

**AN ORDINANCE TO AMEND CHAPTER 90 – TAXATION, ARTICLE IV. –
OCCUPATION TAXES OF THE CODE OF ORDINANCES
CITY OF MONROE, GEORGIA**

THE MAYOR AND THE COUNCIL OF THE CITY OF MONROE HEREBY ORDAIN AS FOLLOWS:

ARTICLE I.

Chapter 90, Article IV, of the Code of Ordinances is hereby amended by implementing the below text amendments as follows: Underlined sections are added, Stricken sections are being removed.

SEE ATTACHED “**EXHIBIT A**” FOR THE COMPLETE TEXT OF
CHAPTER 90, ARTICLE IV, SECTIONS 106 THROUGH 155, AS AMENDED.

ARTICLE II.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

ARTICLE III.

This ordinance shall take effect from and after its adoption by the Mayor and Council of the City of Monroe, Georgia.

FIRST READING. This ____ day of November, 2024.

SECOND READING AND ADOPTED on this ____ day of December, 2024.

CITY OF MONROE, GEORGIA

By: _____ (SEAL)

John Howard, Mayor

Attest: _____ (SEAL)

Beverly Harrison, Interim City Clerk

EXHIBIT A

Chapter 90 – TAXATION

ARTICLE IV. – OCCUPATION TAXES

Sec. 90-106. Purpose and scope of occupational tax; occupation tax required, occupation tax certificate required; display of occupation tax certificate.

- (a) Each person engaged in a business, trade, profession or occupation, whether with a location within the city or in the case of an out-of-state business with no location in the state exerting substantial efforts within the city pursuant to O.C.G.A. § 48-13-7, shall pay an occupational tax for said business, trade, profession or occupation.
- (b) Occupation taxes shall be based upon gross receipts in combination with profitability ratio and number of employees. The profitability ratio for the type of business will be determined from 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.
- (c) The occupation 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 profession, trade or calling.
- (d) Any person engaged in any business, trade, profession, or occupation in the city shall receive an occupation tax certificate upon submission of the appropriate tax and providing proof of compliance with the provisions of this chapter.

- (e) The occupation tax certificate provided for in this section shall be issued by the city administrator or designee.

Sec. 90-107 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

Business means any person, sole proprietor, partnership, corporation, trade, profession, occupation or other entity and the efforts or activities associated thereby for the purposes of raising revenue or producing income, including, but not limited to, sole proprietors receiving a form IRS 1099 from another business at the same location.

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

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 individuals, for purposes of documenting compensation, a form I.R.S. W-2 but not a form I.R.S. 1099.

Gross receipts.

- (1) The term "gross receipts" means the total revenue of the business or practitioner for the period including, without limitation, the following:
 - a. Total income without deduction for the cost of goods 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) The term "gross receipts" does not include the following:
 - a. Sales, use, or excise tax;
 - b. Sales returns, allowances, and discounts;
 - c. Interorganizational 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);
 - d. Payments made to a subcontractor or an independent agent for services which contributed to the gross receipts in issue;

- 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 of goods or services which are delivered to or received by customers who are outside the state at the time of delivery or receipt.

Location or Office shall include any structure or vehicle where a business, profession, or occupation is conducted, but shall not include a temporary or construction work site which serves a single customer or project or vehicle used for sales or delivery by a business or practitioner of a profession or occupation which has a location or office.

North American Industry Classification System [NAICS] means categories of occupations and industries established by and promulgated by the Office of Management and Budget of the United States of America and found in the 1997 NAICS Manual.

Occupation tax means a tax levied on persons, partnerships, corporations, or other entities for engaging in an occupation, profession, or business and enacted by the local government as a revenue-raising ordinance or resolution.

Occupation tax certificate means a document issued by the city acknowledging payment of the occupation tax.

Practitioner of profession or occupation means those individuals listed in O.C.G.A. § 48-13-9(c) but does not include a practitioner

who is an employee of a business if such business pays an occupation tax.

