution that does business in unincorporated Fulton County if located outside the county.

(Ord. No. 97-0264, § 33-7-66, 3-5-97)

Sec. 74-307. Relation of tax to other business licenses.

The tax imposed by this article shall be in lieu of any other business license upon depository financial institutions.

(Ord. No. 97-0264, § 33-7-67, 3-5-97)

FINANCE

06-0471 Request approval of a Resolution to amend Article V of Chapter 74 of the Fulton County Code of Laws so as to transfer the duties related to the administration of the Depository Financial Institutions Ordinance from the Office of the Tax Commissioner to Director of the Fulton County Department of Finance.

1 **RESOLUTION TO AMEND ARTICLE V OF CHAPTER 74 OF THE FULTON**
2 **COUNTY CODE OF LAWS SO AS TO TRANSFER THE DUTIES RELATE**
3 **THE ADMINISTRATION OF THE DEPOSITORY FINANCIAL INSTITUTION**
4 **ORDINANCE FROM THE OFFICE OF THE TAX COMMISSIONER TO THE**
5 **FULTON COUNTY DEPARTMENT OF FINANCE; TO PROVIDE FOR AN**
6 **EFFECTIVE DATE; AND FOR OTHER PURPOSES**
7

8 **WHEREAS**, the Fulton County Board of Commissioners ("Board") has authority pursuant
9 O.C.G.A. § 48-6-93 to impose a business license tax on depository financial institutions
10 unincorporated Fulton County; and

11 **WHEREAS**, state law does not designate which county office, officer, or department must
12 administer the levy, assessment and collection of business and occupational taxes; and

13 **WHEREAS**, Fulton County presently levies, assesses, and collects business licenses taxes on
14 depository financial institutions within the unincorporated areas of Fulton County; and

15 **WHEREAS**, Article V of Chapter 74 of the Fulton County Code of Laws ("Depository
16 Financial Institutions Ordinance") currently places the duties related to the levy, assessment and
17 collection of taxes in the Office of the Tax Commissioner; and

18 **WHEREAS**, the Tax Commissioner of Fulton County has determined that his Office will no
19 longer perform those administrative functions; and

20 **WHEREAS**, the Board of Commissioners finds that the Fulton County Department of
21 Finance is an appropriate office to exercise the administrative functions of the Depository Financial
22 Institutions Ordinance; and

23 **WHEREAS**, the Board of Commissioners further finds that the above public-interest goals
24 will be served by transferring the duties related to the administration of the Depository Financial
25 Institutions Ordinance from the Office of the Tax Commissioner to the Department of Finance;

1 APPROVED AS TO FORM:

2

3

4

5 Overtis Hicks Brantley, County Attorney

EXHIBIT A

ARTICLE V. DEPOSITORY FINANCIAL INSTITUTIONS*

*State law references: Local license tax on depository financial institutions, O.C.G.A. § 48-6-93.

Sec. 74-301. 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:

Bank means any financial institution chartered under the laws of any state or under the laws of the United States which is authorized to receive deposits in this state and which has a corporate structure authorizing the issuance of capital stock.

Department of finance shall mean the department of Finance of Fulton County.

Director of finance shall mean the director of the department of finance of Fulton County or the director's designee.

Depository financial institution means a bank or a savings and loan association.

Gross receipts shall mean gross receipts as defined in O.C.G.A. § 48-6-93.

Savings and loan association means any financial institution, other than a credit union, chartered under the laws of any state or under the laws of the United States which is authorized to receive deposits in this state and which has a mutual corporate form.

(Ord. No. 97-0264, § 33-7-62, 3-5-97)

Cross references: Definitions generally, § 1-2.

Sec. 74-302. Tax levied; rate.

In accordance with O.C.G.A. § 48-6-93, there is hereby levied for the year 1997 and for each year thereafter an annual business license tax upon all depository financial institutions located within unincorporated Fulton County at a rate of 0.25 percent of the gross receipts of said depository financial institutions.

(Ord. No. 97-0264, § 33-7-61, 3-5-97)

Sec. 74-303. Minimum business license tax.

The minimum annual amount of business license tax due from any depository financial institution pursuant to O.C.G.A. § 48-6-91(a) shall be \$1,000.00.

(Ord. No. 97-0264, § 33-7-63, 3-5-97)

Sec. 74-304. Filing of return.

Pursuant to O.C.G.A. § 48-6-91(c), each depository financial institution subject to the tax levied by this article shall file a return of the gross receipts with the Director of Finance on or before March 1 of the year following the year in which such gross receipts are measured. Said return shall be in the manner and the form prescribed by the commissioner of the department of revenue, based on the allocation method set forth in O.C.G.A. § 48-6-93(d). The return shall provide the information necessary to determine the portion of the taxpayer's Georgia gross receipts to be allocated to each taxing jurisdiction in which such institution has an office. The Director of Finance shall assess and collect the tax levied pursuant to this article based upon the information provided in said return.

(Ord. No. 97-0264, § 33-7-64, 3-5-97)

Sec. 74-305. Due date of taxes.

Taxes levied pursuant to this article shall be paid to the Director of Finance at the time of filing the return.

(Ord. No. 97-0264, § 33-7-65, 3-5-97)

Sec. 74-306. Administrative provisions.

The Director of Finance is hereby directed to forward a copy of this article to each depository financial institution located in unincorporated Fulton County and to the home office of each such depository financial institution that does business in unincorporated Fulton County if located outside the county.

(Ord. No. 97-0264, § 33-7-66, 3-5-97)

Sec. 74-307. Relation of tax to other business licenses.

The tax imposed by this article shall be in lieu of any other business license upon depository financial institutions.

(Ord. No. 97-0264, § 33-7-67, 3-5-97)

FINANCE

06-0470 Request approval of a Resolution to amend Article III of Chapter 18 of the Fulton County Code of Laws so as to transfer the duties related to the administration of the Adult Entertainment Establishment Ordinance from the Office of the Tax Commissioner to Director of the Fulton County Department of Finance.

1 **RESOLUTION TO AMEND ARTICLE III OF CHAPTER 18 OF THE FULTON**
2 **COUNTY CODE OF LAWS SO AS TO TRANSFER THE DUTIES RELATED TO THE**
3 **ADMINISTRATION OF THE ADULT ENTERTAINMENT ESTABLISHMENT**
4 **ORDINANCE FROM THE OFFICE OF THE TAX COMMISSIONER TO THE**
5 **FULTON COUNTY DEPARTMENT OF FINANCE; TO PROVIDE FOR AN**
6 **EFFECTIVE DATE; AND FOR OTHER PURPOSES**
7

8 **WHEREAS**, the Fulton County Board of Commissioners ("Board") has authority pursuant to
9 O.C.G.A. § 48-13-9 to impose regulatory fees to govern the operation of adult entertainment establishments
10 in unincorporated Fulton County; and

11 **WHEREAS**, state law does not designate which county office, officer, or department must
12 administer adult entertainment matters; and

13 **WHEREAS**, Fulton County presently levies, assesses, and collects licenses fees on adult
14 entertainment establishments within the unincorporated areas of Fulton County; and

15 **WHEREAS**, Article III of Chapter 18 of the Fulton County Code of Laws currently places the duties
16 related to the administration of the Adult Entertainment Establishment Ordinance in the Office of the Tax
17 Commissioner; and

18 **WHEREAS**, the Tax Commissioner of Fulton County has determined that his Office will no longer
19 perform those administrative functions; and

20 **WHEREAS**, the Board of Commissioners finds that the Fulton County Department of Finance is an
21 appropriate office to exercise the administrative functions of the Adult Entertainment Establishment
22 Ordinance; and

23 **WHEREAS**, the Board of Commissioners further finds that the above public-interest goals will be
24 served by transferring the duties related to the administration of the Adult Entertainment Establishment
25 Ordinance from the Office of the Tax Commissioner to the Department of Finance.

26
27 **NOW, THEREFORE, BE IT RESOLVED** that the Adult Entertainment Establishment Ordinance,

1 found in Article III of Chapter 18, is repealed in its entirety and there is hereby enacted in its place a new
2 Adult Entertainment Establishment Ordinance as set out in Exhibit "A" hereto, to take effect immediately.

3 **BE IT FURTHER RESOLVED** that all resolutions and code sections in conflict with this
4 Resolution and Code amendment are repealed to the extent of the conflict.

5 **BE IT FURTHER RESOLVED** that, if any section, subsection, sentence, clause, phrase, or portion
6 of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction,
7 such portion shall be deemed a separate, distinct and independent provision, and such holding shall not
8 affect the validity of the remaining portions hereof.

