

Subject Matter: Occupational Tax Ordinance
Date of First Reading: October 24, 2011
Date of Public Hearing: November 7, 2011
Date of Adoption at a Public Meeting:
November 7, 2011

**TOWN OF SHARPSBURG
COUNTY OF COWETA
STATE OF GEORGIA**

ORDINANCE NUMBER 11-09

PREAMBLE & FINDINGS

WHEREAS, the Town of Sharpsburg desires to amend its current Occupational Tax Ordinance as authorized by Article 1 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated; and

WHEREAS, it is the desire of the Town to enact this amendment to its Occupational Tax Ordinance so as to protect the safety and general welfare of the citizens of the Town and its business owners and operators and to help ensure compliance with State of Georgia Laws and Town Ordinances.

WHEREFORE, THE TOWN OF SHARPSBURG HEREBY REPEALS IN ITS ENTIRETY ITS CURRENT OCCUPATIONAL TAX ORDINANCE AND HEREBY ADOPTS, ORDAINS AND ENACTS THE FOLLOWING OCCUPATIONAL TAX ORDINANCE:

Sec. 46-66. - Construction of terms; definitions.

- (a) Wherever the term "Town of Sharpsburg" is used herein, such term shall be construed to mean "Sharpsburg, Georgia"; wherever the term "town" is used herein, it shall be construed to mean "Sharpsburg, Georgia."
- (b) As used in this article, the term:

Administrative fee means a component of an occupational tax which approximates the reasonable cost of handling and processing the occupational tax.

Town Clerk shall include the Town Clerk's designee.

Dominant line means the type of business within a multiple line business that the greatest amount of income is derived from. If the business cannot document, with business records created in the ordinary course of business, which line produces the greatest amount

of income, the business' dominant line shall be the line conducted by the business in the highest tax class pursuant to section 46-76 of this article. The business shall be taxed based upon the dominant line.

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 IRS W-2 but not a form IRS 1099.

Gross receipts.

(1) Gross receipts means the total revenue of the business or practitioner for the period, including without being limited to, the following:

- a. Total income without deduction for the cost of goods sold or expenses incurred;
- b. Gain from trading in stocks, bonds, capital assets or instruments of indebtedness;
- c. Proceeds from commissions on the sale of property, goods or services;
- d. Proceeds from fees for services rendered; and
- e. Proceeds from rent, interest, royalty or dividend income.

(2) Gross receipts shall not include the following:

- a. Sales, use or excise tax;
- b. Sales returns, allowances and discounts;
- c. Inter-organizational sales or transfers between or among the units of a parent-subsidiary controlled group of corporations as defined by 26 USC 1563(a)(1), or between or among the units of a brother-sister controlled group of corporations as defined by 26 USC 1563(a)(2), or between or among wholly owned partnerships or other wholly owned entities;
- d. Payments made to a subcontractor or an independent agent;
- e. Governmental and foundation grants, charitable contributions, or the interest income derived from such funds, received by a nonprofit organization which employs salaried

practitioners otherwise covered by this article, if such funds constitute 80 percent or more of the organization's receipts; and

f. Proceeds from sales to customers outside the state.

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 vehicle used for sales or delivery by a business or practitioner of a profession or occupation which has a location or office.

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

Person wherever used in this article shall be held to include sole proprietors, corporations, partnerships, nonprofit 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 occupational tax.

Regulatory fees means payments, whether designated as license fees, permit fees or by another name, which are required by the town 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 a regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the town. A regulatory fee may not include an administrative fee. A regulatory fee cannot be used as a means of raising revenue. Development impact fees as defined by O.C.G.A. § 36-71-2(8) or other costs or conditions of zoning or land development are not regulatory fees. Imposing or collecting differential regulatory fees on the basis of whether a business, occupation, or practitioner is located within the town limits is prohibited.

Revenue collection officer shall mean the town clerk or its designee.

Sec. 46-67. - Provisions to remain in full force and effect until changed by council.

This article 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.

Sec. 46-68. - Conflicts between specific and general provisions.

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

Sec. 46-69. - Amendment, repeal of provisions.

This article 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. Subject to section 46-105 of this article, said amendment may increase or lower the amounts and tax rates of any occupation and may change the classification thereof. The payment of any occupational tax provided for shall not be construed as prohibiting the levy or collection by the town of additional occupational taxes upon the same person, property or business.

Sec. 46-70. - Applications of provisions to prior ordinance.

This article 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.

Sec. 46-71. - Enforcement of provisions.