Sec. 90-108 Occupation taxes due and payable dates

- (a) Occupational taxes on businesses continuing from the preceding year shall be due and payable on January 1 of each subsequent year. Occupational tax due from businesses continuing operation in the current year from the preceding year shall be considered delinquent if not paid by April 1 of each year. Any business failing to pay the occupational taxes by April 1 shall be subject to and shall pay a ten percent penalty of the amount of tax or fees due and one and one-half percent per month interest as provided by state law.
- (b) If a business begins on or after January 1 of the occupation tax year, the tax on such business and any administrative fee or regulatory fee shall be due and payable on the date of the commencement of the business.
- (c) Any business failing to pay the occupational taxes within 60 days after commencement shall be subject to and shall pay a ten percent penalty of the amount of tax or fees due and one and one-half percent per month interest as provided by state law. Such penalty shall be assessed in full on the 121st day of the tax year in addition to interest on delinquent occupation taxes and administrative fees.
- (d) Payment of an occupation tax shall not be required prior to the commencement of business relating to legal services, nor shall it in any other manner act as a precondition on the practice of law.

Sec. 90-109 Applicant Requirements

- (a) Any person engaged in any business, trade, profession, or occupation in the city shall submit an occupation tax certificate application with supporting documentation showing compliance with all applicable provisions of state, county, and city laws relating to their business, trade, profession, or occupation.
- (b) Any person who performs any business, occupation or profession subject to an occupation tax in the city is required to provide the following information when paying such occupation tax:
 - (1) The legal name of the business.
 - (2) Any associated trade names for the business.
 - (3) The mailing address for the business.
 - (4) The actual physical address of each location of the business, if it is different than the mailing address.
 - (5) A detailed description of all business activity(ies).
 - (6) The North American Industry Classification System code (NAICS) applicable to such business, based on the dominant line of business.
 - (7) The sales and use tax identification number assigned to the business by the state department of revenue, if the business is required by law to have such a number.

(8) Federal tax identification number.

(9) Estimated Gross Receipts for the current year as defined under section 90-107 in the form of an affidavit provided by the city.

(10) Any additional information and documents as required by the city.

Sec. 90-110 Business classifications for determining tax levy

(a) For the purpose of this article, every person engaged in business requiring the payment of occupational taxes shall be assigned a code in accordance with the North American Industrial Classification System (NAICS) on the basis of their dominant line of business;

(b) Businesses engaged in more than one business activity shall be classified on the basis of their dominant line of business at each location where business is done; except, that a person whose dominant business activity is legally exempt as defined by this article shall be classified according to such person's principal subsidiary business, if any, which is subject to the levy and assessment of occupation taxes.

(c) To the extent that a business or practitioner generates gross receipts, those gross receipts shall be taxable based upon their NAICS classification as follows:

(1) Wholesale and retail trade business and NAICS categories 42, 44, and 45 shall pay an annual occupation tax levy of 0.0002 on gross receipts.

(2) Construction, manufacturing transportation and warehousing, administration and support, waste management, remediation services, accommodations, food services and drinking places businesses and NAICS categories 23, 21, 32, 44, 48, 49, 56, and 72 shall pay an annual occupational tax levy of 0.0003 on gross receipts.

(3) Agriculture, forestry, hunting, fishing, information, educational, health services, social assistance, unclassified services, and unclassified industries businesses and NAICS categories 11, 21, 51, 61, 62, and 81, excepting category 622210 as delineated in Subsection (6) hereunder, shall pay an annual occupational tax levy of 0.0005 on gross receipts.

(4) Finance, professional services, scientific services, technical services, arts, entertainment, and recreation businesses and NAICS categories 52, 54, and 71 shall pay an annual occupational tax levy of 0.0006 on gross receipts.

(5) Real Estate, rental, leasing, and holding companies businesses and NAICS categories 53 and 55 shall pay an annual occupational tax levy of 0.0008 on gross receipts.

(6) Psychiatric and Substance Abuse Hospital businesses, NAICS category 622210 shall pay an annual occupational tax levy of 0.0015 on gross receipts.

Sec. 90-111 Administrative Fee

A non-prorated, nonrefundable administrative fee of \$50.00 is required

on all occupation tax accounts for the initial registration and all renewals thereafter.

Sec. 90-112 Occupation Tax Levied

(a) An occupation tax based upon gross receipts of the business or practitioner in combination with the profitability ratio for the business or profession and number of employees is levied on businesses and practitioners that:

(1) Have one or more locations or offices within the corporate limits of the city; or

(2) Are an out-of-state business or practitioner with no location or office in the city but:

(a) Have employees or agents engaging in substantial efforts to solicit business or serve customers or clients in the State of Georgia; or

(b) Own personal or real property that generates gross receipts and is located within the corporate limits of the City.

