

ORDINANCE 95-6
AMENDMENT # 4

AN ORDINANCE TO AMEND ORDINANCE 95-6 OF THE CITY OF DAHLONEGA, GEORGIA;

**ORDINANCE 95-6 IS HEREBY AMENDED AND RESTATED
IN ITS ENTIRETY TO READ AS FOLLOWS:**

ORDINANCE 95-6
CITY OF DAHLONEGA OCCUPATIONAL TAX ORDINANCE

- Sec. 1. Occupation tax required; occupation tax required for business dealings within the City.
- Sec. 2 Construction of terms; definitions.
- Sec. 3 Regulatory fee structure.
- Sec. 4 Occupation tax levied; restrictions.
- Sec. 5 Paying occupation tax of business with no location in Georgia.
- Sec. 6 Dominant line of business to be identified on business registration.
- Sec. 7. Number of businesses considered operating in city.
- Sec. 8 Professionals as classified in OCGA § 48-13-9(c), paragraphs 1 through 18.
- Sec. 9 Practitioners exclusively practicing for the government.
- Sec. 10 Purpose and scope of tax.
- Sec. 11 When tax due and payable; effect of transacting business when tax delinquent.
- Sec. 12 Allocation of employees of businesses with multiple intra or interstate locations.
- Sec. 13 Exemption on grounds that business operated for charitable purpose.
- Sec. 14 Evidence of state registration required if applicable; state registration to be displayed.
- Sec. 15 Evidence of qualification required if applicable.
- Sec. 16 Liability of officers and agents; registration required; failure to obtain.
- Sec. 17 When registration and tax due and payable; effect of transacting business when tax delinquent.
- Sec. 18 Penalty for Ordinance violation.
- Sec.19 Department of Planning and Zoning, business inspector.
- Sec. 20 Businesses not covered by this Ordinance.
- Sec. 21 Occupation tax inapplicable where prohibited by law or provided for pursuant to other existing law.
- Sec. 22 Occupation taxes levied on business to be transacted during calendar year; filing of returns showing number of employees during preceding calendar year.
- Sec. 23 Reserved.
- Sec. 24 Payment of occupation tax by newly established businesses.
- Sec. 25 More than one place of business.
- Sec. 26 Reserved.
- Sec. 27 Returns confidential.
- Sec. 28 Inspection of books and records.
- Sec. 29 Tax certificate to be revoked for failure to pay tax, file returns, permit inspection of books.

- Sec. 30 Effect of failure to comply with Ordinance provisions; continuing in business after tax certificate revocation.
- Sec. 31 Execution for delinquent occupation tax.
- Sec. 32 Amendment, repeal of provision.
- Sec. 33 Applications of provisions to prior ordinance.
- Sec. 34 Enforcement of provision.
- Sec. 35 Provisions to remain in full force and effect until changed by council.
- Sec. 36 Requirement of public hearing.
- Sec. 37 Option to establish exemption or reduction in occupation tax.
- Sec. 38 Conflicts between specific and general provisions.
- Sec. 39 Application Requirements.
- Sec. 40 Occupation tax certificate not transferable.
- Sec. 41 Duty to keep information current.
- Sec. 42 Compliance with other ordinances and laws.
- Sec. 43 Practitioners of professions and occupations.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAHLONEGA,
GEORGIA AS FOLLOWS:**

SECTION 1. Occupation tax required; occupation tax required for business dealings within the City of Dahlonega.

For the year 1995 and succeeding years thereafter, each person engaged in any business, trade, profession or occupation in the City of Dahlonega, Georgia, whether with a location in the City of Dahlonega, or in the case of an out-of-state business with no location in Georgia exerting substantial efforts within the state pursuant to OCGA § 48-13-7, shall pay an occupation tax for said business, trade, profession or occupation; which tax and any applicable certificate, except for practitioners of professions and occupations, shall be displayed in a conspicuous place in the place of business, if the taxpayer has a permanent business location in the City of Dahlonega, Georgia. If the taxpayer has no permanent business location in the City of Dahlonega, Georgia, such business tax certificate shall be shown to the City Manager or his designee upon his or her request.

SECTION 2. Construction of terms; definitions.

(a) Wherever the term "City of Dahlonega" is used herein, such term shall be construed to mean "Dahlonega, Georgia"; wherever the term "city" is used herein, it shall be construed to mean "Dahlonega, Georgia."

(b) As used in this Ordinance, the term:

Business means any person, corporation, partnership, or other legal entity which exerts substantial efforts within the City, engages in, causes to be engaged in, and/or represents or holds out to the public to be engaged in any occupation or activity with the object of gain or benefit, either directly or indirectly.

Business 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. A temporary work site which serves multiple customers is included in this definition. The renter's or lessee's location which is the site of personal property which is rented or leased from another does not constitute a location or office for the personal property's owner, lessor, or the agent of the owner or lessor. The site of the real property which is rented or leased to another does not constitute a location or office for the real property's owner, lessor, or the agent of the owner or the 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.

Dominant line means the type of business within a multiple line business that the greatest amount of income is derived from.

Employee. (1) Except as otherwise provided in subsection (2) of this definition, "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. (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 which issues to such individual for purposes of documenting compensation a form I.R.S. W-2.

