
**STATE OF GEORGIA
CITY OF TUCKER**

ORDINANCE O2025-01-02

AN ORDINANCE BY THE MAYOR AND CITY COUNCIL FOR THE CITY OF TUCKER, GEORGIA FOR THE PURPOSE OF AMENDING ARTICLES I-X AND XIV -XV OF CHAPTER 10 OF THE TUCKER CITY CODE RELATING TO BUSINESSES; TO UPDATE, REPLACE, REPEAL AND MODIFY SAID ARTICLES OF SAID CHAPTER; TO PROVIDE FOR SEVERABILITY, TO PROVIDE FOR AN EFFECTIVE DATE, AND FOR OTHER LAWFUL PURPOSES.

WHEREAS, the City of Tucker is authorized by the Georgia Municipal Home Rule Act, O.C.G.A. § 36-35-1 et seq. to adopt reasonable ordinances for the protection of the public safety, health and welfare.

NOW THEREFORE, the City Council of the City of Tucker hereby ordains as follows:

SECTION ONE

Articles I-X of Chapter 10 of the Tucker City Code is hereby modified to reflect the changes shown by Exhibit "A", which is attached hereto and incorporated by reference as if fully set forth herein. Articles XI-XIII of Chapter 10 shall not be repealed or modified by this ordinance.

SECTION TWO

Articles XIV-XV of Chapter 10 of the Tucker City Code is hereby modified to reflect the changes shown by Exhibit "B", which is attached hereto and incorporated by reference as if fully set forth herein.


SECTION THREE

If any paragraph, subparagraph, sentence, clause, phrase or any portion of this Ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of the Ordinance to other circumstances not so held to be invalid. It is hereby declared to be the intent of the City Council of the City of Tucker to provide for separate and divisible parts, and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.

SECTION FOUR

This Ordinance shall be effective upon adoption by the City Council of the City of Tucker, Georgia.

So ordained and adopted this 10th day of February, 2025.


Frank Auman, Mayor


Bonnie Warne, City Clerk

[SEAL]

APPROVED AS TO FORM:


Ted C. Baggett, City Attorney



EXHIBIT A TO ORDINANCE O2025-01-02

ARTICLE I. IN GENERAL

Sec. 10-1. Security information—Required.

All persons subject to the provisions of this chapter shall furnish to the City, on a form supplied by the City, all information necessary to indicate the security measures located at his or her business, trade or profession and the persons to be notified in the event of an emergency of the business, trade or profession.

Sec. 10-2. Security information—Furnished with permit application.

All persons applying for a new or renewal permit under the provisions of this chapter shall be required, at the time of application, to furnish the information required in section 10-1, and to keep the information current.

Sec. 10-3. Carnivals, sideshows, etc.; permit required prior to issuance of license.

No permit shall be granted for the operation of a carnival, sideshow or similar exhibition on a vacant lot or in any open place where performances of any kind are given or where machinery of any kind or devices of any kind are operated for amusement unless a permit is obtained; provided however that such permit shall not apply to the construction, installation, inspection, maintenance, repair, or operation of carnival rides. Applications for this permit, accompanied by a fee in the amount established by action of the city council, a copy of which is on file in the office of their clerk, shall be filed with the City. The application shall contain such information as the City requires.

Secs. 10-4. Hearing Officers.

Hearing officers as provided for in this Chapter shall include those persons nominated by the Mayor and confirmed by the City Council and any of the duly appointed Judges of the Municipal Court.

Secs. 10-5—10-24. Reserved.

ARTICLE II. BUSINESS OCCUPATION TAXES

Sec. 10-25. Payment of occupational tax.

- (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 the 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 federal office of management and budget, the internal revenue service or successor agencies.
- (c) A schedule of specific business occupation taxes, as adopted from time to time by the city council is on file in the office of the clerk, which taxes shall be levied and collected in the amount and manner specified by this article.

Sec. 10-26. 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 the occupational tax which approximates the cost of handling and processing the occupational tax.

Applicant or holder means the applicant for, or holder of, a business occupation tax certificate, and shall include the business and any legally or organizationally related entity to which the occupational tax certificate applies.

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.

Director means the director of finance or his designee.

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 individual for purposes of documenting compensation a form IRS W-2 but not a form IRS 1099.

Gross receipts.

- (1) The term "gross receipts" means 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 charged for services rendered;
 - e. Proceeds from rent, interest, royalty, or dividend income; and
 - f. From all other income whatsoever arising from or growing out of the conduct of the business, trade, profession or occupation without any deduction whatsoever.
- (2) The term "gross receipts" shall not include the following:
 - a. Sales, use, or excise taxes;
 - 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), 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 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 geographical boundaries of the state.

License or permit means a document or certificate issued by the city that allows an entity to operate lawfully in the city. A license or permit does not create any rights to operate in violation of any provision of this Code and it may be denied, suspended or revoked by the city at any time pursuant to the procedures set forth herein. The term "license" or "permit" applies to any license or permit issued pursuant to this chapter.

Location or office includes any structure or any vehicle of a business or practitioner of a profession or occupation which has a location or office 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 delivery vehicles of a business or practitioner of a profession or occupation which has a location or office.

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

Person includes sole proprietors, corporations, partnerships, nonprofit or any other form of business organization.

Practitioner of professions and occupants means one who by state law requires state licensure regulating such profession or occupation. This definition shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.

Regulatory fees means payments, whether designated as license fees, permit fees or by another name, which are required as an exercise of police power and as a part of or as an aid to regulation of an occupation, profession or business. Regulatory fees shall not include an administrative fee. Regulatory fees do not include development impact fees as defined by O.C.G.A. § 36-71-2(8) or other costs or conditions of zoning or land development.

Sec. 10-27. Purpose and scope of tax.

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.

Sec. 10-28. Registration of name of business; payment of taxes required.

- (a) No person shall be engaged in, pursue or carry on any business within the city, in any manner without having registered the name of the business with the finance department and either paid the taxes as provided by this article or produced evidence of occupational tax payment to another jurisdiction in the state or proof of payment of a local business occupation tax in another state which purports to tax the business' or practitioner's sales or services in the state. The city shall not require an occupation tax on those receipts that were taxed by occupation tax in other states.
- (b) At the time of business registration, such person shall also identify to the finance department the lines of business that the business conducts. Classification of businesses for occupation tax purposes shall be based on the dominant line of business conducted.
- (c) Each separate business trade name shall be subject to the provisions of this article and shall fully comply with all city Code requirements before engaging in, pursuing or carrying on any business within the city.
- (d) Failure or refusal to provide information requested by the city for the purpose of classification, assessment or levying of occupation taxes, regulatory fees or administrative costs or regarding the site of a location or office and taxes or fees paid to other local governments shall be subject to a fine of up to \$500.00 in addition to being liable for the interest and penalties and subject to other remedies provided under state law.

Sec. 10-29. Estimation of gross receipts; filing of returns.

- (a) All occupation taxes levied by this article, with the exception of occupation taxes levied on those engaged in the practice of law, are levied on the amount of business transacted during the current calendar year and the

number of employees to be employed in the business conducted. However, for convenience of both the city and the taxpayer, those businesses subject to the occupational tax shall, on or before February 1 file with the finance department's business occupation tax section a return showing all gross receipts of that business during the preceding calendar year ending on December 31. This return 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 calendar year. The number of employees reported for the current year's business operations may be based upon the number of employees employed in the business conducted during the previous year. Applicants or owners engaged in the business shall be reported as employees of the business. Should a business not continue or terminate during the year, such business shall notify the finance department and file a final return reporting the actual number of employees and those gross receipts not previously reported.

- (b) Where a business subject to the occupation 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 the return. Said return shall also show a figure putting the receipts for such part of a year on an annual 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.
- (c) If a business is to begin on or after January 1 of the occupation tax year, the tax on such business shall be due and payable 30 days after the date of the commencement of the business and shall be based upon estimated gross receipts of the business from the date of commencement until the end of the calendar year. The business shall also file the required registration form and shall pay the administrative fee required by this article.
- (d) Notwithstanding the foregoing, occupation taxes and administrative fees for lawyers shall be due and payable on December 31 of the year in which the tax is incurred. Any lawyer failing to pay the occupation tax and administrative fees within 90 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 of one and a half percent per month as provided by state law. If a lawyer begins business after January 1 of the occupation tax year, the tax and administrative fee on such business shall be due and payable on December 31 of the year in which the business begins. Any lawyer failing to pay the occupation tax and administrative fee within 90 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 of one and a half percent per month as provided by state law. In addition, a list of all delinquent lawyers may be sent to the Georgia Bar. Failing to comply with the article will not result in the city closing a tax delinquent law practice or penalizing the continued practice of law by fining, imprisoning or criminalizing.
- (e) The city shall not require the payment of more than one occupational tax for each location that a business or practitioner shall have nor shall the city require a business to pay an occupational tax for more than 100 percent of the business' gross receipts.
- (f) Real estate brokers shall pay an occupational tax for each principal office and each separate branch office located in the city based upon gross receipts derived from transactions with respect to property located within the city. Payment of the occupation tax shall permit the broker, the broker's affiliated associates and salespersons to engage in all of the brokerage activities described in O.C.G.A. § 43-40-1 without further licensing or taxing other than the state licenses or permits issued pursuant to state law.
- (g) For out-of-state businesses with no location in the state, occupation taxes include the gross receipts of business as defined in section 10-33.
- (h) For purposes of this section, prima facie evidence of gross receipts generated during any period shall be a copy of the business' federal income tax return or an affidavit of the business' accounting firm.
- (i) If any person or business whose duty it is to begins to transact or offers to transact any kind of business after the occupation tax becomes delinquent, such offender shall be assessed interest according to the rate as provided by state law and penalties under the city Code.

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- (j) In addition to the remedies set forth in this section, the finance department may issue an execution for failure to pay taxes against the person so delinquent and against such person's property for the amount of the occupational tax required to be paid for the purpose of carrying on any of the businesses enumerated in this article.
 - (k) No taxpayer shall be liable for any penalty or interest pursuant to this Code section if:
 - (1) The default giving rise to such penalty or interest resulted from a taxpayer's military service in the armed forces of the United States in an area designated by the President of the United States by executive order as a combat zone and was not due to gross or willful neglect or disregard of the law or of regulations or instructions issued pursuant to the law; and
 - (2) The taxpayer provides proof of such military service and makes full payment of taxes due, not including penalties and interest, within 60 days of such taxpayer's return from such military service.

Sec. 10-30. Administrative and regulatory fees.

A regulatory fee shall be imposed on those applicable businesses listed under O.C.G.A. § 48-13-9(b) that the city deems necessary to regulate.

Sec. 10-31. Separate registration for separate locations or separate tradenames.

Where a person conducts business at more than one fixed location or has multiple business tradenames, each location or place and each tradename shall be considered to be separate for the purpose of the occupation tax and the gross receipts of each will be returned on a form furnished by the finance department in accordance with the provisions of this article.

Sec. 10-32. Reserved.

Sec. 10-33. Paying occupation tax of business with no location in the state.

Registration and the assessment of an occupation tax is imposed on those businesses and practitioners of professions and occupations with no location or office in the state if the business' largest dollar volume of business in the state is in the city, and the business or practitioner:

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

Sec. 10-34. Persons classified as professionals under state law.

Practitioners of professions as described in O.C.G.A. § 48-13-9(c)(l)–(18) shall elect as their entire occupation tax one of the following:

- (1) The occupation tax based on number of employees and gross receipts combined with profitability ratios as set forth in this article;
- (2) An established fee described in O.C.G.A. § 48-13-9(c)(l)–(18). Such fee is per practitioner who is licensed by the state to provide the service, such tax to be paid at the practitioner's office or location. Practitioners paying according to this subsection shall pay the fee per practitioner and shall not be required to provide information relating to gross receipts or number of employees of the business or practitioner;

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- (3) Any practitioner whose office is maintained by and who is employed in practice exclusively by instrumentalities of the United States, the state, a municipality or county of the state, shall not be required to register or pay an occupation tax for that practice.

Sec. 10-35. City occupation tax certificate and state licensure to be displayed.

Each person who is licensed by the state shall post the state license next to the city occupation tax certificate in a conspicuous place in the licensee's place of business and shall keep both the state license and the city occupation tax certificate there at all times while valid.

Sec. 10-36. Change of location.

Any person moving from one location to another shall notify the finance department of this move and the new address in writing on a form provided by the finance department prior to the day of the moving. A new receipt for the occupational tax will be issued for the new location if the new location conforms to the zoning regulations of the city.

Sec. 10-37. Transferability.

Occupational tax certificates shall not be transferable and a transfer of ownership shall be considered in the same light as the termination of the business and the establishment of a new business. Filing a new registration application and payment of applicable fees and taxes shall be required of the new owner of the business.

Sec. 10-38. Reserved.

Sec. 10-39. Inspections of books and records; audits; confidential information.

- (a) The finance department shall have the right to inspect the books or records of any business for which returns have been made and upon demand of the finance department such books or records shall be submitted for inspection by a representative or agent of the city within 30 days. Independent auditors or bookkeepers employed by the city shall be classified as agents for the purposes of this article. Failure of submission of such books and records within 30 days shall be grounds for revocation of the occupation tax registration currently existing in the city. If it is determined that a deficiency exists as a result of under reporting, additional payment of occupation taxes required to be paid under this article shall be assessed the interest as provided by state law and penalties provided for by this Code. Notwithstanding the foregoing, no attorney shall be required to disclose any information that would violate the attorney/client privilege.
- (b) Except as provided in subsection (c) of this section, information provided by a business or practitioner of an occupation or profession for the purpose of determining the amount of occupation tax for the business or practitioner is confidential and exempt from disclosure under O.C.G.A. §§ 50-18-71—50-18-77.
- (c) Information provided to the city by a business or practitioner of an occupation or profession for the purpose of determining the amount of occupation tax for the business or practitioner may be disclosed to the city council of another local government for occupation tax purposes or pursuant to court order or for the purpose of collection of occupation tax or prosecution for failure or refusal to pay occupation tax.
- (d) Nothing herein shall be construed to prohibit the publication by the city of statistics, so classified as to prevent the identification of particular reports or returns and items thereof.

Sec. 10-40. Business classifications for determining tax levy.

- (a) For the purpose of this article, every person engaged in business requiring the payment of occupational taxes is classified in accordance to the major line of business as defined by the North American Industrial

Classification System (NAICS); and profitability classes are assigned in accordance with Statistics of Income, Business Income Tax Returns publication of the United States Treasury Department, Internal Revenue Service. The finance department shall review assignment of businesses to profitability classes on a biannual basis and shall administratively reassign businesses as necessary to the then most accurate profitability class.

- (b) Classifications by business profitability have been established by the city council and are incorporated herein by reference and adopted for use in the application of this article. All separate businesses engaged in more than one business activity shall be classified on the basis of their dominant business activity 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) The occupation tax shall be determined by applying the business' gross receipts and number of employees returned to the city to the business' profitability classification established for each business type.
- (d) A copy of business classifications shall be maintained in the office of the city clerk and shall be available for inspection by all interested persons.

Sec. 10-41. Casual and isolated transactions.

Nothing in this article shall be interpreted to require any person who may engage in casual or isolated activity and commercial transactions, where they involve personal assets, are not the principal occupation of the individual to pay occupational tax therefor. Street vendor, transient vendor or flea market vendor activities shall not be considered to be casual and isolated business transactions and shall be required to comply with the provisions of this article.

Sec. 10-42. Exemption for certain people and businesses.

