

AN ORDINANCE

To impose occupation taxes on businesses subject to the jurisdiction of the Town of Turin; to provide definitions; to provide penalties and enforcement; to repeal conflicting ordinances; to provide an effective date; and for other purposes.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF TURIN, GEORGIA:

Occupation Taxes.

Section 1. Definitions. The following words, terms and phrases shall, for the purposes of this chapter, have the following meaning:

- (A) "Town" means the Town of Turin.
- (B) (1) Except as otherwise provided in subparagraph (2) of this paragraph, "employee" means an individual whose work is performed under the direction and supervision of an employer who 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.
- (2) 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 that issues to such individual for purposes of documenting compensation a form I.R.S. W-2.

(3) With respect to the taxation of businesses or practitioners with no location or office in Georgia, "employees" may only include employees working substantially in Georgia.

(C) "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 vehicle used for sales or delivery by a business or practitioner of a profession or occupation which has a location or office. A location that is the site of personal property which is rented or leased from 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.

(D) "Occupation Tax" means a tax levied for revenue purposes on persons, partnerships, corporations, or other entities for engaging in an occupation, profession, or business in the Town of Turin.

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

Section 2. Occupation Tax Levied; Computation of Full-Time Employees; Occupation Tax Schedule; Limitations.

(A) An occupation tax based upon number of employees is levied upon businesses and practitioners of professions and occupations if the business or practitioner:

(1) Has one or more locations or offices within the corporate limits of the Town; or

(2) Is an out-of-state businesses or practitioners with no location or office in the Town but:

(a) Has employees or agents engaging in substantial efforts to solicit business or serve customers or clients within the corporate limits of the Town; or

(b) Owns personal or real property that generates income and is located within the corporate limits of the Town.

(B) The occupation tax is levied based on the number of employees of the business or practitioner as computed on a full-time 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 employees who work less than 40 hours weekly shall be added and such sum shall be divided by 40 to produce full-time position equivalents.

(C) The occupational tax is levied in accordance with the following schedule:

1	<u>\$100.00</u>
2-5	<u>\$150.00</u>
6-9	<u>\$200.00</u>
10-12	<u>\$250.00</u>
13-15	<u>\$300.00</u>
More than 15	<u>\$500.00</u>

(C) The Town shall not require the payment of more than one occupation tax for each location of a business or practitioner.

(D) A business or practitioner that has locations in Georgia and is subject to occupation tax by more than one local government in Georgia shall only be subject to occupation tax by the Town of Turin for the number of employees who are employed within the corporate limits of the Town.

- (1) This limitation shall only apply when the business or practitioner has provided to the Town satisfactory proof of current payment of the occupation tax of the other local government(s).
 - (2) If an employee works for the same business in more than one jurisdiction, the Town or county in which the employee works the most in a calendar year may count the employee for occupation tax purposes.
- (F) A business or practitioner with no location or office in Georgia shall only be required to pay occupation tax to the local government in Georgia where the largest dollar volume of business is done or service is performed by such business or practitioner.
- (1) This limitation shall only apply when the business or practitioner has provided to the Town satisfactory proof of as to the applicability of this subsection.
 - (2) If a business or practitioner with no location or office in Georgia provides to the Town proof of payment of a local business or occupation tax in another state that purports to tax the business's or practitioner's sales or services in this state, then the business or practitioner shall be exempt from this occupation tax.
- (G) Real estate brokers shall be subject to occupation tax pursuant to this ordinance only if they maintain a principal or branch office in the Town.

Section 3. Practitioners of Professions and Occupations. Practitioners of professions and occupations enumerated in O.C.G.A. 48-13-9(c) shall pay the occupation tax as set forth in Section 2 above or shall pay an occupation tax of \$250.00 per practitioner. On the tax return for 2020 or such later time as the practitioner first commences business in the Town, the practitioner shall elect either

method of taxation. Such election shall be changed for subsequent calendar years only by a written request filed by the practitioner on or before February 1 of the year in which the election is to be changed.

Section 4. Insurance Companies and Agents.