It is hereby made the duty of the town clerk to see that the provisions of this article relating to occupational taxes are observed; and to summon all violators of the same to appear before the town's court. It is hereby made the further duty of the town clerk, and designees, to inspect all registrations issued by the Town of Sharpsburg, as often as in their judgment it may seem necessary to determine whether the registration held is the proper one for the business sought to be transacted thereunder.

Sec. 46-72. – Town Clerk charged with collecting; subpoena and arresting powers.

The town clerk and its duly designated officer and inspectors or its successors shall have full subpoena and arresting powers in conjunction with any violation pertaining to this article.

Sec. 46-73. - Penalty for violation.

Any person violating any provisions of this article shall, upon conviction, be subject to up to the maximum fine and/or the maximum term of imprisonment as authorized by the town's Charter.

Sec. 46-74. - Occupational tax required for businesses dealing within the town.

For the year 2001 and succeeding years thereafter, each person engaged in any business, trade, profession or occupation in Sharpsburg, Georgia, whether with a location in Sharpsburg, or in the case of an out-of-state business with no location in Georgia exerting substantial efforts within the state pursuant to O.C.G.A. § 48-13-7, shall pay an occupational tax for said business, trade, profession or occupation; which tax and any applicable registration shall be displayed in a conspicuous place in the place of business, if the taxpayer has a permanent business location in Sharpsburg, Georgia. If the taxpayer has no permanent business location in Sharpsburg, Georgia, such business tax registration shall be shown to the town clerk or his/her designees or to any police officer of Sharpsburg, Georgia, upon request.

Sec. 46-75. - Purpose and scope of tax.

- (a) The occupational tax levied herein is for revenue purposes only and is not for regulatory purposes. The occupational tax only applies to those businesses and occupations which are covered by the provisions of O.C.G.A. §§ 48-13-5—48-13-26. All other applicable businesses and occupations are taxed by the town pursuant to the pertinent town ordinances, as provided by state law.
- (b) The town shall not impose any occupation tax, regulatory fee, or administrative fee on any state or local authority or nonprofit organization.

Sec. 46-76. - Occupation tax structure and tax levied; restrictions.

- (a) An occupational tax shall be levied upon those businesses and practitioners of professions and occupations with one or more locations or offices within the corporate limits of the Town of Sharpsburg or upon the applicable out-of-state businesses with no location or office in Georgia pursuant to O.C.G.A. § 48-13-7 based upon the following criteria:

Gross receipts of the business or practitioner in combination with the profitability ratio for the type of business, profession or occupation as measured by nationwide averages derived from statistics, classifications or other information published by the United States Office of Management and Budget, the United States Internal Revenue Service or successor agencies of the United States.

- (b) Attached hereto as attachment "A," and incorporated herein by reference, is an alphabetized list of business descriptions with corresponding Standard Industrial

Classification (SIC) codes, to be used in the computation of the town's occupational tax.

- (c) Attached hereto as attachment "B," and incorporated herein by reference, is a schedule of the Standard Industrial Classification (SIC) codes ranked according to nationwide averages of profitability ratios and corresponding occupational tax class, to be used in the computation of the town's occupational tax.
- (d) The tax class factor, and the corresponding tax class which establishes the tax rate relationship between tax classes to be used in the computation of the town's occupational tax, is as follows:

TAX CLASS FACTOR

Tax Class	Tax Class Factor
1	1.00
2	1.25
3	1.50
4	1.75
5	2.00
6	2.25

- (e) The standard occupational tax rate which shall progress by successive levels of taxation based upon the range of gross receipts, and levied upon each \$1,000.00 of gross receipts, or fraction thereof, pursuant to the following range of gross receipts and rate of tax per \$1,000.00 of gross receipts or fraction thereof:

STANDARD OCCUPATIONAL TAX RATE

Range of Gross Receipts	Rate Per Thousand Dollars or Fraction Thereof
\$ 0— 250,000	0.30
250,001— 500,000	0.35
500,001— 750,000	0.40
750,001— 1,000,000	0.45
1,000,001— 1,500,000	0.50
1,500,001— 2,000,000	0.55
2,000,001— 3,000,000	0.60
3,000,001— 4,000,000	0.65
4,000,001— 5,000,000	0.70

5,000,001— 6,000,000	0.75
6,000,001— 7,000,000	0.80
7,000,001— 8,000,000	0.85
8,000,001— 9,000,000	0.90
9,000,001—10,000,000	0.95
10,000,001—11,000,000	1.00
11,000,001 and above	<u>1.05</u>

(f) The occupational tax herein levied and assessed shall be determined in accordance with the following formula:

- (1) Determination of the taxable gross revenue as defined by this article;
- (2) Determination of the Standard Industrial Classification (SIC) code for the relevant business line by reference to attachment "A";
- (3) Determination of the relevant tax class for the above-determined Standard Industrial Classification (SIC) by reference to attachment "B";
- (4) Determination of the tax class factor by reference to the corresponding tax class contained in paragraph (d) above;
- (5) Determination of the applicable occupational tax rate by multiplication of the standard occupational tax rate contained in paragraph (e) above by the relevant tax class factor;
- (6) The occupational tax equals the product resulting from the multiplication of the applicable occupational tax rate determined above multiplied by the taxable gross revenues, as determined above, with any fraction of \$1,000.00 being considered as 1,000.