Engaged in business means doing or performing of any act of selling any goods or services, or soliciting business, or offering any goods or services for sale primarily in an attempt to make a profit, including selling or performing services of the character of a wholesaler or retailer, or being involved in any of the functions performed as a manufacturer; all of the foregoing performed either as an owner, operator or agent of any business, trade, profession, or occupation within the City.

Manufacturing means a person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or commercial use any articles, substances or commodities, including, but not limited to, the following: materials upon which commercial activities have been applied, by hand or machinery, so that as a result thereof a new substance of trade or commerce is produced; the production or fabrication of special or custom-made articles; the making, fabrication, processing, refining, mixing, slaughtering, packing, aging, curing, preserving, canning, preparing and freezing of fresh foods, fruits, vegetables and meats.

Nonprofit organization means an organization which complies with U.S. Internal Revenue Code 501-c.

Occupation tax means a tax levied for revenue raising purposes on persons, partnerships, corporations or other entities for engaging in an occupation, profession or business.

Person wherever used in this Ordinance shall be held to include sole proprietors, corporations, partnerships or any other form of business organization.

Practitioner of profession or occupation is 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 pays an occupation tax.

Regulatory fees means payments, whether designated as license fees, permit fees, or by another name, which are required by a local government as an exercise of its police power and as a part of or as an aid to regulation of an occupation, profession, or business. The amount of the regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the City. A regulatory fee may not include an administrative fee or registration fee. The City is not authorized to require any administrative fee, registration fee, or fee by any other name in connection with a regulatory fee, except an occupation tax, as defined in the Code section. Regulatory fees do not include development impact fees and defined by paragraph (8) of O.C.G.A. § 36-71-2 or other costs or conditions of zoning or land development.

Retailer means a person who sells to consumers or any other person for any purpose, other than for resale, any tangible personal property.

Services means the accommodating or performing a duty or work by a person utilizing time or talents for direct or indirect remuneration.

Wholesaler means a person who sells to jobbers or to persons, other than consumers, any tangible personal property.

SECTION 3. Regulatory fee structure.

A regulatory fee will only be imposed as provided under OCGA § 48-13-9 on those applicable businesses. A regulatory fee may not include an administrative fee.

SECTION 4. Occupation tax levied; restrictions.

(a) An occupation tax shall be levied upon those businesses and practitioners of professions and occupations with one (1) or more locations or offices within the corporate limits of the City of Dahlonega and upon the applicable out-of-state businesses with no location or office in Georgia pursuant to OCGA § 48-13-7 based upon the following criteria:

(1) Number of full-time equivalent employees of the business or practitioner determined as follows:

By adding the total number of hours worked during the preceding calendar year by all employees and dividing that total by two thousand eighty (2,080) (forty (40) hours per week times fifty-two (52) weeks), and rounding the result to the nearest whole. (Five-tenths (0.5) or greater would be rounded up; less than five-tenths (0.5) would be rounded down.)

Employees whose total number of hours worked are not available (such as salaried employees) shall be calculated at a rate of forty (40) hours per week.

In businesses where it can be shown that calculation by this method would be impractical, an alternate method may be used which would provide an accurate count of full-time equivalent employees.

An employee whose hours total more than two thousand eighty (2,080) during a year, may be counted as having worked two thousand eighty (2,080) hours.

Any alternate method is subject to the approval of the City.

(2) For the purpose of calculating full-time equivalent employees, all employees, including owners, who actually perform work at the business shall be included.

(b) Certain limitations shall apply as follows:

(1) The City shall not require the payment of more than one (1) occupational tax for each location that a business or practitioner shall have.

(2) The City shall not require an occupation tax on those employees that were taxed by occupation tax in other localities or states, provided that those businesses were taxed in full compliance with O.C.G.A. § 48-13-7 and § 48-13-14. Upon request by any city official, including but not limited to personnel of the City, finance department, and building inspection department, the operator of a business shall be required to provide proof that the business was taxed pursuant to O.C.G.A. § 48-13-7 and § 48-13-14.

(3) An occupation tax shall not be levied in any other manner except as described in this section.

(c) Occupation tax schedule.

(1) The occupation tax levied shall be based upon the following tax table:

TAX TABLE	
NUMBER OF EMPLOYEES	TAX AMOUNT
0-9	\$150.00
10-19	\$150.00 + \$6.00 per employee over 10
20-99	\$210.00 + \$4.00 per employee over 20
100 or more	\$530.00 + \$2.00 per employee over 100

SECTION 5. Paying occupation tax of business with no location in Georgia.

For out-of-state businesses with no location in Georgia, occupation taxes apply to the employees of the business which are reasonably attributed to sales or services in the state. The assessment of an occupation tax is hereby imposed on those businesses and practitioners of professions with no location or office in the state if the business' largest dollar volume of business in Georgia is in the City and the business or practitioner has one (1) or more employees or agents who exert substantial efforts within the jurisdiction of the City for the purpose of soliciting business or serving customers or clients.

SECTION 6. Dominant line of business to be identified on business registration.

The business registration of each business operated in the City shall identify the dominant line of business that the business conducts. Except for practitioners of professions and occupations, no business shall conduct any line of business without first having that line of business registered with the City and that line of business being noted by the City Manager or his designee upon the occupation tax certificate form which is to be displayed by the business owner.

SECTION 7. Number of businesses considered operating in city.