9 **BE IT FURTHER RESOLVED** that the provisions of this Ordinance shall be included and
10 incorporated within the Code of Laws of Fulton County (1997), and may be renumbered or relettered to
11 accommodate such inclusion.

12 **SO PASSED AND ADOPTED**, this _____ day of _____, 2006.

13 Sponsored by:
14
15
16
17
18 _____

19 Commissioner, District
20

21 ATTEST:
22
23
24
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26 _____
27 Mark Massey, Clerk to the Commission
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34 APPROVED AS TO FORM:
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Overtis Hicks Brantley, County Attorney

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EXHIBIT A

**CHAPTER 18 BUSINESSES
ARTICLE III. ADULT ENTERTAINMENT ESTABLISHMENTS**

DIVISION 1. GENERALLY

Sec. 18-76 Purpose and Preamble.

The purpose of this Article is to regulate adult entertainment establishments with the intention that, through this ordinance, many types of criminal activities frequently engendered by such businesses and the adverse effect on property values and on the public health, safety, and welfare of the County, and on its citizens and property, and on the character of its neighborhoods and development, will be curtailed and/or prevented. This Article is not intended as a de facto prohibition of legally protected forms of expression. This Article is intended to represent a balancing of competing interests: reduced criminal activity and protection of neighborhoods and development through the regulation of adult entertainment establishments versus any legally protected rights of adult entertainment establishments and patrons. This Article is not intended to allow or license any business, establishment, or activity which would otherwise be unlawful.

Sec. 18-77 Severability and conflict.

1. Should any section or provision of this Article be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this Article as a whole nor any part hereof other than the part so declared to be invalid or unconstitutional.
2. Should any section or provision of this Article be in conflict with any other ordinance, rule, regulation, or law, the more restrictive section or provision shall prevail.

Sec. 18-78 Definitions.

As used in this Article, the following words or phrases shall have the following meanings:

1. "Adult bookstore" is a bookstore having as a preponderance of its publications, books, magazines, periodicals, videotapes, and other media which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.
2. "Adult entertainment" means the permitting, performing, or engaging in live acts:
 - a. Of touching, caressing, or fondling of the breasts, buttocks, anus, vulva, or genitals;

- b. Of displaying of any portion of the areola of the female breast or any portion of his or her pubic hair, cleft of the buttocks, anus, vulva, or genitals;
 - c. Of displaying of pubic hair, anus, vulva, or genitals; or
 - d. Which simulate sexual intercourse (homosexual or heterosexual), masturbation, sodomy, bestiality, oral copulation, or flagellation.
3. "Adult entertainment establishment" means the premises of any facility upon which an adult entertainment business or adult bookstore operates or upon which such defined activities occur. The definition of an adult entertainment establishment shall not apply to nor prohibit the live performance of legitimate plays, operas, ballets, or concerts at a concert house, museum, or educational institution or facility holding an alcoholic beverage license, which derives less than 20 percent of its gross receipts from the sale of alcoholic beverages.
4. "Board of Commissioners" and "Board" means the Board of Commissioners of Fulton County, Georgia or its designee(s).
5. "Church" means a temple, building, or other house of religious worship consecrated to the honor of God or other supreme being and religion; or an assembly of persons united by the profession of the same religious faith, meeting together routinely for religious worship. This shall include, on the same lot, accessory structures and uses such as a minister's or caretaker's residence.
6. "County" means Fulton County, Georgia.
7. "Department of Finance" means the department of finance of Fulton County, Georgia.
8. "Director of Finance" means the director of the department of finance or designee.
9. "Good moral character", with respect to a person, is defined as the lack of a conviction of, or plead of guilty or nolo contendere to, a drug or alcohol related felony or sex-related crime in the past five years and the lack of an outstanding arrest for a drug or alcohol-related felony or sex-related crime.
10. "Employee". For the purposes of this Article, an employee is a compensated worker in an adult entertainment establishment, regardless of the method of compensation. Independent contractors shall be considered employees and shall be required to have permits as employees, regardless of the business relationship with the owner or licensee of any adult entertainment establishment.
11. "Minor" means any person who has not attained the age of 18 years.
12. "Preponderance" is defined as the state of being greater than, and not equal to, 50 percent.

13. "Specified anatomical areas" shall include less than completely and opaquely covered human genitals, pubic regions, buttocks, or female breasts below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.
14. "Specified sexual activities" shall include any of the following: human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse (homosexual or heterosexual) or sodomy; fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts.

Sec. 18-79 Regulations.

The following regulations shall apply to all adult entertainment establishments, as defined in the preceding section:

1. All employees of an adult entertainment establishment shall be required to obtain an individual employee permit in-accordance with the provisions of this Article.
2. All adult entertainment establishments shall be required to obtain an occupation tax certificate (formally known as a business license) from the Department of Finance in accordance with the provisions set forth in § 18-31, *et seq.* of the Fulton County Code. In addition to the occupation tax certificate, all such establishments shall obtain an adult entertainment license for its operation in accordance with this Article.
3. No person, firm, partnership, corporation, or other entity shall advertise, or cause to be advertised, an adult entertainment establishment without a valid adult entertainment establishment license issued pursuant to this Article. Such license shall be displayed in a prominent place on the premises at all times.
4. An adult entertainment establishment licensee shall maintain and retain for a period of 3 years records showing the names, addresses, and ages of all persons employed as dancers. All records are subject to inspection at any time by the Fulton County Department of Finance and/or the Police Department.
5. No adult entertainment establishment licensee shall employ or contract with a person as a dancer who is under the age of 18 years or a person not licensed pursuant to this Article.
6. It is unlawful for a licensee to admit or permit the admission of anyone under 18 years of age into an adult entertainment establishment. Furthermore, it is unlawful for any person to sell, barter, or give to any minor any service, material, device, or thing sold or offered for sale by an adult entertainment establishment.

7. Adult entertainment establishments shall be closed between the hours of 2:55 a.m. and 9:00 a.m. on Sundays and between 4:00 a.m. and 9:00 a.m. on all other days.
8. No employee shall fondle or caress any patron and no patron shall fondle or caress any employee.
9. All dancing and adult entertainment shall occur on a stage intended for that purpose which is raised at least 2 feet from the next-highest level of the remainder of the floor and which is permanently affixed to the flooring of the establishment. No patron shall be permitted on such a stage. All such stages are subject to and must conform with any applicable building and fire code(s).
10. No tips for any employee shall be placed on the person of the performer except by hand to hand contact. No employee shall solicit any pay or gratuity from any patron.
11. Employees of an adult entertainment establishment shall be not less than 18 years of age.
12. All premises licensed under this Article shall be fully lighted both inside and outside, except during hours when the establishment is not open for business. Interior lighting shall be at least negative (-) 3 foot candles per square foot.
13. No person shall conduct any illegal activity in or upon any premises licensed under this Article.
14. No licensee shall suffer or permit an employee or any person on the premises to insert an object into her vagina or her or his anal orifice, except for personal hygiene or medical related-reasons.
15. No licensee shall suffer or permit a male employee or any person on the premises to exhibit an unclothed erect penis.
16. No person, while on licensed premises, shall, while nude or semi-nude, be permitted to sit upon or straddle the leg, legs, lap or body of any patron, spectator, employee or other person therein.
17. No alcoholic beverages of any kind shall be sold, possessed or consumed on the premises of an adult entertainment establishment.
18. No adult entertainment establishment shall be conducted, operated or licensed if any adult entertainment activity on the premises is visible from the exterior of the premises.

19. No booth, screen, partition or other obstruction shall be permitted within the interior of any such establishment so as to prevent a clear view throughout the premises, except for separate offices, kitchens, restrooms or other areas not frequented by patrons.
20. All premises shall be kept clean and in proper sanitary condition and in accordance with all state laws and local ordinances. Adequate facilities, equipment, and supplies shall be provided to meet this requirement and adequate ventilation and illumination shall be provided to permit a thorough, complete cleaning of the entire licensed premises. Trash and garbage shall not be permitted to accumulate or to become a nuisance on or in the immediate vicinity of the licensed premises but shall be disposed of daily or more frequently if necessary to prevent accumulation. The licensee or his designee shall make sanitary inspections of the premises at least every 15 days and shall record his findings on forms supplied by the Fulton County Health Department. Each licensed premises shall post and maintain in a readily accessible place a schedule for maintaining the sanitation of the premises.

Sec. 18-80 Unlawful operation declared nuisance; compliance with state laws, local ordinances, regulations, and codes required.