(b) (1) Each business or practitioner shall pay a \$50.00 administrative fee; plus,

(2) The tax equal to the tax rate determined by the business's NAICS profitability ratio as set forth hereinabove in section 90-110(c) multiplied by with the gross receipts of the business for the calendar year; plus

(3) An amount equal to \$50.00 per full-time employee of the business employed as of January 1 of each calendar year:

After determining the occupation tax due using the criteria set forth in section 90-112(b)(1),(2), and (3), the tax shall be reduced by the lower of the components set forth in (2) and (3). This shall be the net occupation tax owed by the particular business, trade, or profession for the current year.

(c) Except as provided elsewhere in this Article, all businesses and practitioners shall pay a minimum Occupation Tax of \$200.00 in addition to the Administrative Fee of \$50.00 pursuant to section 90-111.

(d) The maximum Occupation Tax to be levied on any particular business location shall be ~~\$340~~,000.00.

(e) All occupation taxes levied by this article are levied on the gross receipts of the calendar year or the number of employees employed in the business conducted. For new businesses, the occupation tax for the year of commencement shall be based upon an estimate of gross receipts or number of employees of the business from the date of commencement until the end of that year. Continuing businesses subject to the occupational tax shall file with the city an affidavit showing all gross receipts of that business during the preceding calendar year ending on December 31. This affidavit showing preceding calendar year gross receipts shall be used as an estimate of gross receipts for making payments on the occupation tax for the current tax year. The number of employees reported for the current year's business operations shall be based on the number of employees employed as of January 1 of the current tax year. Applicants or owners engaged in the business shall be reported as employees of the business. The affidavit showing the business'

preceding year's actual gross receipts shall also be used to adjust the estimated occupation tax for the same period. Should a business not continue or terminate during the year, such business shall notify the city's business occupation tax section and file a final return reporting those gross receipts not previously reported and making payment of any tax due.

- (f) Where a business subject to the occupation tax for the calendar year has been conducted for only a part of the preceding year, the affidavit shall contain a figure that puts such part of a year on an annualized basis with the part-year receipts bearing the same ratio to the whole-year gross receipts as the part year bears to the whole year. Said figure shall be used as the estimate of the gross receipts of the business for the current calendar year in establishing the business tax liability.
- (g) In the event a business's actual amount of gross receipts in a given year are less than what was estimated, and it results in a fee difference, the business shall be responsible for submitting a written request for a refund of the difference by April 1 of the subsequent tax year; said request must be accompanied by financial support, i.e. tax return for that tax year. If the refund is substantiated, a refund will be processed within 30 days.
- (h) No refund or proration shall be made for a taxpayer who shall cease doing business or remove the business from the city.
- (i) Notwithstanding the foregoing, if an attorney, licensed to practice law in the State of Georgia and in good standing with the State Bar of Georgia, begins or continues business after January 1 of the occupation tax year, the tax on such business shall be due and payable on

December 31 of the year in which the business begins or continues. Any lawyer failing to pay the occupation tax within 120 days after December 31 shall be considered delinquent and shall be subject to and shall pay a ten percent penalty of the amount of tax or fee due and interest as provided by state law. Such penalty shall be assessed in full on the 121st day of the year following the tax year in addition to interest on delinquent occupational taxes. In addition, a list of all delinquent lawyers may be sent to the State Bar of Georgia. The general penalty for continuing violations of this code shall not apply to violations of this Article by lawyers. Specifically, failing to comply with the article will not result in the city closing the business or penalizing the continued practice of law by fining, imprisoning or criminalizing noncompliance.

- (j) The city shall not require the payment of more than one occupational tax for each location of a business or practitioner.
- (k) The city shall not require a business to pay an occupational tax for more than 100 percent of the business' gross receipts.
- (l) Gross receipts of an out-of-state business or practitioner may include only the gross receipts of the business that are reasonably attributable to sales or service in Georgia.
- (m) A business or practitioner with no location or office in Georgia shall only be required to pay occupation tax to the local government in Georgia where the largest dollar volume of business is done or service is performed by such business or practitioner. This limitation shall only apply when the business or practitioner has provided to the City satisfactory proof as to the applicability of this subsection.