- (a) This chapter expressly exempts the following people and businesses from paying occupation taxes:
 - (1) 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;
 - (2) Blind persons;
 - (3) Veterans of peace-time service in the United States armed forces who have a physical disability which was incurred during that service;
 - (4) A practitioner whose office is maintained by, and who is employed exclusively by, the United States, the State of Georgia, a city or county in Georgia, or instrumentalities thereof;
 - (5) Any state or local authority, nonprofit organization, or vendor acting pursuant to a contract with a tax-exempt agricultural fair;
 - (6) Businesses regulated by the Georgia Public Service Commission;
 - (7) Electrical service businesses organized under O.C.G.A. Title 46, Chapter 3;
 - (8) Any farm operation producing agricultural products, but not including agribusiness;
 - (9) Persons purchasing guano, meats, meal, flour, bran, cottonseed, or cottonseed meal and hulls in carload lots for distribution among the purchasers for use and not sale;
- (b) Notwithstanding the exemption from payment of city occupation taxes, an exempt person or business shall comply with the same laws and regulations as are required of other registered businesses.

Sec. 10-43. Exclusions from article; special classifications.

- (a) Wholesale dealers in liquor, wine, beer, and malt beverages are not required to pay the business occupation taxes provided for in this article.
- (b) Registration and occupational tax payment is required from any satellite subscription television system. The term "satellite subscription television system" means services provided to subscribers for sale where the provider of the services utilizes a master antenna type system or earth dish system designed to receive and distribute satellite television signals; particularly, a system to provide service to one or more multiple unit dwellings under common ownership wherein any wiring necessary to operate the system does not cross adjacent non-owned property lines and does not cross city right-of-way in the city. The provisions of this subsection shall not apply to any person that is subject to the city's franchise fee for the holders of a cable or video service provider state franchise.
- (c) Registration and occupational tax payment is required from any broadcast subscription television system. The term "broadcast subscription television system" means services provided to subscribers for sale where the provider of the services transmits premium programming from one or multiple sources by transmitting or retransmitting programs to the public.
- (d) Any vendor or exhibitor who is a member of a group or collection of vendors or exhibitors that has come together at one location for the purpose of selling arts, crafts, antiques, or other goods for a period not to exceed ten consecutive days may be registered individually, or the group or collection may be registered as a "special event." Any applicant for a special event shall be considered as the promoter of the special event and shall be responsible for registration of the special event and paying the occupational taxes. Any special event group or collection of vendors or exhibitors shall comply with the same laws and regulations as required of other registered businesses, where applicable.
- (e) As part of the city's economic development incentives and only to the extent as described in O.C.G.A. § 48-13-10, the city council may by ordinance or resolution provide for an exemption or reduction in occupation 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, encouraging, or maintaining selected types of businesses or practitioners of selected occupations or professions. Such exemptions or reductions in occupation tax shall not be arbitrary or capricious. Exemptions under this subsection shall not exceed ten percent of the business' total annual gross receipts.

Sec. 10-44. Reserved.

Sec. 10-45. Grievances regarding occupation tax assessment or classification.

For grievances regarding the occupation tax assessed or the major line of business classification, the aggrieved person or entity shall first submit in writing a complaint to the city clerk which shall set forth in reasonable detail the matters complained of. The complaint may take letter form, and it shall be the duty of the city to review the complaint and issue a written reply to the taxpayer within 30 calendar days from the date the complaint is received. The written reply shall state in reasonable detail the basis for the decision regarding the initial assessment and classification. Should the aggrieved person or entity desire to seek review of such a decision, or if the city fails to issue a written opinion to the taxpayer within the 30- calendar-day time period, the taxpayer shall be entitled to appeal to the hearing officer pursuant to the procedure set forth in section 10-46.

Sec. 10-46. Administration; procedure for grievances and appeals.

- (a) The director of finance shall administer and enforce the provisions of this article. Should an aggrieved person or entity desire to appeal a decision under this article, the following procedure shall apply:
- (1) A notice of appeal must be filed within 15 calendar days after receipt of the decision complained of. 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 complained of. The notice of appeal shall also contain an address for receipt of future notices and decisions of the hearing officer. Should the aggrieved person or entity fail to file a notice of appeal within the time allowed, the right to appeal is lost.
 - (2) Upon receipt of a timely and proper notice of appeal, appellant shall be notified, in writing, of the date, time and place where a hearing will be held. The hearing shall be held before the hearing officer within 45 calendar days of the date the notice of appeal is filed, but no sooner than ten calendar days after appellant receives notice of the hearing. The director shall transmit to the hearing officer all documents or materials constituting the record of the action or proceedings below.
 - (3) If the finance director deems it necessary that an audit of the financial books/records of appellant be conducted, the city shall notify appellant in writing of a reasonable date, time and place for the audit, which shall be conducted prior to the date of a hearing on the matter. The finance director may hire outside auditors for this purpose. The expense of hiring outside auditors shall be borne by the city if the position of the appellant is sustained by the audit. If not, the expense of the outside auditors shall be due and payable from appellant as part of the costs of appeal.
 - (4) An appeal under this section shall stay all legal proceedings with regard to collection of the occupation tax from an appellant; however, such appeal shall not preclude the city from pursuing legal proceedings to enjoin any violation of this article or of any other article of this Code.
 - (5) In all hearings pursuant to this section, the following procedures shall prevail, and the proceeding shall be as informal as compatible with justice:
 - a. The hearing officer shall convene the hearing. The hearing officer shall be appointed by the mayor and approved by the city council. The hearing officer shall have the following duties:
 1. To hear appeals from decisions of the finance department denying the issuance or renewal of any license or permit pertaining to this chapter;
 2. To hear appeals from the decisions of the finance department revoking or suspending any license or permit pertaining to this chapter;
 - b. The proceeding before the hearing officer shall be recorded, and all documents and other materials considered by the hearing officer shall be preserved as the record of the proceedings. The record of the proceedings shall be preserved for not less than 150 calendar days after the hearing.
 - c. Any alleged violations or misconduct levied against the appellant and scheduled for a hearing before the hearing officer shall be read completely to appellant at the commencement of the hearing, unless waived by appellant.
 - d. The hearing officer may receive evidence in support of the alleged violations or misconduct as filed against appellant. Decisions of the hearing officer are to be supported by the evidence accepted and admitted during the hearing.
 - e. The city shall bear the burden of proof. The standard of proof shall be by a preponderance of the evidence.
 - f. The order of proof shall be as follows: The city representative shall present the case-in-chief in support of the alleged violations or misconduct; the appellant may present a case-in-chief, if desired. Each party may be allowed to present one case-in-rebuttal.

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- g. The appellant and city may be represented by counsel, may present evidence, and may examine and cross examine witnesses. Additionally, the hearing officer are permitted to question witnesses. A party is permitted no more than 15 minutes to present that party's case-in-chief; a case-in-rebuttal is permitted no more than ten minutes of presentation. Presentation of augments and evidence may be in oral or written form, except that affidavits of individuals who are unavailable for cross examination shall not be accepted or admitted by the hearing officer nor considered by the hearing officer.
 - h. Following the presentation of evidence, the hearing officer shall issue a written decision within 30 calendar days of the date of the hearing. A copy of the decision shall be mailed, via registered or certified mail, to the parties or the parties' representatives. For the appellant, the decision shall be mailed to the address provided on the notice of appeal. Should the hearing officer fail to issue a timely decision, on the 31st day after the date of the hearing, appellant may seek review as if a decision adverse to appellant had been rendered.
 - 1. The findings of the hearing officer shall be final unless a party files a petition for writ of certiorari to the county superior court within 30 calendar days of the decision of the hearing officer.

Sec. 10-47. Promulgation of rules, regulations.

The finance department shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with this article or other laws of the city and the state, or the constitution of the state or the constitution of the United States, for the administration and enforcement of the provisions of this article and the collection of the occupational tax.

Sec. 10-48. Reserved.

Sec. 10-49. Reserved.

Secs. 10-50—10-71. Reserved.

ARTICLE III. GOING-OUT-OF-BUSINESS SALES

DIVISION 1. GENERALLY

Sec. 10-72. 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:

Fire and other altered goods sale means a sale held out in such a manner as to reasonably cause the public to believe that the sale will offer goods damaged or altered by fire, smoke, water or other means.

Going-out-of-business sale means a sale held out in such a manner as to reasonably cause the public to believe that upon the disposal of the stock or goods on hand the business will cease and be discontinued, including, but not limited to, the following sales: Adjuster's; adjustment; alteration; assignee's bankrupt; benefit of administrator's; benefit of creditor's; benefit of trustee's; building coming down; closing; creditor's committee; creditor's end; executor's; final days; forced out; forced out of business; insolvent's last days; lease expires; liquidation; loss of lease; mortgage sale; receiver's; trustee's; and quitting business.

Goods means any goods, wares, merchandise or other property capable of being the object of a sale regulated under this article.

Removal of business sale means a sale held out in such a manner as to reasonably cause the public to believe that the person conducting the sale will cease and discontinue business at the place of sale upon disposal of the stock of goods on hand and will then move to and resume business at a new location or will then continue business from another existing location.

Sec. 10-73. Persons exempt from article.

The provisions of this article do not apply to or affect the following persons:

- (1) Persons acting pursuant to an order or process of a court of competent jurisdiction.
- (2) Persons acting in accordance with their powers and duties as public officials.
- (3) Duly licensed auctioneers, selling at auction.
- (4) Any publisher or newspaper, magazine or other publication that publishes in good faith any advertisement, without knowledge of its false, deceptive or misleading character or without knowledge that there has not been compliance with the provisions of this article.

Sec. 10-74. Duties of permittee.

A permittee under this article shall:

- (1) *Adhere to inventory.* Make no additions during the period of the permitted sale to the stock of goods set forth in the inventory attached to the application for permit.
- (2) *Advertise properly.* Refrain from employing any untrue, deceptive or misleading advertising.
- (3) *Adhere to advertising.* Conduct the permitted sale in strict conformity with any advertising or holding out incident thereto.
- (4) *Keep duplicate inventory.* Keep available at the place of sale a duplicate copy of the inventory submitted with the application, and present this duplicate to inspecting officials upon request.
- (5) *Segregate noninventoried goods.* Keep any other goods separate and apart from the goods listed in the filed inventory as being objects of sale, and make this distinction clear to the public by placing tags on all inventoried goods in and about the place of sale apprising the public of the status of all these goods.

Sec. 10-75. Interval between sales.

Any person who has held a sale as regulated under this article at the location stated in the application within one year last past from the date of the application shall not be granted a permit.

Sec. 10-76. Location of sale restricted.

Where a person applying for a permit required by the provisions of this article operates more than one place of business, the permit issued shall apply only to the one store or branch specified in the application. No other store or branch shall advertise or represent that it is cooperating with this sale or in any way participating in the permitted sale, nor shall the store or branch conducting the permitted sale advertise or represent that any other store or branch is cooperating with it or participating in any way in the permitted sale.

Sec. 10-77. Bankrupt or fire sales.

- (a) *Sale of unaffected or undamaged goods.* It shall be unlawful for any person conducting any sale, whether by auction or otherwise, of any goods, wares or merchandise which are or have been or which are claimed to be or claimed to have been in or damaged by a fire, or which are or have been or which are claimed to be or claimed to have been sold or purchased on account of any fire, or which are or have been or are claimed to be or claimed to have been the property of any bankrupt business or person who has failed in business or has made a general assignment, or which are being sold or offered for sale in any other way than through the usual channels of trade, to sell or offer for sale therein any goods, wares or merchandise not so circumstanced or affected or damaged.
- (b) *Adding to goods.* It shall be unlawful for any person to add to, or to permit to be added to, or to bring into or permit to be brought into any store, warehouse or other building in the city, any goods for the purpose of adding to these goods, wares or merchandise so circumstanced or affected and on hand in this store, warehouse or other building for the purpose of being sold at this sale.

Sec. 10-78. Advertising restrictions.

- (a) It shall be unlawful for any person to advertise, in any newspaper, handbill, sign, poster or any other such printed media, or by radio or television broadcast to residents of the city, that the person is conducting a closing-out, going-out-of-business, fire or bankrupt sale or similar sale as defined in this article as a means of attracting the general public to the person's place of business when such person does not actually intend to close out or go out of business or has not purchased the permit required by this article.
- (b) It shall be unlawful for any person to advertise by sign, poster, handbill, newspaper or any other such printed or written media any closing-out, going-out-of-business, fire or bankrupt sale or similar sale as defined in this article unless all the written or printed matter in this advertisement shall be of the same size and type, including the notice that sales, excise and other taxes are either included or excluded from the advertised price and also whether the advertised price includes an article of the type being advertised to be traded in on the advertised article.

Secs. 10-79—10-99. Reserved.

DIVISION 2. PERMIT

Sec. 10-100. Required.

A permit issued by the finance department shall be obtained by any person before selling or offering to sell any goods at a sale to be advertised or held out by any means to be any of the following kinds:

- (1) Going-out-of-business sale.
- (2) Removal of business sale.
- (3) Fire and other altered stock sale.

Sec. 10-101. Application.

A person desiring to conduct a sale for which a permit is required by this division shall make a written application to the finance department setting forth the following information:

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- (1) The true name and address of the owner of the goods to be the object of the sale.
 - (2) The true name and address of the person from whom the applicant purchased the goods to be sold and the price therefor, and if not purchased, the manner of this acquisition.
 - (3) A description of the place where the sale is to be held.
 - (4) The nature of the occupancy, whether by lease or sublease and the effective date of the termination of such occupancy.
 - (5) The dates of the period of time in which the sale is to be conducted.
 - (6) A full and complete statement of the facts in regard to the sale, including the reason for the urgent and expeditious disposal of goods thereby and the manner in which it will be conducted.
 - (7) The means to be employed in advertising the sale together with the proposed content of any advertisement.
 - (8) A complete and detailed inventory of the goods to be sold at this sale as disclosed by the applicant's records. This inventory shall be attached to and become part of the required application.

Sec. 10-102. Established business required; exception.

- (a) Any person who has not been the owner of a business advertised or described in the application for a permit under this division for a period of at least 12 months prior to the date of the proposed sale shall not be granted a permit under this division.
- (b) Upon the death of a person doing business in the city, such person's heirs, devisees or legatees or the representative of such person's estate shall have the right to apply at any time for a permit under this division.

Sec. 10-103. Inventory restrictions.

- (a) All goods included in the inventory of an applicant for a permit under this division shall have been purchased by the applicant for resale on bona fide orders without cancellation privileges and shall not comprise goods purchased on consignment.
- (b) The inventory shall not include goods ordered in contemplation of conducting a sale regulated under this division. Any unusual purchase or additions to the stock of goods of the business hereby affected within 30 days before the filing of an application under this division shall be deemed to be of this character.

Sec. 10-104. Conditions of issuance.

A permit shall be issued under this division on the following terms:

- (1) *Permitting period.* The permit shall authorize the sale described in the application for a period of not more than 30 consecutive days, Sundays and legal holidays excluded, following the issuance thereof.
- (2) *Renewal procedure.* The finance department shall renew a permit for one period of time only, this period to be in addition to the 30 days permitted in the original permit and not to exceed 30 consecutive days, Sundays and holidays excluded, when it finds that all of the following exists:
 - a. Facts justifying the permit renewal.
 - b. The permittee has filed an application for renewal.
 - c. The permittee has submitted with the application for renewal a revised inventory showing the items listed on the original inventory remaining unsold and not listing any goods not included in the original application and inventory. For the purpose of this subsection, any application for a

permit under the provisions of this division covering any goods previously inventoried as required hereunder shall be deemed to be an application for renewal, whether presented by the original applicant, or by any other person.