Where a person conducts business at more than one (1) store or place, each store or place shall be considered a separate business for the purpose of occupation tax.

SECTION 8. Professionals as classified in OCGA § 48-13-9 (c), paragraphs 1 through 18.

Practitioners of professions as described in OCGA § 48-13-9 (c)(1) through (18) shall elect as their entire occupation tax:

(1) For the year 1995 and subsequent years, one (1) of the following:

a. The occupation tax based on number of employees.

b. A fee of one hundred fifty dollars (\$150.00) 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.

SECTION 9. 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 10. Purpose and scope of tax.

The tax levied herein is for revenue purposes only and is not for regulatory purposes, nor is the payment of the tax made a condition precedent to the practice of any such profession, trade or calling. The occupation tax applies to those businesses and occupations which are covered by the provisions of O.C.G.A. §§ 48-13-5 to 48-13-26. All other applicable businesses and occupations are taxed by the local government pursuant to the pertinent general and/or local law ordinance. Payment of an occupation tax shall not be required as a precondition for the practice of professions and occupations as set out in O.C.G.A. § 48-13-9 (c).

SECTION 11. When tax due and payable; effect of transacting business when tax delinquent.

(a) Each such business or occupation tax shall be for the calendar year 1995 and succeeding calendar years thereafter unless otherwise specifically provided. Except for practitioners of law, said registration and occupation tax shall be payable January 15 of each year and shall be delinquent if not paid by March 15 of each year and shall be subject to penalties for delinquency as prescribed in this Ordinance. In the event that any person commences business on any date after January 15 in any year, the tax shall be due and payable thirty (30) days following commencement of the business.

(b) Except for practitioners of law, regulatory fees authorized by this Ordinance shall be paid before commencing business as a condition precedent for transacting business.

(c) Regulatory fees may be paid after commencing business when:

(1) The work done or services provided are necessary for the health and safety of one (1) or more individuals; and

(2) The work done or services provided have no adverse effect on any other person; and

(3) Regulatory fees are tendered to the local government within two (2) business days after commencing business.

(d) The tax certificate herein provided for shall be issued by the City Manager or his Designee.

Except for the practitioners of law, if any person, firm, or corporation whose duty it is to obtain a registration shall, after said registration or occupation tax become delinquent, transact, or offer to transact, in the City, any of the kind of profession, trade or calling in this Ordinance specified without having first obtained said registration and certificate, such person shall, in addition to remedies provided herein, be punished as provided in Section 18 of this Ordinance.

(e) In addition to the above remedies, the City Manager or his designee may proceed to collect delinquent business or occupation tax in the same manner as provided by law for tax executions.

(f) (1) Any occupation tax due by any practitioner of law pursuant to this Ordinance shall be due and payable within thirty (30) days of January 15 for the previous calendar year.

(2) If a practitioner of law commences business in the City on or after July 1 in any year, the occupation tax for the remaining portion of the year shall be fifty (50) percent of the tax imposed for the entire year and shall be due and payable within thirty (30) days of January 15 for the previous calendar year.

SECTION 12. Allocation of employees of businesses with multiple intra or interstate locations.

For those businesses who have multiple locations inside and outside of the City where the number of employees can be allocated to each location, the number of employees used to determine the occupational tax assessed will be those employees attributed to each city location. In the case where the number of employees attributed locally cannot be determined in those businesses with multiple locations, the total number of employees will be divided by the total number of locations in the City and elsewhere and allotted to those locations. Upon request, the business or practitioner with a location or office situated in more than one (1) jurisdiction shall provide to the City the following:

(1) Information 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.

SECTION 13. Exemption on grounds that business operated for charitable purpose.

No business on which a business registration or occupation tax is levied by this Ordinance shall be exempt from said registration or tax on the ground that such business is operated for a charitable purpose, unless eighty (80) percent or more of the entire proceeds from said business are devoted to such purpose.

SECTION 14. Evidence of state registration required if applicable; state registration to be displayed.

Each person who is licensed under Title 43 of the state license examining boards shall provide evidence of proper and current state licensure before the City 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 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 registration is issued.

SECTION 16. Liability of officers and agents; registration required; failure to obtain.

(a) All persons subject to the occupation taxes provided in this Ordinance shall be required to take out the necessary registration and obtain the necessary tax certificate for said business prescribed in this Ordinance, 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 certificate. Except for practitioners of professions and occupations, every person commencing business in the City after January 1 of each year shall likewise obtain the registration and obtain the tax certificate herein provided for before commencing the same; and any person transacting, or offer to transact in the City, any of the kinds of business, trade, profession or occupation without first having so obtained said registration, except for practitioners of professions and occupations, shall be subject to penalties provided herein and upon conviction, be punished as provided in section 6-1-18 of this Ordinance. In the case of practitioners of professions and occupations, if any person, firm, or corporation whose duty it is to obtain a registration and an occupation tax certificate shall fail to pay such tax in a timely fashion, such offender shall be subject to penalties provided in O.C.G.A. § 48-13-21.

(b) It shall be unlawful for the owner, proprietor, manager, executive officer or employee of any business, coming within the provisions of this Ordinance, to make a false registration for such business, or to give or file, or direct the giving or filing, of any false information with respect to the occupation tax due under the provisions of this Ordinance or upon which any occupation tax due under the provisions of this Ordinance is based.