(g)

- (1) No business or practitioner shall be required to pay more than one occupational tax for each of its locations.
- (2) No occupational tax will be required upon more than 100 percent of a business's gross receipts.
- (3) No occupational tax will be required on receipts on which such tax has been levied in other localities or states.

- (4) Registration and occupational tax shall be required from real estate brokers, agents, or companies whose offices are located outside the town and who sell property inside the town. The occupational tax shall be due and payable within ten days of the closing of the sale of property inside the town.
- (5) An occupational tax shall not be levied in any other manner except as described in this article.
- (6) Occupational taxes are limited to the gross receipts as defined herein.
- (7) Out-of-state businesses with no location in Georgia shall be assessed occupational taxes based on the gross receipts of the business as defined in O.C.G.A. § 48-13-5 (see the definition of "gross receipts" in section 46-66(b) of this article) which are reasonably attributed to sales or services in the State of Georgia.
- (h) No person shall conduct a business subject to the town's occupational tax within the town, without first obtaining a town business registration.
- (i) The town business registration shall be issued upon the person registering with the town, paying applicable administrative fees, and paying the applicable occupational taxes.
- (j) All persons conducting a business subject to the town's occupational tax shall exhibit and display the business registration issued by the town in some conspicuous place in the business establishment at which address the registration was issued. Any person conducting a transient business within the town, which is subject to this article, shall carry the registration either upon his person or in any vehicle or in any other convenience which is used in the business, and the person shall exhibit it to any authorized enforcement officer of the town when so requested.
- (k) Business registration shall not be transferable, and a transfer of ownership of the business shall be considered as the termination of the prior business and the establishment of a new business. A new registration shall be required and issuance of a new registration shall be required for any new owner of the business.
- (l) Any person moving from one location to another shall notify the town of the move and the new address in writing, no later than the day of moving. Subject to passing an inspection pursuant to this Ordinance, the same business registration will be valid at the new location, provided the new location conforms to the zoning and other regulations of the town.

- (m) The business registration shall automatically expire on February 15 of the year subsequent to its issuance.
- (n) For the year 2012, prior to the issuance of a business registration, all businesses with a location or office within the town limits shall pass an inspection performed by the town clerk or designee to ensure the premises and business are in compliance with all laws of the State of Georgia, town ordinances, town zoning regulations, town heating, electrical, building codes, and Coweta County health codes. For years subsequent to 2012, all new businesses which have not previously maintained a business registration with the town and which maintain a location or office within the town limits and any current business which wishes to relocate to a new location within the town, shall pass an inspection performed by the town clerk or designee to ensure the premises and business are in compliance with all laws of the State of Georgia, town ordinances, town zoning regulations, town heating, electrical, building codes, and Coweta County health codes. In the event that any business shall fail an inspection, the town clerk or designee shall provide the applicant a conditional business registration specifying the action needed and to pass inspection. The town clerk or designee shall re-inspect all businesses, under a conditional business registrations, within 60 days from issuance of the conditional business registration. Upon inspection failure of a business holding a conditional business registration, the business shall surrender its business registration or request a hearing under section 46-102 of this Ordinance within 10 days of the failed inspection. Notwithstanding the above all businesses registered with the town shall be subject to revocation pursuant to section 46-102 of this ordinance.

Sec. 46-77. - Businesses not covered by this article; businesses subject to a separate license fee.

- (a) The following businesses are not covered by the provisions of this article but may be assessed an occupational tax or other type of tax pursuant to the provisions of other general laws of the State of Georgia or by town ordinance:
 - (1) Those businesses regulated by the Georgia Public Service Commission.
 - (2) Those electrical service businesses organized under O.C.G.A. tit. 46, ch. 3.
 - (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 O.C.G.A. § 2-10-105.
 - (5) Motor common carriers governed by O.C.G.A. § 46-7-15.
 - (6) Those businesses governed by O.C.G.A. § 48-5-355.