1. Any adult entertainment establishment operated, conducted or maintained contrary to the provisions of this Article is hereby declared to be unlawful and a public nuisance. The County may, in addition to or in lieu of all other remedies, commence an action or proceeding for abatement, removal or enjoinder thereof, in the manner provided by law.
2. No adult entertainment establishment shall be conducted on any premises which do not comply with all current zoning, building code, health, fire, and other applicable County ordinances and state laws and regulations.

DIVISION 2. LICENSE AND PERMIT

Sec. 18-81 Adult entertainment establishment employees and employee permits.

1. Approval for employment. Before any person may work in an adult entertainment establishment, the person shall file an application for an employee permit with the Department of Finance on forms provided by said office. A non-refundable investigation fee of \$50.00 and a \$300.00 permit fee for all employees shall accompany the permit application. The Department of Finance shall issue a receipt showing that such fee has been paid.

2. Said application shall contain the following:
 - a. Name, address, date of birth, sex, and social security number of applicant;
 - b. The name, address, and phone number of the adult entertainment establishment applicant will be employed with; and
 - c. A fingerprint of applicant made by the Fulton County Police Department. Fingerprints must be made at least 15 days prior to the issuance of an employee permit to allow for the investigation of the applicant. Said fingerprints shall be attached to the application for the permit.
3. The Department of Finance must be notified of any change in the above information (such as employment with another adult entertainment establishment or name or address change) within 15 days of such change.
4. Any material omission or untrue or misleading information contained in or left out of an employee permit application shall be unlawful and shall be cause for a denial, suspension or revocation thereof, and shall be punishable as a violation of this Ordinance.
5. The County shall have 30 days from the date the application is submitted to investigate the information presented in the permit application. If the employee is found to be of good moral character as defined in this Article, and all other application requirements are met, the Director of Finance or his/her designee shall grant approval of the permit and send notification to the employee via U.S. mail to the address listed on the application. If no decision is issued within the 30 day period, the employee's permit shall automatically issue on the 40th day. Upon approval, the employee may begin working on the regulated premises.
6. If approval is denied, the prospective employee may, within 10 days of notice of said denial, apply to the Board of Commissioners for a hearing. The Board shall consider the appeal at its next regularly scheduled meeting at which time it shall make a decision to grant or deny the permit in accordance with the requirements of this section. The decision of the Board of Commissioners with regard to whether or not to grant or deny the permit is a final action.
7. Each employee permit is valid for a period of 1 year from the date of issuance. Renewal permits shall be granted for a non-refundable fee of \$50.00 subject to an

updated investigation by the Fulton County Police Department based upon the information contained in the employee's application on file at the time of the renewal.

8. No permit issued under this section shall be suspended or revoked except for due cause as defined in this section, and after a hearing before the Board of Commissioners following written notice to the holder of such permit of the time, place, and purpose of such hearing, along with a summary of the charge(s) upon which such hearing shall be held. Such notice shall be addressed to the employee via U.S. mail to the address listed on the application form. Three days' notice shall be deemed reasonable, but shorter or longer periods of notice shall be authorized as the circumstances may justify. The decision of the Board with regard to the suspension or revocation of an employee's permit is a final action; therefore, any appeal of such decision may be pursued by an application for Writ of Certiorari by the prospective employee within 30 days of the Board's decision.
9. The following shall constitute due cause for the suspension or revocation of an employee permit:
 - a. If an employee has been granted an employee permit under the terms of this section but his/her permit application is later found to have contained any material omission or untrue or misleading information.
 - b. If an employee pleads guilty or nolo contendere or is arrested for or convicted of a drug or alcohol related felony, sex-related crime, or a crime involving moral turpitude.

Sec. 18-82 Application for an adult entertainment establishment license.

1. Any person or business entity desiring to operate an adult entertainment establishment within Fulton County shall be required to obtain, in addition to the occupation tax certificate, an adult entertainment establishment license ("license") issued by the Department of Finance.
2. It is unlawful for any person or business entity to operate within Fulton County any adult entertainment establishment, as defined in this Article, without a valid adult entertainment establishment license. No such license so issued shall condone or make legal any activity thereunder if the same is deemed illegal or unlawful under the laws of the State of Georgia or the United States.
3. A non-refundable processing fee of \$6,000.00 shall accompany the adult entertainment license application to defray, in part, the cost of investigation and report required by this Article. The Department of Finance shall issue a receipt showing that such fee has been paid.

4. The application for license does not authorize the engaging in, operation of, conducting of or carrying on of any adult entertainment activities in such an establishment.

Sec. 18-83 Adult entertainment license application contents.

Each application for an adult entertainment establishment license shall contain the following information:

1. The applicant's full true name.
2. The present address, telephone number, and social security number (or federal tax identification number) of the applicant.
3. Acceptable written proof that the applicant is at least 18 years of age.
4. Business, occupation, or employment history of the applicant for the 5 years preceding the date of application. Business and employment records for this time period shall be made available to the County upon request.
5. The adult entertainment establishment license or business license history of the applicant and whether such applicant, in previous operations in Fulton County or any other state or political subdivision thereof, has had any such licenses revoked or suspended and the reason(s) therefor, and the business activity or occupation subsequent to such action of suspension or revocation.
6. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the place and date of incorporation, the names and addresses of each of its current officers and directors, and a copy of its articles of incorporation filed with the Secretary of State. If the applicant is a limited liability company, a copy of its articles of organization filed with the Secretary of State, together with the names and addresses of each of its members and manager(s), if applicable. If the applicant is a partnership, the applicant shall set forth the name, residence address and dates of birth of the partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership election filed with the applicable Clerk of Superior Court. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply. The applicant corporation or partnership shall designate one of its officers or general partners to act as its responsible managing officer. Such designated persons shall complete and sign all application forms required of an individual applicant under this Article, but only one application fee shall be charged.

7. If the applicant, any partners, members, managers, corporate officers or directors have been convicted of, or pleaded guilty or nolo contendere to, a drug or alcohol related felony or sex-related crime in the past five years or has an outstanding arrest for a drug or alcohol-related felony or sex-related crime, a complete description of any such crime including date of violation, date of conviction, jurisdiction, and any disposition, including any fine or sentence imposed and whether terms of disposition have been fully completed.
8. If applicant is a person doing business under a trade name, a copy of the trade name properly recorded.
9. Address of the premises to be regulated and whether the premises are owned or rented.
10. A statement that said adult entertainment establishment meets all applicable County ordinances and state laws and regulations.
11. Each application for an adult entertainment establishment license shall be verified and acknowledged under oath to be true and correct by:
 - a. The applicant if the applicant is an individual;
 - b. By the managing or general partner if the applicant is a partnership;
 - c. By the president of the corporation if the applicant is a corporation;
 - d. By the members or manager(s) of a limited liability company; or
 - e. By the chief administrative official if the applicant is any other organization or association.
12. Each application must be complete in its entirety before being accepted by the County for filing and processing. All applicants shall furnish all data, information, and records pertinent to obtaining an adult entertainment establishment license which is requested by the County and failure to furnish such data, information, and records shall suspend the application process until the data, information and records are submitted and if not submitted within 30 days from the date of such request, the application shall be deemed withdrawn.

Sec. 18-84 Application investigation.

The County shall have 45 days (unless the application is suspended by the failure of the applicant to provide data, information or records as reasonably requested by the County to complete the investigation) from the receipt of a completed application to make a decision in which to grant or deny an adult entertainment establishment license. The Director of Finance shall make a recommendation to the Board of Commissioners regarding the approval or denial of the license and the Board shall make the final decision after a public hearing regarding the same. In the event the Board of Commissioners has not granted or denied the application within 45 days (unless the application is suspended by the failure of the applicant to provide data, information or records as reasonably requested by the County to complete the investigation), the license shall automatically issue and the applicant shall have the right to operate its adult entertainment establishment.

Sec. 18-85 General qualifications of applicant.

