

BUSINESS OCCUPATION TAX AND REGULATIONS

INTRODUCTION: This Resolution consists of Part I (Business Occupation Tax) and Part II (Business Regulations), all sections inclusive therein.

PART I - BUSINESS OCCUPATION TAX

Section 1 Occupation Tax Required; Occupation Tax Required For Business Dealings in City of Maysville.

A. On and after the effective date of this Resolution and each calendar year thereafter, each person commencing or engaged in any business, trade, profession or occupation with one or more locations or offices in the incorporated area of the City of Maysville, Georgia, or in the case of an out-of-state business with no location in Georgia pursuant to O.C.G.A. Section 48-13-7, shall pay an occupation tax for said business, trade, profession or occupation; which tax and any applicable business registration shall be displayed in a conspicuous place in the place of business, if the taxpayer has a permanent business location in the City of Maysville. If the taxpayer has no permanent business location in the City of Maysville, Georgia, such business tax registration shall be shown to the town marshal of the City of Maysville, Georgia, or to any of his deputies, upon his or their request.

Section 2 Construction of Terms; Definitions.

As used herein the following terms shall apply:

1. **"Administrative fee"** means a component of an occupational tax which approximates the reasonable cost of handling and processing the occupation tax.
2. **"Mayor and Councilmen"** means the governing body of the City of Maysville, Georgia, and shall also include the term "town council".

RESOLUTION FOR BUSINESS OCCUPATION TAX AND REGULATIONS

A RESOLUTION TO REPEAL THE BUSINESS LICENSE ORDINANCE OF CITY OF MAYSVILLE, GEORGIA, ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF MAYSVILLE ON Dec. 28, 1994; TO ADOPT A NEW RESOLUTION ENTITLED "BUSINESS OCCUPATION TAX AND REGULATIONS"; SAID RESOLUTION TO PROVIDE FOR THE LICENSING AND TAXATION OF CERTAIN BUSINESS, TRADES, PROFESSIONS OR OCCUPATIONS; TO PROVIDE FOR ADMINISTRATIVE FEES AND BUSINESS REGULATIONS; TO PROVIDE FOR AN APPEAL; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, in order for the City of Maysville, Georgia, to comply with the passage of House Bill No. 175 as passed by the Georgia General Assembly during the 1995 legislative session and signed by the Governor, it is necessary for the Mayor and Council of the City of Maysville, Georgia, to repeal the Business License Ordinance of City of Maysville, Georgia, adopted on Dec. 28, 1994; and

WHEREAS, the Mayor and Council of City of Maysville does desire to adopt a new resolution entitled "**BUSINESS OCCUPATION TAX AND REGULATIONS**" to be divided into two separate parts; and

WHEREAS, "Part I - Business Occupation Tax" of said Resolution shall comply with the aforementioned House Bill 175 for the mandatory payment of an occupational tax for each person engaged in any business, trade, profession or occupation in City of Maysville, Georgia, pursuant to O.C.G.A. Section 48-13-1, et. seq. as amended; and

WHEREAS, "Part II - Business Regulations" of said Resolution shall include the regulatory provisions for business registration applications, business registration revocation, hearings, and appeals.

EXHIBIT A

BUSINESS OCCUPATION TAX AND REGULATIONS

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INTRODUCTION: This Resolution consists of Part I (Business Occupation Tax) and Part II (Business Regulations), all sections inclusive therein.

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NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Maysville, Georgia, and it is hereby resolved by the authority of same as follows:

-1-

The Business License Ordinance of the City of Maysville, Georgia, adopted on Dec. 28, 1994, by the Mayor and Council of the City of Maysville is hereby repealed in its entirety. Adopted in lieu thereof is the Resolution entitled "Business Occupation Tax and Regulations", which is attached hereto as Exhibit "A" and is made a part hereof as if it were originally set forth herein.

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All Resolutions, or Ordinances, or parts thereof, in conflict with the terms of this Resolution are hereby repealed, but it is hereby provided that any resolution, ordinance or law, which may be applicable hereto and aid in carrying out and making effective the intent, purpose and provisions hereof, which shall be liberally construed to be in favor of the City of Maysville, is hereby adopted as part hereof.

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If any paragraphs, sub-paragraphs, sentence, clause, phrase, or any portion of this Resolution shall be declared invalid or unconstitutional by any court of competent jurisdiction or if the provisions of any part of this Resolution as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Resolution not so held to be invalid. It is hereby declared to be the intent of the Mayor and Council to provide for separable and divisible parts, and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.