SECTION 17. When registration and tax due and payable; effect of transacting business when tax delinquent.

(a) Each such registration shall be for the calendar year 1995 and each succeeding calendar year thereafter 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 March 15 of each year, on the 15th day of March of each year thereafter. The penalty for failure to comply with this section shall be assessed in the amount of ten (10) percent of the occupational tax determined to be due and owing under the provisions of this Ordinance for the first thirty (30) days or fraction thereof of delinquency and an additional one and five-tenths (1.5) percent of the occupation tax for each additional month or fraction thereof of delinquency. Said penalties shall be in addition to all other civil penalties, 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 registration certificate herein provided for shall be issued by the City Manager or his designee and, except for practitioners of law, if any person, firm or corporation whose duty it is to obtain a registration shall, after said occupation tax becomes delinquent, transact or offer to transact, in the City, any of the kind of business or trade without having first obtained said registration, such offender shall be subject to the penalties provided thereof.

(c) In the case of practitioners of law, if any person, firm or corporation whose duty it is to obtain a registration and an occupation certificate, or shall fail to pay such tax when due, the penalty for failure to comply with this paragraph shall be assessed in the amount of ten (10) percent of the occupational tax determined to be due and owing under the provisions of this Ordinance for the first thirty (30) days or fraction thereof of delinquency and an additional one and five-tenths (1.5) percent of the occupation tax for each additional month or fraction thereof of delinquency. Said penalties shall be in addition to all other civil penalties, 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.

SECTION 18. Penalty for Ordinance violation.

(a) In addition to the other remedies available to the City for the collection of special taxes, occupation taxes, and license regulatory fees due the City from persons subject to the tax or fee who fail or refuse to pay the tax or fee, the City may issue executions against the delinquent taxpayers for any or all of the following: the amount of the taxes or fees due when the taxes or fees become due; any penalty imposed by Section 17; and any interest imposed by section 17 and except for practitioners of professions and occupations, the municipal court may impose a civil fine for failure to pay the occupation tax or regulatory fee. Such a civil fine shall not exceed five hundred dollars (\$500.00) and may be enforced by the contempt power of the municipal court.

(b) Any person whose qualifications to practice their profession is determined by the general laws of the state and who fails to pay an occupation tax as provided in this Ordinance shall only be subject to the provisions of section 17 of this Ordinance.

SECTION 19. Department of Planning and Zoning; business inspector.

The City Manager and other duly designated officers and inspectors or his successors shall be classified as business inspectors with full subpoena and arresting powers in conjunction with any violation pertaining to the business tax ordinance for 1995 (this Ordinance) and succeeding years thereafter. The City Manager or his designee shall administer and enforce the provisions of this Ordinance for the levy, assessment and collection and penalties imposed herein. In carrying out its responsibilities hereunder, the City Manager or his designee shall have the following duties:

(1) To prepare and provide the necessary forms for registration of a business, and for the submission of required information as may be necessary to properly administer and enforce the provisions of this Ordinance.

(2) To issue to each person an occupation tax certificate within a reasonable time after the payment of the occupation tax assessed and levied in this Ordinance; provided, however, where under other ordinances of the City, permits, certifications, and compliance with the enumerated conditions are required for the operation of the business, the City shall not issue said certificate until the applicant exhibits to the City such obtained permits, certifications and compliances;

(3) To audit periodically, and when deemed necessary by the City, the books and records of the businesses subject to the provisions of this Ordinance, and to require the submission of such additional information as may be necessary in order to correctly determine the amount of the occupation tax due and to insure the collection of same; and

(4) The City Manager or his designee shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with this Ordinance or other laws of the City and the state or the constitution of this state for the administration and enforcement of the provisions of this Ordinance and the collection of the occupation tax and fees hereunder.

SECTION 20. Businesses not covered by this Ordinance.

The following businesses are not covered by the provisions of this Ordinance but may be assessed an occupation tax or other type of tax or fee pursuant to the provisions of other general laws of the state or by act of local law.

- (1) Those businesses regulated by the Georgia Public Service Commission.
- (2) Those electrical service businesses organized under Ordinance 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 § 2-10-105.
- (5) Insurance companies governed by OCGA § 33-8-8.
- (6) Motor common carriers governed by OCGA § 46-7-15.
- (7) Those businesses governed by OCGA § 48-5-355.
- (8) Agricultural products and livestock raised in the state governed by OCGA § 48-5-356.
- (9) Disabled veterans and blind persons with proof of exemption under OCGA § 43-12-1.
- (10) Depository financial institutions governed by OCGA § 48-6-93,
- (11) Facilities operated by a charitable trust governed by OCGA § 48-13-55.

(12) Any state or local authority or nonprofit organization.

(13) Any person engaging in casual or isolated activity and commercial transactions, where such involve personal assets and are not an occupation for the individual.

a. In regard to yard/garage sales, this exemption shall apply to persons or nonprofit organizations conducting such sales at a private residence or at a commercial location with an occupancy permit and with permission of the property owner, not exceeding four (4) events per year.

b. In regard to the rental of personally owned residences, this exemption shall apply to persons renting a maximum of five (5) residences within the state.

The City may require any business claiming not to be covered by the provisions of this Ordinance to provide specific and detailed evidence showing such non-coverage.