No license for an adult entertainment establishment provided for by this Article shall be issued to or held by:

1. Any applicant who has not paid all required fees and taxes for a business at that location.
2. Any person or business entity who is not of good moral character as defined in this Article, is not qualified to hold and conduct business according to the laws of the United States, State of Georgia or Fulton County, or who has had any license for an adult entertainment establishment or for the sale of alcoholic beverages in Fulton County or any other state or political subdivision thereof previously suspended or revoked.
3. Any applicant whose license had been rejected or withdrawn without permission of the Board of Commissioners within 7 days immediately preceding the date set for the hearing before the Board, unless at least 1 year shall have expired from such rejection or withdrawal of said application. This requirement shall not apply where the applicant applies for a new location that had not been rejected or withdrawn within the 1 year period.
4. Any applicant where there is evidence that, even though there is compliance with the minimum distance requirements as set forth in the Zoning Resolution, the type and number of schools or churches or other such facilities in the vicinity of the adult entertainment establishment causes minors to frequent the immediate area.
5. Any applicant if applicant is a previous holder of any license under this Article or of an alcoholic beverage license, the manner in which the applicant conducted the business thereunder as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinance relating to such business;
6. An applicant if the applicant's spouse could not meet the qualifications of an applicant, particularly if it appears that the applicant's spouse or another person is using the applicant as a guise or "dummy" to obtain a license.

Sec. 18-86 Notice of intent to operate an adult entertainment establishment.

Newspaper Advertisement

- a. The applicant for an adult entertainment license under this Article shall give notice that an application has been filed by publication of an advertisement once a week for 2 consecutive weeks prior to the date of consideration of the application by the Board of Commissioners in the newspaper in which legal advertisements are published in Fulton County. Said notice need not appear on the same day as legal advertisements are regularly published.
- b. The advertisement shall not appear more than 30 days prior to the date of such consideration. The advertisement shall be of type not smaller than ten-point capital and lower case and shall be at least a one-inch column.
- c. The advertisement shall contain a particular description of the location of the proposed business and the name of the applicant or business designees named in § 18-83(6) and the time and place of the Board of Commissioners' hearing at which time the license shall be considered.

2. Signage on Property

The applicant shall cause to be placed upon the location of the proposed business a sign stating the following: "A Fulton County Adult Entertainment License has been applied for. Any objection to this application must be made at or prior to _____ o'clock _____, on the day of _____, 20__, in Assembly Hall located at 141 Pryor Street, S.W. Atlanta, Georgia, which is the date and time of Board of Commissioners' hearing." The sign shall be at least 18 inches by 24 inches in size and shall face toward all public streets, sidewalks or other public property which adjoins the location so as to be clearly visible by persons using such public area. The sign shall be posted on the property from the date of the first publication of the newspaper advertisement through the date of the consideration by the Board.

Sec. 18-87 Adult entertainment license notice of denial; appeal.

In the event the application for an adult entertainment establishment license is denied by the Board of Commissioners, the applicant shall be notified in writing of such denial within 10 days by U.S. mail. A decision by the Board of Commissioners regarding denial of said license is a final action; therefore, any appeal of such decision shall be pursued by application for Writ of Certiorari filed with the Superior Court of Fulton County within 30 days of the decision.

Sec. 18-88 Renewal of adult entertainment licenses.

Each adult entertainment license is valid for a period of 1 year from the date of issuance. The license may be renewed provided that the licensee continues to meet the requirements set out in this Article. Renewal applications are due 2 months prior to the expiration of the license and shall include a non-refundable renewal fee of \$4,000.00 prior to an updated investigation by the Fulton County Police based upon the information contained on file at the time of the renewal. In the event no action is taken on the renewal application by the expiration date of the previously issued license, the licensee shall have the right to continue operation for the renewal year.

Sec. 18-89 Adult entertainment licenses are nontransferable.

No license for an adult entertainment establishment may be sold, transferred or assigned by a licensee, or by operation of law, to any other person(s) or business entity. Any such sale, transfer or assignment, or attempted sale, transfer or assignment, shall be deemed to constitute a voluntary surrender of such license and such license shall thereafter be null and void; provided and excepting, however, that if the licensee is a partnership and one or more of the partners should die, one or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without effecting a surrender or termination of such license, and in such case, the license, upon notification to the County, shall be placed in the name of the surviving partner. A license issued to a corporation shall be deemed terminated and void when either any outstanding stock of the corporation is sold, transferred or assigned after the issuance of a license, or any stock authorized but not issued at the time of the granting of such license is thereafter issued and sold, transferred or assigned. A license issued to a limited liability company shall be deemed terminated and void when any member(s) and manager(s) are added who have not been previously identified on the license application.

Sec. 18-90 Change of location or name of adult entertainment establishment.

1. No licensee shall change the location of the establishment without obtaining a new license. An application for a license due to a change of location is subject to all requirements of this Article.
2. Upon change of the name of the establishment, the licensee must notify the Department of Finance within 30 days prior to the change.
3. No licensee shall operate, conduct, manage, engage in, or carry on an adult entertainment establishment under *any* name other than his name and the name of the business as specified on his or her adult entertainment license.

Sec. 18-91 Procedure for suspension or revocation of an adult entertainment license.

1. No license issued under this Article shall be suspended or revoked except for due cause as defined in this section, and after a hearing before the Board of Commissioners following written notice to the holder of such license of the time, place and purpose of such hearing, along with a summary of the charge(s) upon which such hearing shall be held. Such notice shall be addressed to the licensee at the last address the licensee provided to the County. Three days' notice shall be deemed reasonable, but shorter or longer periods of notice shall be authorized as the circumstances may justify.
2. The following shall constitute due cause for suspension or revocation of a license:
 - a. The violation of any federal or state laws or regulations or local ordinances by either the applicant or business entity that owns, in whole or in part, the adult entertainment establishment;
 - b. A determination that said applicant/business designees named in § 18-83(6) no longer meet the requirement of having good moral character, as defined in this Article or that any person or business entity is not qualified to hold and conduct business according to the laws of the United States, State of Georgia or Fulton County;
 - c. If it is discovered that the license application (or renewal application) is found to have contained any material omission or untrue or misleading information; or
 - d. A violation of any other section of this Article.
3. Following the Board of Commissioners' hearing on this matter, the Board may suspend or revoke the license of the adult entertainment establishment. The decision of the Board with regard to the suspension or revocation of an adult entertainment establishment license is a final action; therefore, any appeal of such decision shall be pursued by application for Writ of Certiorari filed with the Superior Court of Fulton County within 30 days of the decision.
4. When any adult entertainment establishment license is revoked or suspended, all signs indicating that such business is conducted on the premises shall be removed, both outside and inside, during the period of revocation or suspension.

Sec. 18-92 Penalty for violation of this Article.

Any person violating the provisions of this Article shall be subject to punishment by a fine not to exceed \$1,000.00 or imprisonment for 60 days, or both.

Sec. 18-93 Repealer.

Any provisions of Chapter 18, Article III of the Code of Laws of Fulton County inconsistent herewith are hereby repealed, specifically sections 18-76 through 18-145.

Sec. 18-94 Effective date.

This Article shall become effective upon the adoption of this Ordinance, except for the provisions regarding obtaining an adult entertainment license for any establishment which has been granted a license prior to the date of adoption of this Ordinance; each such preexisting establishment must meet the licensing standards of this Ordinance at the time its current adult entertainment license expires,

Sec. 18-95-145 Reserved.

FINANCE

06-0469 Request approval of a Resolution to amend Article V of Chapter 18 of the Fulton County Code of Laws so as to transfer the duties related to the administration of the Escort and/ or Dating Service Ordinance from the Office of the Tax Commissioner to Director of the Fulton County Department of Finance.

1 **RESOLUTION TO AMEND ARTICLE V OF CHAPTER 18 OF THE FULTON**
2 **COUNTY CODE OF LAWS SO AS TO TRANSFER THE DUTIES RELATED TO**
3 **THE ADMINISTRATION OF THE ESCORT AND/OR DATING SERVICE**
4 **ORDINANCE FROM THE OFFICE OF THE TAX COMMISSIONER TO THE**
5 **FULTON COUNTY DEPARTMENT OF FINANCE; TO PROVIDE FOR AN**
6 **EFFECTIVE DATE; AND FOR OTHER PURPOSES**
7

8 **WHEREAS**, the Fulton County Board of Commissioners (“Board”) has authority pursuant to
9 the Constitution and laws of the State of Georgia to impose regulatory fees and to regulate the
10 operation of escort and dating services in unincorporated Fulton County; and

11 **WHEREAS**, state law does not designate which county office, officer, or department must
12 administer regulation of escort and dating services; and

13 **WHEREAS**, Fulton County presently levies, assesses, and collects licenses fees and
14 regulates escort and dating services within the unincorporated areas of Fulton County; and

15 **WHEREAS**, Article V of Chapter 18 of the Fulton County Code of Laws currently places
16 the duties related to the levy, assessment and collection of taxes on the Escort And/Or Dating Service
17 Ordinance in the Office of the Tax Commissioner; and

18 **WHEREAS**, the Tax Commissioner of Fulton County has determined that his Office will no
19 longer perform those administrative functions; and

20 **WHEREAS**, the Board of Commissioners finds that the Fulton County Department of
21 Finance is an appropriate office to exercise the administrative functions of the Escort And/Or Dating
22 Service Ordinance; and

23 **WHEREAS**, the Board of Commissioners further finds that the above public-interest goals
24 will be served by transferring the duties related to the administration of the Escort And/Or Dating
25 Service Ordinance from the Office of the Tax Commissioner to the Department of Finance;

26 **NOW, THEREFORE, BE IT RESOLVED** that the Escort And/Or Dating Service, found

1 in Article V of Chapter 18 of the Fulton County Code of Laws, is repealed in its entirety and there is
2 hereby enacted in its place a new Escort and Dating Services Ordinance as set out in Exhibit "A"
3 hereto, to take effect immediately;

4 **BE IT FURTHER RESOLVED** that all resolutions and code sections in conflict with this
5 Resolution and Code amendment are repealed to the extent of the conflict.