- (n) If a business or practitioner with no location or office in Georgia provides to the City proof of payment of a local business or occupation tax in another state that includes sales or services in this state, then the business or practitioner shall be exempt from this occupation tax.
- (o) The City shall levy the occupation tax on a business or practitioner that has offices or locations in multiple locations in Georgia according to the following methods:
 - (1) If the business or practitioner can reasonably allocate the dollar amount of its gross receipts to one or more of its locations or offices based on the product manufactured, sales or other services, each local government may tax the gross receipts generated by the location or office inside the jurisdiction of the local government; or
 - (2) If the business or practitioner cannot reasonably allocate the dollar amount of gross receipts among its locations or offices, the business must divide its total gross receipts reported in Georgia by the number of locations or offices that contributed to those gross receipts. The business or practitioner must allocate an equal percentage of its gross receipts to each location or office.
- (p) Real estate brokers shall be subject to occupation tax pursuant to this article only if they maintain a principal or branch office in the City and based only upon gross receipts derived from transactions with respect to property listed or sold and located within the ~~state of Georgia~~ City.
- (q) A business or practitioner that is subject to an occupation tax by another local government and claiming an exemption from or limitation to the occupation tax imposed by this ordinance shall submit documentation satisfactory to the city as to current payment of the occupation tax to the other local government and the basis of such tax.
- (r) A business or practitioner which has locations in this state subject to occupation tax by more than one local government in this state shall only be subject to occupation tax by the city for the gross receipts generated within the corporate limits of the city. This limitation shall only apply when the business or practitioner has provided to the city satisfactory proof of current payment of the occupation tax of the other local government.
- (s) For purposes of this section, prima facie evidence of gross receipts generated during any period shall be a sworn statement under oath and penalty of perjury, in a form provided by the city, that the provided gross receipt information is true and correct as stated on the applicable income tax return of the business for the applicable year, less allowed exemptions. If no tax return has been filed for the applicable year, the applicant must swear under oath and penalty of perjury that no tax return has been filed for the applicable year, and the gross receipts as presented to the city are true and correct to the best of the applicant's knowledge, ability and training based on financial documents such as CPA statement and/or the business's annual profit and loss statement.
- (t) No portion of the tax may be prorated.
- (u) For purposes of determining the number of employees of a business, trade, or practitioner, an employee who works 40 hours or more weekly shall be considered a full-time employee, and the average weekly hours of employees who work less than 40 hours weekly shall be added and

such sum shall be divided by 40 to produce full-time position equivalence. For purposes of this section, the number of employees shall be the number of full-time employees or full-time position equivalence.

(v) Notwithstanding any other provision of this article, practitioners of professions as described in O.C.G.A. § 48-13-9(c) shall elect as their entire occupation tax one of the following:

(1) The occupation tax based on their NAICS classification tax levy and gross receipts as provided for in this section; or

(2) \$400.00 per practitioner licensed to provide the service, but a practitioner paying according to this subsection shall not be required to provide information relating to the gross receipts of such practitioner.

Sec. 90-113 Reduction in tax.

(a) Businesses and practitioners located within the City of Monroe Downtown Development Authority (DDA) boundaries shall have a maximum annual occupation tax of ~~\$500.00~~ per business location in addition to any administrative fees or regulatory fees as further outlined herein in Subsection (b) below. This reduction in the maximum tax is part of a plan for economic development, with the goal of attracting, encouraging and maintaining business within the boundaries of the DDA which is essential to the welfare of the citizens of the city.

(b) The maximum annual occupation tax for businesses and practitioners located within the City of Monroe Downtown

Development Authority boundaries is as follows:

(1) Businesses with gross receipts less than \$1,000,000.00, shall pay a maximum annual occupational tax of \$500.00.

(2) Businesses with gross receipts from \$1,000,000.00 to \$1,999,999.99, shall pay a maximum annual occupational tax of \$1,000.00.

(3) Businesses with gross receipts from \$2,000,000.00 to \$2,999,999.99, shall pay a maximum annual occupational tax of \$1,500.00.

(4) Businesses with gross receipts from \$3,000,000.00 to \$3,999,999.99, shall pay a maximum annual occupational tax of \$2,000.00.

(5) Businesses with gross receipts from \$4,000,000.00 to \$4,999,999.99, shall pay a maximum annual occupational tax of \$2,500.00.

(6) Businesses with gross receipts of \$5,000,000.00, or more, shall pay an annual occupational tax in accordance with Section 90-110, Subsection (c), of this article.

Sec. 90-114 Certificate.