- (3) *Nature of sale.* The permit shall authorize only the type of sale described in the application at the location named therein.
- (4) *Salable goods.* The permit shall authorize only the sale of goods described in the inventory attached to the application.
- (5) *Surrender of general permits.* Upon being issued a permit hereunder for a going-out-of-business sale, the permittee shall surrender to the finance department all other business permits the permittee may hold at the time applicable to the location and goods covered by the application for a permit under this division.
- (6) *Nontransferability.* Any permit provided for shall not be assigned or transferable.

Sec. 10-105. Fees.

- (a) Any applicant for a permit under this division shall submit to the finance department with the application the required permit fee.
- (b) Any applicant for a renewal permit under this division shall submit to the finance department with the renewal application the required renewal permit fee.
- (c) The permit fee shall be in the amount established by action of the city council, a copy of which is on file in the office of the city clerk.

Secs. 10-106—10-123. Reserved.

ARTICLE IV. PAWNSHOPS¹

Sec. 10-124. 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:

Employee means any person working for an owner or pawnbroker, or any owner or pawnbroker who, in the performance of duties or the management of the business affairs of a pawnshop, comes into substantial contact with members of the public, or is employed on a part-time or full-time basis, either with or without remuneration, by a pawnshop.

Pawn or pledge means a bailment of personal property as security for any debt or engagement, redeemable upon certain terms and with the implied power of sale on default.

Pawnbroker means any person, whether an owner or not, who works in a pawnshop on a regular basis and in a managerial capacity whereby the person has charge of the business or operations of the pawnshop. The term "pawnbroker" includes any person whose business or occupation it is to take or receive, by way of pledge, pawn or exchange, any goods, wares or merchandise or any kind of personal property whatever, as security for the repayment of money lent thereon.

¹State law reference(s)—Pawnbrokers, O.C.G.A. § 44-12-130 et seq.

Pawnshop means any business wherein a substantial part thereof is to take or receive, by way of pledge, pawn or exchange, any goods, wares, merchandise or any kind of personal property as security for the repayment of money lent thereon.

Sec. 10-125. Penalties; suspension or revocation of permit.

Any person who violates any provision of this article shall, upon conviction, be punished as provided in section 1-7. Further, any person failing to comply with any provision of this article, or such other laws, ordinances and regulations as may be passed by the city council for the conduct of the business of a pawnbroker, shall have the permit to conduct this business revoked. This revocation shall result from conviction in any court for a violation of any provision of this article or any other ordinance or regulation covering the conduct of the business for which a permit and permit have been issued.

Sec. 10-126. Responsibility for enforcement.

The finance department shall have the responsibility for the enforcement of this article.

Sec. 10-127. Annual permit.

- (a) All persons, before beginning the business of operating a pawnshop or becoming an employee of a pawnshop or similar place where money is advanced on goods or other effects or merchandise of any kind is taken in pawn, shall first file an application with the police department and obtain an annual permit to conduct or be employed in the business. No permit shall be issued until a fee in the amount established by action of the city council, a copy of which is on file in the office of the city clerk, is paid to the police department.
- (b) The requirements of this section are in addition to the requirements of article II of this chapter.
- (c) The application for the permit required shall state the street and number at which it is proposed to operate the business. The application shall contain the full name, address, phone number, date of birth and Social Security number of all persons, including pawnbrokers, owning any interest in the proposed business, plus any additional information, including fingerprints, deemed necessary by the police department.
- (d) No business permit shall be issued to a person until the permit required by this section has been granted by the finance department.

Sec. 10-128. Employees.

No person shall be employed by a pawnshop in any capacity until such person has been fingerprinted by the City and has been issued an annual permit authorizing such person to be employed by a pawnshop. It shall be the duty of the pawnbroker to ensure that there is compliance with the provisions of this section.

Sec. 10-129. Character of persons connected with business.

No owner, stockholder, employee, pawnbroker or any other person connected with the business for which a permit is sought shall have been convicted of a crime involving moral turpitude or shall have been convicted of any crime involving theft or a crime against property.

Sec. 10-130. Records.

All pawnbrokers shall keep books wherein shall be entered an accurate description of all property pledged, traded or sold to them. This description shall include, to the extent possible, the name of the maker of the article, any identifying mark or number and a statement of the kind of material of which it is made. In these books there shall be entered also the full name and address of the person by whom it was deposited or sold, and the time

when it was done. These entries shall be made as soon after the transaction as is possible, in no event more than one hour thereafter. The pawnbroker shall photograph the person pawning the merchandise along with a pawnbroker's ticket showing a transaction number. The pawnbroker shall obtain the right index fingerprint provided it has not been amputated; if so, the next adjoining finger shall be acceptable.

Sec. 10-131. Daily reports; fingerprinting, photographing of persons pawning articles.

- (a) Every pawnbroker shall make a daily report in writing to the police department in such form as may be prescribed by the police department of all property pledged, traded or bought by such pawnbroker during the 24 hours ending at 9:00 p.m. on the date of the report. These reports shall be typewritten. In addition to any other information required by the police department, the reports shall show:
 - (1) The name and address of the pawnbroker.
 - (2) The time of transaction.
 - (3) The serial numbers of pawn tickets.
 - (4) The amount paid or advanced.
 - (5) A full description of articles, including kind, style, material, color, design; kind and number of stones in jewelry and all identifying names, marks and numbers.
 - (6) A description of the person selling or pawning, including name, address, race, weight and height.
- (b) Insufficient reports shall be rejected, and any pawnbroker making them shall be deemed guilty of an offense.
- (c) In addition to the other records and information, each pawnbroker shall obtain from each person pawning any articles with such pawnbroker the fingerprint of the right-hand index finger, unless this finger is missing, in which event the print of the next finger in existence on the right hand of the person pawning the articles shall be obtained with a notation as to the exact finger printed. All prints shall be made on forms approved by the police department and the pawnbroker shall obtain all other information called for on the form approved. Fingerprints and the information as required in this section shall be obtained from all persons each time these persons pawn any article with a pawnbroker, regardless of whether the person may have previously pawned an article with the pawnbroker and been fingerprinted.
- (d) In addition to other records and information, each pawnbroker shall photograph each customer with the photograph showing the pawnbroker's ticket and transaction number. This photograph shall be reduced to a negative form and maintained by the pawnbroker as a permanent record.

Sec. 10-132. Hours of operation.

Pawnbrokers may not keep open their places of business except between 7:00 a.m. and 9:00 p.m., Monday through Saturday.

Sec. 10-133. Waiting period prior to disposal of articles.

Any pawnbroker or person operating under a pawnbroker's permit who takes goods on pawn or buys goods, taking full title thereto, the term "goods" being used in the broadest sense and including all kinds of personal property, shall hold these goods so taken in pawn or purchase for at least 30 days before disposing of them by sale, transfer, shipment or otherwise.

Sec. 10-134. Dealing with minors.

It shall be unlawful for any pawnbroker, the pawnbroker's agents or employees to receive goods in pawn from minors.

Secs. 10-135—10-151. Reserved.

ARTICLE V. PRECIOUS METAL DEALERS²

DIVISION 1. GENERALLY

Sec. 10-152. 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:

Dealer means any person engaged in the business of purchasing precious metals or gems or goods made from precious metals or gems from persons or sources other than manufacturers or manufacturers' representatives or other dealers in precious metals or gems or a person engaged in any other business if, in conjunction with such business, precious metals or gems or goods made from precious metals or gems are purchased from persons or sources other than manufacturers or manufacturers' representatives or other dealers in precious metals or gems when the purchase is for resale in its original form or is changed by remounting, melting, reforming, remolding or recasting, or for resale as scrap or in bulk.

Employee means any person working for a dealer, whether or not the person is in the direct employment of the dealer, who, in the performance of duties or the management of the business affairs of the dealer, handles precious metals or gems, or who prepares any reports or records which are required by this article. The term "employee" does not include any employee of any bank, armored car company, private security company, or other business entity which is acting in the sole capacity of bailee-for-hire in relationship to the dealer.

Gem means any precious or semiprecious stone cut and polished.

Precious metal means gold, silver, platinum or any alloy containing gold, silver or platinum.

Purchase means buy, barter, trade, accept as collateral for a loan, or receive for the purpose of melting down, crushing or otherwise altering the appearance of the item.

Sec. 10-153. Purpose; applicability of state law.

The purpose of this article is to regulate and establish qualifications for dealers of precious metals, gems and goods made from precious metals and gems, who engage in business in the city. It is a further purpose of this article to enhance and supplement state law. Any permit fee required by the terms of this article shall be collected in addition to any permit or registration fee as may be imposed on dealers by any state law.

Sec. 10-154. Exemptions.

- (a) The provisions of this article shall not apply to dealers exclusively engaged in the sale or exchange of numismatic coins or to transactions exclusively involving numismatic coins or other coinage.
- (b) The provisions of this article shall not apply to pawnshops, pawnbrokers, or employees of pawnbrokers who maintain permanent places of business within the city and are in compliance with article IV of this chapter.

²State law reference(s)—Dealers in precious metals and gems, O.C.G.A. § 43-37-1 et seq.; additional local requirements authorized, O.C.G.A. § 43-37-5.

Sec. 10-155. Violations.

- (a) It shall be unlawful for any dealer or employee to violate any of the provisions of this article, whether or not such dealer or employee is the holder of a current, valid permit issued according to the terms of this article. It shall be a violation of this article for any person to:
 - (1) Make any false statement in an application for any permit provided for in this article.
 - (2) Make any false entry in any record or form required by the terms of this article.
 - (3) Violate any criminal law of this state while acting in the course of business as a dealer or employee of a dealer.
- (b) Willful violation of any of the provisions of this article shall be grounds for revocation of the dealer's business permit.

Sec. 10-156. Reserved.**Sec. 10-157. Records of transactions.**

- (a) Every dealer shall maintain a book in permanent form in which shall be entered at the time of each purchase of precious metals or gems or goods made from precious metals or gems, the following:
 - (1) The date and time of the purchase transaction.
 - (2) The name of the person making the purchase from the seller.
 - (3) The name, age and address of the seller of the items purchased and the distinctive number from each seller's driver's license or other similar identification card containing a photo of the seller.
 - (4) A clear and accurate identification and description of the purchased goods, including the serial model or other number, and all identifying marks ascribed thereon.
 - (5) The price paid for the goods purchased.
 - (6) The number of the check issued for the purchase price if payment is made by check.
 - (7) The signature of the seller.
- (b) The permanent record book required in this section shall be in legible English. Entries shall appear in chronological order, and shall be numbered in sequence. No blank lines may be left between entries. No obliterations, alterations or erasures may be made. Corrections shall be made by drawing a line of ink through the entry without destroying its legibility. The book shall be maintained for each purchase of precious metals or gems or goods made from precious metals or gems for at least two years. The book shall be open to the inspection of any duly authorized law enforcement officer during the ordinary hours of business or any reasonable time. The book shall be kept at the business premises during ordinary hours of business.
- (c) Dealers exclusively engaged in buying or exchanging for merchandise scrap dental gold and silver from licensed dentists by registered or certified mail may record the post office record of the mail parcel in lieu of the seller's age, driver's license number and signature as required in this section.

Sec. 10-158. Daily reports.

- (a) Every dealer shall record, on cards or forms furnished or approved by the City the details of each purchase of precious metals or gems or goods made from precious metals or gems. These records shall be entered in legible English at the time of each purchase of such items, and each card or form shall bear the number of the corresponding entry made in the book required by section 10-157. Each record shall include such information as may be reasonably required by the police department and shall include, as a minimum, the following:
 - (1) An accurate description of all articles received in the transaction with the particular seller. This description shall include to the extent possible the maker of each article, any identifying mark, number or initials, any pattern or shape, and a statement of the kind of materials of which it is composed.
 - (2) The date and time of the transaction.
 - (3) The name and address of the dealer.
 - (4) The name of the person making the purchase.
 - (5) The full name, date of birth and address, race and gender of the seller, as well as a general description of the seller.
 - (6) The number of the seller's valid state driver's license or state-issued I.D. card, or other similar identification which bears a photograph of the seller.
 - (7) Signature of seller.
 - (8) Such other information as may be required by any state law regulating dealers of precious metals and gems.
- (b) Each card or form required by this section shall be delivered or mailed to the police department within 24 hours after the date on which the transaction occurred, and shall be handled in the following manner:
 - (1) All such forms or cards shall be maintained in a locked container under the direct supervision of the police department and shall be available for inspection only for law enforcement purposes.
 - (2) The police department may allow any person to inspect the records for the purpose of locating stolen property, providing such person demonstrates theft of precious metals or gems by presenting an incident report or other similar document.

Sec. 10-159. Photographs of articles and sellers; photocopies of documents.

- (a) Every dealer shall take a well-focused, properly exposed color photograph of all precious metals, gems or goods made from precious metals or gems, which are purchased by the dealer. In the case of flatware, a photograph may be made of a representative place setting.
- (b) In addition to photographing the items purchased, the dealer shall take a well-focused, properly exposed color photograph of the seller, and shall attach the photograph to the corresponding form or card required by section 10-158. In addition to the required photographs, the dealer shall attach to the form or card a photocopy of any bill of sale, receipt or other document tending to show the seller's ownership of the items purchased by the dealer, if any such documents exist, and a photocopy of the seller's driver's license or other identification authorized by this article.
- (c) All photographs required in this section shall be made with a self-developing camera and film system, or such other system as may be authorized in writing by the police department.

Sec. 10-160. Hours of operation.

Dealers may not keep open their places of business except between 7:00 a.m. and 9:00 p.m.

Sec. 10-161. Waiting period prior to disposing of articles.

Any dealer who in the course of business acquires precious metals or gems or goods made from precious metals or gems shall hold these items for at least seven calendar days before disposing of them by sale, transfer, shipment, grinding, melting, crushing or otherwise altering the appearance of the items. This section does not prevent any dealer from storing such items off the business premises, or from placing such items in the hands of any bank or security company for safekeeping, provided that no such item shall be removed from the city during the above-described holding period.

Sec. 10-162. Inspection of items held by dealer.

All items held by any dealer in accordance with the terms of section 10-161 shall be produced for inspection upon the demand of any authorized law enforcement officer or, if the items are stored off the premises, within one business day thereof, during normal business hours. If the provisions of this section are in conflict with the provisions of section 10-161, the provisions of this section shall control.

Secs. 10-163—10-192. Reserved.

DIVISION 2. PERMIT

Sec. 10-193. Required; prerequisite to issuance of business permit.

- (a) No business permit shall be issued to conduct the business of purchasing precious metals or gems until the annual permit required by this section has been issued by the finance department.
- (b) No dealer shall engage in the business of purchasing precious metals or gems without having first obtained an annual permit issued by the finance department and no dealer shall allow an employee to be involved in any way in the purchase of precious metals or gems until that employee has first obtained an annual employee permit from the police department and no person shall work as an employee of a dealer until such person has first obtained an annual employee permit. No annual employee permit shall be issued unless the dealer with whom employment is authorized is a holder of a current dealer's permit.

Sec. 10-194. Application.

- (a) The application for the annual dealer's permit required by this division shall include such fingerprints, photographs and information as may be reasonably required by the police department, but shall in any case include the following:
 - (1) The name, age and business address of the person applying for the permit.
 - (2) The telephone number of the applicant.
 - (3) The name, age and business address of all other persons having an ownership interest or actually employed in the business other than publicly held corporations.
 - (4) The address of the premises upon which the business is conducted and the zoning and planning classification of the premises.

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- (5) The applicant shall be required to notify the police department within seven calendar days of any change of address of the applicant or business or any change of ownership in the business.
 - (b) The applicant shall attach to this application a completed and signed employee or owner application as described in section 10-196 for each person named in the dealer's application. Each such application shall be signed by the owner, managing partner, corporate president or chief executive officer of the business, and there shall be a description of the capacity in which the signator is acting.