6 **BE IT FURTHER RESOLVED** that, if any section, subsection, sentence, clause, phrase, or
7 portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent
8 jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such
9 holding shall not affect the validity of the remaining portions hereof;

10 **BE IT FURTHER RESOLVED** that the provisions of this Ordinance shall be included and
11 incorporated within the Code of Laws of Fulton County (1997), and may be renumbered or relettered
12 to accommodate such inclusion;

13 **SO PASSED AND ADOPTED**, this _____ day of _____, 2006.

14 Sponsored by:
15
16
17
18

19 _____
20 Commissioner, District
21

22 ATTEST:
23

24 _____
25 Mark Massey, Clerk to the Commission
26

27 APPROVED AS TO FORM:
28

29 _____
30 Overtis Hicks Brantley, County Attorney
31

EXHIBIT A

DIVISION 1. GENERAL

Sec. 18-200. Compliance.

No person shall conduct the business of an escort and/or dating service in the unincorporated area of the county without first meeting the requirements of this article.

(Res. No. 01-0372, § 2, 3-21-01)

Sec. 18-201. Administration of article; copy of article provided upon request.

This article shall be administered by the Director of the Department of Finance of Fulton County, or the Director's designee referred to herein as the Director of Finance.

Upon request, the Director of the Finance Department shall provide each applicant hereunder with a copy of this article.

(Res. No. 01-0372, § 2, 3-21-01)

Sec. 18-202. Information concerning employees to be filed with the Director of Finance; background investigation required.

(a) All licensees under this article must file with the Director of Finance their home address, home telephone number, and place of employment. Changes thereto shall be filed with the Director of Finance within ten days from the date the change becomes effective.

(b) All employees of the licensee must submit to a background investigation not less than 15 days prior to commencing work to allow for the investigation of the employee. The Director of Finance shall provide the release form used to conduct the background investigation. After the release has been signed, the county police department shall investigate the police record of the employee.

(Res. No. 01-0372, § 2, 3-21-01)

Sec. 18-203. Records of clients to be kept.

(a) It shall be the duty of the licensee to maintain correct and accurate records of the name and address of the persons receiving escort and/or dating services and to provide the name of the employee providing such service. Records shall be kept for a minimum of three years. These records shall be subject to inspection at any time by the Director of Finance and the county police department.

(b) Failure to maintain records as required in this section is a violation of this article.

(Res. No. 01-0372, § 2, 3-21-01)

Secs. 18-204--18-209. Reserved.

DIVISION 2. ESCORT AND/OR DATING SERVICE LICENSE

Sec. 18-210. Application; information to be given.

(a) Any person desiring to engage in the business, trade or profession of providing and/or arranging dates, escorts, or partners for persons shall, before engaging in such business, trade or profession, file an application with the Department of Finance located at 141 Pryor Street, Atlanta, Georgia. This application shall be typewritten or legibly handwritten and shall contain the following as appendices:

- (1) Name, home and business address of applicant, date of birth, social security number, and sex.
- (2) The applicant and employees must submit to a background investigation. The Director of Finance shall provide the release form used to conduct the background investigation. After the release form has been signed and witnessed, the county police department shall investigate the police record of the employee. The release form must be signed at least 15 days prior to the issuance of a license to allow for the investigation of the applicant, and for the employee, at least 15 days prior to the commencement of work to allow for the investigation of the employee.
- (3) The applicant must furnish a list of at least three character witnesses by name, address, and telephone number.
- (4) Applicants shall furnish the name and address of any person having previously employed the applicant (in whatever position) for the last two years, if applicable.
- (5) Applicants shall provide two recent identical photographs to the Director of Finance. The photographs must have been taken within the past six months and be a good likeness of the applicant. The photographs must be clear with a full front view of the applicant's face. Photographs may be in color or black and white and the size must be two inches by two inches. The photograph must be taken without headcovering unless a signed statement is submitted indicating that the headcovering is worn daily for religious or medical reasons. Dark glasses may not be worn in the photographs unless a doctor's statement is submitted supporting the wearing of dark glasses for medical reasons. The Director of Finance shall permanently affix one photograph to the permit.

(b) The county police department shall be notified within ten days of any change of ownership and/or partners/employees.

(c) A corporation, partnership, or other business entity being established for the purpose of engaging in the business, trade or profession of providing and/or arranging dates, escorts, or partners for persons, must also obtain a license.

(Res. No. 01-0372, § 2, 3-21-01)

Sec. 18-211. Qualifications of applicant.

The applicant must be of good moral character; must not have been convicted or have pled guilty or entered a plea of nolo contendere to any sexual offense as set out in Title 16, Chapter 6 of the Official Code of Georgia Annotated, 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 license, the applicant is found not to be of good moral character, or pleads guilty or enters a plea of nolo contendere to any of the above offenses, said license shall be subject to suspension and/or revocation.

(Res. No. 01-0372, § 2, 3-21-01)

Sec. 18-212. Fees.

(a) License fees are levied as follows: \$250.00 per annum for the escort and/or dating service license and \$50.00 for the background investigation fee. No license can be issued by the Director of Finance until applicant satisfies the qualifications listed in this article and pays all license fees.

(b) The renewal license fee is \$250.00. Before renewing a license issued hereunder, the Director of Finance shall ensure that a subsequent investigation is conducted by the county police department, that the licensee continues to satisfy the qualifications listed in this article, and that the renewal license fee is paid.

(Res. No. 01-0372, § 2, 3-21-01)

Sec. 18-213. Unlawful or prohibited activities.

No person under 18 years of age shall be employed by an escort and/or dating service in any capacity.

(Res. No. 01-0372, § 2, 3-21-01)

Sec. 18-214. Notice of denial of license.

The Director of Finance shall provide the applicant with written notice of the denial of the escort and/or dating service license. The notice of denial shall include the grounds for denial.

(Res. No. 01-0372, § 2, 3-21-01)

Sec. 18-215. Suspension or revocation of license.

(a) No license issued hereunder may be transferred.

(b) Each license granted hereunder shall be subject to suspension or revocation for violation of any rule or regulation of the county now in force or hereafter adopted.

(c) Whenever the Director of Finance determines there is cause to suspend or revoke the license issued hereunder, the Director of Finance must give the licensee ten-day written notice of intention to suspend or revoke the license. A hearing will be scheduled wherein the licensee may present a defense to the suspension or revocation before the board of commissioners or such board as the board of commissioners may designate. The ten-day 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 board may suspend or revoke the license issued hereunder if any of the grounds set forth below exist. A license may be suspended or revoked upon one or more of the following grounds:

- (1) The licensee is engaged in the escort and/or dating service under a false or assumed name, or is impersonating another practitioner of a like or different name;
- (2) The licensee is addicted to the habitual use of intoxicating liquors, narcotics, or stimulants to such an extent as to incapacitate such person to the extent that he is unable to perform his or her duties;
- (3) The licensee is guilty of fraudulent, false, misleading, or deceptive advertising or practices;
- (4) The licensee has been convicted of or has pled guilty or nolo contendere to any sexual offense as set out in Title 16, Chapter 6 of the Official Code of Georgia Annotated, 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 license, the licensee is found not to be of good moral character, or pleads guilty or enters a plea of nolo contendere to any of the above offenses, said license shall be subject to suspension and/or revocation;
- (5) The original application or renewal thereof contains materially false information, or the applicant has deliberately sought to falsify information contained therein;
- (6) The applicant/licensee fails to pay all fees, taxes or other charges imposed by the provisions of this article;

- (7) The licensee fails to maintain all of the general qualifications applicable to initial issuance of a license under this article;
- (8) The licensee refuses to accept a client solely on the basis of race, color, national origin, religious belief, sex or sexual orientation. Sexual orientation shall mean the state of being heterosexual, homosexual or bisexual. License holders shall not refuse to accept a client unless the client is obviously intoxicated or dangerous;
- (9) The establishment is a threat or nuisance to public health, safety or welfare;
or
- (10) Any other violation of this article.

