

LICENSES AND OCCUPATION TAXES

Chapter 12

LICENSES AND OCCUPATION TAXES

Art. I. Occupation Tax, §§ 12-11—12-40

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ARTICLE I. OCCUPATION TAX

Sec. 12-1. Required for businesses in city.

Each person engaged in any business, trade, profession, or occupation located in the city, shall pay an occupation tax for such business, trade, profession, or occupation, and proof of payment of the tax and any applicable registration shall be displayed in a conspicuous place in the place of business. This documentation of registration must be shown to the City Manager, or his or her designee and to any law enforcement officer of the city, upon request.

Sec. 12-2. Construction of terms; definitions.

As used in this article, the following definitions apply:

Location of office. 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.

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

Person. Includes sole proprietors, corporations, partnerships, or any other form of business organization, but specifically excludes charitable nonprofit organizations and authorities.

Practitioner of profession or occupation. One who by state law requires state licensure regulating such profession or occupation. Practitioners of professions and occupations shall not include a practitioner who is an employee of a business if the business otherwise pays an occupation tax. Any practitioner whose office is maintained by and who is employed in practice exclusively by the United States, the state, a municipality, or county of the state, instrumentalities of the United States, the state, a municipality, or county of the state shall not be required to obtain a license or pay an occupation tax for that practice.

Sec. 12-3. Occupation tax levied; flat rate.

An occupation tax shall be levied upon those businesses and practitioners of professions and occupations with one or more locations of offices in the corporate limits of the city, at such rate that is set by City Council by resolution.

Sec. 12-4. Administrative and regulatory fee structure.

Pursuant to the authority of Official Code of Georgia Annotated, Section 48-13-9, and in order to protect the public health, safety and welfare, and otherwise to enforce state and local building, health and safety codes, an additional regulatory fee may be imposed by the city for the regulation of the following businesses according to a schedule set by the City Council by resolution:

- (a) Retail gasoline pumps
- (b) Launderette
- (c) Vending machines
- (d) Adult movie houses, adult movie theaters, and adult movie rental business
- (e) Horse drawn vehicle or carriages
- (f) Building and construction contractors, subcontractors, and workers;
- (g) Circuses or carnivals;

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- (h) Taxicab and limousine operators;
- (i) Tattoo artists;
- (j) Stables;
- (k) Shooting galleries and firearm ranges;
- (l) Scrap metal processors;
- (m) Pawnbrokers;
- (n) Food service establishments;
- (o) Dealers in precious metals;
- (p) Firearms dealers;
- (q) Peddlers;
- (r) Parking lots;
- (s) Nursing homes, assisted living communities, and personal care homes;
- (t) Newspaper vending boxes;
- (u) Modeling agencies;
- (v) Massage parlors;
- (w) Auto and motorcycle racing;
- (x) Boarding houses;
- (y) Businesses which provide appearance bonds;
- (z) Boxing and wrestling promoters;
- (aa) Hotels and motels;
- (bb) Hypnotists;
- (cc) Handwriting analysts;
- (dd) Health clubs, gyms, and spas;
- (ee) Fortunetellers;
- (ff) Burglar and fire alarm installers; and
- (gg) Locksmiths.

Sec. 12-5. When tax due and payable; transacting business when tax delinquent.

- (a) Registration fees and occupation tax shall annually be due and payable on or before January 1 of each year and shall, if not paid by March 1 of each year, be subject to penalties for delinquency. On any new profession, trade, or business in the city, the registration and tax shall be delinquent if not obtained immediately upon beginning business, and a penalty of \$25.00 will be imposed. The tax and registration forms shall be issued by the City Manager, or his or her designee. If any person, firm, or corporation who is required to register continues or begins business operations in the city without registering and paying any taxes and penalties due, such offender shall, upon conviction, be punished according to Section 1-14 of this Code.
- (b) When any person commences business on or after July 1 in any year, the occupation tax for the remaining portion of the year shall be one-half of the tax imposed for an entire year.
- (c) In addition to the above remedies, the City Manager, or his or her designee may proceed to collect in the same manner as provided by law for tax executions.

Sec. 12-6. Evidence of state registration required if applicable; registration to be displayed.