- (7) Agricultural products and livestock raised in the State of Georgia governed by O.C.G.A. § 48-5-356.
 - (8) Depository financial institutions governed by O.C.G.A. § 48-6-93.
 - (9) Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55.
 - (10) Alcoholic beverages.
- (b) The following businesses are subject to a separate license fee:
- (1) Insurance companies shall be charged an annual license fee in accordance with O.C.G.A. § 33-8-8. No other fee or tax shall be charged to insurance companies pursuant to this article.

Sec. 46-78. - Occupational tax inapplicable where prohibited by or provided for pursuant to other existing law.

An occupational tax shall not apply to the gross receipts of any part of a business where such levy is prohibited or exempted by the laws of Georgia or of the United States.

Sec. 46-79. - Administrative fee structure.

Except for the businesses electing to exercise an option specifically provided for in this occupational tax ordinance allowing the payment of a flat fee to satisfy their occupational tax requirement, a non-prorated, nonrefundable administrative fee shall be required on all businesses occupational tax accounts for the initial start-up, renewal or reopening of those accounts. The administrative fee shall be due and payable at the time of registration pursuant to section 46-83. The administrative fee shall be credited against any occupational tax due for the year of registration.

Sec. 46-80. - When occupational tax due and payable; payment options.

The amount of occupational tax shall be payable to the town, at the office of the town clerk, on January 1 each year and delinquent if not paid on or before February 15 each year. If delinquent, the person or business liable for the tax shall pay a penalty of ten percent of the tax or fee due.

Sec. 46-81. - When tax due and payable; effect of transacting business when tax delinquent.

- (a) Each such occupational tax shall be for the calendar year 1995 and succeeding calendar years thereafter unless otherwise specifically provided. Said registration

and occupational tax shall be payable January 1 of each year and shall be delinquent if not paid by February 15 of each year, subject to penalties for delinquency as prescribed in this article. On any new profession, trade or calling begun in the Town of Sharpsburg in 1995 or succeeding years thereafter, the registration and tax shall be delinquent if not obtained immediately upon beginning business and a penalty of ten percent of the amount of administrative fee and occupational tax owing plus 18 percent per annum of the administrative fee and occupational tax owing from the date the administrative fee and occupational tax become delinquent to the date of payment shall be assessed. The tax registration herein provided for shall be issued by the town clerk and if any person, firm or corporation whose duty it is to obtain a registration shall, after said registration or occupational tax becomes delinquent, transact or offer to transact, in the Town of Sharpsburg any of the kind of profession, trade or calling in this article specified without having first obtained said registration, such offender shall, upon conviction, be punished by a fine not to exceed \$500.00 or imprisonment not to exceed one year.

- (b) The tax registration herein provided for shall be issued by the town clerk and if any person, firm or corporation whose duty it is to obtain registration shall, after said offer to transact, in the Town of Sharpsburg any of the kind of profession, trade or calling in this article specified without having first obtained said registration, such offender shall, upon conviction, be subject to up to \$500.00. Imprisonment not to exceed one year.

Sec. 46-82. - Liability of officers and agents; registration required; failure to obtain.

All persons subject to the occupational tax levy pursuant to this article shall be required to obtain the necessary registration for said business as described in this article, and in default thereof the officer or agent soliciting for or representing such persons shall be subject to the same penalty as other persons who fail to obtain a registration. Every person commencing business in the Town of Sharpsburg after January 1 of each year shall likewise obtain the registration herein provided for before commencing the same; and any person transacting, or offering to transact in the Town of Sharpsburg, any of the kinds of business, trade, profession or occupation without first having so obtained said registration, shall be subject to penalties provided therefor.

Sec. 46-83. - When registration and tax due and payable; effect of transacting business when tax delinquent.

- (a) Each such registration shall be for the calendar year in which the registration was obtained unless otherwise specifically provided. There is hereby imposed a penalty upon each business which fails to apply for and obtain an appropriate business registration and pay all tax and fees as provided herein before February 15 of each year. Every person commencing business in the Town of Sharpsburg after January 1 of each year shall obtain the registration required before

commencing such business. Any person transacting or offering to transact in the Town of Sharpsburg any business, trade, profession or occupation without first having obtained said registration shall be subject to the penalties provided in this article. Said penalties shall be in addition to all other penalties, civil and criminal herein provided; and may be collected by the remedies herein provided for collection of the occupational tax, and shall have the same lien and priority as the occupational tax to which the penalty is applied.

- (b) The registration herein provided for shall be issued by the town clerk, and if any person, firm or corporation whose duty it is to obtain a registration shall, after said occupational tax becomes delinquent, transact or offer to transact, in the Town of Sharpsburg, any of the kind of business, trade, profession or occupation without having first obtained said registration, such offender shall be subject to the penalties provided therefor.