Each insurance company doing business in the Town shall pay an annual license fee of \$15.00 and an additional fee in the same amount for each separate business location in excess of one operated and maintained by such company within the Town. Each separate business location of an insurance company operated and maintained by a business organization which is engaged in the business of lending money or transacting sales involving term financing and which, in connection with the loans or sales involving term financing, offers, solicits, or takes applications for insurance through a licensed agent of the insurance company shall pay an annual fee of \$10.00

Section 5. Exemptions.

- (A) No occupation tax shall be levied on the following:
- (1) Disabled veterans of any war or armed conflict in which any branch of the United States armed forces was involved, whether under United States command or otherwise;
 - (2) Blind persons;
 - (3) Veterans of peace-time service in the United States armed forces who has a physical disability which was incurred during that service;
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- (4) Any practitioner whose office is maintained by and who is employed in practice exclusively by the United States, the state, a municipality or county of the state, or instrumentality of the United States, the state, or a municipality or county of the state;
- (5) Any state or local authority, nonprofit organization, or vendor acting pursuant to a contract with a tax-exempt agricultural fair;
- (6) Real estate brokers, except at the principal or branch office of a real estate broker;
- (7) Motor vehicles required to be registered with the Public Service Commission;
- (8) Those businesses regulated by the Georgia Public Service Commission;
- (9) Those electrical service businesses organized under Chapter 3 of Title 46 of the Official Code of Georgia;
- (10) Any farm operation for the production from or on the land of agricultural products, but not including any agribusiness;
- (11) Non-profit, agricultural product cooperative marketing associations pursuant to O.C.G.A. § 2-10-105;
- (12) Motor common carriers pursuant to O.C.G.A. § 46-7-15;
- (13) Persons purchasing guano, meats, meal, flour, bran, cottonseed, or cottonseed meal and hulls in carload lots for distribution among the purchasers for use and not sale pursuant to O.C.G.A. § 48-5-355;
- (14) Pursuant to O.C.G.A. § 48-5-356 for persons selling or introducing into the Town agricultural products or livestock, including animal products, raised in this state when the sale and introduction are made by the producer of the product and the sale is made within ninety (90) days of the introduction of the product into the Town;
- (15) Depository institutions pursuant to O.C.G.A. § 48-6-93; or
- (16) Any business on which the levy of such occupation tax is prohibited by the laws of the State of Georgia or the United States.

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- (B) The exemptions and limitations contained in this ordinance shall not be construed to repeal or otherwise affect in any way any franchise fees, business taxes or other fees or taxes otherwise allowed by law.

Section 6. Evidence of State Registration When Required. Each person who is licensed under Title 43 of the Official Code of Georgia Annotated by the Examining Boards of the Secretary of State's Office shall provide evidence of proper and current State licensure before any Town occupation tax certificate may be issued.

Section 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 an occupation tax certificate, show evidence of such qualification.
- (B) Any business required to submit an annual application for continuance of the business shall do so before the registration is issued.
- (C) The Town shall not impose registration or other regulatory requirements on attorneys authorized to practice law by the State Bar of Georgia.

Section 8. Filing Returns; Other Information Required or Requested.

- (A) On or before January 31 of each year, an individual, business or practitioner subject to this occupation tax ordinance shall file with the Town Clerk, on a form approved by and available from the Town, a signed return attesting to the number of employees of such business or practitioner during the calendar year.
- (B) Individuals, businesses and practitioners doing business in the Town shall submit to the Town Clerk or make available to the Town within 30 days or such longer time period as the Town deems
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appropriate such information as may be required or requested by the Town to determine the applicability and amount of the occupation tax or to facilitate levying or collecting the occupation tax.

Section 9. Date Due; Penalty and Interest.