Sec. 10-195. Denial.

No permit required by the provisions of this division shall be issued under any of the following circumstances:

- (1) The applicant has no permanent place of business other than a van, mobile home, trailer or similar nonpermanent structure.
- (2) No owner, corporate officer, majority stockholder, partner or managing director of the business entity applying for the permit has been a legal resident of the state for a minimum of 90 days preceding the date of application.
- (3) Any person required to be listed in the application for a dealer's permit has been convicted of or has entered a plea of guilty to a misdemeanor involving moral turpitude or any felony under the laws of this state or of the jurisdiction in which the verdict or plea was entered. This subsection does not apply to any person who has been convicted of or has entered a plea of guilty to a misdemeanor involving moral turpitude or any felony after ten years have expired from the date of the plea, conviction or completion of sentence, whichever is later.
- (4) The person is not eligible to register as a dealer in precious metals or gems by the terms of any law of this state requiring such registration.

Sec. 10-196. Employee or owner application.

- (a) Persons required to obtain an employee permit by this division shall complete an employee or owner application which shall state relevant information including, but not limited to, the following:
 - (1) Name.
 - (2) Date of birth.
 - (3) Driver license, state identification card or Social Security number.
 - (4) Race.
 - (5) Sex.
 - (6) Residential address and telephone number.
 - (7) Last previous residential address.
 - (8) Height and weight.
 - (9) Hair and eye color.
 - (10) Name, address and telephone number of the dealer.
 - (11) Either a statement that the applicant has never been convicted of, plead guilty to or been sentenced to probation for any offense other than a minor traffic violation, or a list of all such pleas, convictions and sentences of probation.
- (b) The application form shall also provide a place for the applicant's signature. Persons required to be listed in a dealer's application shall also complete an employee or owner application.

Sec. 10-197. Fingerprints.

All persons required to complete an employee or owner application shall also submit to fingerprinting by the police department or by any agency or individual designated by the police department.

Sec. 10-198. Issuance; fee.

- (a) The police department shall provide the permit application forms required by this division, and shall review each completed application prior to issuing any permit. No employee or dealer permit shall be issued if it appears that the applicant or any person required to complete an employee or owner form has been convicted of, or has entered a plea of guilty to a misdemeanor involving moral turpitude, or any felony.
- (b) After ascertaining that all requisite forms have been completed, all fingerprint cards have been submitted, that no applicant or listed person is disqualified by virtue of a prior criminal record, and that all other requirements of this division have been complied with, the police department shall approve the application, subject to payment of an annual permit fee in the amount established by action of the city council, a copy of which is on file in the office of the city clerk.

Sec. 10-199. Expiration and renewal.

Each permit required by this division shall indicate thereon an expiration date which is at least one year from the date of issue and must be posted in a conspicuous place on the premises. Any permit holder may reapply for a permit at any time following the 60th day preceding the date of expiration. It shall be unlawful for any dealer to apply for a renewal unless all of the dealer's employees are holders of current, valid employee permits. No permits shall be renewed unless the dealer has paid in full any occupation taxes owed to the City.

Sec. 10-200. Revocation and surrender of permits.

- (a) Any dealer or employee permit issued in accordance with provisions of this division shall be revoked by operation-of-law upon the occurrence of any of the following:
 - (1) The conviction of the dealer or employee for violating any state law or city ordinance pertaining to making false statements for the purpose of obtaining registration or authorization to become a dealer or employee of a dealer.
 - (2) The conviction of the dealer or employee for violation of a provision of this division after the dealer or employee has been previously convicted of a violation of this division within the preceding three years.
- (b) Upon revocation, the permit holder shall surrender the permit to the police department within one business day of the conviction resulting in revocation, and failure to do so shall constitute a separate violation for each day the permit is withheld.

Sec. 10-201. Appeals.

- (a) In any case in which it appears to the police department that an applicant is not entitled to the issuance of a dealer or employee permit under the provisions of this division, the police department shall so notify the applicant in writing by mailing the notice to the last address furnished to the police department by the applicant. If the police department refuses to issue a permit, or if a permit is surrendered pursuant to the provisions of this division, the applicant or permit holder shall have an absolute right of appeal to the city council according to the procedures set forth herein.
- (b) The appeal shall be perfected by filing with the police department a notice of appeal to the city council. The notice of appeal to the city council must be filed with the police department within 14 days following the mailing of the notification of denial or surrender of the permit and it shall be the duty of the police

department, upon receipt thereof, to transmit such notice of appeal to the city clerk, together with copies of all papers constituting the record upon which the action appealed from was taken.

- (c) Thereafter, it shall be the duty of the city clerk to place the appeal upon the agenda of the board the first available date for hearing on the matter. It shall be the duty of the city clerk to so notify the appellant in writing of the date, time and place when the matter shall be heard.

Secs. 10-202—10-225. Reserved.

ARTICLE VI. PEDDLERS, DOOR-TO-DOOR SALES AND SIMILAR OCCUPATIONS

DIVISION 1. GENERALLY

Sec. 10-226. Definition.

In this article the term "solicitor" includes any person who solicits for commercial gain or financial assistance door-to-door or house-to-house on behalf of a business, individual, vocation or occupation, but shall not include any person merely engaging in free speech and not seeking commercial gain or financial assistance.

Sec. 10-227. Exemptions.

- (a) Persons, businesses and organizations exempted from local regulation by operation of state or federal law, or by the Constitution of the United States, or of the state, are exempt from the requirements of this article.
- (b) Representatives or agents of charitable or nonprofit organizations or corporations registered with the secretary of state, or tax-exempt organizations which have been recognized as such by the federal Internal Revenue Service be treated as exempt from the provisions of division 2 of this article, provided that such organization first supplies proof of the recognized status to the City, and has received from the City written confirmation of its exempt status. The organization shall then furnish each of its agents or representatives with a copy of the confirmation letter.
- (c) Any sales representative who calls upon prospective customers at their prior invitation shall be treated as exempt from the provisions of division 2 of this article.
- (d) Any sales representative who does not demand, accept or receive payments in advance of final delivery and who has had, for the previous six months, a regularly established place of business or permanent residence in the city from which the sales representative transacts business or solicits orders on a continuing and ongoing basis within the city, shall be treated as exempt from the provisions of division 2 of this article. Any person who is exempt under this subsection must be soliciting orders only for goods capable of being delivered at one time and must have on such person proper identification which substantiates the claim to an exemption. In this subsection, the term "proper identification" means any document issued by a governmental agency containing a description of the person, such person's photograph and giving such person's date of birth, and includes, without being limited to, a passport, military identification card, driver's license or an identification card issued by the police department, but shall not include a birth certificate.

Sec. 10-228. Violation of other ordinances and laws.

- (a) It is unlawful for any person while engaging in any activity for which a permit is required by this article to:
- (1) Violate any city ordinance.

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- (2) Violate any criminal law of this state or violate any state or federal consumer protection law.
- (b) In this section the term "consumer protection law" includes the Fair Business Practices Act of 1975, O.C.G.A. §§ 10-10-410 et seq., 43-17-1 et seq. and the Federal Consumer Credit Protection Act (truth-in-lending and truth-in-leasing).

Sec. 10-229. Hours of operation.

It is unlawful for any person to engage in any of the conduct for which a permit is required by this article between the hours of sunset and 9:00 a.m., according to the standard time in effect.

Sec. 10-230. Restriction on number of persons soliciting.

It is unlawful for more than two individuals to engage in solicitation upon any premises at the same time for the same goods or services, or religious or charitable purposes. Each individual member of a group engaged in solicitation in violation of this provision shall be deemed to have violated this section.

Sec. 10-231. Persons with criminal records.

It is unlawful for any person with a criminal record as described in section 10-272, whether or not otherwise eligible for an exemption under section 10-227, to engage in any of the activities for which a permit is required by this article.

Sec. 10-232. Frequency of solicitation of same premises.

It is unlawful for any person to make more than one solicitation call at the same premises for identical goods or services within any consecutive two-week period, without receiving a prior invitation therefor from the occupant of any such premises. This section includes solicitation upon the same premises by employees, agents or representatives of any person more than once during such period without a prior invitation.

Sec. 10-233. Solicitation to be at main entrances.

It is unlawful for any person to solicit or attempt to solicit at a place of residence at any entrance or part of the building other than the main entrance to the residence.

Sec. 10-234. Announced purpose of call.

At each dwelling, whether it is an apartment unit or private residence, the solicitor shall inform the occupant in unambiguous terms of the purpose of the call and shall not represent that the solicitor is participating in any contest, game or other competitive endeavor, or that the solicitor is offering the occupant an opportunity to participate in any such contest, game or endeavor.

Sec. 10-235. Identification to prospective customers.

It is unlawful for any person, at the time of initial contact with a prospective customer, to fail to verbally identify himself for the purpose of the solicitation, and the company and product line represented.

Sec. 10-236. Fraud, etc.

It is unlawful for any person engaged in solicitation to misrepresent the purpose of the solicitation or use any false or deceptive statements or any misrepresentation to induce a sale or contribution, or use any plan, scheme or ruse which misrepresents the status or purpose of the person making the call.

Sec. 10-237. Purpose.

This Article is intended to protect the safety and privacy of the residents of the City as well as aid in the prevention of fraud.

Secs. 10-238—10-265. Reserved.

DIVISION 2. PERMIT

Sec. 10-266. Required.

Any person engaged in or desiring to engage in any type of selling, soliciting, canvassing, survey-making or any other business, occupation or vocation, which by its nature requires going from door to door or house to house in the residential areas of the city, whether on a temporary or a permanent basis and whether or not it is for any religious, charitable, nonprofit or profit-making organization, shall obtain a solicitor's permit from the police department.

Sec. 10-267. Application.

- (a) *Questionnaire.* The police department shall prepare a questionnaire requiring pertinent information regarding the physical description, identity, and background of each applicant for a permit, to include the following:
- (1) Name, local address and telephone number.
 - (2) Date and place of birth.
 - (3) Driver's license number and issuing state.
 - (4) Social Security number (if different from driver's license number).
 - (5) Race and sex.
 - (6) Height and weight.
 - (7) Eye color and hair color.
 - (8) Name, address and telephone number of the organization represented.
 - (9) Name and telephone number of immediate supervisor.
 - (10) Product or service.
 - (11) A list of all arrests, convictions and the disposition of each charge, other than minor traffic violations.
- (b) *Statement to be included with questionnaire.* The questionnaire form shall also bear the following statement: "Georgia Code section 16-10-71 provides that a person who makes a lawful oath or affirmation or who executes a document knowing that it purports to be an acknowledgment of a lawful oath or affirmation commits the offense of false swearing when, in any matter or thing other than a judicial proceeding, he knowingly and willfully makes a false statement."

Sec. 10-268. Investigation and issuance.

- (a) Upon filing of an application for a solicitor's permit, the police department shall review the application for the purpose of ascertaining whether the applicant has plead to, or has been convicted of, a felony, or a misdemeanor involving violence or moral turpitude. After ascertaining that the application has been properly completed, and that the applicant has not been disqualified by virtue of prior pleas of conviction, the finance department shall approve the application.
- (b) In any case in which it appears to the finance department that a solicitor's permit should not be issued to an applicant, the finance department shall so inform the applicant, and upon the applicant's request, shall furnish the applicant with a reasonably detailed written statement of the reasons why the permit will not be issued.
- (c) Following approval of the permit application and prior to issuance of a permit, the applicant shall pay the City and occupation taxes due, if any, and pay the required permit fee.
- (d) Upon payment of any due occupation taxes, the applicant shall receive from the finance department a copy of the permit application. Upon payment by the applicant of a fee in the amount established by action of the city council, a copy of which is on file in the office of the city clerk, the City department shall photograph the applicant and provide the applicant with a permit bearing the applicant's photograph, name, and organization, and identifying the applicant as a solicitor.

Sec. 10-269. Expiration and renewal.

Each solicitor's permit shall indicate thereon an expiration date which is one year from the date of issue. Application for renewal may be made at any time following the 60th day preceding the date of expiration.

Sec. 10-270. Selling, renting, etc.

It is unlawful for any person to lend, rent or sell a solicitor's permit card to another.

Sec. 10-271. Display.

The City shall furnish to each holder of a solicitor's permit a device suitable for attaching the permit card to the outer clothing. No person shall act as a solicitor without wearing and displaying the permit in a conspicuous manner. Such a person shall display such identification to any authorized person or potential customer upon request.

Sec. 10-272. Denial; suspension or revocation.

- (a) No solicitor's permit shall be issued to any person who has been found guilty of any misdemeanor involving violence or moral turpitude any time within five years prior to the date of application, nor shall a permit be issued to any person convicted of a felony, except that a permit may be issued to a convicted felon if it appears that such person either has been pardoned, or that such person has been free from any legal restriction for a period of five or more years prior to the date of application. In this section the terms "conviction" and "found guilty" include verdicts or pleas of guilty, entered by a court of this state, a court of any sister state, or any federal district court. Any permit issued as the result of willful false statements or omissions in the solicitor's application for the permit shall be deemed null and void from the time of its issue.
- (b) The permit of any solicitor charged with a felony, or a misdemeanor involving violence or moral turpitude shall be deemed suspended from the time of lawful arrest, formal accusation or indictment, whichever shall

first occur; such suspension shall remain in effect until the solicitor is convicted or acquitted, or until the charge is dismissed, dead-docketed, nol-prossed or no-billed.

- (c) The permit of any solicitor who is convicted of a felony, or of a misdemeanor involving moral turpitude or violence, shall be deemed revoked from the time of such conviction. The permit of any solicitor convicted of having violated any provision of this article after issuance of the permit shall be deemed revoked from the time of such conviction.
- (d) Any suspension or revocation occurring pursuant to the provisions of this article shall be effective by operation of law, whether or not any formal notification to the solicitor is given or received.
- (e) It is unlawful for any person to act as a solicitor while such person's permit has been suspended or after it has been revoked.

Sec. 10-273. Surrender.

Each solicitor's permit shall remain the property of the city. Each permit holder shall surrender the permit card to the police department no later than three business days following the expiration, suspension or revocation of the permit or upon the demand of the police department or finance department, whichever occurs first.

Sec. 10-274. Appeals.

A person to whom the city refuses to issue a solicitor's permit or whose solicitor's permit is suspended or revoked may appeal pursuant to section 10-272.

Secs. 10-275—10-296. Reserved.

ARTICLE VII. MASSAGE THERAPY LICENSING³

Sec. 10-297. 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:

Director means the director of finance, or his or her designee.

Massage or *massages* or *massage therapy* means the manipulation or treatment of soft tissues of the body, including, but not limited to, the use of effleurage, petrissage, pressure, friction, tapotement, kneading, vibration, range of motion stretches, and any other soft tissue manipulation whether manual or by use of massage apparatus, and may include the use of oils, lotions, creams, salt glows, hydrotherapy, heliotherapy, hot packs, and cold packs. The term "massage" or "massages" or "massage therapy" shall not include diagnosis, the prescribing of drugs or medicines, spinal or other joint manipulations, or any service or procedure for which a license to practice chiropractic, physical therapy, podiatry, or medicine is required by the state.

Massage apparatus means any manual, mechanical, hydraulic, hydrokinetic, electric, or electronic device or instrument or any device or instrument operated by manual, mechanical, hydraulic, hydrokinetic or electric power, which is utilized by a massage therapist for the purpose of administering a massage.