Sec. 46-84. - Occupational taxes levied on business to be transacted during calendar year; filing of returns showing gross receipts during preceding calendar year.

- (a) All occupational taxes levied by this article are levied on amount of business to be transacted during the calendar year. However, for convenience of both the Town of Sharpsburg and the taxpayer, and the necessity of making numerous returns, those businesses subject to the occupational tax levied in this article shall, on or before the times hereinafter set forth, file with the town clerk the returns hereinafter specifically provided for, showing the gross receipts of that business during the preceding calendar year. This return shall be used as an estimate for making payments on the occupational tax for current calendar year. The actual and final amount of tax levied for business transacted in a current calendar year shall be paid in accordance with a final return to be made after the termination of the year, in accordance with the procedure hereinafter set forth.
- (b) The owner, proprietor, manager or secretary officer of the business subject to said occupational tax of the current calendar year shall, at the end of the preceding year, and on or before February 15 of the current calendar year, file with the town clerk of the Town of Sharpsburg, on a form furnished by the town, a signed return setting forth the amount of gross receipts of such business for the entire preceding calendar year, to be used as an estimate of the gross receipts for the current year.
- (c) Where a business subject to the occupational tax for the calendar year has been conducted for only a part of the preceding year, the amount of gross receipts for such part shall be set forth in said return. Said return shall also show a figure putting the receipts for such part of a year on an annual basis, which figure shall bear the same ratio to the amount of gross receipts for such part year as the full year bears to such part. Said figure shall be used as the estimate of the gross receipts of the business for the current calendar year.

Sec. 46-85. - Payment of occupational tax by newly established businesses.

In the case of a business subject to occupational tax for a calendar year, which was not conducted for any period of time in the corporate limits of the Town of Sharpsburg in the preceding year, the owner, proprietor, manager or executive officer of the business liable for occupational tax shall estimate the gross volume of revenue from commencing date to the end of the calendar year and such tax shall be paid based upon those estimates.

Sec. 46-86. - Paying occupational tax of business with no location in Georgia.

An occupational tax is hereby imposed on those businesses and practitioners of professions with no location or office in the State of Georgia if the business' largest dollar volume of business in Georgia is in the Town of Sharpsburg and the business or practitioner:

- (1) Has one or more employees or agents who exert substantial efforts within the jurisdiction of the Town of Sharpsburg for the purpose of soliciting business or serving customers or clients; or
- (2) Owns personal or real property which generates income and which is located within the jurisdiction of the Town of Sharpsburg.

Sec. 46-87. - Each line of business to be identified on business registration.

The business registration of each business operated in the town shall identify the line or lines of business that the business conducts, and shall identify the dominant line of business that the business conducts. No business shall conduct any line of business without first having that line of business registered with the Town of Sharpsburg.

Sec. 46-88. - The number of businesses considered operating in town.

Where a person conducts business at more than one fixed location, each location or place shall be considered a separate business for the purpose of occupational tax.

Sec. 46-89. - Professionals as classified in O.C.G.A. § 48-13-9(c)(1)—(22).

Practitioners of professions as described in O.C.G.A. § 48-13-9(c)(1)—(22) shall elect as their entire occupational tax one of the following:

- (1) The occupational tax based on gross receipts combined with profitability ratios as set forth in section 46-76

- (2) A fee of \$300.00 per practitioner who is licensed to provide the service, such tax to be paid at the practitioner's office or location; provided, however, that a practitioner paying according to this paragraph shall not be required to provide information to the town relating to the gross receipts of the business or practitioner. The per-practitioner fee applies to each person in the business who qualifies as a practitioner under the state's regulatory guidelines and framework.
- (3) This election is to be made on an annual basis and must be made in writing by February 15 of each year. If no election is made, the occupational tax shall be levied pursuant to paragraph (2) of this section.
- (4) Practitioners of professions as described in O.C.G.A. § 48-13-9(c)(1)—(22) shall not pay the occupational tax as a precondition for practicing their professions in the town.
- (5) Practitioners of professions, as described in O.C.G.A. § 48-13-9(c)(1)—(22), shall pay their occupational tax by February 15 of the present year for the preceding year not the present year.
- (6) The failure of practitioners of professions, as described in O.C.G.A. § 48-13-9(c)(1)—(22), to pay the occupational tax, when due, will result in an 18 percent late fee, compounded weekly, and the town's commencement of legal action to collect said tax.
- (7) The town in no way desires to regulate the practice of the professions described in O.C.G.A. § 48-13-9(c)(1)—(22) and views the occupational tax of such practitioners as strictly revenue raising.
- (8) Any provision of the town's occupational tax ordinance which regulates a profession shall not apply to the professions described in O.C.G.A. § 48-13-9(c)(1)—(22).