- (A) Any occupation tax due pursuant to this ordinance shall be due and payable annually within thirty (30) days of January 1 for the preceding calendar year. Occupation taxes imposed on businesses commencing after January 1 will be due and payable 30 days following the commencement of business. If a person commences business on or after July 1, the occupation tax for the remaining portion of the year shall be 50 percent of the tax imposed for the entire year.
- (B) If a business or practitioner commences business in the Town on or after July 1 in any year, the occupation tax for the remaining portion of the year shall be fifty percent (50%) of the tax imposed for the entire year.
- (C) Payment of an occupation tax shall not be required prior to the commencement of business, nor shall it in any other manner act as a precondition on the practice of law.
- (D) Any individual, business or practitioner subject to any occupation tax imposed by this ordinance which is unpaid for ninety (90) days after the date on which payment was due shall be subject to a penalty of ten percent (10%) of the tax or fee due, and interest at the rate of 1.5 percent (1.5%) per month.

Section 10. Enforcement; Violations.

- (A) It is the duty of the Town Clerk to administer and enforce the provisions of this ordinance, to perform all functions necessary to administer and enforce this ordinance and to summon violators of this ordinance to appear before the Municipal Court. The Town Clerk may issue executions against individuals, businesses and practitioners for taxes or fees which are due and owing; any penalty imposed by section; and any interest imposed by section 9.
- (B) The Town Clerk shall issue executions against individuals, businesses and practitioners for taxes or fees which are due and owing, penalties, or interest. Such executions shall bear interest at the rate authorized by O.C.G.A. § 48-2-40 or, if

such statute should be repealed or ruled invalid by a court of competent jurisdiction, one percent (1%) per month. The lien shall cover the property of the individual, business or practitioner liable for payment of the delinquent occupation tax and become fixed as of the date and time the occupation tax became delinquent. The execution shall be levied by the Mayor of the Town upon property of the delinquent tax or fee payer located in the Town and sufficient property shall be advertised and sold to pay the amount of the execution, including penalty, interest and costs. All other proceedings in relation thereto shall be as provided by the Code and Charter of the Town and the laws of Georgia. The defendants at execution shall have the rights of defense, by affidavit of illegality of the tax or otherwise as provided by the Charter of the Town and the laws of Georgia in regard to tax executions.

- (C) Individuals, businesses and practitioners who fail or refuse to pay any occupation tax charged pursuant to this ordinance shall be subject to a civil fine, to be imposed by court of competent jurisdiction over enforcement of Town's ordinances, not more than \$500, that may be enforced by the contempt power of the court.
- (D) Individuals, businesses and practitioners who fail or refuse to make a timely or truthful tax return or make available truthful and accurate information the Town requests or requires for determining applicability or amount of occupation tax or for levying or collecting such occupation tax shall be subject to a civil fine, to be imposed by court of competent jurisdiction over enforcement of Town's ordinances, not more than \$500, that may be enforced by the contempt power of the court.

- (E) All persons subject to the occupation tax imposed by this ordinance shall be required to file for and pay such tax or fee. For failure to do so, any officers or agents soliciting for or obtaining business for such person, business or practitioner shall be subject to the same penalty as other persons, businesses or practitioners who fail to make a return for or pay the applicable occupation tax.

Section 11. Public Hearings.

- (A) After January 1, 2020, the Town shall conduct at least one public hearing before adopting any ordinance or resolution which will increase the occupation tax rate specified in Section(s) 2, 3 and/or 4.
- (B) In any year when revenue from occupation taxes is greater than revenue from occupation taxes for the preceding year, the Town shall hold one public hearing as part of the process of determining how to use the additional revenue.

Section 12. Prior Ordinance. To the extent that any occupation taxes are owed pursuant to an ordinance passed prior to this one, such amounts remain due and owing and the provisions of that prior ordinance will remain in effect with respect to such unpaid occupation taxes until such time as they are paid in full.

Section 13. Severability. In the event any portion of this ordinance shall be declared or adjudged invalid or unconstitutional, it is the intention of the Town Council of the Town of Turin that such adjudication shall in no manner affect the other sections, sentences, clauses or phrases of this ordinance which shall remain in full force and effect as if the invalid or unconstitutional section, sentence, clause or phrase were not originally part of the ordinance.

Section 14. Repeal of Conflicting Provisions. All ordinances or parts of ordinance in conflict with this ordinance are hereby repealed.

First Reading: October 21, 2019

SO ORDAINED in lawfully assembled open session this 18th day of November,
2019.



MAYOR

ATTEST:



Town Clerk