

AN ORDINANCE

To impose occupation taxes on businesses subject to the jurisdiction of the Town of Mitchell; 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 MITCHELL, GEORGIA:

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

- 1) "Town" means the Town of Mitchell.
- 2) "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.
- 3) "Occupation Tax" means a tax levied on persons, partnerships, corporations or other entities for engaging in an occupation, profession or business and enacted by a local government as a revenue-raising ordinance for the Town of Mitchell.
- 4) "Occupation Tax Certificate" means a document issued by the Town of Mitchell acknowledging payment of the occupation tax.
- 5) "Practitioners of Professions and Occupations" are those individuals listed in O.C.G.A. §48-13-9(c)(1)-(18) but does not include a practitioner who is an employee of a business if such business pays an occupation tax.

Section Two. Occupation Tax Levied.

- 1) An occupation tax based on a flat fee of thirty dollars (\$30.00) shall be applied uniformly to all businesses or practitioners of profession and occupations, so that each business or practitioner pays the same amount of tax for each office or location.
- 2) The Town shall not require the payment of more than one occupation tax for each location of a business or practitioner.
- 3) A business or practitioner which is subject to an occupation tax by another local government and claiming an exemption from or limitation to the occupation tax imposed by this

ordinance shall submit documentation as to current payment of the occupation tax to the other local government and the basis of such tax.

- a) 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 which 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.
 - b) 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. This limitation shall only apply when the business or practitioner has provided to the Town satisfactory proof as to the applicability of this subsection.
 - c) A business or practitioner which has locations in Georgia subject to occupation tax by more than one local government in Georgia shall only be subject to occupation tax by the Town of Mitchell for the number of employees who are employed within the corporate limits of the Town. 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).
- 4) 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.
 - 5) 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 Three. Occupation Tax Certificate. Every business, practitioner and location subject to payment of the occupation tax levied by this ordinance shall display a current occupation tax certificate in a conspicuous place at the location for which such certificate was issued. If the taxpayer does not have a permanent location within the Town, the occupation tax certificate shall be shown to any law enforcement officer upon request.

Section Four. Exemptions.

- 1) No occupation tax shall be levied on the following:

- a) 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;
 - b) Those businesses regulated by the Georgia Public Service Commission;
 - c) Those electrical service businesses organized under Chapter 3 or Title 46 of the Official Code of Georgia;
 - d) Any farm operation for the production from or on the land of agricultural products, but not including any agribusiness;
 - e) Non-profit, agricultural product cooperative marketing associations pursuant to O.C.G.A. §2-10-105;
 - f) Motor common carriers pursuant to O.C.G.A. §46-7-15;
 - g) Persons purchasing guano, meats, meal, flour, bran, cottonseed, or cottonseed meal or hulls in carload lots for distribution among the purchasers for use and not sale pursuant to O.C.G.A. §48-5-355;
 - h) 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;
 - i) Depository institutions pursuant to O.C.G.A. §48-6-93; or
 - j) Any business where the levy of such occupation tax is prohibited by the laws of the State of Georgia or the United States.
- 2) 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 Five. 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.

Section Six. Evidence of Qualification Required if Applicable.

- 1) Any business required to obtain health permits, bonds, certificates of competence or any other regulatory matter shall first, before the issuance of an occupation tax certificate, show evidence of such qualification.
- 2) Any business required to submit an annual application for continuance of the business shall do so before the registration is issued.

Section Seven. Due Date; Penalty.

- 1) Any occupation tax due pursuant to this ordinance shall be due and payable annually by January 1. In the event that any person commences business or initially engages in a regulated activity in the Town after January 1 in any year, the tax and/or fee shall be due and payable on the date of the commencement of the business or regulated activity.
- 2) 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.

Section Eight. Public Hearing. The Town shall conduct at least one public hearing before adopting any ordinance. In addition, in any year in which revenues from occupation taxes for the Town are greater than revenues from the occupation taxes for the preceding year, the Town will be required to hold one or more public hearings to determine how to use the additional revenue.

Section Nine. 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 Ten. 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 Mitchell 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 Eleven. Repeal of Conflicting Provisions. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section Twelve. Effective Date. This ordinance shall become effective January 1, 2003.

So Ordained this 14th day of October, 2002.

Scott Fark
Mayor

Attest:

Gail J. Berry
Town Clerk

Approved as to form:

[Signature]
Town Attorney

ORDINANCE TO BE ENTITLED "AN ORDINANCE TO PROVIDE FOR THE MANNER IN WHICH BUSINESS LICENSES SHALL BE REVOKED WHEN GRANTED; TO PROVIDE FOR THE REFUSAL OF CERTAIN LICENSES, IN THE DISCRETION OF MAYOR AND COUNCIL, AND FOR OTHER PURPOSES"

SECTION 1. A. Be it ordained by the Mayor and Council of the Town of Mitchell and it is hereby ordained by authority of same that from and after passage of this ordinance it shall be lawful for the Mayor and Council to give written notice to any person, firm, or corporation in the Town of Mitchell to show cause before them why his or their licenses should not be revoked;

B. Be it further provided that notice be served by the Chief of Police, the Sheriff of Glascock County, or other such person designated by the Mayor and Town Council upon such person, firm, or corporation at least five (5) days before the hearing, which notice shall state the time, place and reason for said hearing.

SECTION 2. Be it further ordained by the authority aforesaid that if at said hearing that the Mayor and Council are convinced said person, firm, or corporation is carrying on a business that is in violation of law or is using said business for the purpose of violating the law in any transaction incidental thereto; or if said business is a nuisance; it shall be lawful to revoke said license and to tender back said person, firm or corporation the unearned portion of the license for the current year.

SECTION 3. Be it further ordained that the Mayor and Council shall have the authority to refuse to grant a license to any person, firm, or corporation if in their judgment the granting of said license will cause the operation of a nuisance,

or the violation of the law in connection with said business,
or for other good reason, to be judged by the Mayor and Council.

SECTION 4. Be it further ordained by the authority
aforesaid that should any person, firm, or corporation attempt
to conduct a business after being notified that his license
has been revoked, or after being notified that the Mayor and
Council have refused to issue a license he shall be subject to
a fine not less than one dollar (\$1.00) nor more than one hundred
dollars (\$100.00); or confinement in the city jail or such place
as City prisoners are housed or work on the city streets for not
less than one (1) day or more than ninety (90) days for each
violation of this ordinance; or all or any part of said penalties
in the discretion of the Mayor.

SECTION 5. Be it further ordained that all ordinances
and parts of ordinances in conflict herewith be and the same
are hereby repealed.

The foregoing ordinance was read and passed by the Mayor
and Council on the following days:

FIRST READING: 6-3-85 UPON PASSAGE:
SECOND READING: 9-9-85 AYES: 4
NAYES: 0

Janson A. Bunt
MAYOR, TOWN OF MITCHELL

ATTEST:

Gail J. Perry
City Clerk