This Resolution is hereby adopted this 5th day of August, 1996, to become effective as follows: upon the 6th day of August 1996, except for any business or practitioner who has paid to the City of Maysville an occupation tax and administrative fee for the calendar year 1996 and on any and all businesses and

3. **"Business License"** means the certificate issued upon payment of the administrative fee and the occupation tax. Only one business license certificate shall be issued which shall demonstrate that the fee and tax have been paid.
4. **"City"** means City of Maysville, Georgia.
5. **"Dominant Line"** means the type of business within a multiple line business that the greatest amount of income is derived from.
6. **"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.
7. **"Licensee"** means the person issued the license; his authorized employee in charge of the business of the licensee; or the person operating the business of the licensee.
8. **"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.
9. **"Nonprofit organization"** means a corporation, club or group exempt from income taxation under the Internal Revenue Code and Regulations thereunder, as now existing or as hereinafter amended.
10. **"Occupation tax"** means a tax levied on persons, partnerships, corporation or other entities for engaging in an occupation, profession or business for revenue raising purposes.
11. **"Person"** wherever used in this Article shall be held to include sole proprietors, corporations, partnerships or any other form of business organization.

12. **"Practitioner of profession or occupation"** is one who by State law requires State licensure regulating such profession or occupation.
13. **"Practitioners of professions and occupations"** shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.
14. **"Registration", "Business Registration", and "Business Tax Registration"** are all synonymous with **"Business License"** and shall mean the certificate issued upon payment of the administration fee and the occupation tax. Only one business license certificate shall be issued which shall demonstrate that the fee and tax have been paid.

Section 3 Administrative Fee Structure; Occupation Tax Structure.

- A. A non-prorated, non-refundable administrative fee of **\$5.00** shall be required on all business occupation tax accounts for the initial start up, renewal or re-opening of those accounts.
- B. An occupation tax shall be levied as the revenue producing component of the license fee structure.

Section 4 Occupation Tax Levied. Restrictions.

- A. Except as to those businesses and practitioners of professions and occupations excluded by subsection (a) of O.C.G.A. Section 48-13-16, an occupation tax is hereby levied upon those businesses and practitioners of professions and occupations with one or more locations or offices within incorporated limits of the City of Maysville, Georgia, and upon the applicable out-of-state businesses with no location or office in Georgia pursuant to O.C.G.A. Section 48-13-7 based upon the number of employees of the business or practitioner;
- B. Occupation tax schedule:
 1. The occupation tax shall be levied according to the number of employees of the business as follows:

Section 5 Occupation Tax--Depository Financial Institution.

A. In accordance with O.C.G.A. Section 48-6-93, there is hereby levied an annual occupation tax upon all depository financial institutions located within the City of Maysville at a rate of 0.25 percent of the gross receipts of said depository financial institutions. Gross receipts shall mean gross receipts as defined in O.C.G.A. Section 48-6-93. Depository financial institutions shall mean state and national banks, state building and loan associations, and federal savings and loan associations.

B. The minimum annual amount of occupation tax due from any depository financial institution pursuant to Section 50 shall be \$1,000.00.

C. Pursuant to O.C.G.A. Section 48-6-93(c), each depository financial institution subject to this tax shall file a return of its gross receipts with the Business License Department of the City of Maysville on 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 Commissioner of the Department of Revenue based on the allocation method set forth in subsection (d) of O.C.G.A. Section 48-6-93. The Mayor and Council of the City of Maysville shall assess and collect the tax levy pursuant to this section based upon the information provided in said return.

D. Taxes levied pursuant to this section shall be due no later than thirty days after filing of the return prescribed by this Section unless extended by the Mayor and Council.

Section 6 Paying Occupation Tax of Business With No Location In Georgia.