(a) Every business, practitioner, and location subject to payment of the occupation tax levied by this article shall display a current occupation tax certificate in a conspicuous place at the location for which such certificate was issued. If the taxpayer does not have a permanent

location within the city, the occupation tax certificate shall be shown to any police officer (or other person charged with enforcing this article) upon request.

- (b) The occupation tax certificate of each business operated in the city shall identify the dominant line of business that the business conducts. However, no business shall conduct any line of business without first having that line of business registered in writing with the city. This section shall not apply to attorneys in the practice of law.

Sec. 90-115. Exemptions.

- (a) No occupation tax shall be levied under this article on the following:
 - (1) Any practitioner whose office is maintained by and who is employed in practice exclusively by the United States, the state, a municipality or county of the state, or instrumentality of the United States, the state or municipality or county of the state;
 - (2) Those businesses regulated by the state public service commission;
 - (3) Those electrical service businesses organized under O.C.G.A. Title 46, chapter 3;
 - (4) Any farm operation for the production from or on the land of agricultural products, but not including any agribusiness;
 - (5) Nonprofit agricultural product cooperative marketing associations pursuant to O.C.G.A. § 2-10-05;
 - (6) Motor common carriers pursuant to O.C.G.A. § 46-7-15;
 - (7) Persons purchasing guano, meats, meal, flour, bran, cottonseed, or cottonseed meal or hulls in carload

- (a) lots for distribution among the purchasers for use and not sale pursuant to O.C.G.A. § 48-5-355;
- (8) Persons selling or introducing into the city agricultural products or livestock, including animal products, raised in this state when the sale or introduction are made by the producer of the product and the sale is made within 90 days of the introduction of the product into the city pursuant to O.C.G.A. § 48-5-356;
- (9) Depository institutions pursuant to O.C.G.A. § 48-6-93;
- (10) Any business operated for a charitable purpose; or
- (11) Any business where the levy of such occupation tax is prohibited by the laws of the state or the United States.
- (b) The exemptions and limitations contained in this article shall not be construed to repeal or otherwise affect in any way any franchise fees, business taxes or other fees or taxes otherwise allowed by law.

Sec. 90-116. Evidence of state registration required.

Each person who is licensed under O.C.G.A. Title 43 by the examining boards of the secretary of state's office shall provide evidence of proper and current state licensure before any city occupation tax certificate or regulatory fee certificate may be issued.

Sec. 90-117. 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 an occupation tax certificate or a regulatory fee certificate, show evidence of such qualification.

- (b) Any business required to submit an annual application for continuance of the business shall do so before the registration is issued.

Sec. 90-118. Filing returns; other information required or requested.

- (a) On or before April 1 of the following year, an individual, business or practitioner subject to this occupation tax ordinance shall file with the city clerk, on a form approved by and available from the City, a signed return attesting to the gross receipts of such business or practitioner during the preceding calendar year.
- (b) Individuals, businesses, and practitioners doing business in the city shall submit to the city clerk or make available to the city within 30 days, such information as may be required or requested by the city to determine the applicability and amount of the occupation tax or regulatory fee or to facilitate levying or collection of the occupation tax.

Sec. 90-119. Confidentiality.

Information provided by a business or practitioner to the city for the purpose of determining the applicability and amount of the occupation tax or levying or collecting the occupation tax is confidential and exempt from disclosure under Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia. Such information may be provided to the governing authority of another local government for occupation tax purposes or pursuant to court order or for the purpose of

collecting occupation tax or prosecution for failure or refusal to pay occupation tax.

Sec. 90-120. Change of address.

Any person moving a non-transient business from one location to another shall notify the city clerk of the move and the new address in writing, no later than ten days after moving. The same tax certificate shall be valid at the new location.

Sec. 90-121. Change of ownership; transfers.

No tax certificate issued under this article may be transferred from one person to another. Additions to or deletions from the ownership of a business, which do not affect the liability and the principal ownership of a business for which the certificate is issued, may be made without cancelling the old business or occupational tax certificate and applying for a new certificate. Whenever any person shall lease, operate or control the business franchise or property of other persons, they shall obtain a separate business tax certificate for each such business; provided no business shall pay the tax more than once under such an arrangement.

Sec. 90-122. Disabled veterans license.

An occupational tax certificate is to be granted to any veteran who presents to the city clerk a certificate from the state revenue department stating that he should be exempt from payment of any business license in the city due to disability; provided that no veteran is relieved from compliance with the remaining provisions of this article.