After the Director of Finance makes a recommendation to the board of commissioners to suspend or revoke a license issued hereunder, the board of commissioners, or such board as the board of commissioners may designate, will conduct a hearing to hear evidence relevant to the alleged violation. At the hearing, the Director of Finance proceeds first and presents all evidence and argument in support of the recommendation to suspend or revoke the license issued hereunder. Board members will have the right to ask questions at any time. After the Director of Finance makes his/her presentation, the licensee or the licensee's legal counsel, will present evidence and argument as to why the license issued hereunder should not be suspended or revoked. Board members will have the right to ask questions at any time. After hearing all of the evidence and arguments of the parties, the board will render a decision. The suspension or revocation decision is final unless the licensee files a petition for writ of certiorari to the Superior Court of Fulton County within 30 days of the date of the decision.

(Res. No. 01-0372, § 2, 3-21-01)

Sec. 18-216. Effective date.

This article shall become effective April 19, 2006. Annual registration and payment shall be conducted in accordance with the terms of this article.

(Res. No. 01-0372, § 2, 3-21-01)

Sec. 18-217. No proration of license fee.

No license fees shall be prorated.

(Res. No. 01-0372, § 2, 3-21-01)

Sec. 18-218. Repealer; exceptions.

All resolutions providing for escort and/or dating service license fees in conflict with this article are hereby repealed, provided, however, that nothing herein shall affect any resolution providing for occupational or business taxes.

(Res. No. 01-0372, § 2, 3-21-01)

Sec. 18-219. Intent of article.

It is the intent of the article to regulate the operation of escort and/or dating services operating in the unincorporated area of the county consistent with the requirements of the Constitution and laws of the State of Georgia. In the event that the regulations and/or fees imposed hereby shall not be authorized in whole or in part, such regulation and/or fee shall be imposed only to the extent authorized by law. The invalidity of any part of this article shall not affect the validity of the remaining portion hereof. In the event that this article may not be enforced against any class of business mentioned herein, such inability to enforce the same shall not affect its validity against the other business specified herein.

(Res. No. 01-0372, § 2, 3-21-01)

FINANCE

06-0468 Request approval of a Resolution to amend Article II of Chapter 86 of the Fulton County Code of Laws so as to transfer the duties related to the administration of the Taxicabs Ordinance from the Office of the Tax Commissioner to Director of the Fulton County Department of Finance.

1 **RESOLUTION TO AMEND ARTICLE II OF CHAPTER 86 OF THE FULTON**
2 **COUNTY CODE OF LAWS SO AS TO TRANSFER THE DUTIES RELATED TO**
3 **THE ADMINISTRATION OF THE TAXICABS ORDINANCE FROM THE**
4 **OFFICE OF THE TAX COMMISSIONER TO DIRECTOR OF THE FULTON**
5 **COUNTY DEPARTMENT OF FINANCE; TO PROVIDE FOR AN EFFECTIVE**
6 **DATE; AND FOR OTHER PURPOSES**

7 **WHEREAS**, the Fulton County Board of Commissioners (“Board”) has authority pursuant to
8 O.C.G.A. § 48-13-9 to impose regulatory fees to govern the operation of taxicabs in unincorporated
9 Fulton County; and

10 **WHEREAS**, state law does not designate which county office, officer, or department must
11 administer business and occupational taxes; and

12 **WHEREAS**, Fulton County presently levies, assesses, and collects licenses fees on taxicabs
13 within the unincorporated areas of Fulton County; and

14 **WHEREAS**, Article II of Chapter 86 of the Fulton County Code of Laws (“Taxicabs
15 Ordinance”) currently places the duties related to the levy, assessment and collection of license fees
16 in the Office of the Tax Commissioner; and

17 **WHEREAS**, the Tax Commissioner of Fulton County has determined that his Office will no
18 longer perform those administrative functions; and

19 **WHEREAS**, the Board of Commissioners finds that the Director of the Fulton County
20 Department of Finance and the Department of Finance are the appropriate officer and office to
21 exercise the administrative functions of the Taxicabs Ordinance; and

22 **WHEREAS**, the Board of Commissioners further finds that the above public-interest goals
23 will be served by transferring the duties related to the administration of the Taxicabs Ordinance from
24 the Office of the Tax Commissioner to the Department of Finance;
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EXHIBIT "A"



ARTICLE II. TAXICABS*

Sec. 86-31. Operation of taxicab to be in compliance with article.

No person, firm, or corporation shall operate a taxicab in unincorporated Fulton County except in accordance with the terms and provisions of this article.

Sec. 86-32. Administration of Article.

This Article shall be administered by the Director of the Fulton County Department of Finance, who may act through designees.

Sec. 86-33. 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:

Operator means any person, firm, or corporation in the business of transporting passengers in taxicabs.

Taxicab means any passenger-carrying vehicle used in the business of transporting passengers for hire which does not have fixed termini, including but not limited to, any unmarked automobiles used in the business of transporting passengers for hire by contract or requested special services that do not have fixed termini.

Taximeter means a device that automatically calculates, at a predetermined rate, and indicates the charge for hire of a vehicle. Taxicabs operating with nonelectronic taximeters shall be furnished with a sign approved by the Director of Finance immediately adjacent to the taximeter which explains the way the fare shall be calculated if the taximeter reaches its highest fare before the passenger's destination is reached. This sign shall be pointed out to the passenger by the driver at the beginning of the trip.

Line jumping. Taxicabs shall be placed on stands only from the rear and shall be moved forward and to the front of the stand immediately as space becomes available by the departure or movement or preceding taxicabs. Violation of this rule constitutes line jumping and shall be grounds for suspension of a taxi driver's permit.

Sec. 86-34. Operations deemed to be doing business in Fulton County.

A taxicab shall be deemed to be doing business in Fulton County when its original terminus, that is to say, the place from which it operated and is subject to calls, shall be located in unincorporated Fulton County.

Sec. 86-35. License fees for annual operation and taxi driver's permit.

License fees are hereby levied as follows: \$350 per annum for each taxicab maintained or operated, and a fee of \$150 per annum for each taxi driver's permit. The business occupation tax shall be in accordance with the current business occupation tax ordinance. The following criteria must be met to maintain a taxicab license:

1. Establishment and maintenance of an office in an commercially zoned area of unincorporated Fulton County.
2. Submission of a copy of current lease or proof of ownership of office space.
3. Establishment and maintenance of a publicly listed telephone number.
4. Maintain the name and home address of each driver affiliated with the company.
5. Maintain off-street parking lot capable of accommodating all company vehicles.
6. Maintain a file for each vehicle containing proof of current insurance.
7. Possess a valid six month auto insurance policy.

Sec. 86-36. Requirements for operation.

- (a) *Required.* No person, firm, or corporation shall conduct the business of operating taxicabs in unincorporated Fulton County until the person, firm, or corporation has first applied for and obtained an occupation tax certificate and a taxicab license. The applications for the occupation tax certificate and taxicab license shall be made to the business Director of Finance upon forms provided by the Director of Finance for that purpose. The taxicab licenses for vehicles shall be issued by the Director of Finance.

No person shall operate a taxicab in unincorporated Fulton County until the person has first applied for and obtained a driver's permit. Permits for drivers will be issued by the Fulton County Police Department.

- (b) *Description of business.* The application for taxicab license shall contain a detailed description of the equipment to be used in the business and the name of the operators thereof, the point of original terminus of the business, and the address and telephone number of the office or call station from which the business is operated.
- (c) *Indemnity insurance.* No taxicab license shall be issued or continued in operation unless the holder thereof shall file with the Director of Finance a policy of indemnity insurance in some indemnity insurance company authorized to do business in this state, which policy shall have limits equal to or in excess of the following sums for each taxicab operated:

- (1) for bodily injury to each person, \$50,000;
- (2) for bodily injury to all persons sustained in any one accident, \$50,000;

(3) for property damage and liability for baggage of passengers, \$25,000.