- (a) Each person who is licensed by the Secretary of State pursuant to Title 43 of the Official Code of Georgia Annotated shall provide immediately, at the request of the City Manager, or his or her designee, evidence of proper and current state licensure before the city registration may be issued.
- (b) Each person who is licensed by the state shall post the state license in a conspicuous place in the licensee's place of business or immediately, at the request of the City Manager, or his or her designee,

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provide evidence of a valid and current state license, and shall keep the license there at all times while the license remains valid.

Sec. 12-7. Evidence of qualification required if applicable.

- (a) Any business required to obtain health permits, bonds, certificates of qualification, certificates of competency, or any other regulatory matter shall first, before the issuance of a city business registration, show evidence that such requirements have been met.
- (b) Before the issuance of a city business license registration, either initially or as a renewal, all ad valorem taxes due to the city, all fees of any kind due to the city, and all utility billings of whatever kind due to the city shall be current and not delinquent. Upon failure to show evidence that such requirements have been met, the issuance of a city business license registration shall not be granted.

Sec. 12-8. Businesses not covered by this article.

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

- (1) Those businesses regulated by the Georgia Public Service Commission.
- (2) Those electrical service businesses organized under Chapter 3 of Title 46 of the Official Code of Georgia Annotated.
- (3) Any farm operation for the production from, or on the land of agricultural products, but not including agribusiness.
- (4) Cooperative marketing associations governed by OCGA Section 2-10-105.
- (5) Insurance companies governed by OCGA Section 33-8-8, et seq.
- (6) Those businesses governed by OCGA Section 48-5-355.
- (7) Agricultural products and livestock raised in the State of Georgia governed by OCGA Section 48-5-356.
- (8) Depository financial institutions governed by OCGA Section 48-6-93.
- (9) Facilities operated by a charitable trust governed by OCGA Section 48-13-55.

Sec. 12-9. Occupation tax inapplicable where prohibited by law or provided for pursuant to other existing law.

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

Sec. 12-10. Business registration to be revoked for failure to pay tax.

- (a) The failure of any business to pay any ad valorem taxes due to the City of Forsyth beyond the due date, to pay any fees owed to the city, or to pay any utility billings owed to the city beyond such due date, may cause sanctions to be imposed by the Council, upon the following procedure: The business

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registrant or license holder shall be given notice of the violation and the opportunity to be heard before the Council at the next regular Council meeting after such notice. The Council, upon a finding that this section has been violated by the license holder, may impose sanctions by either a suspension of the license for a specified period of time, placing the licensee on probation, imposing an administrative fee, or enforcing other reasonable conditions as the Council may deem necessary.

Sec. 12-11. Lien taken for delinquent occupation tax.

In addition to the other remedies provided for the collection of the occupation tax levied in this article; the City Manager, or his or her designee shall issue execution for the correct amount of tax against the person liable for unpaid delinquent taxes. The execution shall bear interest at the rate of 12 percent per year from the date when such tax or installment becomes delinquent, and the lien shall cover the property (in the city) of the person liable for such tax. The lien of such occupation tax shall become fixed on and date from the time when such tax becomes delinquent. The execution shall be levied by the City Manager, or his or her designee upon the property of the delinquent taxpayer located in the city, and sufficient property shall be advertised and sold to pay the amount of the execution, with interest and costs. All other proceedings in relation thereto shall be had as is provided by the ordinances and Charter of the city and the laws of the State of Georgia relating to tax levies.

Sec. 12-12. Enforcement of provisions.

It is hereby made the duty of the City Manager, or his or her designees to see that the provisions of this article relating to occupation taxes are observed; and to summon all violators of the same to appear before the Municipal Court.

Secs. 12-13—12-29. Reserved.

Sec. 12-30. Precious metals and gems.

(a) Applicability of certain sections – This section shall not apply to any precious metals or items containing precious metals obtained from industrial producers, manufacturers, licensed dealers, or distributors.

(b) Definitions – For purposes for this article, the term:

Numismatic Coins. Coins whose value as collectors' items exceeds the value of the content of the precious metals in the coins.

Precious Metals. Gold, silver, or platinum or any alleged alloy containing gold, silver, or platinum.

Precious metals and gems dealer. Any person, partnership, sole proprietorship, corporation, association, or other entity engaged in the business of purchasing, selling, bartering, or trading any precious metals from persons or sources other than manufacturers or wholesalers.

Precious Stones. Includes, but is not limited to diamond, ruby, sapphire or emerald which is cut and polished.