Massage establishment means any business established for profit which employs or contracts with one or more massage therapists, or operates or maintains for profit one or more massage apparatus, and which, for good

³State law reference(s)—Local ordinances applicable only to massage therapists not licensed by state, O.C.G.A. § 43-24A-22.

or valuable consideration, offers to the public facilities and personnel for the administration of massages. The term "massage establishment" shall not include hospitals or other professional health care establishments separately licensed as such by the state.

Massage therapist means any person who, for good or valuable consideration, administers a massage.

Sec. 10-298. Licenses and Permits required.

- (a) *Massage therapist license.* It shall be unlawful for any natural person to administer massages without having obtained a state-issued massage license.
- (b) *Massage establishment permit.* It shall be unlawful for any person, natural or corporate, to operate a massage establishment without having obtained a permit therefor; or for any person, natural or corporate, to allow a massage therapist to administer massages without having obtained a massage establishment permit in accordance with the requirements of this article.

Sec. 10-299. Scope of regulations.

- (a) All permits issued under this article shall constitute a mere privilege to conduct the business so authorized during the term of the permit only and subject to all terms and conditions imposed by the city and state law.
- (b) Nothing in this article shall be construed to regulate, prevent, or restrict in any manner:
 - (1) Any physician, chiropractor, physical therapist, or similar professional licensed and regulated by or through the state while engaged in the practice of said profession;
 - (2) Any hospital or other professional health care establishment separately licensed as such by the state; or
 - (3) Any other individual or entity expressly exempted from local legislation by the laws of the state.
- (c) Except as specified in subsection (b) of this section, the requirements of this article shall be in addition to all other permitting, licensing, taxing, and regulatory provisions of local, state or federal law, and shall not authorize violations of said other applicable laws.

Sec. 10-300. Application process.

- (a) *Application requirements.* Any person desiring to obtain a massage establishment permit shall make application to the finance department. All applications shall be sworn to by the applicant as true, correct and complete before a notary public or other officer authorized to administer oaths. All applications shall be in writing and shall set forth the following information:
 - (1) The full legal name of the applicant, including all aliases, nicknames, pseudonyms or trade names currently or heretofore used by the applicant;
 - (2) The current and all previous business and residence addresses of the applicant within the three years immediately preceding the date of application;
 - (3) Sworn affidavits of at least three bona fide residents of the city that the applicant is personally known to them and they believe the person to be of good moral character;
 - (4) Written proof that the applicant is over the age of 18 years;
 - (5) The applicant's height, weight and color of eyes and hair;
 - (6) Two current photographs of the applicant at least two inches by two inches in size;
 - (7) The business, occupation or employment of the applicant for three years immediately preceding the date of application;

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- (8) Any massage or similar business license or permit history of the applicant, including whether such person, in any previous operation in any jurisdiction, has had such a license or permit revoked or suspended, the reason therefor, and any business activity or occupation subsequent to the action of suspension or revocation;
 - (9) All convictions, pleas of guilty, or pleas of nolo contendere for violations of any law and the grounds therefor, unless the named applicant is a state licensed massage therapist;
 - (10) The applicant shall be fingerprinted and such fingerprint card and record shall be attached as an exhibit to the application, unless the named applicant is a state licensed massage therapist. Payment of all fees charged in connection with this requirement shall be the responsibility of the applicant;
 - (11) If the applicant is a corporation or partnership, such corporation or partnership shall submit the foregoing information and exhibits with regard to each employee, independent contractor agent and partner, general or limited, associated with the operation of the permitted establishment;
 - (12) If the applicant is a corporation, such corporation shall, in addition to the foregoing information, submit a complete list of the stockholders of said corporation, including names, current addresses and current occupations, and provide the name and address for its agent in the county;
 - (13) If the applicant is an individual, the applicant must reside in the state and must submit written, reliable proof thereof. Additionally, if the applicant does not reside in the city, the applicant must provide the name and address for an agent who resides in the county authorized to receive legal process and notices under this article on behalf of the applicant.
- (b) *Fees.* All permit applications shall be accompanied by a fee as elsewhere established by the city council to defray the costs associated with issuance of said permits. All fees associated with the background check required by subsection (a)(10) of this section shall be the responsibility of the applicant and shall be in addition to the application fee.

Sec. 10-301. Minimum standards.

No applicant shall be issued a permit for a massage establishment unless all of the following standards are first met:

- (1) The applicant, including the partner applying on behalf of a partnership and an agent applying on behalf of a corporation, must be of good moral character. No applicant shall be found to have met this requirement if said applicant has been convicted, pled guilty, or entered a plea of nolo contendere to any felony, or to any misdemeanor involving moral turpitude, within a period of four years prior to the filing of the application;
- (2) A corporate applicant must be Chartered under the laws of the state or authorized by the secretary of state to do business in the state. The applicant shall be the owner or legal agent of the establishment. The corporate applicant must identify an agent for service of process in the county;
- (3) The owner/applicant, or corporate agent must be a resident of the state;
- (4) A readable sign shall be posted at the main entrance identifying the establishment as a massage establishment, provided also that all such signs shall comply with the sign requirements of this Code;
- (5) Minimum lighting shall be provided in accordance with the city building code, and, additionally, at least one artificial light of not less than 40 watts shall be provided in each enclosed room or booth;
- (6) Ordinary beds or mattresses shall not be permitted in any permitted massage establishment;
- (7) Minimum ventilation shall be provided in accordance with the Standard Mechanical Code and the Georgia Energy Code; and

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- (8) The establishment, prior to the issuance of any permit hereunder, must be in compliance with all applicable building and life safety codes, and the building to be occupied must have a valid, current certificate of occupancy.

Sec. 10-302. Issuance of permit.

- (a) *Review of applications.* If a permit application is submitted in proper form, including all information and exhibits required herein and accompanied by the correct fees, the application shall be accepted and a review of the application and an inspection and investigation shall be conducted by the director. Upon the payment by the applicant of the required fees, the City shall cause to be conducted a background investigation of the police record of the applicant unless the named applicant is a state licensed massage therapist.
- (b) *Action on applications.* Upon receipt of this background investigation, and completion of review of the application in accordance with the terms of this article, the director shall act on the application. The director shall deny any application:
 - (1) That fails to meet each of the application requirements specified herein;
 - (2) Fails to meet each of the minimum standards specified in section 10-301;
 - (3) When any of the grounds for revocation specified in section 10-308 occurred at the location specified in the application during the past business permit year; or
 - (4) That contains false information in the application or attached documents.

Otherwise, the director shall approve the application and the permit shall be issued by the finance department upon the payment of any applicable city business or occupation tax. All permits issued pursuant to this article shall be valid for a period of one year. If an application for a permit is denied under this article, the applicant shall not be authorized to reapply for said denied permit for a period of one year from the date of denial.

- (c) *Appeals of denials of applications.*
 - (1) In the event the director denies a permit, such denial shall be in written form, addressed to the applicant at the application address, and shall state the grounds upon which the denial is based. Within 15 days of the date of issuance of such notice, the applicant may appeal the denial by submitting a written notice of appeal to the finance department. The hearing officer, shall schedule a hearing on the appeal within 30 days of receipt of the notice of appeal, unless a continuance of such date is agreed to by the appellant and the finance department. The hearing officer shall provide written notice of the hearing date, time, and place to the appellant. At the hearing, the appellant and the director may each present evidence relating to the grounds for denial. The appellant may be represented by counsel at the expense of appellant and shall have the right to present evidence and cross-examine the witnesses.
 - (2) The hearing officer shall decide the appeal within a reasonable time. An appeal shall be sustained upon a finding by the hearing officer that the director's action was based on an erroneous finding of a material fact, or that he or she acted in an arbitrary manner. In exercising its powers, the board may reverse or affirm, or may modify, the decision appealed from, and to that end shall have all the powers of the director and may issue or direct the issuance of a license provided all requirements imposed by applicable laws are met. The findings of the hearing officer shall be final, unless appealed within 30 days of the date of the findings by certiorari to the county superior court.

Sec. 10-303. Transfers and sales prohibited.

All permits issued pursuant to this article are nontransferable.

Sec. 10-304. Change of location.

A change of location of massage establishment premises may be approved by the finance department provided all general ordinances are complied with and a change of location fee as elsewhere established by the city council is first paid.

Sec. 10-305. Renewals.

All valid permits may be renewed for additional one-year periods provided a renewal application meeting all of the requirements for an initial permit application is submitted prior to expiration of the existing permit and approved by the director according to the same standards for initial permits. The fee for said annual renewal shall be as elsewhere established by the city council.

Sec. 10-306. Further requirements.

The following additional requirements shall apply to all license holders and establishments:

- (1) All massage therapists and all other persons on the premises, with the exception of the customers, shall be completely clothed at all times when administering a massage. For the purposes of this provision, "completely clothed" means having on the upper portion of the body appropriate undergarments and either blouse or shirt which shall cover all the upper body save the arms and neck and means having on the lower body appropriate undergarments plus either pants or skirt, and said pants or skirt must cover from the waist down to a point at least two inches above the knee. All clothes worn in compliance with this subsection shall be entirely non-transparent.
- (2) Massage of the human genitals or anus within massage establishments is expressly prohibited.
- (3) The storing, serving, sale or consumption of alcoholic beverages within massage establishments is expressly prohibited.
- (4) Every person to whom a license or permit shall have been granted shall display said license in a conspicuous place on the premises that is clearly visible to the visiting public.
- (5) The city finance department, city code enforcement, and any law enforcement agency with jurisdiction, shall have the right to inspect any permitted massage premises and its records at any time, with or without notice, during business hours to ensure compliance with this article.
- (6) It shall be unlawful for any person under the age of 18 to patronize any massage establishment unless at the time of such patronage such person carries with him a written order directing the treatment to be given by a regularly licensed physician, or unless such person provides a written consent to massage therapy treatment signed by the underage patron's parent or guardian. It shall be the duty of the operator of such massage establishment to determine the age of each person patronizing such massage establishment and a violation of this section shall be grounds for revocation of the permit of such massage establishment or massage therapist administering massage to an underage patron.
- (7) It shall be the duty of all persons holding a permit for a massage establishment under this article to file with the finance department the names of all employees and independent contractors other than those holding massage therapist licenses, their home addresses, home telephone numbers and places of employment. Changes in the list of said employees and independent contractors with the names of new employees and independent contractors must be filed with said department within ten days from the date of any such change.
- (8) It shall be the duty of any person granted a permit under this article to maintain correct and accurate records of the names and addresses of the persons receiving treatment at such establishment; and the

name of the person at the establishment administering the treatment. The records shall be subject to inspection at any time by the city.

- (9) It shall be the duty of the permittee establishment to actively supervise and monitor the conduct of all employees, independent contractors, customers and all other persons on the premises in order to ensure compliance with the provisions of this article.

Sec. 10-307. Revocation of license.

- (a) No permit issued hereunder shall be revoked except for due cause as herein defined without the opportunity for a hearing as hereinafter set forth before the hearing officer. Notice of such hearing shall be given in writing and served at least ten days prior to the date of the hearing thereon. In the event the permit holder cannot be found, and the service of notice cannot be otherwise made in the manner herein provided, a copy of such notice shall be mailed registered postage fully prepaid, addressed to the permit holder or the registered agent thereof at his place of business or residence at least ten days prior to the date of such hearing. The notice shall state the grounds for revocation of such permit and shall designate the time and place where such hearing will be held.
- (b) Due cause, for revocation of such permit, shall be as provided in section 10-308.
- (c) In all hearings pursuant to this section, the following procedures shall prevail, and the proceeding shall be as informal as compatible with justice:
- (1) The charges and specifications against the permittee shall be read along with any response filed by the permittee.
 - (2) The hearing officer shall hear the evidence upon the charges and specifications as filed against the permittee and shall not consider any additional evidence beyond the scope of the charges, and may exclude evidence which is purely cumulative.
 - (3) The order of proof shall be as follows: The city representative shall present his evidence in support of the charges; the permittee shall then present his evidence. Evidence of each party may be supported by submission of pertinent documents. Each party shall be allowed to present pertinent rebuttal evidence.
 - (4) The permittee and city may be represented by counsel, and may present, examine and cross-examine witnesses. Additionally, the hearing officer may interrogate all parties and witnesses to obtain necessary information. Following the presentation of evidence, the hearing officer may have a reasonable time within which to issue its decision.
 - (5) The findings of the hearing officer will be final unless within 30 days of the date of the decision, the applicant files a petition for review to the county superior court.

Sec. 10-308. Grounds for revocation.

- (a) The permit of a massage establishment may be revoked upon one or more of the following grounds:
- (1) Failure of the holder to maintain initial requirements for obtaining the permit;
 - (2) The holder allows or permits any person who is not a licensed massage therapist to administer a massage in said establishment;
 - (3) The premises in which the massage establishment is located are in violation of any federal, state, or city laws designated for the health, protection and safety of the occupants or general public;
 - (4) The premises are in violation of the city building or life safety codes;
 - (5) The original application or renewal thereof, contains materially false information; or the applicant has deliberately sought to falsify information contained therein;

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- (6) The holder of the permit, including any person with an ownership interest in the permit, has been convicted, pled guilty, or entered a plea of nolo contendere to any felony, or to any misdemeanor involving moral turpitude, or has violated any laws relating to sodomy, aggravated sodomy, solicitation of sodomy, public indecency, prostitution, keeping a place of prostitution, pimping, pandering, pandering by compulsion, masturbation for hire, distribution of obscene materials, distribution of material depicting nudity, or sexual conduct as defined under state law;
 - (7) Any of the permit holder's employees, independent contractors or agents has been convicted, pled guilty, or entered a plea of nolo contendere to any felony, or to any misdemeanor involving moral turpitude, or has violated any laws relating to sodomy, aggravated sodomy, solicitation of sodomy, public indecency, prostitution, keeping a place of prostitution, pimping, pandering, pandering by compulsion, masturbation for hire, distribution of obscene materials, distribution of material depicting nudity, or sexual conduct as defined under state law, in connection with the operation of the massage establishment or on or about the premises of the massage establishment;
 - (8) Failure of the holder to actively supervise and monitor the conduct of the employees, independent contractors, agents, customers, or others on the premises in order to protect the health, safety and welfare of the general public and the customers; or
 - (9) The holder, his employees, agents, or independent contractors associated with the establishment have allowed to occur or have engaged in a violation of any part of this article.
- (b) Any massage establishment who has his or its license or permit revoked shall be disqualified from reapplying for such a license or permit for a period of 12 months immediately following the date of revocation.
 - (c) Any location at which a permit for a massage establishment has been revoked shall be disqualified from receiving such a license or permit for a period of 12 months immediately following the date of revocation.

Sec. 10-309. Violations; penalties.

- (a) Any person, firm, corporation or other entity violating the provisions of this article shall be punishable by a fine not to exceed \$1,000.00 per violation or by imprisonment for a period not to exceed 60 days, or by both such fine or imprisonment. Violation of this article shall also be grounds for immediate suspension or revocation of the permit issued hereunder.
- (b) The violation of the provisions of this article may be abated as a nuisance.
- (c) The violation of all provisions of this article by any person may be enjoined by instituting appropriate proceedings for injunction in any court of competent jurisdiction. Such actions may be maintained notwithstanding that other adequate remedies at law exist. Such actions may be instituted in the name of the governing authority of city.

Sec. 10-310. Unlawful operation declared nuisance.

- (a) Any massage establishment operated, conducted or maintained contrary to the provisions of this article shall be and the same is hereby declared to be unlawful and a public nuisance. The city may, in addition or in lieu of all other remedies, commence an action, proceeding for abatement, removal or injunction thereof, in the manner provided by law.
- (b) No massage establishment shall operate at any location nor on any premises which does not comply with all zoning, building code, fire safety code, and other ordinances and laws of the city and state.