The policy shall be conditioned to protect the public against injury or damage proximately caused by the negligence of the holder of such license. Each driver shall be listed on the policy at the time of application. Additional drivers or new drivers hired after issuance of the taxicab license shall be covered by a rider to the policy prior to the issuance of a taxi driver's permit.

(d) Age of vehicles. The operator is responsible for ensuring that each taxicab used in active business is no more than six years old. By December of each year, automobiles of a model year seven years prior to that year must be replaced.

(e) *Annual renewal.* All fees for taxicab license and taxi driver's permits are due no later than June 30 of each year.

Sec. 86-37. Inspections.

- (a) A certificate of inspection completed on forms provided by the Director of Finance and issued by an ASE certified mechanic shall be posted in the taxicab at all times certifying that the taxicab and equipment therein are safe and in compliance with applicable law. This certificate must be renewed every 90 days, and the operator of any taxicab business shall be required to keep his/her taxicab and equipment therein in safe condition conforming to all laws under penalty of having his/her taxicab license suspended or revoked.
- (b) The Director of Finance shall conduct inspections at least once per quarter to ensure that all taxicabs present a clean environment for passengers. The interior of each taxicab shall be maintained in a clean condition, free of foreign matter and offensive odors. There shall be no litter in the vehicle or trunk and the seats shall be kept clean and without holes or large wear spots.
- (c) Each taxicab must produce proof of taximeter inspection and calibration for issuance and renewal of taxi decal.
- (d) The Director of Finance or police department may conduct random inspections to ensure the safety and welfare of the public.

Sec. 86-38. Additional equipment.

The operator of a taxicab business shall register with the Director of Finance each additional piece of equipment put in use, and same shall be subject to inspection and registration as herein provided.

Sec. 86-39. Drivers; qualifications.

It shall be the duty of all operators to file with the Director of Finance the names and addresses, age and physical description of the persons employed as drivers. All drivers shall hold licenses from the State Department of Public Safety as drivers of vehicles for hire, and taxicab driver's permits issued by the Fulton County Police Department. No person shall be employed or shall drive a taxicab who has, within the past five (5) years, been convicted of or has pled guilty or nolo contendere to any sexual offense as set out in Title 16, Chapter 6 of the Official Code of Georgia Annotated, or the offense of Driving Under the Influence of drugs and/or alcohol, or to any Open Container violations, or to any offense involving the lottery, illegal possession or sale of narcotics or alcoholic beverages or possession or receiving the stolen property, violence, or the violation of a spirituous, vinous, or malt beverage statute, or if the driver has been convicted of an offense of causing death by vehicle. No driver can be issued a taxi driver's permit, if the driver has received three (3) or more moving violations in the preceding twelve-month period.

Sec. 86-40. Taxi stands; parking.

Operators and drivers of taxicabs shall not park taxicabs in any congested area as defined by the regulations of the county commissioners at any place other than the place or places designated as "taxi stand." The parking of taxicabs shall be subject at all times to the direction of police officers should such direction be necessary or desirable for the relief of an emergency traffic condition.

Sec. 86-41. Information to be displayed.

- (a) Information to be displayed inside taxicabs at all times:
- (1) The operator is responsible for ensuring that each taxicab used in active business shall have posted in a conspicuous place, on the inside thereof, the name and photograph of the driver of the taxicab.
 - (2) The operator is responsible for ensuring that each taxicab used in active business shall have posted in a conspicuous place, on the inside thereof, a map or street guide of Fulton County.
 - (3) The operator is responsible for ensuring that each taxicab used in active business shall have posted in a conspicuous place, on the inside thereof, a current certificate of inspection issued by an ASE certified mechanic certifying that the taxicab and equipment therein are safe and in compliance with applicable law.
 - (4) The operator is responsible for ensuring that each taxicab used in active business shall have posted in a conspicuous place, on the inside thereof, a schedule of fares.
- (b) Information to be displayed outside taxicabs at all times:

- (1) The operator is responsible for ensuring that each taxicab used in active business bears on the outside thereof a numbered decal to be furnished by the Director of Finance.
- (2) The operator is responsible for ensuring that each taxicab used in active business bears on the outside thereof the name of the company and business telephone number. The name of the company must be permanently affixed to the taxicab.
- (3) The operator is responsible for ensuring that each taxicab used in active business bears on the outside thereof a dome light on the roof. The dome light must be at least six inches in height, permanently affixed to the roof, and bear the term "taxi" or the company name.

Sec. 86-42. Operators responsible for violations by drivers.

To the extent provided by law, operators are responsible for violations of this article by their taxicab drivers whether such drivers are direct employees or independent contractors.

Sec. 86-43. Notice of denial of license.

In the event that an application is denied, the Director of Finance shall provide the applicant with written notice of the denial of the taxicab license. The notice of denial shall include the grounds for denial.

Sec. 86-44. Suspension or revocation of license.

- (a) No license issued hereunder may be transferred.
- (b) Each license granted hereunder shall be subject to suspension or revocation for violation of any rule or regulation of Fulton County now in force or hereafter adopted.
- (c) Whenever the Director of Finance determines there is cause to suspend or revoke the license issued hereunder, the Director of Finance shall give the licensee ten day advance written notice of intention to suspend or revoke the license. A hearing will be scheduled wherein the licensee may present a defense to the suspension or revocation before the board of commissioners or such board as the board of commissioners may designate. The ten day written notice shall include the time, place, and purpose of such hearing, and a statement of the charges upon which such hearing will be held. After the hearing, the board may suspend or revoke the license issued hereunder if any of the grounds set forth below exist. A license issued under this article may be suspended or revoked by the board of commissioners or their designee and a taxi driver's permit may be suspended or revoked by the Fulton County Police Department upon one or more of the following grounds:
 - (1) The original application or renewal thereof contains materially false information, or the applicant has deliberately sought to falsify information contained therein;

- (2) For failure to pay all fees, taxes or other charges imposed by the provisions of this article;
- (3) For failure to maintain all of the general qualifications applicable to the initial issuance of a license or permit under this article;
- (4) Having four (4) or more moving traffic violations in any twelve-month period;
- (5) Refusing to accept a client solely on the basis of race, color, national origin, religious belief, sex or sexual orientation. Sexual orientation shall mean the state of being heterosexual, homosexual or bisexual. Operators and drivers shall not refuse to accept a client unless the client is obviously intoxicated or dangerous;
- (6) Allowing the required insurance coverage to lapse or allowing a driver to operate in the unincorporated area of the county in violation of the provisions of this article;
- (7) Not taking the most direct route;
- (8) The establishment or driver is a threat or nuisance to public health, safety or welfare; or
- (9) For violation of any part of this article.

After the Director of Finance makes a recommendation to the Board of Commissioners to suspend or revoke a license issued hereunder, the Board of Commissioners, or such board as the Board of Commissioners may designate, will conduct a hearing to hear evidence relevant to the alleged violation. At the hearing, the Director of Finance proceeds first and presents all evidence and argument in support of the recommendation to suspend or revoke the license issued hereunder. Board members will have the right to ask questions at any time. After the Director of Finance makes his/her presentation, the licensee or the licensee's legal counsel, will present evidence and argument as to why the license issued hereunder should not be suspended or revoked. Board members will have the right to ask questions at any time. After hearing all of the evidence and arguments of the parties, the board will render a decision. The Board's decision is subject to review by a petition for writ of certiorari to the Superior Court of Fulton County.

Sec. 86-44.5 Enforcement and fines.

All legal entities with jurisdiction in unincorporated Fulton County including the Fulton County Police, MARTA Police, Sheriff's Department and its licensed designees shall have the authority to inspect taxis and issue citations to drivers and owners of taxis.

Fines for violations of sections of this ordinance shall be as follows:

| | | |
|-----------------|---|-------|
| <i>Offense:</i> | Violation of Company Office, Employee, and Facility requirements; Use of taxicab stands, including line jumping; | |
| <i>Fine:</i> | First Offense: | \$ 50 |

Second Offense: \$ 75
 Third Offense: \$100
 Subsequent offenses: \$100 and possible revocation of taxi driver's permit

(10) **Offense:** Refusing a trip; Refusing to accept a client solely on the basis of race, color, national origin, religious belief, sex or sexual orientation. Sexual orientation shall mean the state of being heterosexual, homosexual or bisexual. Operators and drivers shall not refuse to accept a client unless the client is obviously intoxicated or dangerous; Overcharge; Not taking most direct route.

Fine: First Offense: \$ 75
 Second Offense: \$100
 Third Offense: \$125
 Subsequent Offenses: \$125 and possible revocation of taxi driver's permit

Offense: Failure to have a taxicab decal; Failure to have insurance; Failure to have taxi driver's permit; failure to cooperate with inspection of taxicab.