Sec. 46-90. - 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 occupational tax for that practice.

Sec. 46-91. - Allocation of gross receipts of business with multiple intrastate or interstate locations.

- (a) For those businesses who have multiple locations inside and outside of the town where the gross receipts can be allocated to each location, the gross receipts used to determine the occupational tax assessed will be those gross receipts attributed to each Town of Sharpsburg location. In the case where the dollar amount of gross receipts attributed locally cannot be determined in those businesses with multiple locations, the total gross receipts will be divided by the total number of locations in the Town of Sharpsburg and elsewhere and allotted to those locations. Upon request, the business or practitioner with a location or office situated in more than one jurisdiction shall provide to the town the following:
 - (1) Financial information necessary to allocate the gross receipts of the business or practitioner; and
 - (2) Information relating to the allocation of the business' or practitioner's gross receipts by other local governments.
- (b) Where the business has locations outside of the town and taxation is levied for a criteria other than gross receipts in the other local governments, the town shall not assess more than the allotted share of gross receipts for the local operation.

Sec. 46-92. - Out-of-state transient businesses and occupations.

Out-of-state transient businesses or occupations as described in section 46-86 herein, which plan to, intend to, or actually do, transact business within the town shall register with the town prior to transacting business within the town and shall pay to the town the administrative fee (section 46-79). Upon completion of its business within the town or at the end of the calendar year, the person shall immediately report its gross receipts to the town. The occupational tax of the transient business or profession shall be computed pursuant to the applicable portions of this article and shall be credited to the administrative fee, and any additional tax shall be paid to the town at that time.

Sec. 46-93. - Evidence of state registration required if applicable; state registration to be displayed.

- (a) Each person who is licensed by the secretary of state pursuant to O.C.G.A. tit. 43 shall provide evidence of proper and current state licensure before the town registration may be issued.
- (b) Each person who is licensed by the state shall post the state license in a conspicuous place in the licensee's place of business and shall keep the license there at all times while the license remains valid.

Sec. 46-94. - Evidence of qualification required if applicable.

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 a town business registration, show evidence of such qualification.

Sec. 46-95. - More than one place or line of business.

Where a business is operated at more than one place or where the business includes more than one line, said business will pay an occupational tax in accordance with the prevailing tax method and tax rate for the dominant line at each location.

Sec. 46-96. - Filing of return showing actual gross receipts during calendar year; procedure where taxes overpaid or underpaid.

- (a) On or before February 15 of each year, the owner, proprietor, manager or executive officer of the business liable for said occupational tax levied for the year shall file with the town clerk of the Town of Sharpsburg, on a form furnished by the town, a signed return setting forth the actual amount of the gross receipts of such business during the preceding calendar year.
- (b) If the amount of the occupational tax for the preceding year based on the return provided for in this section and on the rate of said tax provided for in this article exceeds the amount of occupational tax theretofore paid by said business based on the estimate filed pursuant to section 46-84 hereof, the difference in said amount shall be due and payable by the taxpayer to the Town of Sharpsburg on February 15 of the current year and delinquent if not paid on or before said date.
- (c) If the amount of the occupational tax for the preceding year based on the return provided for in this section and on the rate of said tax provided for in this article, is less than the amount of occupational tax theretofore paid by said business based on the estimate filed pursuant to section 46-84 hereof, the difference in said amount shall be refundable by the Town of Sharpsburg to the taxpayer; or, if said business continues to be conducted in the town during the current year, such difference in amount shall be credited by the town on the amount of occupational tax to be paid to the town by said business for the current year.

Sec. 46-97. - Returns confidential.

Except in the case of judicial proceedings or other proceedings necessary to collect the occupational tax hereby levied, it shall be unlawful for any officer, employee, agent or clerk of the Town of Sharpsburg or any other person to divulge or make known in any manner the amount of gross receipts or any particulars set forth or disclosed in any occupational tax return required under this

article. All contents of said return shall be confidential and open only to the officials, employees, agents or clerks of the town using said returns for the purpose of this occupational tax levy and the collection of the tax. Independent auditors or bookkeepers employed by the town shall be classed as "employees." Nothing herein shall be construed to prohibit the publication by the town officials of statistics, so classified as to prevent the identification of particular reports or returns and items thereof, 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.

Sec. 46-98. - Inspections of book and records.