If not exempt pursuant to O.C.G.A. Section 48-13-7(f), the Mayor and Council require a business registration and the assessment of an occupation tax on those businesses and practitioners of professions with no location or office in the State of Georgia if the largest dollar volume of business in Georgia is done or service performed in the City of Maysville, and the business or practitioner:

A. Has one or more employees or agents who exert substantial efforts within the City of Maysville, Georgia, for the purpose of soliciting business or serving customers or clients; or

B. Owns personal or real property which generates income and which is located within the City of Maysville, Georgia.

**CITY OF MAYSVILLE
OCCUPATIONAL TAX SCHEDULE**

#EMPLOYEES	TAX	# EMPLOYEES	TAX
0-3	\$40.00	126-150	\$466.00
4-6	\$49.00	151-175	\$534.00
7-10	\$58.00	176-200	\$603.00
11-15	\$73.00	201-225	\$666.00
16-20	\$88.00	226-250	\$728.00
21-25	\$103.00	251-275	\$791.00
26-30	\$118.00	276-300	\$853.00
31-35	\$133.00	301-350	\$978.00
36-40	\$148.00	351-400	\$1103.00
41-45	\$163.00	401-450	\$1228.00
46-50	\$178.00	451-500	\$1353.00
51-60	\$208.00	501-600	\$1353.00
61-70	\$238.00	601-700	\$1803.00
71-80	\$268.00	701-800	\$2253.00
81-90	\$298.00	801-900	\$2478.00
91-100	\$328.00	OVER 1000	\$2515.00
101-125	\$397.00		

\$5.00 ADMINSTRATIVE FEE INCLUDED

- C. 1. The City of Maysville shall not require the payment of more than one Occupational tax for each location that a business or practitioner shall Have in the City of Maysville.
2. The City of Maysville shall not require an additional occupational tax on those businesses that have paid the occupational tax in other localities or States, provided that those businesses were taxed in full compliance with O.C.G.A. Section 48-13-7 and Section 48-13-14.
3. The City of Maysville shall not require an occupational tax from those Real Estate brokers, agents or companies whose offices are located outside the City of Maysville, Georgia, and sell property inside the City of Maysville.
- D. In determining the amount of occupational tax to be levied the number of employees of the business or practitioner will be computed on a full-time position basis or full time position equivalent basis, provided that for the purposes of this computation an employee who works 40 hours or more weekly shall be considered a full time employee and that the average weekly hours of an employee who works less than 40 hours weekly shall be added and such sum shall be divided by forty to produce fulltime position equivalents.

Section 7 Each Line of Business to Be Identified on Business Registration.

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

Section 8 The Number of Businesses Considered Operating in the City.

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

Section 9 Professionals as Classified in O.C.G.A. Section 48-13-9(c), Paragraphs 1 through 18.

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

- A. On and after the effective date of this Resolution and each calendar year thereafter the following:
 - 1. The occupation tax based on number of employees in Section 4 of this Resolution; or
 - 2. A fee of \$400.00 per practitioner who is licensed to provide the service, such tax to be paid at the practitioner's office or location. The per practitioner fee shall include all persons in the business who qualify as a practitioner under the State's regulatory guidelines and framework.
- B. This election shall be made on an annual basis and must be done by January 1 of each year.

Section 10 Practitioners Exclusively Practicing for the Government.

Any practitioner whose office is maintained by and who is employed in practice exclusively by the United States, the State, a municipality or county of the State, instrumentalities of the United States, the State or a municipality or county of the State, shall not be required to obtain a license or pay an occupation tax for that practice.

Section 11 Purpose and Scope of the Occupation Tax.

A. The occupation tax levied herein is for revenue purposes only and is not for regulatory purposes, nor is the payment of the occupation tax made a condition precedent to the practice of any profession which is classified in O.C.G.A. Section 48-13-9(c) (1) through (18).

B. The occupation tax applies to those businesses and occupations which are covered by the provisions of O.C.G.A. Section 48-13-5 to Section 48-13-26.

C. All other applicable businesses and occupations are taxed by the local government pursuant to the pertinent general and/or local law and ordinance.

Section 12 Allocation of Employees of Business with Multiple Intra or Interstate Locations.

A. For those businesses who have multiple locations inside and outside of the City where the employees can be allocated to each locations, the number of employees used to determine the occupation tax assessed will be those employees attributed to each City location. In the case of an employee who works for the same business or practitioner in more than one municipal corporation or city, the municipal corporation or city in which the employee works for the longest period of time within the calendar year shall be authorized to count the individual as an employee who is employed within the local government's geographic jurisdiction for purposes of occupation tax. Upon request, the business or practitioner with a location or office situated in more than one jurisdiction shall provide to the City the following:

1. Payroll and personnel records necessary to allocate the number of employees of the business or practitioner; and
2. Information relating to the allocation of the business' or practitioner's number of employees by other local governments.

