

## CHAPTER 15- OCCUPATIONAL TAX ORDINANCE

To impose regulatory fees on businesses subject to the jurisdiction of the Town of Cohutta, Georgia; 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 COHUTTA, GEORGIA:**

Chapter 15 of the Code of the Town of Cohutta, Georgia, is made the last Code Section of the Book of Ordinances, currently Chapter 16, and the Occupational Tax Ordinance is inserted in lieu as Chapter 15 thereof to read as follows:

**Chapter 15-1. Definitions.** The following words, terms and phrases shall, for the purposes of this chapter, have the following meaning:

- A "Regulatory fees"** means payments, whether designated as license fees, permits fees, or by any other name, which are required by the Town to approximate the cost of regulatory activity by the Town. The regulatory fee does not include an administrative fee or registration fee. Regulatory fees do not include development impact fees as defined by paragraph (8) of Code Section 36-71-2, other costs or conditions of zoning or land development or local alcoholic beverage license fees authorized by Title 3 of the O.C.G.A.
- B "Regulatory Fee Certificate"** means a document issued by the Town of Cohutta acknowledging payment of a regulatory fee.

### **Section 15-2. Regulatory Fee.**

Businesses and individuals engaging in the occupations or businesses set forth in , must pay a non-refundable regulatory fee of One-Hundred Dollars (\$100) per year.

Professionals and licensed trades set forth in O.C.G.A. § 48-13-9(c)(1-22) as permitted under O.C.G.A. § 48-13-10(g)(2) must pay a yearly O.C.G.A. § 48-13-9(b)(1-31), regulatory fee of One-Hundred-Fifty Dollars (\$150.00).

Those Businesses and Professional and License trades are listed at Exhibit "A".

If a business or individual initially engages in an activity regulated by the Town on or after July 1 in any year, the regulatory fee for the remaining portion of the year shall be fifty percent (50%) of the regulatory fee for the entire year.

Every business, individual and location subject to payment of a regulatory fee levied by this ordinance shall display a current regulatory fee 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 regulatory fee certificate or an unaltered duplicate of such certificate shall be shown to any police officer, code enforcement officer, or other Cohutta official requesting it be shown.

### **Section 15-3. Exemptions**

The following groups shall be exempt from paying regulatory fees:

- 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;
- Blind persons;
- Veterans of peace-time service in the United States armed forces who have a disability that was incurred during the time of service;
- A local board of education; and
- Any state or local authority, nonprofit organization, or vendor acting pursuant to a contract with a tax-exempt agricultural fair.

### **Section 15-4. Date Due; Penalty and Interest.**

Regulatory fees authorized by this ordinance shall be paid before commencing business or the practice of a profession as a condition precedent for transacting business, or practicing a profession.

Regulatory fees may be paid after commencing business or the practice of a profession when:

- The work done or services provided are necessary for the health and safety of one or more individuals;
- The work done or services provided have no adverse effect on any other person; and Regulatory fees are tendered to the local government within two (2) business days after commencing business or the practice of a profession.
- Any individual, business or practitioner subject to any regulatory fee 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.
- Applications and payments may be made by mail or in such electronic format provided by the Town Website. The Town may assess a fee for payments made by check, money order, credit card, bank draft, wire transfer, a municipal account or deferred payment arrangement, if any.

### **Section 15-5. Filing Returns; Other Information Required or Requested.**

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 appropriate] such information as may be required or requested by the Town to determine the applicability and amount of the regulatory fee or to facilitate levying or collection of the regulatory fee or fees.

### **Section 15-6. Enforcement; Violations.**

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 this ordinance; and any interest imposed by this ordinance.

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, one percent (1%) per month. The lien shall cover the property of the individual, business or practitioner liable for payment of the delinquent regulatory fee and become fixed as of the date and time the regulatory fee became delinquent. The execution shall be levied by the Town Attorney 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.

Individuals, businesses and practitioners who fail or refuse to pay any regulatory fee charged pursuant to this ordinance shall be subject to a civil fine of up to \$500.00 to be imposed by the Cohutta Municipal Court over enforcement of City's ordinances, and a contempt fine of not more than \$500.

Individuals, businesses and practitioners who fail or refuse to make available truthful and accurate information the Town requests or requires for determining applicability or amount of regulatory fee, or for levying or collecting such regulatory fee shall be subject to a misdemeanor fine of up to \$500.00.