(b) Registration Requirements

(1) Every person who applies to do business in the City of Forsyth, Georgia, as a precious metals and gems dealer as define herein, prior to commencing business shall pay a regulatory fee as established by the City Council and submit a registration form as provided by the City Manager, or

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his or her designee. Failure to pay the regulatory fee shall be punished in the same way as a failure to pay occupation tax as set forth in this Chapter.

- (2) The number of precious metal and gems dealers authorized and licensed by the city shall be no greater than one dealer per every 3,000 people in the city's population according to the most recent decennial census. In making this computation, fractions of population shall not be considered. If the maximum number of licenses under this section have been approved, no further licenses or registrations will be issued for such businesses until such time that the population sufficiently grows to allow another license, or one of the existing license holders does not renew.
 - (3) No person shall have an interest in more than one precious metals and gems business within the city.
- (d) Applicant – the applicant shall be the owner of the proposed business, if the business is solely owned, or a general partnership, if a partnership. If a proposed business is a corporation, the applicant must be the president or equivalent officer. Otherwise, no other individual may qualify as an applicant.
- (e) Registration Qualifications
- (1) The applicant and each individual with an interest in the business shall be a citizen of the United States.
 - (2) Corporations must be incorporated in the State of Georgia, or must have registered to do business in the state.
 - (3) No applicant, general manager, or person having an interest in the business shall have been convicted nor entered a plea of nolo contendere in any state, the United States, or any other country, within 10 years immediately preceding the date of application for any felony, or crime involving moral turpitude, or any violation of the laws of any state, county, or municipality relating to the sale, manufacture, or distribution of alcoholic beverages, or solicitation of prostitution, pandering, letting premises for prostitution, keeping a disorderly place, illegal dealing in narcotics, sex offenses, any theft or burglary offenses, receiving or possession of stolen property, or any statute or ordinance regulating the business of precious metals and gems dealer. In those instances, involving corporations, this prohibition shall also apply to the corporation's president, vice-president, secretary, and treasurer. In those instances involving corporations, this prohibition shall also apply to any closely held corporation's president, vice-president, secretary, treasurer, and all stockholders owning five percent or more of the corporation's stock, or a person having subscriptions, options, and/or warrants for purchase of a closely held corporation's stock that when fully executed would give that person five percent or more of the corporation's stock. Additionally, this prohibition shall apply to any shareholder owning 50 percent or more of any corporation, whether closely held or not, or a person having subscriptions, options and/or warrants for purchase of a corporation's (whether closely held or not) stock that when fully executed would give that person 50 percent or more of the corporation's stock.
 - (4) Applicants shall be the owners of the business premises or the holder of any lease on the property for the purpose of conducting business.
 - (5) The applicant shall be responsible for the management and operation of the business if approval is granted.
 - (6) The applicant shall make a sworn statement of the qualifications to the above and shall place same on file with the city before approval of the business is granted.

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- (7) If the applicant is a partnership, all members of the partnership must approve of this application. If approval of the business is granted, the approval shall apply to the partners in the names of the partnership.
- (8) An application shall not be granted, or if granted shall be revoked, should the City Manager, or his or her designees find that:
- a. The applicant and/or person with an interest in business has conducted any business within the city requiring unusual law enforcement observation or inspection to prevent the violation of any law, regulation or ordinance by the applicant or person with an interest in the business, or it was necessary for the city to take action to compel the adherence to any law, regulation, or ordinance; or
 - b. The location for which the business is proposed will create or add to existing traffic congestion which would be detrimental to the public safety or conflict with the zoning code for a given area; or
 - c. The applicant and/or person with an interest in the business has ever had a pawn business or precious metals and gems business suspended or closed by any governing entity.
- (9) No person shall be granted approval as a precious metals and gems dealer unless that person has attained the age of 21.
- (10) All employees of precious metals and gems dealers must have attained the age of 16. The employer must abide by State of Georgia Labor Laws.
- (f) All precious metals dealers shall maintain records documenting all precious metals transactions.
- (1) Such description shall include, to the extent possible, the manufacturer, model, serial number, style, material, kind, color, design, number, type and approximate size of precious stones, and all other identifying names, marks, inscriptions, and numbers. The precious metals dealers shall assign a transaction number documenting each transaction, and ensure each item received is tagged with the transaction number.
 - (2) The tag bearing the transaction number must remain attached to the item until the property is disposed of by sale, trade, or other lawful means. This paragraph does not apply to the purchase of property from licensed wholesale or distributor businesses for the purpose of retail sales. The precious metals dealer shall be required to maintain all purchasing records for property exempted from this paragraph.
 - (3) The precious metals dealer shall require all persons selling property to show proper identification prior to conducting a transaction. Proper identification is defined as a government issued photo identification card, or state identification card.
 - (4) The precious metals dealer shall also document the name, physical address (P.O. Box is not acceptable), telephone number, race, sex, height, weight, driver's license number, and date of birth of the person selling the property to the dealer, along with the date and time of transaction. This documentation shall be made at the time of the transaction.
 - (5) The precious metals dealer shall photograph, with a digital camera or web camera, the person selling the property to the dealer. The photograph shall clearly show a frontal view of the subject's face along with the transaction number and a photograph of the item being sold. Digital images