B. Where the business has locations outside of the City and taxation is levied for a criteria other than number of employees in the other local government's jurisdiction, the City shall not assess more than the allotted share of number of employees for the local operation.

Section 13 Exemption for Nonprofit Organizations and Authorities.

No occupation tax shall be levied or assessed on any State or local authority or nonprofit organization.

Section 14 Evidence of State Registration Required if Applicable.

Each person who is licensed under Title 43 of the State license examining boards shall provide evidence of proper state licensure before the city business registration may be issued.

Section 15 Evidence of Qualification Required if Applicable.

A. Any business required to obtain health permits, bonds, certificate of qualification, certificates of competency, certificate of occupancy, or any other regulatory matter shall first, before the issuance of a City business registration, show evidence of such qualification.

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

Section 16 Liability of Officers and Agents; Registration Required; Failure to Obtain.

All persons subject to the occupation taxes provided in this Resolution shall be required to obtain the necessary business registration for said business prescribed in this Resolution, and in default thereof the officer or agent soliciting for or representing such persons shall be subject to the same penalty as other persons who fail to obtain a registration. Every person commencing business in the City of Maysville after January 1 of each year shall likewise obtain the business registration herein provided for before commencing the same; and any person transacting, or offering to transact in the City, any of the kinds of business, trade, profession or occupation subject to this Resolution without first having so obtained said business registration, shall be subject to penalties provided herein and upon conviction, be punished as provided in Section 18 of this Resolution.

Section 17 When Registration and Tax Due and Payable; Effect of Transacting Business when Tax Delinquent.

A. Each such business registration shall be for the calendar year in which the business registration was obtained unless otherwise specifically provided. There is

hereby imposed a penalty upon each business which fails to apply for and obtain an appropriate business registration and pay all tax and fees as provided herein before January 1 of each year, and on January 1 each year hereafter. Every person commencing business in the City of Maysville after January 1 of each year shall obtain the business registration required before commencing such business. Any person transacting or offering to transact in the City, any business, trade, profession or occupation without first having obtained said business registration shall be subject to the penalties provided in Section 18 hereof. Said penalties shall be in addition to all other penalties, civil and criminal herein provided; and may be collected by the remedies herein provided for collection of the occupation tax, and shall have the same lien and priority as the occupation tax to which the penalty is applied.

B. The business registration herein provided for shall be issued by the Business License Director, and if any person, firm, or corporation whose duty it is to obtain a business registration shall, after said occupation tax becomes delinquent, transact or offer to transact, in the City, any of the kinds of business, trade, profession or occupation subject to this Resolution without having first obtained said business registration, such offender shall be subject to the penalties provided in Section 18 below.

C. Should any tax or fee imposed by this Resolution remain due and unpaid for 90 days from the due date of the tax or fee, the person liable for the tax or fee shall be subject to and shall pay a penalty of 10% of the tax and fee due, plus interest on the amount of tax and fee due at a rate of 1.5% per month.

Section 18 Penalty of Article Violation.

Any person violating any provision of this Resolution inclusive of Parts I and II shall upon conviction be punished by a fine not to exceed \$500.00 or by confinement in the county jail not to exceed ten days, either or both in the discretion of the Court. (However, any person whose qualifications to practice their profession is determined by the general laws of the State of Georgia and who fails to pay an occupation tax as provided in this Resolution shall only be subject to the civil penalties provided in this Resolution.).

Section 19 Business Inspector.

The Business License Director and his duly designated assistants or their successors shall be classified as deputy business inspectors with full subpoena and arresting powers in conjunction with any violation pertaining to the Business Occupation Tax and Regulations Resolution for 1996 and succeeding years thereafter.

Section 20 Business Not Covered by this Article.

The following businesses are not covered by the provisions of this Resolution 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 an act of local law.

- A. Those businesses regulated by the Georgia Public Service Commission.
- B. Those electrical service businesses organized under Chapter 3 of Title 46 of the Official Code of Georgia Annotated.
- C. Any farm operation for the production from or on the land of agricultural products, but not including agribusiness.

Section 21 Occupation Tax Inapplicable Where Prohibited by Law or Provided for Pursuant to Other Existing Law.

This occupation tax is not levied upon the number of employees of any part of a business where such levy is prohibited or exempted by the laws of Georgia or of the United States.