Sec. 10-311. Reserved.

Secs. 10-312—10-340. Reserved.

ARTICLE VIII. ESCORT OR DATING SERVICES

Sec. 10-341. Permit.

- (a) Any person desiring to engage in the business of providing or arranging dates, escorts or partners for persons shall, before engaging in such business, file an application for a permit on a form supplied by the finance department and shall comply with all the provisions of this article.
- (b) The applicant for a dating or escort service license must be an owner, partner or majority stockholder.
- (c) Each applicant shall submit the following information, as a minimum:
 - (1) Trade name and business address.
 - (2) Applicant's name and residence address.
 - (3) Names and residence addresses of all interested persons, to include owners, partners, stockholders, officers and directors.
 - (4) Manager's name and residence address.
 - (5) Employees' names and residence addresses.

Sec. 10-342. Qualifications of license applicant, others connected with business.

No applicant, owner, partner, stockholder, officer, director or any other interested person connected with the business for which a permit is applied under this article shall have been convicted of a crime involving moral turpitude, lottery or illegal sale or possession of narcotics within the preceding ten-year period; any subsequent convictions of the above nature automatically acts to void any such license and permits held.

Sec. 10-343. Background check required.

All applicants for an escort or dating service business license, along with their employees, must also file for a permit with the City accompanied by a permit fee in the amount established by action of the city council a copy of which is on file in the office of the city clerk and providing the information in section 10-341 as well as any additional information and fingerprinting for the purposes of conducting a background investigation of the applicant.

Sec. 10-344. Employees.

No person under 18 years of age shall be employed by an escort or dating service in any capacity and not before such person has been fingerprinted by the City. When determined that the employee applicant has not been convicted of a crime involving moral turpitude for the preceding three-year period, an annual personal identification card authorizing such person to be employed by the escort or dating service will be issued. It shall be the responsibility of the applicant to ensure that the provisions of this section are complied with and that no employee possesses an expired identification card or permit while in the business' employ.

Secs. 10-345—10-361. Reserved.

ARTICLE IX. RESERVED.

Secs. 10-362- 10-396. Reserved.

Secs. 10-397—10-420. Reserved.

ARTICLE X. RESERVED.

Secs. 10-421-442. Reserved.

Secs. 10-443—10-467. Reserved.

EXHIBIT B TO ORDINANCE NO. O2025-01-02

ARTICLE XIV. COIN OPERATED AMUSEMENT MACHINES

Sec. 10-600. Short title.

This article shall be known as the "City of Tucker Bona Fide Coin Operated Amusement Machine Ordinance."

Sec. 10-601. Gambling devices prohibited.

Gambling devices, as that term is defined in O.C.G.A. § 16-12-20(2) are prohibited in the city, as the ownership, use, or transport thereof are misdemeanors pursuant to state law, except as exempted pursuant to O.C.G.A. § 16-12-35(a) through (k).

Sec. 10-602. Gambling places prohibited.

Gambling places, as that term is defined in O.C.G.A. § 16-12-20(3) are prohibited in the city, as the operation thereof is a misdemeanor pursuant to state law.

Sec. 10-603. Definitions.

The following words, terms, or phrases, when used in this Ordinance, shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning:

- (1) *Amusement game room* means any location as provided in O.C.G.A. § 16-12-35(b), (c) or (d) where one or more bona fide coin operated amusement machines are operated that permit non-cash redemption as provided in O.C.G.A. § 16-12-35(d)(1)(B), (C), or a combination thereof.
- (2) *Bona fide coin operated amusement machine* means the same as this term is defined in O.C.G.A. § 50-27-70(b)(2)(A) and (B) and any applicable regulations of the State of Georgia. Examples of bona fide coin operated amusement machines include, but are expressly not limited to, the following:
 - a. Pinball machines;
 - b. Console machines;
 - c. Video games;
 - d. Crane machines;
 - e. Claw machines;
 - f. Pusher machines;
 - g. Bowling machines;
 - h. Novelty arcade games;
 - i. Foosball or table soccer machines;
 - j. Miniature racetrack, football or golf machines;
 - k. Target or shooting gallery machines;
 - l. Basketball machines;

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- m. Shuffleboard machines;
 - n. Kiddie ride games;
 - o. Skee-Ball® machines;
 - p. Air hockey machines;
 - q. Roll down machines;
 - r. Trivia machines;
 - s. Laser games;
 - t. Simulator games;
 - u. Virtual reality machines;
 - v. Maze games;
 - w. Racing games;
 - x. Coin operated pool table or coin operated billiard table as defined in paragraph (3) of O.C.G.A. § 43-8-1; and
 - y. Any other similar amusement machine which can be legally operated in Georgia.

The term "coin operated amusement machine" does not include the following:

- a. Coin operated washing machines or dryers;
 - b. Vending machines which for payment of money dispense products or services;
 - c. Gas and electric meters;
 - d. Pay telephones;
 - e. Pay toilets;
 - f. Cigarette vending machines;
 - g. Coin operated vending machines;
 - h. Coin operated scales;
 - i. Coin operated gumball machines;
 - j. Coin operated television sets which provide cable or network programming;
 - k. Coin operated massage beds; and
 - l. Machines which are not legally permitted to be operated in Georgia.
- (3) *Location* means a business within the city that has complied with the provisions of the ordinances of the city relating to occupation taxes and business licenses and the entire office or area of the business in any one location owned or leased by the same proprietor or proprietors where the lessor or lessors allow the space to be used for business purposes.
- (4) *Location owner* or *location operator* means an owner or operator of a business where one or more bona fide coin operated amusement machines are available for commercial use and play by the public or shall have the same definition as found in the Official Code of Georgia, Annotated, Section 50-27-70, should that definition differ.

Sec. 10-604. License required.

No person, firm or corporation shall engage in the business of an owner or proprietor of an amusement game room, as the term is herein defined, without first having obtained an amusement game room license, without first having paid the applicable occupation tax and obtained an occupational tax certificate required under this article. A separate amusement game room license must be obtained for each location in the jurisdiction for which bona fide coin operated amusement machines are operated.

Sec. 10-605. Issuance of license.

Application for a license for operating an amusement game room within the corporate limits of the city shall be made to the city upon a form to be supplied by the city for this purpose. The license application shall include the following information:

- (1) Name, address, and age of the applicant and the date of the application;
- (2) Address or place where the bona fide coin operated amusement machine or machines are to be offered to the public for play and the other business or businesses operated at that place or places;
- (3) Name and address of the owner of the machine or machines and a copy of the owner's master license;
- (4) Name and address of any other business owned or operated by applicant within the corporate limits of the city; and
- (5) List of any other licenses or permits from the city held by the applicant.

Upon issuing a license for an amusement game room, the city official or employee shall provide the licensee with a copy of this article. The city shall not require a fee for an amusement game room license or registration. A license issued in accordance with this article shall be valid until December 31st of the year in which the license was issued. The owner or operator of an amusement game room shall be required to pay occupation taxes in accordance with the code of ordinances of the city.

Sec. 10-606. Occupation tax required.

No person, firm or corporation shall engage in the business of an owner or proprietor of amusement game room, as the term is herein defined, without first having completed the occupational tax certificate application form, paid the required occupational tax and obtained an occupational tax certificate.

Sec. 10-607. Minimum distance requirements.

- (a) No amusement game room in the city shall be located within 100 yards of a school building, school grounds, college campus, educational facility or educational building, adult entertainment establishment, church, or residence.
- (b) For the purpose of this section, distance shall be measured by the most direct route of travel on the ground. Every license application shall include a scale drawing of the location of the proposed premises, showing the distance of the uses described in this section and a certificate of a registered land surveyor or professional engineer that the location complies with these distance requirements.
- (c) The school building, school grounds, college campus, educational facility or educational building referred to in this section applies only to state, county, city, church school, day care, kindergarten or buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools and colleges of this state.

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- (d) For the purposes of this section, "church" shall mean a house of worship whether owned outright or leased by practitioners of any religion.

Sec. 10-608. Number of bona fide coin operated amusement machines at a location.

No amusement game room in the city shall offer to the public more than six Class B bona fide coin operated amusement machines offering non-cash redemption in accordance with O.C.G.A. § 16-12-35(c) and (d)(1)(2), or both at the same location.

Sec. 10-609. Gross receipts from bona fide coin operated amusement machines and from business.

- (a) Every amusement game room shall keep records available for inspection by city officials that set out separately annual gross receipts for the Class B amusement games and the other products and services sold at the location.
- (b) Any location owner or location operator subject to Official Code of Georgia, Section 50-27-84(b)(1) is hereby required to provide a monthly report to the city clerk of the city. Such report shall indicate the monthly gross retail receipts for each business location located within the jurisdiction of the city and shall be due by the twentieth day of each month, subsequent to the month in which the sales have taken place. In addition, each owner or operator must allow the local government an annual audit of the reports from the owner or operator to the lottery corporation.
- (c) No location owner or location operator may derive more than 50 percent of such location owner's or location operator's monthly gross retail receipts for this business location in which the Class B machines are situated from such Class B machines and any location owner or location operator found in violation of such provision may be fined and may have any city issued license suspended or revoked as allowed under this article. Compliance with this section requires both the availability of records for inspection and compliance with the 50 percent of gross retail receipts requirement. Any violations of this provision shall be reported to the Georgia Lottery Corporation.

Sec. 10-610. Notice requirements.

- (a) Every amusement game room shall post a conspicuous sign with the following or substantially similar language:

'GEORGIA LAW PROHIBITS GIVING OR RECEIPT OF ANY MONEY FOR WINNING A GAME OR GAMES ON AN AMUSEMENT MACHINE; GIVING OR RECEIPT OF MONEY FOR FREE REPLAYS WON ON AN AMUSEMENT MACHINE; GIVING OR RECEIPT OF MONEY FOR ANY MERCHANDISE, PRIZE, TOY, GIFT CERTIFICATE, OR NOVELTY WON ON ANY AMUSEMENT MACHINE; OR AWARDING ANY MERCHANDISE, PRIZE, TOY, GIFT CERTIFICATE, OR NOVELTY OF A VALUE EXCEEDING \$5.00 FOR A SINGLE PLAY OF AN AMUSEMENT MACHINE.'

- (b) Every amusement game room shall post the license issued by the city conspicuously and permanently.
- (c) The owner or proprietor of each amusement game room shall inform every employee of the acts and omissions prohibited by O.C.G.A. § 16-12-35 and by this article, and of the penalties for violation of O.C.G.A. § 16-12-35 and this article.

Sec. 10-611. Compliance with O.C.G.A. provisions relating to master licenses, location licenses, and stickers for individual machines.

Bona fide coin operated amusement machines may be used in an amusement game room within the city only if the machines are owned by a person who holds a valid master license in accordance with O.C.G.A. § 50-27-71, and each machine offered to the public for play has a valid permit sticker in accordance with O.C.G.A. § 50-27-78. In addition, the business owner where the machines are available for play by the public must pay a location license fee in order to obtain a valid location license in accordance with O.C.G.A. § 50-27-71 (a.1) and (b). The city official in charge of issuing business licenses shall notify the State Commissioner of Revenue of any observed violation of O.C.G.A. § 50-27-71 or § 50-27-78.

Sec. 10-612. License suspension and revocation.

- (a) The city may suspend or revoke the city issued license of any location owner or location operator to manufacture, distribute, or sell alcoholic beverages as a penalty for the conviction of the business owner or business operator of a violation of the Official Code of Georgia, Section 16-12-35, subsection (e), (f), or (g).
- (b) The city may suspend or revoke the license of any location owner or location operator of any other license granted by the municipality as a penalty for the conviction of the business owner or business operator of a violation of the Official Code of Georgia, Section 16-12-35, subsection (e), (f), or (g).
- (c) The suspension or revocation of licenses under this Code section shall be in accordance with the following guidelines of due process:
 - (1) No license which has been issued or which may be issued pursuant to this Article shall be suspended or revoked except for due cause and after hearing and upon prior ~~three-thirty~~-day written notice to the holder of the license of the time, place and purpose of the hearing and a statement of the charges upon which the hearing shall be held.
 - (2) The term "due cause" for the purposes of this section shall include, but not be limited to:
 - a. Conviction of, or the entering of a plea of guilty or nolo contendere by, the licensee or any of his employees or any person holding an interest in the license for any felony, any law, administrative regulation or ordinance involving alcoholic beverages, gambling or narcotics, or tax laws.
 - b. Conviction of, or the entering of a plea of guilty or nolo contendere by, the licensee or any of his employees or any person holding an interest in the license for any sex offense when the licensed business is for on-premises consumption.
 - c. Suspension or revocation of any state license required as a condition for the possession, sale or distribution of alcoholic beverages.
 - d. Material falsification of any fact given in an application for a license issued under this chapter or bearing upon the licensee's qualification therefor. Any act which may be construed as a subterfuge in an effort to circumvent any of the qualifications for a license under this chapter shall be deemed a violation of the requirement attempted to be circumvented.
 - e. Failure to meet or maintain any standard prescribed by this Article as a condition or qualification for holding a license.
 - f. Any other factor known to or discovered by the city whereby it is objectively shown the licensee, any of the licensee's employees or any person holding an interest in a license, has engaged in conduct at or involving the licensed business or has permitted conduct on the licensed premises that constitutes a violation of federal or state law, local ordinance or administrative regulations involving alcoholic beverages, gambling or narcotics for all alcohol licensed businesses and including any sex offense under state law or local ordinances with respect to businesses licensed for on-premises consumption. With respect to this section, it shall be rebuttably presumed that

the violative act was done with the knowledge or consent of the licensee; provided, however, that such presumption may be rebutted only by evidence which precludes every other reasonable hypothesis save that such licensee did not know, assist or aid in such occurrence, or in the exercise of full diligence that such licensee could not have discovered or prevented such activity.

- (3) Notice of suspension or revocation proceedings shall be served on the person named as licensee in the application. Notice shall be in writing. The notice may be served personally or by first class mail. If by mail, the notice shall be addressed to the licensee at its address as provided by the licensee to the municipality. The burden shall be on the licensee to provide notice, in writing, of any change of address for service of notices and process. In the case of service by mail of any notice required by this chapter, the service is complete at the time of deposit in the United States Postal Service.
- (4) The hearing shall be conducted by a hearing officer appointed by the mayor and approved by City Council or by a Judge of the Municipal Court. The hearing officer shall be an attorney licensed to practice in the state who is disinterested in the proceeding.
- (5) Hearings shall be only as formal as necessary to preserve order and shall be compatible with the principles of justice. The city attorney shall present the city's case and bear the burden of proving by a preponderance of the evidence that due cause exists to suspend or revoke the license. At the hearing the licensee shall have the right to represent itself or be represented by counsel, may cross examine all witnesses offered by the city, and may call witnesses and present evidence in its own behalf. Formal rules of evidence shall not apply to hearings under this section, although the hearing officer shall have the right to exclude evidence which carries no indicia of reliability. All testimony shall be offered under oath or affirmation.
- (6) The hearing officer shall make his final determination within ten business days of the completion of the hearing. The decision shall be placed in writing and contain the hearing officer's findings of fact, conclusions of law, and decision as to sanction, if any. Such sanction may include one or more of the following: revocation of the license, suspension of the license for no more than 12 months, imposition of a probationary period not to exceed 12 months, and/or a civil monetary penalty not to exceed the amount allowed under the city charter. Progressive sanctions, depending on the severity of the violation, are encouraged but not required. Where the remaining term of the license is less than 12 months, imposition of suspension or probation for a period in excess of the term of the existing license shall be applied to any renewal license. A subsequent violation within a probationary period shall be cause for revocation and/or denial of license renewal. A total of three separate and unrelated violations within 24 months, whether or not within a probationary period, shall be grounds for permanent revocation.
- (7) The hearing officer's decision shall be personally served or mailed by certified mail, return receipt requested to the licensee and his attorney, with a copy to the city attorney, within ten business days of the close of the hearing. The decision of the hearing officer shall constitute final action by the city, subject to review upon petition for certiorari to the superior court.
- (8) Upon receipt of notice of adverse action against the licensee under this section, the licensee may waive its right to a hearing and stipulate to a sanction, as recommended by the city manager, in consultation with the city attorney. Any stipulation entered under this subsection shall be in writing, signed by the licensee, and non-appealable.