- (a) In any case the Town of Sharpsburg, through its officers, agents, employees or representatives, may require information from businesses, practitioners, and occupations doing business within the corporate limits regarding the site of any location or office and payment of any occupation taxes or regulatory fees to other local governments, and may inspect the books of the business or person for which the returns are made. The revenue collection officer shall have the right to inspect the books or records for the business of which the return was made in Sharpsburg, Georgia, and upon demand of the town clerk such books or records shall be submitted for inspection by a representative of the Town of Sharpsburg within 30 days. Failure of submission of such books or records within 30 days shall be grounds for revocation of the tax registration currently existing to do business in the Town of Sharpsburg. Adequate records shall be kept in Sharpsburg, Georgia, for examination by the town clerk at his or her discretion. If, after examination of the books or records, it is determined that a deficiency occurs as a result of underreporting, a penalty of ten percent of the occupational tax on the underreported amount plus 18 percent per annum of the occupational tax on the underreported amount from the date the unpaid occupational tax became delinquent to the date of payment shall be assessed.
- (b) The town may not require the payment of a fee by any business, occupation, or practitioner in order to ascertain whether such business, occupation, or practitioner has paid occupation tax to another local government.

Sec. 46-99. - Tax registration to be revoked for failure to pay tax, file returns, permit inspection of books.

Upon the failure of any business to pay said occupational tax or any part thereof before it becomes delinquent or upon failure to make any of said returns within the time required herein, or upon failure to make a true return, or upon failure to amend a return to set forth the truth, or upon failure to permit inspection of its books as above provided, any business tax registration granted by the Town of Sharpsburg under this article permitting the owner of said business to do business in the town for the current year shall be, ipso facto, revoked, without appeal. No new business tax registration shall be granted by the town for the operation of a business for which any part of the occupational tax herein provided for is at that time unpaid, or to an individual, firm or corporation who has failed to submit adequate records as requested by the town clerk in accordance with provisions found in section 46-96. If the town cannot suspend the right of the practitioner to conduct its business, the imposition of civil penalties shall be permitted and pursued by the local government in the case of delinquent occupational tax.

Sec. 46-100. - Effect of failure to comply with article provisions; continuing in business after tax registration revocation.

Any person, their managers, agents or employees, who do business in the Town of Sharpsburg after the registration for said business has been revoked as above; any persons, their managers, agents or employees, hereby required to make returns, showing the amount of gross receipts 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 truth, or who shall make false returns; and any persons, their managers, agents or employees who refuse to permit an inspection of books in their charge when the officers, agents, employees or representatives of the town request such inspection, during the business hours of the Town of Sharpsburg, for the purpose of determining the accuracy of the returns herein provided for, shall be subject to penalties provided herein. If the town cannot suspend the right of the practitioner to conduct its business, the imposition of civil penalties shall be permitted.

Sec. 46-101. - Execution for delinquent occupational tax.

In addition to the other remedies herein provided for the collection of the occupational tax herein levied, the town clerk of the Town of Sharpsburg, Georgia, upon any tax or installment of said tax becoming delinquent and remaining unpaid, shall issue execution for the correct amount of said tax against the persons, partnership or corporation liable for said tax, which said execution shall bear interest at the rate of 18 percent per annum from the date when such tax or installment becomes delinquent, and the lien shall cover the property (in the town) of the person, partnership or corporation liable for said tax, all as provided by the ordinances and Charter of the town and the laws of Georgia. The lien of

said occupational 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 town clerk upon the property of the obligor located in the town, 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 ordinances and Charter of the town and the laws of Georgia, and the obligor in said execution shall have rights of defense, by affidavit of illegality and otherwise, which are provided by the Charter of the town 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 town clerk against any person defaulting on the occupational tax, the person against whom the entry was made shall not be allowed or entitled to have or collect any fees or charges whatsoever for services rendered after the entry of the nulla bona. If, at any time after the entry of nulla bona has been made, the person against whom the execution issues pays the tax in full together with all interest and costs accrued on the tax, the person may collect any fees and charges due him or her as though he or she had never defaulted in the payment of the taxes.

Sec. 46-102. - Revocation.