SECTION 21. Occupation tax inapplicable where prohibited by law or provided for pursuant to other existing law.

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

SECTION 22. Occupation taxes levied on business to be transacted during calendar year; filing of returns showing number of employees during preceding calendar year.

(a) All occupation taxes levied by this Ordinance are levied on number of employees during the calendar year. However, for convenience of both the City and the taxpayer, those businesses subject to the occupation tax levied in Section 4 and Section 8 hereof shall, on or before the times hereinafter set forth, file with the Department of Planning and Zoning the returns hereinafter specifically provided for, showing the number of full-time equivalent employees of that business during the preceding calendar year.

(b) The owner, proprietor, manager or secretary officer of the business subject to said occupation tax for the current calendar year shall, at the end of the preceding year, and on or before March 15 of the current calendar year, file with the Department of Planning and Zoning of the City, on a form furnished by the Department of Planning and Zoning, a signed return setting forth the number of full-time equivalent employees of such business for the preceding calendar year. The return calendar year 1995 shall include the number of full-time equivalent employees for calendar year 1995.

(c) Where a business subject to the occupation tax for the calendar year has been conducted for only a part of the preceding year, the number of full-time equivalent employees for such part shall be set forth in said return. Said return shall also show a figure putting the full-time equivalent employees for such part of a year on an annual basis, which figure shall bear the same ratio to the number of employees for such part year as the full year bears to such part. Said figure shall be used as the estimate of the number of full-time equivalent employees of the business for the current calendar year.

(d) If any person fails to make a return, the City Manager or his designee may make an estimate of the number of full-time equivalent employees of the business. The estimate shall be made for the period or periods in respect to which the person failed to make the return and shall be based upon any information which is or may come into the possession of the City.

(1) The City Manager, or designee, shall give to the operator written notice of his determination. The notice may be served personally or by mail; if by mail, such service shall be addressed to the operator at his address as it appears in the records of the City. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.

(2) The amount of the determination shall bear interest and penalty as required in Section 17.

SECTION 23. Reserved

SECTION 24. Payment of occupation tax by newly established businesses.

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 corporate limits of the City in the preceding year, the owner, proprietor, manager or executive officer of the business liable for occupation tax shall estimate the number of full-time equivalent employees from commencing date to the end of the calendar year and such tax shall be paid as provided in Section 11. The estimate shall be, at a minimum, the number of full-time equivalent employees which will be employed when the business begins operation.

Businesses beginning operation after July 1st of any calendar year shall pay a pro-rated business tax of fifty (50) percent of the tax which would be due on an annual basis. The administrative fee shall not be prorated.

SECTION 25. More than one place of business.

Where a business is operated at more than one (1) place, the number of employees of each location will be entered on a separate occupation tax return on a form to be furnished by the City.

SECTION 26. Reserved.

SECTION 27. Returns confidential.

Except in the case of judicial proceedings or other proceedings necessary to collect the occupation tax hereby levied, it shall be unlawful for any officer, employee, agent or clerk of the City or any other person to divulge or make known in any manner any information provided for the purpose of determining the amount of occupation tax required under this Ordinance. Such information shall be confidential and open only to the officials, employees, agents or clerks of the City using said returns for the purpose of this occupation tax levy and the collection of the tax. Independent auditors or bookkeepers employed by the City shall be classed as "agents of the City." Nothing herein shall be construed to prohibit the publication by the City officials of statistics, so classified as to prevent the identification of particular reports or returns and items thereof, or information such as name,

location, ownership and line of business with no association made to number of employees or amount of tax paid, or the inspection of the records by duly qualified employees of the tax departments of the State of Georgia or of the United States, and other local governments. Information provided by a business or practitioner may be disclosed to the governing authority of another local government for tax purposes.

SECTION 28. Inspection of books and records.

In any case the City Manager or his designee, through his officers, agents, employees or representatives, may inspect the books of the business for which the returns are made. The City Manager or his designee and/or the director of the finance department or their designees shall have the right to inspect the books or records for the business of which the return was made in the City, and upon demand of the City Manager or his designee and/or the director of the finance department or their designees 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 tax certificate currently existing to do business in the City. In the case of practitioners of professions and occupations, the City shall be sensitive to the issues of client or customer confidentiality. In such cases, the practitioner may redact information claimed to be privileged before disclosing books or records of financial transactions. If such Practitioner alleges that redaction provides inadequate protection to the confidences of its clients or customers, such Practitioner may petition the Superior Court of Lumpkin County for an in camera inspection, prior to examination by the City Manager or his designee and/or the director of the finance department. Except for practitioners of professions and occupations electing to pay a flat fee in lieu of a per employee tax, adequate records shall be kept in Dahlonega, Georgia, for examination by the City Manager or his designee and/or the director of the finance department or their designees at their 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 (10) percent of the deficiency and an additional one (1) percent of the deficiency for each month or fraction thereof that the deficiency was due and unpaid shall be assessed.

SECTION 29. Tax certificate to be revoked for failure to pay tax, file returns, permit inspection of books.

Except for a person whose qualifications to practice law are determined by the general laws of the state, the failure of any business to pay said occupation tax or any part thereof before it becomes delinquent or upon failure to permit inspection of its books as above provided, any business tax certificate granted by the City under this Ordinance 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 certificate 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 by the City Manager or his designee in accordance with provisions found in Section 22. In the case of practitioners of law, if any such person, firm, or corporation whose duty it is to obtain a registration and an occupation tax certificate shall fail to pay such tax in a timely fashion, such offender shall be subject to the penalties provided in Section 17.