All persons subject to the regulatory fee 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 obtain the required certificate or make a return for or pay the applicable regulatory fee.

#### **Section 15-7. Administrative Remedies**

A civil action to enforce the limitation on regulatory fees may be filed after the exhaustion of administrative remedies. The prevailing party in such an action shall be awarded reasonable attorney's fees.

In the event that a business or practitioner subjected to regulatory fees pursuant to this ordinance deems such fees to exceed the reasonable cost of the regulatory activity performed, the business or practitioner shall appeal the cost of the regulatory fees to a municipal appeals board. This board shall be comprised of the Cohutta Planning and Land Use Commission, who shall be selected and approved by the members of the council. If the members of the board shall determine that the fees exceed the reasonable cost of the regulatory activity, the board shall impose a fee that does

approximate the reasonable cost of the activity.

In the event that the business or practitioner wishes to appeal the decision of the board, the business or practitioner shall appeal that decision to the full city council. If the Town council determines that the decision made by the municipal appeals board is erroneous, the Town council shall overrule that decision and determine a fee that approximates the cost of the service provided.

**Section 15-8 . 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 Cohutta 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 15-9. Repeal of Conflicting Provisions.** All ordinances or parts of ordinance in conflict with this ordinance are hereby repealed.

**Section 15-10. Effective Date.** This ordinance shall become effective on the first day of December, 2021.

So Ordained this \_\_\_\_ day of November, 2021

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Seal

## EXHIBIT "A"

O.C.G.A. § 48-13-9(c)(1-22)

### O.C.G.A. § 48-13-9(b)(1-31) Lists

- (1) Building and construction contractors, subcontractors, and workers;
  - (2) Carnivals;
  - (3) Taxicab and limousine operators;
  - (4) Tattoo artists;
  - (5) Stables;
  - (6) Shooting galleries and firearm ranges;
  - (7) Scrap metal processors;
  - (8) Pawnbrokers;
  - (9) Food service establishments;
  - (10) Dealers in precious metals;
  - (11) Firearms dealers;
  - (12) Peddlers;
  - (13) Parking lots;
  - (14) Nursing and personal care homes;
  - (15) Newspaper vending boxes;
  - (16) Modeling agencies;
  - (17) Massage parlors;
  - (18) Landfills;
  - (19) Auto and motorcycle racing;
  - (20) Boarding houses;
  - (21) Businesses which provide appearance bonds;
  - (22) Boxing and wrestling promoters;
  - (23) Hotels and motels;
  - (24) Hypnotists;
  - (25) Handwriting analysts;
  - (26) Health clubs, gyms, and spas;
  - (27) Fortunetellers;
  - (28) Garbage collectors;
  - (29) Escort services;
  - (30) Burglar and fire alarm installers; and
  - (31) Locksmiths.
- (1) Lawyers;
  - (2) Physicians licensed under Chapter 34 of Title 43;
  - (3) Osteopaths licensed under Chapter 34 of Title 43;
  - (4) Chiropractors;
  - (5) Podiatrists;
  - (6) Dentists;
  - (7) Optometrists;
  - (8) Psychologists;
  - (9) Veterinarians;
  - (10) Landscape architects;
  - (11) Land surveyors;
  - (12) Practitioners of physiotherapy;
  - (13) Public accountants;
  - (14) Embalmers;
  - (15) Funeral directors;
  - (16) Civil, mechanical, hydraulic, or electrical engineers;
  - (17) Architects;
  - (18) Marriage and family therapists, social workers, and professional counselors;
  - (19) Dealers of motor vehicles, as defined in paragraph (1) of Code Section 10-1-622;
  - (20) Owners or operators of bona fide coin operated amusement machines, as defined in Code Section 48-17-1, and owners or operators of businesses where bona fide coin operated amusement machines are available for commercial use and play by the public, provided that such amusement machines have affixed current stickers showing payment of annual permit fees, in accordance with Code Section 48-17-9;
  - (21) Merchants or dealers as defined in Code Section 48-5-354 as to their deliveries to businesses and practitioners of professions and occupations in areas zoned for commercial use; and
  - (22) Any other business, profession, or occupation for which state licensure or registration is required by state law, unless the state law regulating such business, profession, or occupation specifically allows for regulation by local governments.