Sec. 90-123. Enforcement; violations.

- (a) It is the duty of the city administrator or designee to administer and enforce the

provisions of this article, to perform all functions necessary to administer and enforce this article and to summon violators of this article to appear before the municipal court. The city administrator may issue executions against individuals, businesses and practitioners for taxes and fees which are due and owing.

- (b) The city administrator shall issue executions against individual, businesses and practitioners for taxes and fees which are due and owing. 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 per month. The lien shall cover the property of the individual, business or practitioner liable for payment of the delinquent occupation tax or regulatory fee and become fixed as of the date and time the occupation tax or regulatory fee became delinquent. The execution shall be levied by the city administrator upon property of the delinquent tax or fee payer located in the city 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 city and state law. 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 city and the state law in regard to tax executions.
- (c) When a nulla bona entry has been entered upon an execution, the person against whom the entry is made shall not be allowed or entitled to have or collect any fees or charges whatever for services rendered after the entry of the nulla bona. If, at any time after the nulla bona entry 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 to such person had such person never defaulted in the payment of the tax.

- (d) Individuals, businesses and practitioners who fail or refuse to pay any occupation tax or regulatory fee charged pursuant to this article shall be punished as provided in section 1-11.
- (e) Individuals, businesses and practitioners who fail or refuse to make a timely or truthful tax return or make available truthful and accurate information the city requests or requires for determining applicability or amount of occupation tax or regulatory fee or for levying or collecting such occupation tax or regulatory fee shall be subject to punishment pursuant to section 1-11.
- (f) All persons subject to the occupation tax or regulatory fee imposed by this article 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 such person or business shall be subject to the same penalty as other persons, businesses or practitioners who fail to obtain, make a return for, or pay the applicable occupation tax or regulatory fee.
- (g) The criminal provisions contained in paragraph (d) and (e) hereinabove shall not apply to professions which are licensed by the State of Georgia or State Bar of Georgia. Practitioners of such professions which violate any of the provisions of this article shall be subject to a civil penalty in the amount of \$300.00 plus interest set forth in section 90-108. Section 90-126, Revocation of

licenses, shall not apply to professions which are licensed by the State of Georgia or State Bar of Georgia. This tax is a revenue measure only and is not a precondition or license for engaging in the practice of law or other profession regulated by the State of Georgia. The city recognizes only the State Bar of Georgia under the authority of the Georgia Supreme Court can regulate the practice of law and the city cannot impede the practice of law in any way whatsoever. There are no criminal penalties associated with this tax for lawyers or other professionals regulated by the State of Georgia.

Sec. 90-124. Lien taken for delinquent tax.

In addition to the other remedies provided in this article, for the collection of the occupation tax levied in this article, the city, upon any tax or installment of the tax becoming delinquent and remaining unpaid, shall issue execution for the correct amount of the tax against the persons, partnership, or corporation liable for such tax, which execution shall bear interest at the rate of 18 percent per annum from the date when such tax or installment becomes delinquent. The lien shall cover the property (in the city) of the person, partnership, or corporation liable for such tax. The lien of the 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 administrator or designee upon the property of such defendant located in such jurisdiction. Sufficient property shall be advertised and sold to pay the amount of the execution, with interest and costs. This section shall not apply to attorneys in the practice of law.

Sec. 90-125. Public hearing before increase in tax rate.

The City shall conduct at least one public hearing before adopting any ordinance or resolution which will increase the occupation tax rate authorized by this article to determine the use of any additional revenue so generated from such increase.

Sec. 90-126. Revocation and denial of licenses.

(a) All licenses issued pursuant to the provisions of this article are subject to revocation or suspension by the mayor and city council upon one or more of the following grounds:

- (1) The applicant or certificate holder is guilty of fraud in the operation of the business or occupation he practices or fraud or deceit in being licensed to practice in that area;
- (2) The applicant or certificate holder is engaged in the business or occupation under a false or assumed name, or is impersonating another practitioner of a like or different name;
- (3) The applicant or certificate holder is addicted to the habitual use of intoxicating liquors, narcotics, or stimulants to such an extent he is unable to perform his duties under the business or occupation;
- (4) The applicant or certificate holder is guilty of fraudulent, false, misleading, or deceptive advertising or practices;
- (5) The applicant or certificate holder has been convicted of or has pled guilty or nolo contendere to any sexual offense as set out in O.C.G.A. § 16-6-1 et seq., or to any offense involving the lottery, illegal possession or sale of