SECTION 30. Effect of failure to comply with Ordinance provisions; continuing in business after tax certificate revocation.

Any persons, their manager, agent or employee, who does business in the City after the certificate for said business has been revoked as above; any person, their manager, agent or employee, who is hereby required to make returns showing the amount of full-time equivalent employees and 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 except for practitioners of professions and occupations electing to pay a flat fee in lieu of a per employee tax, 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 request such inspection, during business hours, for the purpose of determining the accuracy of the returns herein provided for, shall be subject to penalties provided in Section 18 of this Ordinance.

SECTION 31. Execution for delinquent occupation tax.

In addition to the other remedies herein provided for the collection of the occupation tax herein levied, the City Manager or his designee, upon any tax or installment of said tax becoming delinquent and remaining unpaid, may 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 and one-half (1.5) percent 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 Ordinances and Charter of the City and the laws of Georgia. The lien of said occupation tax shall become fixed on and date from the time when such tax or any installment thereof becomes delinquent. The execution shall be levied by the City Manager or his designee 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 Ordinances and the Charter of the City 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 Charter of the City 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 City Manager or his designee against any person defaulting on the occupation tax, except for practitioners of professions and occupations, 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 issued 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 32. Amendment, repeal of provision.

This Ordinance 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 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 33. Applications of provisions to prior ordinance.

This Ordinance does not repeal or affect the force of any part of any ordinance heretofore passed where taxes levied under such prior ordinance have not been paid in full. So much and such parts of ordinances heretofore and hereinafter passed as provided for the issuing and enforcing of execution for any tax or assessment required by such ordinances, 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 ordinances, 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 34. Enforcement of provision.

It is hereby made the duty of the City Manager or his designee together with designated enforcement personnel including to but not limited to the Lumpkin County Sheriff's Office to see that the provisions of this Ordinance relating to occupation taxes are observed; and to summon all violators of the same to appear before the municipal court. It is hereby made the further duty of the City Manager or his designees and assistants, to inspect all certificates issued by the City, as often as in their judgment it may seem necessary to determine whether the certificate held is the proper one for the business sought to be transacted thereunder.

SECTION 35. Provisions to remain in full force and effect until changed by council.

This Ordinance shall remain in full force and effect until changed by amendment adopted by the 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 36. Requirement of public hearing.

In any year when revenue from occupation taxes is greater than the preceding year, the City shall hold a public hearing as a part of the process for determining how to use the additional revenue.

SECTION 37. Option to establish exemption or reduction in occupation tax.

The City may by subsequent ordinance or resolution provide for an exemption or reduction in occupation tax to one (1) or more types of businesses or practitioners of 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 38. Conflicts between specific and general provisions.

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

SECTION 39. Application Requirements.

All applicants requesting an occupation tax certificate and/or regulatory fee certificate are required to provide with their application a written statement of the following information which will also be provided to the Georgia Department of Revenue:

- (A) The legal name of the business;
- (B) Any associated trade names for the business;
- (C) The mailing address for the business;
- (D) The actual physical address of each location of the business, if it is different than the mailing address;
- (E) The North American Industry Classification System Code (NAICS) applicable to such business; and
- (F) The sales and use tax identification number assigned to the business by the Georgia Department of Revenue, if the business is required by law to have such a number.

The City of Dahlonega will notify the Georgia Department of Revenue of any applicant's failure or refusal to provide the required information.

SECTION 40. Occupation tax certificate not transferable.

An occupation tax certificate and/or regulatory fee certificate shall not be transferable and a transfer of ownership shall be considered in the same light as the termination of such business and the establishment of a new business. Therefore, a new certificate shall be required for each new owner of the business.

SECTION 41. Duty to keep information current.

Any person required by this Ordinance to register his or her business shall notify the City Manager or his designee in writing within thirty (30) days of the following changes:

- (1) Any change of address of the business, in which case the same occupation tax certificate shall be valid at the new location.
- (2) Any change of ownership, in which case the transfer shall be treated as the termination of one (1) business and the establishment of a new business for the purposes of this Ordinance.
- (3) The termination of any business.

SECTION 42. Compliance with other ordinances and laws.

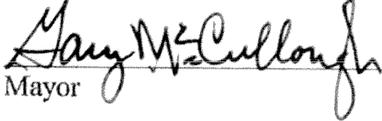
(a) All businesses are required to comply with the provisions of all ordinances of the City and other laws and the issuance of a occupation tax receipt to any business pursuant to this Ordinance shall not authorize that business to engage in or carry on business or to perform any other activity in violation of state or federal law or regulations and other ordinances of the City nor shall it relieve that business from obtaining any certificate or permit required by the provision of other laws or ordinances.

(b) No certificate shall be issued or renewed until any delinquent property taxes and other debts to the City have been paid.

SECTION 43. Practitioners of professions and occupations.

It being the intention of the mayor and council that no portion of this taxation scheme shall be construed to be, or have the practical effect of, regulation of practitioners of professions and occupations and if any provision hereof shall be construed by a court of competent jurisdiction to be an unlawful regulation of such profession, then such provision shall be considered rescinded by the mayor and council as if such provision had not been adopted, and in such case, the remaining provisions of this Ordinance shall be applied to such practitioner.