Sec. 10-613. Criminal penalties for violations by owners or operators of amusement game rooms.

- (a) Penalties for violation of the provisions of this article by the owner or operator of an amusement game room, after conviction in the municipal court of the city, or other court of competent jurisdiction are as follows:

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- (1) *Minimum penalty.* A minimum fine for each violation of \$100.00.
 - (2) *Maximum penalty.* A maximum fine for each violation of \$1,000.00.
- (b) The fines listed in the penalties for violation of this article may be imposed by the judge of the municipal court of the city, or the judge of any other court of competent jurisdiction. Suspension or revocation of the owner or operator's license for offering any amusement game at the location where the violation occurred, and suspension of other permits and licenses granted by the city may be imposed by the mayor and council after a public hearing as described in section 10-612 of this article.
 - (c) Offering one or more bona fide coin operated amusement machine games in violation of an order suspending or revoking the license for the offering of any amusement game at the location is punishable, after conviction in the municipal court of the city, by a fine not to exceed \$1,000.00, imprisonment not to exceed 180 days, or both such fine and imprisonment.

Sec. 10-614. Penalties for violations by those who play bona fide coin operated machines in violation of law or ordinance.

The municipal court of the city, or any other court of competent jurisdiction is authorized to impose the following penalties on any person convicted of receiving money as a reward for the successful play or winning of any bona fide coin operated amusement machine from any person owning, possessing, controlling or overseeing such bona fide coin operated amusement machine or any person employed by or acting on behalf of a person owning, possessing, controlling or overseeing a bona fide coin operated amusement machines:

- (1) *First offense:* Fine not to exceed \$250.00 for each violation.
- (2) *Second and subsequent offense:* Fine not to exceed \$500.00 for each violation.

Sec. 10-615. Operating regulations.

All businesses operating as an amusement game room hereunder shall be subject to the following regulations:

- (1) *Devices to be kept in plain view; gambling devices prohibited.* All bona fide coin operated amusement machines shall at all times be kept and placed in plain view of and open and accessible to any person(s) who may frequent or be in any place of business where such machines are kept or used. Nothing in this section shall be construed to authorize, permit or license any gambling device of any nature whatsoever.
- (2) *Inspection.* The city may inspect or cause the inspection of any location in which any such bona fide coin operated amusement machine(s) are operated or set up for operating, and may inspect, investigate and test such machines as needed.
- (3) *Attendant required.* It shall be unlawful for any location owner or location operator to open the location to the public unless an attendant is present. Said attendant shall be of sufficient mental and physical capacity so as to be able to provide aid to patrons if needed or desired. Said attendant shall not be less than 18 years of age.
- (4) *Loitering.* As used in this section, "loitering" shall mean remaining idle in essentially one location and shall include the concepts of spending time idly, loafing or walking about aimlessly, and shall be unlawful for any person, firm or corporation licensed to operate an amusement game room to permit loitering on or in the immediate vicinity of any machine or business premises regulated hereunder in such a manner as to:
 - a. Create or cause to be created a danger of a breach of the peace;
 - b. Create or cause to be created any disturbance of the peace, as defined by law;

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- c. Obstruct the free passage of pedestrians or vehicles;
 - d. Obstruct, molest or interfere with any person lawfully in a public place.
 - e. Shirt and shoes required. All location owners and location operators shall require shirts and shoes to be worn at all times by any person frequenting their location.

Sec. 10-616. Licenses and permits nontransferable.

- (a) Licenses required in this article are nontransferable. All businesses that have bona fide coin operated amusement machines on the premises shall display, in plain view, the current amusement game room license and occupational tax certificate issued by the city.
- (b) The issued license shall not be transferred to another owner at the same site within the city. A new owner or proprietor must first obtain a new license if they are going to operate in the same or different location in the city.

Sec. 10-617. Appeal of Permit Denials.

- (a) Notice of denial of a permit shall be served on the person named as the applicant in the application. Notice shall be in writing. The notice may be served personally or by first class mail. If by mail, the notice shall be addressed to the applicant at its address as provided by the applicant to the municipality. The burden shall be on the applicant to provide notice, in writing, of any change of address for service of notices and process. In the case of service by mail of any notice required by this chapter, the service is complete at the time of deposit in the United States Postal Service. Any applicant denied a license may request a hearing to appeal the decision of the Director of Community Development in writing within 30 days of receiving notice of denial. Written notice of appeal shall be delivered to the City Clerk. Upon receipt of notice, a hearing shall be scheduled within 30 days.
 - (b) The hearing shall be conducted by a hearing officer appointed by the Mayor and approved by City Council or by a Judge of the Municipal Court. The hearing officer shall be an attorney licensed to practice in the state who is disinterested in the proceeding.
 - (c) Hearings shall be only as formal as necessary to preserve order and shall be compatible with the principles of justice. The city attorney shall present the city's case and bear the burden of proving by a preponderance of the evidence that due cause exists to deny the license. At the hearing the applicant shall have the right to represent itself or be represented by counsel, may cross examine all witnesses offered by the city, and may call witnesses and present evidence in its own behalf. Formal rules of evidence shall not apply to hearings under this section, although the hearing officer shall have the right to exclude evidence which carries no indicia of reliability. All testimony shall be offered under oath or affirmation.
 - (d) The hearing officer shall make a final determination within ten business days of the completion of the hearing. The decision shall be placed in writing and contain the hearing officer's findings of fact, conclusions of law, and decision as to sanction, if any.
 - (e) The hearing officer's decision shall be personally served or mailed by certified mail, return receipt requested to the applicant and his attorney, with a copy to the city attorney, within ten business days of the close of the hearing. The decision of the hearing officer shall constitute final action by the city and be subject to a petition for review to the superior court.
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EXHIBIT B TO ORDINANCE NO. _____

ARTICLE XIV. COIN OPERATED AMUSEMENT MACHINES

Sec. 10-600. Short title.

This article shall be known as the "City of Tucker Bona Fide Coin Operated Amusement Machine Ordinance."

Sec. 10-601. Gambling devices prohibited.

Gambling devices, as that term is defined in O.C.G.A. § 16-12-20(2) are prohibited in the city, as the ownership, use, or transport thereof are misdemeanors pursuant to state law, except as exempted pursuant to O.C.G.A. § 16-12-35(a) through (k).

Sec. 10-602. Gambling places prohibited.

Gambling places, as that term is defined in O.C.G.A. § 16-12-20(3) are prohibited in the city, as the operation thereof is a misdemeanor pursuant to state law.

Sec. 10-603. Definitions.

The following words, terms, or phrases, when used in this Ordinance, shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning:

- (1) *Amusement game room* means any location as provided in O.C.G.A. § 16-12-35(b), (c) or (d) where one or more bona fide coin operated amusement machines are operated that permit non-cash redemption as provided in O.C.G.A. § 16-12-35(d)(1)(B), (C), or a combination thereof.
- (2) *Bona fide coin operated amusement machine* means the same as this term is defined in O.C.G.A. § 50-27-70(b)(2)(A) and (B) and any applicable regulations of the State of Georgia. Examples of bona fide coin operated amusement machines include, but are expressly not limited to, the following:
 - a. Pinball machines;
 - b. Console machines;
 - c. Video games;
 - d. Crane machines;
 - e. Claw machines;
 - f. Pusher machines;
 - g. Bowling machines;
 - h. Novelty arcade games;
 - i. Foosball or table soccer machines;
 - j. Miniature racetrack, football or golf machines;
 - k. Target or shooting gallery machines;
 - l. Basketball machines;

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- m. Shuffleboard machines;
 - n. Kiddie ride games;
 - o. Skee-Ball® machines;
 - p. Air hockey machines;
 - q. Roll down machines;
 - r. Trivia machines;
 - s. Laser games;
 - t. Simulator games;
 - u. Virtual reality machines;
 - v. Maze games;
 - w. Racing games;
 - x. Coin operated pool table or coin operated billiard table as defined in paragraph (3) of O.C.G.A. § 43-8-1; and
 - y. Any other similar amusement machine which can be legally operated in Georgia.

The term "coin operated amusement machine" does not include the following:

- a. Coin operated washing machines or dryers;
 - b. Vending machines which for payment of money dispense products or services;
 - c. Gas and electric meters;
 - d. Pay telephones;
 - e. Pay toilets;
 - f. Cigarette vending machines;
 - g. Coin operated vending machines;
 - h. Coin operated scales;
 - i. Coin operated gumball machines;
 - j. Coin operated television sets which provide cable or network programming;
 - k. Coin operated massage beds; and
 - l. Machines which are not legally permitted to be operated in Georgia.
- (3) *Location* means a business within the city that has complied with the provisions of the ordinances of the city relating to occupation taxes and business licenses and the entire office or area of the business in any one location owned or leased by the same proprietor or proprietors where the lessor or lessors allow the space to be used for business purposes.
- (4) *Location owner* or *location operator* means an owner or operator of a business where one or more bona fide coin operated amusement machines are available for commercial use and play by the public or shall have the same definition as found in the Official Code of Georgia, Annotated, Section 50-27-70, should that definition differ.

Sec. 10-604. License required.

No person, firm or corporation shall engage in the business of an owner or proprietor of an amusement game room, as the term is herein defined, without first having obtained an amusement game room license, without first having paid the applicable occupation tax and obtained an occupational tax certificate required under this article. A separate amusement game room license must be obtained for each location in the jurisdiction for which bona fide coin operated amusement machines are operated.

Sec. 10-605. Issuance of license.

Application for a license for operating an amusement game room within the corporate limits of the city shall be made to the city upon a form to be supplied by the city for this purpose. The license application shall include the following information:

- (1) Name, address, and age of the applicant and the date of the application;
- (2) Address or place where the bona fide coin operated amusement machine or machines are to be offered to the public for play and the other business or businesses operated at that place or places;
- (3) Name and address of the owner of the machine or machines and a copy of the owner's master license;
- (4) Name and address of any other business owned or operated by applicant within the corporate limits of the city; and
- (5) List of any other licenses or permits from the city held by the applicant.

Upon issuing a license for an amusement game room, the city official or employee shall provide the licensee with a copy of this article. The city shall not require a fee for an amusement game room license or registration. A license issued in accordance with this article shall be valid until December 31st of the year in which the license was issued. The owner or operator of an amusement game room shall be required to pay occupation taxes in accordance with the code of ordinances of the city.

Sec. 10-606. Occupation tax required.

No person, firm or corporation shall engage in the business of an owner or proprietor of amusement game room, as the term is herein defined, without first having completed the occupational tax certificate application form, paid the required occupational tax and obtained an occupational tax certificate.

Sec. 10-607. Minimum distance requirements.

- (a) No amusement game room in the city shall be located within 100 yards of a school building, school grounds, college campus, educational facility or educational building, adult entertainment establishment, church, or residence.
- (b) For the purpose of this section, distance shall be measured by the most direct route of travel on the ground. Every license application shall include a scale drawing of the location of the proposed premises, showing the distance of the uses described in this section and a certificate of a registered land surveyor or professional engineer that the location complies with these distance requirements.
- (c) The school building, school grounds, college campus, educational facility or educational building referred to in this section applies only to state, county, city, church school, day care, kindergarten or buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools and colleges of this state.

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- (d) For the purposes of this section, "church" shall mean a house of worship whether owned outright or leased by practitioners of any religion.

Sec. 10-608. Number of bona fide coin operated amusement machines at a location.

No amusement game room in the city shall offer to the public more than six Class B bona fide coin operated amusement machines offering non-cash redemption in accordance with O.C.G.A. § 16-12-35(c) and (d)(1)(2), or both at the same location.

Sec. 10-609. Gross receipts from bona fide coin operated amusement machines and from business.

- (a) Every amusement game room shall keep records available for inspection by city officials that set out separately annual gross receipts for the Class B amusement games and the other products and services sold at the location.
- (b) Any location owner or location operator subject to Official Code of Georgia, Section 50-27-84(b)(1) is hereby required to provide a monthly report to the city clerk of the city. Such report shall indicate the monthly gross retail receipts for each business location located within the jurisdiction of the city and shall be due by the twentieth day of each month, subsequent to the month in which the sales have taken place. In addition, each owner or operator must allow the local government an annual audit of the reports from the owner or operator to the lottery corporation.
- (c) No location owner or location operator may derive more than 50 percent of such location owner's or location operator's monthly gross retail receipts for this business location in which the Class B machines are situated from such Class B machines and any location owner or location operator found in violation of such provision may be fined and may have any city issued license suspended or revoked as allowed under this article. Compliance with this section requires both the availability of records for inspection and compliance with the 50 percent of gross retail receipts requirement. Any violations of this provision shall be reported to the Georgia Lottery Corporation.

Sec. 10-610. Notice requirements.

- (a) Every amusement game room shall post a conspicuous sign with the following or substantially similar language:

'GEORGIA LAW PROHIBITS GIVING OR RECEIPT OF ANY MONEY FOR WINNING A GAME OR GAMES ON AN AMUSEMENT MACHINE; GIVING OR RECEIPT OF MONEY FOR FREE REPLAYS WON ON AN AMUSEMENT MACHINE; GIVING OR RECEIPT OF MONEY FOR ANY MERCHANDISE, PRIZE, TOY, GIFT CERTIFICATE, OR NOVELTY WON ON ANY AMUSEMENT MACHINE; OR AWARDING ANY MERCHANDISE, PRIZE, TOY, GIFT CERTIFICATE, OR NOVELTY OF A VALUE EXCEEDING \$5.00 FOR A SINGLE PLAY OF AN AMUSEMENT MACHINE.'

- (b) Every amusement game room shall post the license issued by the city conspicuously and permanently.
- (c) The owner or proprietor of each amusement game room shall inform every employee of the acts and omissions prohibited by O.C.G.A. § 16-12-35 and by this article, and of the penalties for violation of O.C.G.A. § 16-12-35 and this article.

Sec. 10-611. Compliance with O.C.G.A. provisions relating to master licenses, location licenses, and stickers for individual machines.

Bona fide coin operated amusement machines may be used in an amusement game room within the city only if the machines are owned by a person who holds a valid master license in accordance with O.C.G.A. § 50-27-71, and each machine offered to the public for play has a valid permit sticker in accordance with O.C.G.A. § 50-27-78. In addition, the business owner where the machines are available for play by the public must pay a location license fee in order to obtain a valid location license in accordance with O.C.G.A. § 50-27-71 (a.1) and (b). The city official in charge of issuing business licenses shall notify the State Commissioner of Revenue of any observed violation of O.C.G.A. § 50-27-71 or § 50-27-78.

Sec. 10-612. License suspension and revocation.