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shall be labeled and stored in such a manner that they are safe from corruption, readily identifiable, and readily available for review.

- (6) The precious metals dealer shall obtain from each person selling any property to the dealer, the fingerprint of the right-hand thumb, unless such thumb is missing, in which event the print of the next finger in existence on the right hand shall be obtained with a notation as to the exact finger printed. The fingerprint shall be imprinted onto the transaction form in the designated area along with the signature of the person selling the property. The fingerprint must be clear and legible. If more than one transaction form is required, a fingerprint and signature will be obtained for each form. Fingerprints and the information required herein shall be obtained each time such person pledges, trades, pawns, exchanges, or sells any property.
 - (7) Items of property that appear to be new, unused, and in their original packaging cannot be accepted by the precious metals dealer unless the customer can supply a copy of the original sales receipt, or other proof of purchase from the place of purchase, to the precious metals dealers who shall retain the receipt or proof of purchase on file.
 - (8) The precious metals dealer shall store the above records, digital images, and fingerprints for a period of four years and make them available to law enforcement personnel upon request.
- (g) Property not to be disposed of for 14 days after acquisition; location of property; police holds.
- (1) All property received through any precious metals dealer transaction shall be held at least 14 calendar days before disposing of same by sale, transfer, shipment, or otherwise.
 - (2) All property purchased shall be held and maintained by the precious metals dealer on the premises of the precious metals dealer or, if impracticable, at such other location as may have been previously approved in writing from the City Manager, or his or her designee.
 - (3) The Police Department or Sheriff's Office has the authority to place property that is the subject of a law enforcement investigation on "police hold" for a period of five days. In that event, the law enforcement officer shall notify the precious metals dealer of the need for a police hold and identify all property subject to the police hold. Upon notification, it shall be the responsibility of the precious metals dealer to maintain the subject property until such time as the property is released from police hold status or the property is confiscated as evidence.
- (h) Dealing with minors. It shall be unlawful for any precious metals dealer, his or her agents or employees, to receive through any precious metals dealer any property from minors. A minor, for the purpose of this section, is an individual who has yet to obtain 21 years of age.
- (i) Responsibility for enforcement. The Forsyth Police Department shall have the responsibility for the enforcement of this chapter. Sworn law enforcement officers and civilian employees employed by local, state, and federal agencies shall have the authority to inspect establishments licensed under this chapter during the hours in which the premises are open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of this chapter and state law. This section is not intended to limit the authority of any other law enforcement officer to conduct inspections authorized by other provisions of the city code and/or the Official Code of Georgia Annotated.
- (j) Exemptions.
- (1) This chapter shall not apply to dealers exclusively engaged in the sale or exchange of numismatic coins, or to transactions exclusively involving numismatic coins or other coinage.

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- (2) Artisans or craftsmen purchasing precious metals or gems for the sole purpose of their use as a raw material in the crafting of jewelry, works of art, or like goods are exempt from this ordinance. The City Manager, or his or her designee shall have the sole authority to determine if an individual or cooperation meets the requirements for this exemption.
- (k) Penalty for violation. Any person, firm, company, or other entity that violates any provision of the chapter may be subject to arrest or summoned to appear in the Municipal Court and upon conviction or findings of guilt, be punished by a fine of up to \$1,000.00 per violation.
- (l) Prohibited activities.
- (1) No pawn business shall permit on its premises any slot machines, pinball machines, video games, electronic games of any kind or character for use by the public, or any coin-operated machines operated for amusement purposes.
- (2) No pawn business shall permit the sale of alcohol on the premises by the drink, or by the package.
- (m) The business shall be equipped with a Closed Circuit Television (CCTV) system. This system shall provide adequate coverage of the interior and exterior of the building. This system must include a digital video recorder (DVR). The system must be able to record and store footage for a minimum of 30 calendar days. The system must be able to download from the DVR to a disk or portable hard drive. Shall permission be granted that inventory be held in a separate off-premises facility that facility must also have CCTV as described in this section.