ORDAINED THIS 2nd DAY OF May, 2011 BY THE MAYOR
AND COUNCIL OF THE CITY OF DAHLONEGA.



Mayor

Attest:


City Clerk

ORDINANCE

94-10

To impose license fees on insurers conducting business within the City of Dahlonega, Georgia; to impose a gross premiums tax on insurers operating within the State of Georgia; to provide an effective date; to repeal conflicting ordinances; and other purposes.

Be it ordained by the Mayor and Council of the City of Dahlonega, Georgia; and it is hereby ordained by authority thereof:

Section 1. Insurers License Fees

There is hereby levied for the year 1995 and for each year thereafter an annual license fee upon each insurer doing business within the City of Dahlonega, Georgia in the amount of forty dollars (\$40.00). For each separate business location in excess of one not covered by Section 2, which is operating on behalf of such insurers within the City of Dahlonega, Georgia, there is hereby levied a license fee in the amount of forty dollars (\$40.00). For the purposes of this ordinance, the term "insurer" means a company which is authorized to transact business in any of the classes of insurance designated in O.C.G.A. Sec. 33-3-5.

Section 2. License Fees for Insurers Insuring Certain Risks at Additional Business Locations

For each separate business location, not otherwise subject to a license fee hereunder, 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 for insurance said insurer shall pay an additional license fee of fourteen dollars (\$14.00) per location for the year 1995 and for each year thereafter.

Section 3. Insurers Agency License Fees; Independent Insurance Agencies, Brokers, etc. not Otherwise Licensed.

There is hereby levied for the year 1995 and for each year thereafter 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 company license fee imposed by Section 1 hereof in the amount of 30.00 dollars (\$30.00) for each such location within the City of Dahlonega.

Section 4. Gross Premiums Tax Imposed on Life Insurers

There is hereby levied for the year 1995 and for each year thereafter an annual tax based solely upon gross direct premiums upon each insurer writing life, accident and sickness insurance within the State of Georgia in an amount equal to one percent (1%) of the gross direct premiums received during the preceding calendar year in accordance with O.C.G.A. Sec.33-8-8.1. Gross direct premiums as used in this section shall mean gross direct premiums as used in O.C.G.A. Sec.33-8-4. The premium tax levied by this section is in addition to the license fees imposed by Section 1 of this ordinance.

Section 5. Gross Premiums Tax, All Other Insurers

There is hereby levied for the year 1995 and for each year thereafter an annual tax based solely upon gross direct premiums upon each insurer, other than an insurer transacting business in the class of insurance designated in subsection 1 of O.C.G.A. Sec.33-3-5, doing business within the State of Georgia in an amount equal to two and one-half percent (2.5%) of the gross direct premiums received during the preceding calendar year in accordance with O.C.G.A. Sec.33-8-8.2. Gross direct premiums as used in this section shall mean gross direct premiums as used in O.C.G.A. Sec.33-8-4. The premium tax levied by this section is in addition to the license fees imposed by Section 1 of this ordinance.

Section 6. Due Date for License Fees

License fees imposed in Sections 1 and 2 of this ordinance shall be due and payable on the first day of 1995 and on the first date of each subsequent year.

Section 7. Administrative Provisions

The City Clerk is hereby directed to forward a duly certified copy of this ordinance to the Insurance Commissioner of the State of Georgia within 45 days of its enactment.

Section 8. Effective Date

This ordinance shall become effective January 1, 1995.

Section 9. Severability

In the event any portion of this ordinance shall be declared or adjudged invalid or unconstitutional, it is the intention of the City Council of the City of Dahlonega, Georgia, 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 a part of the ordinance.

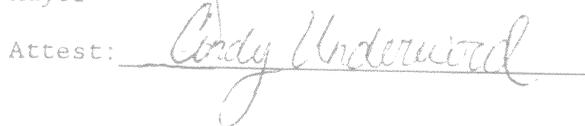
Section 10. Repealer

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Ordained this 5th day of December, 1994 by the Mayor and Council of the City of Dahlonega, Georgia.



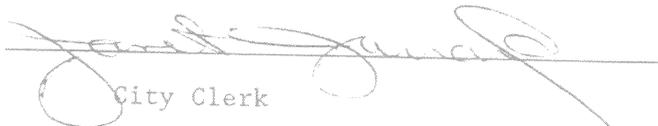
Mayor

Attest: 



City Clerk

I hereby certify that the foregoing is a true and accurate copy of an ordinance of the City of Dahlonega, Georgia adopted on the 5th day of Dec., 1994.



City Clerk

City Seal

**ORDINANCE 94-10
Amendment 1**

AN ORDINANCE TO AMEND AND ORDINANCE TO IMPOSE LICENSE FEES ON INSURERS CONDUCTING BUSINESS WITHIN THE CITY OF DAHLONEGA, GEORGIA; TO IMPOSE A GROSS PREMIUMS TAX ON INSURERS OPERATING WITHIN THE STATE OF GEORGIA; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL CONFLICTING ORDINANCES; AND OTHER PURPOSES.