- (a) The city may suspend or revoke the city issued license of any location owner or location operator to manufacture, distribute, or sell alcoholic beverages as a penalty for the conviction of the business owner or business operator of a violation of the Official Code of Georgia, Section 16-12-35, subsection (e), (f), or (g).
- (b) The city may suspend or revoke the license of any location owner or location operator of any other license granted by the municipality as a penalty for the conviction of the business owner or business operator of a violation of the Official Code of Georgia, Section 16-12-35, subsection (e), (f), or (g).
- (c) The suspension or revocation of licenses under this Code section shall be in accordance with the following guidelines of due process:
 - (1) No license which has been issued or which may be issued pursuant to this Article shall be suspended or revoked except for due cause and after hearing and upon prior ~~three-thirty~~-day written notice to the holder of the license of the time, place and purpose of the hearing and a statement of the charges upon which the hearing shall be held.
 - (2) The term "due cause" for the purposes of this section shall include, but not be limited to:
 - a. Conviction of, or the entering of a plea of guilty or nolo contendere by, the licensee or any of his employees or any person holding an interest in the license for any felony, any law, administrative regulation or ordinance involving alcoholic beverages, gambling or narcotics, or tax laws.
 - b. Conviction of, or the entering of a plea of guilty or nolo contendere by, the licensee or any of his employees or any person holding an interest in the license for any sex offense when the licensed business is for on-premises consumption.
 - c. Suspension or revocation of any state license required as a condition for the possession, sale or distribution of alcoholic beverages.
 - d. Material falsification of any fact given in an application for a license issued under this chapter or bearing upon the licensee's qualification therefor. Any act which may be construed as a subterfuge in an effort to circumvent any of the qualifications for a license under this chapter shall be deemed a violation of the requirement attempted to be circumvented.
 - e. Failure to meet or maintain any standard prescribed by this Article as a condition or qualification for holding a license.
 - f. Any other factor known to or discovered by the city whereby it is objectively shown the licensee, any of the licensee's employees or any person holding an interest in a license, has engaged in conduct at or involving the licensed business or has permitted conduct on the licensed premises that constitutes a violation of federal or state law, local ordinance or administrative regulations involving alcoholic beverages, gambling or narcotics for all alcohol licensed businesses and including any sex offense under state law or local ordinances with respect to businesses licensed for on-premises consumption. With respect to this section, it shall be rebuttably presumed that

the violative act was done with the knowledge or consent of the licensee; provided, however, that such presumption may be rebutted only by evidence which precludes every other reasonable hypothesis save that such licensee did not know, assist or aid in such occurrence, or in the exercise of full diligence that such licensee could not have discovered or prevented such activity.

- (3) Notice of suspension or revocation proceedings shall be served on the person named as licensee in the application. Notice shall be in writing. The notice may be served personally or by first class mail. If by mail, the notice shall be addressed to the licensee at its address as provided by the licensee to the municipality. The burden shall be on the licensee to provide notice, in writing, of any change of address for service of notices and process. In the case of service by mail of any notice required by this chapter, the service is complete at the time of deposit in the United States Postal Service.
- (4) The hearing shall be conducted by a hearing officer appointed by the mayor and approved by City Council or by a Judge of the Municipal Court. The hearing officer shall be an attorney licensed to practice in the state who is disinterested in the proceeding.
- (5) Hearings shall be only as formal as necessary to preserve order and shall be compatible with the principles of justice. The city attorney shall present the city's case and bear the burden of proving by a preponderance of the evidence that due cause exists to suspend or revoke the license. At the hearing the licensee shall have the right to represent itself or be represented by counsel, may cross examine all witnesses offered by the city, and may call witnesses and present evidence in its own behalf. Formal rules of evidence shall not apply to hearings under this section, although the hearing officer shall have the right to exclude evidence which carries no indicia of reliability. All testimony shall be offered under oath or affirmation.
- (6) The hearing officer shall make his final determination within ten business days of the completion of the hearing. The decision shall be placed in writing and contain the hearing officer's findings of fact, conclusions of law, and decision as to sanction, if any. Such sanction may include one or more of the following: revocation of the license, suspension of the license for no more than 12 months, imposition of a probationary period not to exceed 12 months, and/or a civil monetary penalty not to exceed the amount allowed under the city charter. Progressive sanctions, depending on the severity of the violation, are encouraged but not required. Where the remaining term of the license is less than 12 months, imposition of suspension or probation for a period in excess of the term of the existing license shall be applied to any renewal license. A subsequent violation within a probationary period shall be cause for revocation and/or denial of license renewal. A total of three separate and unrelated violations within 24 months, whether or not within a probationary period, shall be grounds for permanent revocation.
- (7) The hearing officer's decision shall be personally served or mailed by certified mail, return receipt requested to the licensee and his attorney, with a copy to the city attorney, within ten business days of the close of the hearing. The decision of the hearing officer shall constitute final action by the city, subject to review upon petition for certiorari to the superior court.
- (8) Upon receipt of notice of adverse action against the licensee under this section, the licensee may waive its right to a hearing and stipulate to a sanction, as recommended by the city manager, in consultation with the city attorney. Any stipulation entered under this subsection shall be in writing, signed by the licensee, and non-appealable.

Sec. 10-613. Criminal penalties for violations by owners or operators of amusement game rooms.

- (a) Penalties for violation of the provisions of this article by the owner or operator of an amusement game room, after conviction in the municipal court of the city, or other court of competent jurisdiction are as follows:

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- (1) *Minimum penalty.* A minimum fine for each violation of \$100.00.
 - (2) *Maximum penalty.* A maximum fine for each violation of \$1,000.00.
- (b) The fines listed in the penalties for violation of this article may be imposed by the judge of the municipal court of the city, or the judge of any other court of competent jurisdiction. Suspension or revocation of the owner or operator's license for offering any amusement game at the location where the violation occurred, and suspension of other permits and licenses granted by the city may be imposed by the mayor and council after a public hearing as described in section 10-612 of this article.
- (c) Offering one or more bona fide coin operated amusement machine games in violation of an order suspending or revoking the license for the offering of any amusement game at the location is punishable, after conviction in the municipal court of the city, by a fine not to exceed \$1,000.00, imprisonment not to exceed 180 days, or both such fine and imprisonment.

Sec. 10-614. Penalties for violations by those who play bona fide coin operated machines in violation of law or ordinance.

The municipal court of the city, or any other court of competent jurisdiction is authorized to impose the following penalties on any person convicted of receiving money as a reward for the successful play or winning of any bona fide coin operated amusement machine from any person owning, possessing, controlling or overseeing such bona fide coin operated amusement machine or any person employed by or acting on behalf of a person owning, possessing, controlling or overseeing a bona fide coin operated amusement machines:

- (1) *First offense:* Fine not to exceed \$250.00 for each violation.
- (2) *Second and subsequent offense:* Fine not to exceed \$500.00 for each violation.

Sec. 10-615. Operating regulations.

All businesses operating as an amusement game room hereunder shall be subject to the following regulations:

- (1) *Devices to be kept in plain view; gambling devices prohibited.* All bona fide coin operated amusement machines shall at all times be kept and placed in plain view of and open and accessible to any person(s) who may frequent or be in any place of business where such machines are kept or used. Nothing in this section shall be construed to authorize, permit or license any gambling device of any nature whatsoever.
- (2) *Inspection.* The city may inspect or cause the inspection of any location in which any such bona fide coin operated amusement machine(s) are operated or set up for operating, and may inspect, investigate and test such machines as needed.
- (3) *Attendant required.* It shall be unlawful for any location owner or location operator to open the location to the public unless an attendant is present. Said attendant shall be of sufficient mental and physical capacity so as to be able to provide aid to patrons if needed or desired. Said attendant shall not be less than 18 years of age.
- (4) *Loitering.* As used in this section, "loitering" shall mean remaining idle in essentially one location and shall include the concepts of spending time idly, loafing or walking about aimlessly, and shall be unlawful for any person, firm or corporation licensed to operate an amusement game room to permit loitering on or in the immediate vicinity of any machine or business premises regulated hereunder in such a manner as to:
 - a. Create or cause to be created a danger of a breach of the peace;
 - b. Create or cause to be created any disturbance of the peace, as defined by law;

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- c. Obstruct the free passage of pedestrians or vehicles;
 - d. Obstruct, molest or interfere with any person lawfully in a public place.
 - e. Shirt and shoes required. All location owners and location operators shall require shirts and shoes to be worn at all times by any person frequenting their location.

Sec. 10-616. Licenses and permits nontransferable.

- (a) Licenses required in this article are nontransferable. All businesses that have bona fide coin operated amusement machines on the premises shall display, in plain view, the current amusement game room license and occupational tax certificate issued by the city.
- (b) The issued license shall not be transferred to another owner at the same site within the city. A new owner or proprietor must first obtain a new license if they are going to operate in the same or different location in the city.

Sec. 10-617. Appeal of Permit Denials.

- (a) Notice of denial of a permit shall be served on the person named as the applicant in the application. Notice shall be in writing. The notice may be served personally or by first class mail. If by mail, the notice shall be addressed to the applicant at its address as provided by the applicant to the municipality. The burden shall be on the applicant to provide notice, in writing, of any change of address for service of notices and process. In the case of service by mail of any notice required by this chapter, the service is complete at the time of deposit in the United States Postal Service. Any applicant denied a license may request a hearing to appeal the decision of the Director of Community Development in writing within 30 days of receiving notice of denial. Written notice of appeal shall be delivered to the City Clerk. Upon receipt of notice, a hearing shall be scheduled within 30 days.
- (b) The hearing shall be conducted by a hearing officer appointed by the Mayor and approved by City Council or by a Judge of the Municipal Court. The hearing officer shall be an attorney licensed to practice in the state who is disinterested in the proceeding.
- (c) Hearings shall be only as formal as necessary to preserve order and shall be compatible with the principles of justice. The city attorney shall present the city's case and bear the burden of proving by a preponderance of the evidence that due cause exists to deny the license. At the hearing the applicant shall have the right to represent itself or be represented by counsel, may cross examine all witnesses offered by the city, and may call witnesses and present evidence in its own behalf. Formal rules of evidence shall not apply to hearings under this section, although the hearing officer shall have the right to exclude evidence which carries no indicia of reliability. All testimony shall be offered under oath or affirmation.
- (d) The hearing officer shall make a final determination within ten business days of the completion of the hearing. The decision shall be placed in writing and contain the hearing officer's findings of fact, conclusions of law, and decision as to sanction, if any.
- (e) The hearing officer's decision shall be personally served or mailed by certified mail, return receipt requested to the applicant and his attorney, with a copy to the city attorney, within ten business days of the close of the hearing. The decision of the hearing officer shall constitute final action by the city and be subject to a petition for review to the superior court.

Secs. 10-617~~8~~—10-699. Reserved.

ARTICLE XV. VIDEO SURVEILLANCE AT PACKAGE STORES

Sec. 10-700. Video surveillance systems.

(a) *Definition of terms.*

Package store means any commercial location where any type of alcoholic beverages are sold for consumption off the premises; provided however that grocery stores as defined by Section 46-1775 shall not be considered package stores under this article

Director shall mean the Director of Community Development of the City of Tucker, or their designee.

Video surveillance system (VSS) for the purpose of this article shall mean a continuous digital surveillance system including cameras, cabling, monitors, and digital video recorders (DVR). This also includes Wi-Fi network cameras, provided that all footage can be saved and made available to the DeKalb County Police Department or any other law enforcement agency for review.

(b) *Video surveillance requirements.* All package [stores in order to obtain and maintain their alcoholic beverage license issued under Chapter 4](#) shall:

- (1) Maintain a VSS in proper working order at all times, including outside of business hours;
- (2) Keep a VSS in continuous operation 24 hours a day, seven days a week;
- (3) Meet the minimum standards for placement of video cameras;
- (4) Meet the minimum technological standards established in this section;
- (5) Request an inspection of new construction plans or a one-time initial inspection of their VSS by the Director for the approval of the placement of all VSS;
- (6) After the initial inspection, the applicant must submit an affidavit with each application for a renewal of their occupational tax certificate that the VSS is operational and in full compliance with the applicable requirements and standards in this Code; and
- (7) Notice of presence of VSS that informs the public that the premises are monitored by VSS.

(c) *Minimum standards.* All VSS must comply with the following minimum standards of placement of video cameras and be focused in such a manner as to capture the image(s) of those approaching places identified herein below:

- (1) All VSS are required to have no less than one camera dedicated to each register and/or check-out stand;
- (2) All VSS are required to have no less than one camera dedicated to each entrance/exit to each structure located on the package store's property;
- (3) All VSS are required to have no less than one camera dedicated to each loading dock located on the property where the package store operates;
- (4) All VSS are required to have no less than one camera dedicated to the parking lots and/or areas designated for customer and/or employee parking located on the property where the package store operates;
- (5) All VSS are required to have no less than one camera dedicated to each of the entrances and exits to the parking lots for customer and/or employee parking; and,
- (6) All VSS cameras must remain unobstructed by any display, sign, or other item.
- (7) Notice of presence of VSS:

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- a. A notice to the public that a VSS is operational, and recording must be prominently displayed at the register, check-out stand, fuel pump, and electronic vehicle charging station.
- (d) *Minimal technological standards.*
- (1) All VSS cameras must be high resolution color cameras capable of providing:
 - a. Instant screen captures upon request;
 - b. A digital image that clearly depicts the facial features of a person filmed; and,
 - c. Capable of the producing images with InfraRed (IR)/night vision camera features, as necessary during low light to satisfy the foregoing subsections.
 - (2) All VSS cameras must have at least the following standards:
 - a. Minimal Resolution: 4MP (1440p);
 - b. Image Size: 2560 x 1440;
 - c. Pixels per image: 5,017,600;
 - d. Aspect ratio: 16:9;
 - e. A minimum of 24 Frames Per Second (24 FPS);
 - f. Convert video files to mp4 standard software files and convert picture files to JPG, JPEG, or TIF standard software files.
 - (3) All VSS cameras must have a capability to record an area that extends no less than 75 feet;
 - (4) All VSS cameras must be operated in a fixed position and not in a panning motion;
 - (5) All VSS cameras must display the correct date and time of each recording;
 - (6) All VSS must use a digital video recording device to record images from each surveillance camera in the package store. Each recording device must be kept in a secured location that is remote from the surveillance cameras.
 - (7) The package store shall retain the continuous digital images recorded by this system for no less than 60 days.
 - (8) A digital video recording must be made available to appropriate law enforcement for viewing as soon as possible but no later than 72 hours after being requested. The city encourages partnerships with private sector companies that will allow appropriate law enforcement or the director to view in real time and if necessary, obtain copies of images captured by the private sectors' VSS.
- (e) *Shared space.* Where a package store shares the exterior space immediately outside with another store or business, the minimum requirements for exterior surveillance will be modified based on the area to be captured by cameras placed on the exterior of the package store. The VSS standards and requirements relative to the shared exterior space of the package store will be modified by the director to account for the shared space and the need for the placement of cameras on the exterior of the package store.
- (f) *Inspections.*
- (1) The VSS shall be subject to regular inspection by the director or appropriate law enforcement, who is authorized to inspect any such system, at reasonable times to determine whether it conforms to the requirement of this section. If the VSS does not conform, the package store in question shall take immediate steps to bring the system back into compliance within 60 days of being notified of the VSS's non-compliance.
 - (2) Existing VSS at package stores as of the effective date of this ordinance will be evaluated to ensure full compliance with this section by the applicable effective dates of this ordinance.

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- (g) *Effective date.* All package stores that have VSS installed prior to the effective date of this ordinance shall ensure said systems are in full compliance with this section and article and obtain a written assessment approval from the director or appropriate law enforcement by January 1, 2026, the date upon which all package stores must be compliant with the provisions of this ordinance.
- (h) *Enforcement, violations, and penalties.* The provisions of this ordinance may be enforced by the director or any appropriate law enforcement. Any package store licensee who does anything prohibited or fails to do anything required by this ordinance is subject to the suspension or revocation or non-renewal of their alcohol license.