Section 22 When Occupation Tax Due and Payable.

The amount of occupation tax shall be payable to the said City, at the Business License office of the City, on January 1 each year and delinquent if not paid on or before 90 days from the due date of the tax or fee.

Section 23 Payment of Occupation Tax by Newly Established Businesses.

A. In the case of a business subject to occupation tax for a calendar year, which was not conducted for any period of time in the City of Maysville in the preceding year, the owner, proprietor, manager or executive officer of the business liable for occupation tax shall estimate the number of employees from commencing date to the end of the calendar year and such tax shall be paid as provided in Section 22 of this Resolution.

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 50 percent (50%) of the tax imposed for the entire year and shall be payable before commencing such business.

Section 24 Public Hearing on Increased Revenue.

In any year when revenue from occupation taxes in the City of Maysville is greater than revenue from occupation taxes for the preceding year in the City of Maysville, the City shall hold one or more public hearings as a part of the process of determining how to use the additional revenues.

Section 25 Returns Confidential.

A. Except as provided in Section 25(B) of this Resolution, information provided to the City of Maysville by a business or practitioner of an occupation or profession for the purpose of determining the amount of occupation tax for the business or practitioner is confidential and except from inspection or disclosure under the Georgia Open Records Act (O.C.G.A. Section 50-18-70, et. seq.).

B. Information provided to the City of Maysville by a business or practitioner of an occupation or profession for the purpose of determining the amount of occupation tax for the business or practitioner may be disclosed to the governing authority of another local government for occupation tax purposes or pursuant to court order or for the purpose of collection of occupation tax or prosecution for failure or refusal to pay occupation tax.

Section 26 Inspection of Books and Records.

In any case the Business License Director of the City, through his officers, agents, employees or representatives, may inspect the books of the business upon which the applications are made. The Business License Director or his designee shall have the right to inspect the books or records of the business for which the application was made in the City, and upon demand of the Business License Director or his designee such books or records shall be submitted for inspection by a representative of the City within thirty (30) days. Failure of submission of such books or records within thirty (30) days shall be grounds for revocation of the business registration currently existing to do business in the City. Adequate records shall be kept in the City of Maysville, Georgia, for examination by the Business License Director or his designee at his discretion. If, after examination of the books or records, it is determined that a deficiency occurs as a result of under-reporting, a penalty of ten percent (10%) of the tax due over 90 days shall be assessed.

Section 27 Registration to Be Revoked for Failure to Pay Tax, File Returns, Permit Inspection of Books.

Except for a person whose qualifications to practice his or her profession is determined by the general laws of the State of Georgia, the failure of any business to pay said occupation tax or any part thereof before it becomes delinquent as above provided, any business tax registration granted by the City under this Resolution permitting the owner of said business to do business in the City for the current year shall be, ipso facto, revoked. No new business tax registration shall be granted by the City for the operation of a business for which any part of the occupation tax herein provided for is at that time unpaid, or to a person who has failed to submit adequate records as requested.

Section 28 Effect of Failure to Comply with Article Provisions; Continuing in Business After Registration Revocation.

Any person, their manager, agent or employee, who does business in the City after the registration for said business has been revoked as provided above; any person, their manager, agent or employee, is hereby required to make returns showing the number of employees and those who fail to make said returns within the time and in the manner herein provided, or refuse to amend such returns so as to set forth the correct information, or who shall make false returns; and any person, their manager, agent or employee who refuses to permit an inspection of books in their charge when the officer(s), agent(s), employee(s) or representative(s) of the City requests such inspection, during normal business hours, for the purpose of determining the accuracy of the returns herein provided for, shall be subject to the penalties provided in Section 18 of this Resolution.

Section 29 Execution for Delinquent Occupation Tax.

In addition to the other remedies herein provided for the collection of the occupation tax herein levied, the Tax Commissioner of Banks and/or Jackson County or designated City Representative of the City of Maysville, upon any tax becoming delinquent and remaining unpaid, shall issue execution for the correct amount of said tax against the person liable for said tax, which execution shall bear interest at the rate of one percent (1%) per month from the date when such tax or installment becomes delinquent, and the lien shall cover the property of the person liable for said tax, all as provided by the Resolutions of the City of Maysville, Georgia, and the laws of Georgia. The lien of said occupation tax shall become fixed on and dated from the time when such tax becomes delinquent. The execution shall be levied by the Marshall of the City of Maysville or Sheriff of Banks and/or Jackson County upon the property of the person liable for said tax, and sufficient property shall be advertised and sold to pay the amount of said execution, with interest and costs. All other proceedings in relation thereto shall