Be it ordained by the Mayor and Council of the City of Dahlonega, Georgia; and it is hereby ordained by authority thereof that Ordinance 94-10 is hereby amended and restated in its entirety as follows:

Section 1. Insurers License Fees

There is hereby levied for the year 2012 and for each year thereafter an annual license fee upon each insurer doing business within the City of Dahlonega, Georgia in the amount of fifty dollars (\$50.00). For each separate business location in excess of one not covered by Section 2, which is operating on behalf of such insurers within the City of Dahlonega, Georgia, there is hereby levied a license fee in the amount of fifty dollars (\$50.00). For the purposes of this ordinance, the term "insurer" means a company which is authorized to transact business in any of the classes of insurance designated in O.C.G.A. Sec. 33-3-5.

Section 2. License Fees for Insurers Insuring Certain Risks at Additional

Business Locations

For each separate business location, not otherwise subject to a license fee hereunder, 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 for insurance

said insurer shall pay an additional license fee of seventeen and 50/100 dollars (\$17.50) per location for the year 2012 and for each year thereafter.

Section 3. Gross Premiums Tax Imposed on Life Insurers

There is hereby levied for the year 2012 and for each year thereafter an annual tax based solely upon gross direct premiums upon each insurer writing life, accident and sickness insurance within the State of Georgia in an amount equal to one percent (1%) of the gross direct premiums received during the preceding calendar year in accordance with O.C.G.A. Sec.33-8-8.1. Gross direct premiums as used in this section shall mean gross direct premiums as used in O.C.G.A. Sec.33-8-4. The premium tax levied by this section is in addition to the license fees imposed by Section 1 of this ordinance.

Section 4. Gross Premiums Tax, All Other Insurers

There is hereby levied for the year 2012 and for each year thereafter an annual tax based solely upon gross direct premiums upon each insurer, other than an insurer transacting business in the class of insurance designated in subsection 1 of O.C.G.A. Sec.33-3-5, doing business within the State of Georgia in an amount equal to two and one-half percent (2.5%) of the gross direct premiums received during the preceding calendar year in accordance with O.C.G.A. Sec.33-8-8.2. Gross direct premiums as used in this section shall mean gross direct premiums as used in O.C.G.A. Sec.33-8-4. The premium tax levied by this section is in addition to the license fees imposed by Section 1 of this ordinance.

Section 5. Due Date for License Fees

License fees imposed in Sections 1 and 2 of this ordinance shall be due and payable on the first day of 2012 and on the first date of each subsequent year.

Section 6. Administrative Provisions

The City Clerk is hereby directed to forward a duly certified copy of this ordinance to the Insurance Commissioner of the State of Georgia within 45 days of its enactment.

Section 7. Effective Date

This ordinance shall become effective January 1, 2012.

Section 8. Severability

In the event any portion of this ordinance shall be declared or adjudged invalid or unconstitutional, it is the intention of the City Council of the City of Dahlonega, Georgia, 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 a part of the ordinance.

Section 9. Repealer

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Ordained this 5th day of December, 2011 by the Mayor and Council of
the City of Dahlonega, Georgia.

Gary McCullough
Mayor

Attest: Lou Stewart
City Clerk



**ORDINANCE 83-6
AMENDMENT ONE**

AN ORDINANCE TO IMPOSE BUSINESS LICENSE TAXES ON FINANCIAL INSTITUTIONS LOCATED WITHIN THE CITY OF DAHLONEGA, TO PROVIDE AN EFFECTIVE DATE, TO REPEAL CONFLICTING ORDINANCES AND FOR OTHER PURPOSES

Be it ordained by the City Council of Dahlonega and it is hereby ordained by the authority thereof, that the above referenced ordinance of the City of Dahlonega be and is hereby amended to read as follows:

3. Financial Institutions Business License Tax
 - a) Pursuant to Code Section 48-6-93 Official Code of Georgia Annotated there is hereby levied for the year 1984 and for each year thereafter an annual business license tax upon all depository financial institutions, including but not limited to state and national banking associations, federal savings and loan associations, state buildings and loan associations, federal savings banks, state savings and loan associations, and savings banks (excluding credit unions) a business license tax at the rate of .25% of the gross receipts of said institutions as defined in Code Section 48-6-93 O.C.G.A. Notwithstanding any other provisions of this ordinance, the minimum amount of business license tax due from any depository financial institution pursuant to this ordinance shall be \$1,000 per year.

4. Due Date: Filing of Return.
 - a) Each depository financial institution within the City of Dahlonega shall file a return of its gross receipts with the City of Dahlonega on March 1 of the year following the year in which such gross receipts were measured. Said returns shall be in the manner and in the form prescribed by the Commissioner of the Department of Revenue and/or the Department of Banking and shall be based upon the allocation method set forth in subsection (d) of Code Section 48-6-93 of the Official Code of Georgia Annotated. The tax levied pursuant to this ordinance shall be assessed and collected based upon the information provided in said return.

 - b) The due date of taxes levied by this ordinance shall be April 1, 1984 and April 1 of each subsequent year.

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

ORDAINED this 3rd day of October, 1983, by the Mayor and Council of the City of Dahlonega.

Jack Roberts, Mayor

Janet Jarrard, Attest City Clerk

I, hereby certify that the foregoing is a true and accurate copy of an ordinance of the City of Dahlonega adopted October 3, 1983.

Janet Jarrard, City Clerk