- (a) If any holder of a business registration issued by the town should be engaged in unlawful activities, acts which would constitute violations of laws of the State of Georgia, town ordinances, town zoning regulations, town heating, electrical, building codes, and Coweta County health codes, and where such unlawful activities are such as to directly or indirectly affect their qualification to conduct the business for which they were registered or involves the conduct of such business, and where the holder is doing business within the town, the business registration may be revoked or suspended in the manner provided herein.
- (b) Where it is reported to the town clerk that a holder of a business license registration is engaged in such unlawful activities, a preliminary investigation shall be conducted by the town clerk or his/her designee in order to determine whether there is a basis for the reports. If the town clerk's preliminary investigation reveals that there may be a basis for revocation or suspension of the registration, the holder will be notified to appear before the town clerk on a date certain and show cause why his business registration should not be revoked or suspended. The holder may appear in person at said hearing or be represented by counsel. At the conclusion of the hearing, the town clerk, based upon evidence submitted at said hearing, shall enter an order making a finding of fact and then:
 - (1) Find that the evidence does not authorize revocation or suspension;
 - (2) Issue a warning to the holder;
 - (3) Suspend the registration and probate suspension;

- (4) Suspend the registration for up to 30 days;
 - (5) Suspend the registration pending a hearing by the mayor and town council.
- (c) Within ten days from the date of the order from the town clerk, the holder may appeal the decision of the town clerk by filing a notice of appeal with the town clerk. Any decision of the town clerk to suspend pending a hearing by the mayor and town council shall automatically be scheduled for a hearing before the town council and mayor no later than 30 days from the date of the suspension. Notice of appeal shall supersede any suspension, pending hearing, except a suspension pending a hearing by the mayor and council on revocation. The town clerk shall schedule a hearing before the mayor and town council and notify the holder of the time and date of the hearing. Either party shall have the right to subpoena witnesses at this hearing. At the conclusion of the hearing, the mayor and council may affirm, overrule, or partially affirm and partially overrule the decision of the town clerk.
- (d) The mayor and town council are authorized to:
- (1) Find in favor of the holder;
 - (2) Issue a warning to the holder;
 - (3) Suspend the registration and probate suspension;
 - (4) Revoke the registration and probate revocation;
 - (5) Revoke the registration; and
 - (6) Take any other appropriate action regarding holder.

Sec. 46-103. - Failure to register.

Any person who shall knowingly violate the town's requirement for business registration shall place in jeopardy such person's privilege of doing business in the town. The mayor and council, at its discretion, may rescind or suspend the registration of any such person, or withhold the issuance of a business registration.

Sec. 46-104. - Appeals.

Any person who is of the opinion that such person's occupational tax has been incorrectly assessed or that such person's line or business classification is incorrect shall have the right to appeal to the mayor and town council; provided,

that such person shall first have stated such position in writing to the town clerk and shall have been unable to resolve the issue.

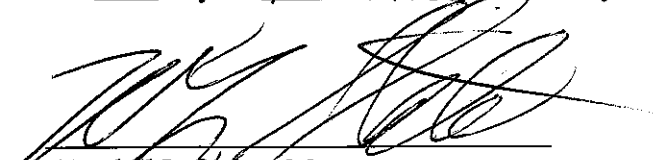
Sec. 46-105. - Requirements of public hearing.

- (a) The town council shall conduct at least one public hearing before adopting any ordinance or resolution regarding the occupational tax as set forth in this article.
- (b) In any year when revenue from occupation taxes is greater than the revenue from occupation taxes for the preceding year, the town council shall conduct at least one public hearing as a part of the process of determining how to use the additional revenue.

Sec. 46-106. - Option to establish exemption or reduction in occupational tax.

The council may by subsequent ordinance or resolution provide for an exemption or reduction in occupational tax or a credit against occupation tax owed to one or more types of businesses or practitioners of occupations or professions as part of a plan for economic development or attracting or encouraging or maintaining selected types of businesses or practitioners of selected occupations or professions. Such exemptions or reductions in occupational tax shall not be arbitrary or capricious and the reasons shall be set forth.

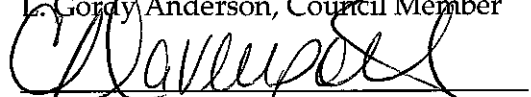
APPROVED BY THE MAYOR AND COUNCIL OF THE TOWN OF SHARPSBURG
at a regular meeting of the Mayor and Council on the 17th day of November, 2011, by
the following voting for adoption:



Wendell L. Staley, Mayor

Absent


L. Gordy Anderson, Council Member



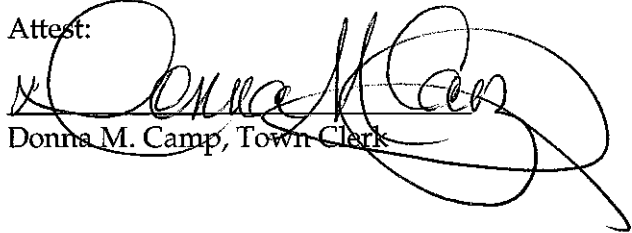
Celene D. Davenport, Council Member

Absent

D. Keith Rhodes, Council Member



Connie F. Turner, Council Member

Attest:


Donna M. Camp, Town Clerk