Secs. 12-31—12-40. Reserved.

ARTICLE II. INSURERS' LICENSE FEES AND PREMIUM TAX

Sec. 12-41. Definition.

For the purpose of this article, the term "insurer" means a company which is authorized to transact business in any of the classes of insurance designated in Official Code of Georgia Annotated, Section 33-3-5.

Sec. 12-42. Insurer license fees generally.

There is hereby levied an annual license fee upon each insurer doing business within the city. For each separate business location, which is operating on behalf of such an insurer within the city, there is hereby levied a license fee in the amount of forty dollars (\$40.00).

State law reference—Authority for above fees, OCGA § 33-8-8(b)(1).

Sec. 12-43. Fee for additional business locations.

For each separate business location, not otherwise subject to a license fee under this article, operated and maintained by a business organization which is engaged in the business of lending money or transacting sales involving term financing and, in connection with such loans or sales, offers, solicits or takes application for insurance through a licensed agent of an insurer, such insurer shall pay an additional license fee of \$10.00 per location per year.

State law reference—Authority for above fee, OCGA § 33-8-8(b)(2).

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Sec. 12-44. License for independent insurance agencies or brokers.

There is hereby levied an annual license fee upon independent agencies and brokers for each separate business location from which an insurance business is conducted and which is not subject to the license fees imposed by sections 12-42 or 12-43, in the amount of \$15.00 for each such location within the city.

State law reference—Authority for above fee, OCGA § 33-8-8(d).

Sec. 12-45. Due date for license fees.

License fees imposed by Sections 12-42, 12-43, and 12-44 shall be due and payable on the first day of January of each year. Unpaid or delinquent fee shall be punished in the same manner as delinquent occupation taxes as laid out in this Chapter.

Sec. 12-46. Gross premium tax on life, accident and sickness insurers.

- (a) There is hereby levied an annual tax, based solely upon gross direct premiums, upon each insurer writing life, accident, and sickness insurance within the city, in an amount equal to one percent of the gross direct premiums received during the calendar year, in accordance with Section 33-8-8.1 of the Official Code of Georgia Annotated.
- (b) The premium tax levied by this section is in addition to the license fees imposed by this article and shall be enforced in the same manner as the occupation tax as established in this Chapter.

Sec. 12-47. Gross premium tax on other insurers.

- (a) There is hereby levied an annual tax upon each insurer, other than an insurer transacting business in the class of insurance designated in subsection (1) of Section 33-3-5 of the Official Code of Georgia Annotated, doing business within the city, in an amount equal to two and 2.5 percent of the gross direct premiums received during the calendar year, in accordance with Section 33-8-8.2 of the Official Code of Georgia Annotated.

Secs. 12-48—12-49. Reserved.

Sec. 12-50. Business license tax from depository financial institutions.

A business license tax from depository financial institutions (as defined in OCGA Section 48-6-90) having an office located within the City of Forsyth is hereby levied at a rate of 0.25 percent of the Georgia gross receipts of said depository financial institutions as defined and allocated in OCGA Sections 48-6-93 and 48-6-95 and any other applicable Georgia law. This tax shall be enforced in the same manner as the occupation tax as established in this chapter.

Sec. 12-51. Minimum business license tax from depository financial institutions.

The minimum annual amount of such business license tax form depository financial institutions within the City of Forsyth shall be \$1,000.00.

Sec. 12-52. Filing returns.

Every depository financial institution subject to the tax authorized by Section 12-50 of this City Code shall file a return of its gross receipts with the city by March 1 of the year following the year in which such gross receipts are measured. Said return shall be in the manner and in the form prescribed by the Georgia Commissioner of Revenue based on the allocation method set forth in Subsection (d) of OCGA Section 48-6-93. The return shall provide the information necessary to determine the portion of the taxpayer's Georgia

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gross receipts to be allocated to the City of Forsyth. The City of Forsyth shall assess and collect said tax based upon the information provided in the returns.