Fine: \$500.00 and possible revocation or denial of taxi driver's permit and revocation of business occupation tax certificate.

Offense: Exceeding age limitations for taxicabs

Company Fine:

First Offense: \$250 fine, verbal reprimand
 Second Offense: \$250 fine, 30-day suspension of business occupation tax certificate
 Third Offense: \$500 fine, 90-day suspension of business occupation tax certificate up to revocation of business occupation tax certificate

Taxicab driver:

First Offense: \$250 fine, car towed, verbal reprimand
 Second Offense: \$250 fine, 30-day suspension of taxi driver's permit.
 Third Offense: \$500 fine, 90-day suspension of taxi driver's permit up to revocation of taxi driver's permit

Sec. 86-45. No proration of license fee.

License fees shall not be prorated. Taxi driver's permit fees shall not be prorated.

Sec. 86-46. Repealer; exceptions.

All resolutions providing for taxicab license fees and taxi driver's permits in conflict with this article are hereby repealed, provided, however, that nothing herein shall affect any resolution providing for occupation or business taxes.

Sec. 86-47. Intent of article.

It is the intent of this article to regulate the operation of taxicab businesses as set forth in this article upon all businesses operating in the unincorporated area of the county consistent with the requirements of the Constitution and laws of the State of Georgia. In the event that the regulations and/or fees imposed hereby shall not be authorized on any business and practitioner or regulation and/or fee shall be imposed only to the extent authorized by law. The invalidity of any part of this article shall not affect the validity of the remaining portion hereof. In the event that this article may not be enforced against any class of business mentioned herein, such inability to enforce the same shall not affect its validity against the other business specified herein.

FINANCE

06-0467 Request approval of a Resolution to amend Article II of Chapter 18 of the Fulton County Code of Laws so as to transfer the duties related to the administration of the business and occupation tax from the Office of the Tax Commissioner to the Department of Finance.

1 its entirety and there is hereby enacted in its place a new Business and Occupation Taxes
2 Ordinance as set out in Exhibit "A" hereto, to take effect immediately.

3 **BE IT FURTHER RESOLVED** that all resolutions and code sections in conflict with
4 this Resolution and Code amendment are repealed to the extent of the conflict.

5 **BE IT FURTHER RESOLVED** that, if any section, subsection, sentence, clause,
6 phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any
7 court of competent jurisdiction, such portion shall be deemed a separate, distinct and
8 independent provision, and such holding shall not affect the validity of the remaining portions
9 hereof.

10 **BE IT FURTHER RESOLVED** that the provisions of this Ordinance shall be included
11 and incorporated within the Code of Laws of Fulton County (1997), and may be renumbered or
12 relettered to accommodate such inclusion.

13 **PASSED AND ADOPTED**, this ____ day of _____, 2006.
14

15 Sponsored by:
16
17

18 _____
19 _____, Commissioner
20 District _____
21

22 ATTEST:
23
24

25 _____
26 Mark Massey, Clerk to the Commission
27
28

29 APPROVED AS TO FORM:
30
31

32 _____
33 Overtis Hicks Brantley, County Attorney
34

EXHIBIT A

ARTICLE II. BUSINESS AND OCCUPATION TAXES*

*Editor's note: Res. No. 01-0292, § 1, adopted Feb. 21, 2001, amended the title of this article to read as herein set out. Further, said resolution, § 2, amended article II in its entirety to read as herein set out. Formerly, said article pertained to similar subject matter. See the Code Comparative Table--Ordinances and Resolutions.

Cross references: Alcoholic beverages, ch. 6; food service sanitation, § 34-151 et seq.; discrimination in places of public accommodations, § 38-31 et seq.; peddlers and solicitors, ch. 54; secondhand goods, ch. 66; ordinances pertaining to taxation, ch. 74; telecommunications, ch. 76; vehicles for hire, ch. 86; motion picture production on county property, § 102-566 et seq.; resolutions pertaining to taxation, ch. 170; resolutions pertaining to telecommunications, ch. 172. State law references: Business and occupation taxes, O.C.G.A. § 48-13-5 et seq.; authority to levy, assess and collect occupation taxes on businesses within the unincorporated part of a county, O.G.C.A. § 48-13-6; requires one public hearing before adoption of occupational taxes, O.G.C.A. § 48-13-6(c).

Sec. 18-31. Applicability.

All persons, firms, corporations, including professional corporations, or other business entities now or hereafter operating a business having a location or office in the unincorporated area of Fulton County shall be subject to the requirements of this article. Stock or manufacturing companies or other companies, subsidiaries, agencies, district offices, branch offices, corporations or individuals, having a location or office located within the unincorporated area of the county, 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 subject to the requirements of this article. This article shall apply to such other persons, firms, corporations, professional corporations or other business entities as may be provided herein in the manner prescribed.

(Res. No. 01-0292, § 2, 2-21-01)

Sec. 18-32. Definitions.

As used in this article, the terms "administrative fee" , "gross receipts" , "location" or "office" , "occupation tax" , "practitioners of professions and occupations" , and "regulatory fees" are defined in accordance with O.C.G.A. § 48-13-5.

The term "Department of Finance" shall mean the department of finance of Fulton County.

The term "Director of Finance" shall mean the director of the department of finance of Fulton County.

(Res. No. 01-0292, § 2, 2-21-01)

Sec. 18-33. Fee; basis.

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"). The gross receipts tax shall be determined from the tax tables maintained in the Department of Finance. The tax tables shall be made available for review and copying by the Director of Finance. The tables are adopted for the calendar year 2001 and shall continue in full force and effect until modified by action of the board of commissioners. All businesses and occupations, other than those practitioners, listed in section 18-39 hereof, shall be assessed the sum of \$75.00 as a nonrefundable administrative fee 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.

(Res. No. 01-0292, § 2, 2-21-01)

Sec. 18-34. Application for registration.

- (a) It shall be the duty of each person, firm or corporation subject to this article to file with the Department of Finance on or before March 31 of each calendar year an application for registration under this article setting forth all activities of each business, its Standard Industrial Classification Code and/or its North American Industry Classification System Code, its estimated gross receipts for the calendar year of the registration, computation of the amount of tax due including the administrative fee and per employee tax, a copy of the profit and loss statement, a copy of its Georgia Income Tax Return, and such other information as may be required by the Director of Finance to properly administer this article, which may include all or any of the information specified in section 18-36 hereof. Any new business or practitioner shall apply and register for a new certificate within 30 days after the commencement of business.
- (b) For businesses or practitioners with more than one type of service or product, including businesses or practitioners listed under and subject to O.C.G.A. § 48-13-16, the entire gross receipts shall be classified according to the dominant service or product based upon the information provided under subsection (a) hereof.
- (c) For 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 Georgia and one or more locations outside the state, Fulton County shall allocate the gross receipts as follows for occupation tax purposes in accordance with the following:

- (1) Where the business or practitioner can reasonably allocate the dollar amount of gross receipts of the business or practitioner to one or more of the locations or offices on the basis of product manufactured in that location or office or the sales or other services provided in that location or office, the county shall tax the gross receipts generated by the location or office within Fulton County; or
 - (2) Where the business or practitioner cannot reasonably allocate the dollar amount of gross receipts among multiple locations or offices, the business or practitioner shall divide the gross receipts reported to all local governments in this state by the number of locations or offices of the business or practitioner which contributed to the gross receipts reported to any local government in this state, and shall allocate an equal percentage of such gross receipts of the business or practitioner to each location or office.
 - (3) 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.
 - (4) In the event of a dispute between the business or practitioner and the county as to the allocation under this section, the business or practitioner shall have the burden of proof as to the reasonableness of the allocation.
 - (5) Upon request, businesses or practitioners with a location or office situated in more than one jurisdiction shall provide to the county the following:
 - a. Financial information necessary to allocate the gross receipts of the business or practitioner; and
 - b. Information relating to the allocation of the business's or practitioner's gross receipts by other local governments.
 - (6) When the county 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 county shall not tax any greater proportion of the gross receipts than authorized by law.
- (d) This article applies to each business and practitioner with no location or office within the State of Georgia, which:
- (1) Has one or more employees or agents who exert substantial efforts within the unincorporated part of the county for the purpose of soliciting business or serving customers or clients; or
 - (2) Owns personal or real property which generates income and which is located in the unincorporated part of the county. Gross receipts of such business or practitioner for purposes of this section shall include only those gross receipts