be had as is provided by the Resolutions of the City of Maysville and the laws of Georgia, and the defendant in said execution shall have rights of defense, by affidavit of illegality and otherwise, which are provided by the Resolutions of the City of Maysville and the laws of Georgia in regard to tax executions. When a nulla bona entry has been entered by proper authority upon an execution issued by the Tax Commissioner of Banks and/or Jackson County or designated City Representative of the City of Maysville, Georgia, against any person defaulting on the occupation tax, the person against whom the entry was made shall not be allowed or entitled to have or collect any fees or charges whatsoever for services rendered after the entry of the nulla bona. If, at any time after the entry of nulla bona has been made, the person against whom the execution issues pays the tax in full together with all interest, penalties and costs accrued on the tax, the person may collect any fees and charges due the person as though the person had never defaulted in the payment of the taxes.

Section 30 Amendment, Repeal of Provision.

Subject to the provisions of Section 34 hereof, this Resolution shall be subject to amendment or repeal, in whole or in part, at any time and no such amendment or repeal shall be construed to deny the right of the Mayor and Council to assess and collect any of the taxes or other charges prescribed. Said amendment may increase or lower the amounts and tax rates of any occupation and may change the classification thereof. The payment of any occupation tax provided for shall not be construed as prohibiting the levy or collection by the City of additional occupation taxes upon the same person, property or business.

Section 31 Applications of Provisions to Prior Ordinance.

This Resolution does not repeal or affect the force of any part of any ordinance or resolution heretofore passed where taxes levied under such prior Ordinance or Resolution have not been paid in full. So much and such parts of Ordinances and/or Resolutions heretofore and hereinafter passed as provided for the issuing and enforcing of execution for any tax or assessment required by such Ordinances or Resolutions, or that imposed fines or penalties for the nonpayment of such tax, or for failure to pay regulatory fees provided for in said Ordinance or Resolution, or failure to comply with any other provisions hereof, shall continue and remain in force until such tax, regulatory fee or assessment shall be fully paid.

Section 32 Enforcement of Provision.

It is hereby made the duty of the Business License Director, and the Marshall of the City of Maysville to see that the provisions of this Resolution relating to business

occupation taxes and regulations are observed; and to summon all violators of the same to appear before the Municipal Court of Maysville. It is hereby made the further duty of the Business License Director and the Marshall of the City of Maysville, their designees and assistants, to inspect all business registrations issued by the City, as often as in their judgment it may seem necessary to determine whether the business registration held is the proper one for the business sought to be transacted thereunder.

Section 33 Provisions to Remain in Full Force and Effect Until Changed by the Mayor and Council.

This Resolution shall remain in full force and effect until changed by amendment adopted by the Mayor and Council. All provisions hereto relating to any form of tax herein levied shall remain in full force and effect until such taxes have been paid in full.

Section 34 Requirement of Public Hearing Before Adoption of Tax.

The Mayor and Council shall conduct at least one public hearing before adopting any Ordinance or Resolution regarding the occupation tax.

Section 35 Option to Establish Exemption or Reduction in Occupation Tax.

The Mayor and Council may by subsequent Ordinance or Resolution provide for an exemption or reduction in occupation tax to one or more types of businesses or practitioners occupations or professions as part of a plan for economic development or attracting or encouraging selected types of businesses or practitioners of selected occupations or professions. Such exemptions or reductions in occupation tax shall not be arbitrary or capricious.

Section 36 Conflicts Between Specific and General Provisions.

Where there is an apparent conflict in this Resolution between specific and general provisions, it is the intention hereof that the specific shall control.

BUSINESS OCCUPATION TAX AND REGULATIONS

INTRODUCTION: This Resolution consists of Part I (Business Occupation Tax) and Part II (Business Regulations), all sections inclusive therein.

PART II - BUSINESS REGULATIONS

Section 37 General Authority.

The business registration is subject to the right of the Mayor and Council of the City of Maysville to regulate and exercise police power over any occupation, business, trade, profession or calling and the right of the Mayor and Council to prescribe such rules and regulations as may be necessary in the exercise of the police power and for the protection and the promotion of the public health, safety and welfare and to provide for the suspension of or for the forfeiture of business registration upon failure to comply with this Resolution or any amendment thereof or any other Federal, State or local law, rule or regulation.