- narcotics or alcoholic beverages or possession or receiving of stolen property, for a period of five years immediately prior to the filing of the application. If, after having been granted a certificate, the applicant pleads guilty, is convicted of, or enters a plea of nolo contendere to any of the above offenses, said certificate shall be subject to suspension and/or revocation;
- (6) The original application, any supporting document, or renewal thereof, contains materially false information, or the applicant has deliberately sought to falsify information contained therein;
 - (7) Failure of the business to provide books and records for inspection within 30 days of a demand by the city administrator or designee as provided for in section 90-409118(b).
 - (8) The business or establishment is not authorized to operate within the city, or within the zoning district within which it is located, or is otherwise not in conformity with locational requirements of any of the city's ordinances;
 - (9) The applicant or licensee has failed to pay any fee to the city or county, has failed to make a return or pay a tax due to the tax commissioner of the county, or any other agency of the city or county government or has otherwise failed to comply with the provisions of this chapter or any other chapter of this Code of Ordinances.
 - (10) The business or establishment is a threat or nuisance to public health, safety or welfare;
 - (11) The business or establishment has been found by a court of law to have been operating unlawfully;
 - (12) Any other violation of this article; or
 - (13) Violation of another statute, ordinance, rule, or regulation that governs the operation of the business in question.
- (b) Within 45 days of the filing of a completed application, the city shall either issue an occupation tax certificate to the applicant or issue a written notice of intent to deny an occupation tax certificate for one or more reasons set forth in subsections (a)(1) through (a)(13) of this section. The notice shall be sent by certified mail, return receipt requested. The written notice shall also notify the applicant of the right to appeal said decision as designated in this section.
 - (c) Should the city administrator or designee find cause for one or more reasons set forth in subsections (a)(1) through (a)(13) of this section for an occupation tax certificate to be suspended or revoked, the city administrator or designee shall notify the occupation tax certificate holder by written notice of intent to suspend or revoke said occupation tax certificate. The notice shall be sent by certified mail, return receipt requested. Such notice shall state the grounds for the suspension or revocation of said occupation tax certificate and notify the holder of the right to appeal said decision as designated in this section.
 - (d) The city administrator or designee shall administer and enforce the provisions of this article. Should an aggrieved person or entity desire to appeal a decision of the city administrator or designee under this article, the following procedure shall apply: a notice of appeal must be filed

with the city administrator or designee within 15 calendar days after receipt of the adverse decision. The notice of appeal shall be in the form of a letter and shall clearly identify all of the objections or exceptions taken to the decision of the city. The notice of appeal shall also contain an address for receipt of future notices. Should the aggrieved person or entity fail to file a notice of appeal within the time allowed, the right to appeal is lost.

- (e) Upon receipt of a timely and proper notice of appeal, the city administrator or designee shall notify the appellant, in writing, of the date, time and place where a hearing will be held. The notice shall specify the time, place and date, not less than ten days nor more than 30 days after the date the notice is issued on which an independent hearing officer appointed by the mayor and council shall conduct a hearing on the city administrator or designee's written notice of intent to deny, suspend, or revoke the occupation tax certificate. Said hearing shall be conducted in accordance with the administrative hearing procedures as adopted by resolution of the city council.
- (f) The hearing officer appointed by the mayor and council shall issue a written decision, including specific reasons for the decision pursuant to this article, to the respondent within five days after the hearing. If the decision is to deny, suspend, or revoke an occupation tax certificate, the decision shall become final unless the applicant or certificate

holder files an appeal by petition for writ of certiorari to the Walton County Superior Court within 30 days of the date of the decision. In case of intent to deny, if the decision concludes that no grounds exist for denial, of the occupation tax certificate, the city shall, within three business days of the issuance of the decision, issue the occupation tax certificate to the applicant.

- (g) This section shall not apply to attorneys in the practice of law.

Sec. 90-127. Prior Ordinance.

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

Sec. 90-128. Severability.

In the event any portion of this Article shall be declared or adjudged invalid or unconstitutional, it is the intention of the City Council of the City of Monroe that such adjudication shall in no manner affect the other sections, sentences, clauses or phrases of this Article 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 Article.

Sec. 90-129—90-155. Reserved