Section 38 Business Registration -- Requirement.

Unless otherwise expressly provided by any applicable Federal or State law, it shall be unlawful for any person, firm or corporation to engage in any occupation, trade, profession, or calling with an office or other business location in the City of Maysville, Georgia, without first registering and paying the administrative fee and occupation tax in the amounts set out in Sections 3 and 4 of this Resolution.

Section 39 Business Registration -- Number -- Term -- Expiration.

A business registration shall have a number and expiration date of December 31 of each year. A business having an existing business registration issued by the City of Maysville must obtain a new business registration on or before the expiration date of the existing business registration in order to continue to conduct business following the expiration of the business registration, unless otherwise provided herein.

Section 40 Business Registration--Transfer.

The business registration shall not be transferable to another person, firm or corporation in the same location. The business registration may be transferred from one business location to another provided the ownership of the business remains the same.

Section 41 Business Registration--Applications--Contents--Investigation--Restrictions.

All applications for a business registration shall be on forms prepared by the Mayor and Council or the Business License Director.

- A. The application shall include:
1. The name of the business;
 2. The location of the business;
 3. The mailing address of the business and the telephone number of the business;
 4. The name and address of the owner of the business, and if a corporation, the name of the person responsible for corporate affairs in the City of Maysville;
 5. The name of the manager at the business location;
 6. The nature of the business;
 7. The number of employees or such other information as may be required to assess the occupation tax;
 8. Such other information as may be required to carry out the provisions of this Resolution.

B. Upon completion of the application and the payment of the tax and any applicable fees, the director shall make such investigations and require such reports as necessary to carry out this Resolution. Upon receipt of the necessary reports and investigations, the director shall either issue the business registration or refer the application to the Mayor and Council. If the application is referred to the Mayor and Council, the applicant shall be notified in person or by mail at his business address.

Section 42 Business Registration--Issuance--Denial--Hearings.

Whenever an application is referred to the Mayor and Council under Section 41(B) of this Resolution, the Mayor and Council shall make such investigations and hold such hearings as it shall determine to be necessary or appropriate to legally determine the

issues. After notice and hearing, the Mayor and Council may either issue the business registration, issue the business registration with conditions, or deny the business registration, as necessary, in the opinion of the Mayor and Council, to safeguard the public health, safety and general welfare and security of the City.

Section 43 Business Registration Denial--Exceptions.

The Mayor and Council may deny a business registration to any business engaged in an unlawful activity or operated in such a manner as to violate lawful ordinances or resolutions adopted by the Mayor and Council of the City of Maysville or any other applicable laws, rules and regulations. Unlawful activity shall include, but not be limited to, activities in violation of the zoning regulations and the electrical, health, building and fire codes of the City of Maysville.

Section 44 Business Registration--Grounds for Revocation.

The Mayor and Council shall have the right, after notice and hearing, to revoke any business registration issued hereunder on the following grounds:

- A. Violation of this chapter;
- B.
 - 1. Violation of other laws and resolutions of the City pertaining to the carrying on of such business as would affect the health, safety, and welfare of the public or the City.
 - 2. Violation of a law of the United States or the State of Georgia, which affects the public health, welfare and safety.
- C. Fraudulent business practices.
- D. The business constitutes a nuisance. For the purposes hereof, a nuisance is defined as follows: "A nuisance is anything that works hurt, inconvenience, or damage to another; and the fact that the act done may otherwise be lawful shall not keep it from being a nuisance. The inconvenience complained of shall not be fanciful, or such as would affect only one of fastidious taste, but it shall be such as would affect an ordinary reasonable person."

Section 45 Business Registration--Grounds for Revocation-Preliminary Investigation.

Where it is reported to the Business License Director or Marshall that a holder of a City business registration is engaged in any activity which could form the basis for a revocation of said business registration under Section 44 of this Resolution, a preliminary investigation shall be conducted by the Business License Director or Marshall in order to determine whether or not there is a basis for the reports. If the Business License Director's or Marshall's preliminary investigation reveals that there may be a basis for revocation or suspension of the business registration, the business registration holder will be notified to appear before the Mayor and Council for a hearing under the provisions of Section 47 of this Resolution.

Section 46 Seizure of Business Registration--Applicable Businesses.

If the Business License Director or Marshall of the City shall find that a business is in violation of a law of the State of Georgia or in violation of a law or resolution of the City and that the continued operation of the business would create a clear and present danger to the health, safety and general welfare and security of the City, the Business License Director or Marshall shall be empowered to seize and temporarily suspend the business registration of the business. The Business License Director or Marshall shall deliver the business registration to the clerk of the City of Maysville upon the next working day of the clerk. The Mayor shall then schedule a special hearing of the Council to consider further action upon the order within thirty (30) days of the date upon which the clerk of the City received the business registration from the Marshall.

Section 47 Business Registration--Revocation--Hearing--Notification.

A. When a matter is transmitted by the Business License Director or the marshall to the clerk of the City of Maysville for possible suspension or revocation, the Mayor shall schedule a hearing before the Council. The Mayor and Council shall make such investigations as it deems necessary and shall conduct the hearing pursuant to such procedures as the Mayor and Council shall determine in good faith to be lawful and appropriate.

B. The holder of the business registration shall be notified in person or by mail at his business address of the date and time of the hearing. The holder of the business registration may appear in person or be represented by counsel.

C. At the conclusion of the hearing, the Mayor and Council, based upon evidence submitted at the hearing, shall enter an order making a finding of fact and then:

1. Find that the evidence does not authorize revocation or suspension; or
2. Issue a warning to the holder of the business registration; or
3. Suspend the business registration and probate the suspension; or
4. Revoke the business registration and probate the revocation ; or
5. Suspend the business registration; or
6. Revoke the business registration; or
7. Take any other appropriate action regarding the business registration.

Section 48 Business Registration--Revocation--Hearing--Appeal.

A. Any person, firm or corporation may appeal any action, order, decision, or determination of the director or any other administrative official to the Mayor and Council. The appeal is limited to an alleged error of the official from which the appeal is taken.

B. The appeal shall be filed in writing with the clerk of the City within fifteen days following the date on which the alleged error was made. Upon receiving the appeal, the clerk shall schedule a hearing before the Mayor and Council and notify all parties to the appeal by mail at their business address of the time and date of the appeal hearing.

C. All parties to the appeal may appear in person or be represented by counsel.

D. The Mayor and Council shall conduct the hearing as the Mayor shall see fit. At the conclusion of the hearing, the Mayor and Council shall enter an order making a finding of fact and shall have all the powers of the official from which the appeal was taken.

Section 49 Mayor and Council's Decisions are Final.

Any decision, order, requirement or determination of the Mayor and Council of the City shall be a final administrative determination. Any application for relief from an official action of the Mayor and Council shall be as set forth in Section 50 of this Resolution.

Section 50 Appeal of Final Decision.

A. Any person, firm or corporation who may have a substantial interest in any decision of the Mayor or Council may appeal from any final decision of the Mayor and Council to the Superior Court of Banks and/or Jackson County by filing with the clerk of the court a notice of appeal in writing setting forth plainly, fully and distinctly wherein such decision is contrary to law. Such notice of appeal shall be filed within (30) days after the decision of the Mayor and Council is rendered. A copy of the notice of appeal shall be served on the clerk of the City. Upon the filing of a notice of appeal, the clerk of the superior court shall give immediate notice thereof to the clerk of the City, and within thirty days from the time of such notice the clerk of the City shall cause to be filed with the clerk of superior court a duly certified copy of the minutes of the proceedings had before the Mayor and Council and the decision of the Council.

B. In the event of an appeal to the Superior Court, the appellants shall bear the cost of preparing the necessary documents as required by the court.

C. At the next term of the County Superior Court, or in vacation upon ten days' notice to the parties, the judge of the court shall proceed to hear and pass upon the appeal. In determining the questions presented by the appeal, the Superior Court shall determine only whether the decision of the Mayor and Council is correct as a matter of law, and shall not review issues of fact, unless such a review is otherwise required by law.

practitioners (as set forth in Section 4 of the Resolution) on January 1, 1997, and each calendar year thereafter, the public health, safety, and general welfare demanding it.

**MAYOR AND COUNCIL OF THE CITY
OF MAYSVILLE**

By: M. F. Jant
Mayor

Caroline Strickland
Council Member

Jackie McElroy
Council Member

William Austin
Council Member

Council Member

Council Member

ATTEST:

Lisa H. Hoyer
Clerk