Chapter 12

BUSINESS AND OCCUPATION TAXES

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ARTICLE I. IN GENERAL.

Section 12.1 Fire, Wreck, Etc., Sales Prohibited.

Fire sales, wreck sales and other sales where stock, merchandise or livestock are shipped or brought into the city by motor carrier and advertised as special sales are expressly prohibited.

Section 12.2 Lunch and Cold Drink Stands.

All applications for a license to conduct lunch stands and cold drink stands shall be made in writing, specifying the location of such stand and submitted to the council for its approval or rejection before a license is issued.

Sections 12.3 - 12.5 Reserved.

ARTICLE II. OCCUPATION TAXES.

Section 12.6 **Definitions.**

The following words, terms and phrases shall, for the purposes of this chapter, have the following meaning:

City means the City of Blakely.

Employee is any individual who, for compensation, exerts substantial effort within the state for the purpose of soliciting business or serving customers or clients.

Location or *office* means a fixed place located within the city from which a person conducts business, but shall not include a work site located in the city for less than six months for the purpose of serving a single customer or project.

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

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

Practitioners of professions and occupations are those individuals listed in O. C. G. A. § 48-13-9(c)(1)-(18) but does not include a practitioner who is an employee of a business if such business pays an occupation tax.

Section 12.7 **Occupation Tax Levied; Limitations.**

a. An occupation tax based upon number of employees in the state is levied upon businesses and practitioners of professions and occupations with one or more locations or offices within the corporate limits of the city and, pursuant to O.C.G.A. § 48-13-7, upon out-of-state businesses with no location or office in the city but with employees or agents engaging in substantial efforts to solicit business or serve customers or clients in the state in accordance with the following schedule:

2 or less	$75.00
3 - 10	$100.00
11- 25	$150.00
26 - 50	$200.00
51 - 75	$250.00
76 - 10	$300.00
More than 100	$350.00

b. The city shall not require the payment of more than one occupation tax for each location of a business or practitioner.

c. A business or practitioner which is subject to an occupation tax by another local government and claiming an exemption from or limitation to the occupation tax imposed by this article shall submit documentation as to current payment of the occupation tax to the other local government and the basis of such tax.

1. If a business or practitioner with no location or office in Georgia provides to the city proof of payment of a local business or occupation tax in another state which purports to tax the business' or practitioners's sales or services in this state, then the business or practitioner shall be exempt from this occupation tax.

2. A business or practitioner with no location or office in Georgia shall only be required to pay occupation tax to the local government in Georgia where the largest dollar volume of business is done or service is performed by such business or practitioner. This limitation shall only apply when the business or practitioner has provided to the city satisfactory proof of the applicability of this subsection.

3. A business or practitioner which has locations in Georgia subject to occupation tax by more than one local government in Georgia shall only be subject to occupation tax by the city for the number of employees who are employed within the corporate limits of the city. This limitation shall only apply when the business or practitioner has provided to the city satisfactory proof of current payment of the occupation tax of the other local government(s).

4. If an employee works for the same business or practitioner in more than one municipal corporation or county and the business or practitioner submits proof of this, the employee shall be counted as an employee in the city only if the city is the jurisdiction where such employee works for the longest period of time within the calendar year.

d. If a business or practitioner commences business in the city on or after July 1 in any year, the occupation tax for the remaining portion of the year shall be 50 percent of the tax imposed for the entire year. The administrative fee shall not be reduced.

e. If a business or practitioner does not know how many employees which are the basis of this occupation tax will be employed by the business or practitioner during the current calendar year, then the business or practitioner shall file a return estimating the number of employees which are the basis of this occupation tax. If such estimate is not accurate, then no later than January 15

of the following year the business or practitioner shall file an amended return indicting the actual number of employees during the previous calendar year. Any overpayment of the occupation tax may be credited to the business or practitioner's account for future tax liability, offset against other amount due and owning to the city for any reason or paid to the business or practitioner at the discretion of city clerk. Any underpayment will be due upon filing the amended return.

f. Real estate brokers shall be subject to occupation tax pursuant to this article only if they maintain a principal or branch office in the city.

Section 12.8 Occupation Tax Certificate.

Every business, practitioner and location subject to payment of the occupation tax shall post the certificate in a conspicuous place at the location for which such certificate was issued. If the tax payer does not have a permanent location within the city, the occupation tax certificate shall be shown to any police officer (or other person charged with enforcing this article) upon request.

Section 12.9 Practitioners of Professions and Occupations.

Practitioners of professions and occupations as defined in this article shall pay the occupation tax as set forth in section 12.27 or shall pay an occupation tax of $200.00 per practitioner. At such time as the practitioner first commences business in the city, the practitioner shall elect a method of taxation. Such election shall be changed for subsequent calendar years only by a written request filed by the practitioner on or before February 1 of the year in which the election is to be changed.

Section 12.10 Exemptions.

a. No occupation tax shall be levied on the following:

1. Any practitioner whose office is maintained by and who is employed in practice exclusively by the United States, the state, a municipality or county of the state, or instrumentality of the United States, the state or a municipality or county of the state;

2. Those businesses regulated by the state public service commission;

3. Those electrical service businesses organized under O.C.G.A. chapter 3 of title 46;

4. Any farm operation for the production from or on the land of agricultural products, but not including any agribusiness.

5. Nonprofit, agricultural product cooperative marketing associations pursuant to O. C. G. A. § 2-10-105;

6. Motor common carriers pursuant to O. C. G. A. § 46-7-15;

7. Persons purchasing guano, meats, meal, flour, bran, cottonseed or cottonseed meal or hulls in carlot lots for distribution among the purchasers for use and not sale pursuant to O. C. G. A. § 48-5-355;

8. Pursuant to O. C. G. A. § 48-5-356 for persons selling or introducing into the city agricultural products or livestock, including animal products, raised in this state when the sale and introduction are made by the producer of the product and the sale is made within 90 days of the introduction of the product into the city;

9. Depository institutions pursuant to O. C. G. A. § 48-6-93; or

10. Any business where the levy or such occupation tax is prohibited by the laws of the state or the United States.

b. The exemptions and limitations contained in this article shall not be construed to repeal or otherwise affect in any way any franchise fees, business taxes or other fees or taxes otherwise allowed by law.

Section 12.11 Evidence of State Registration When Required.

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

Section 12.12 Evidence of Qualification Required if Applicable.

a. Any business required to obtain health permits, bonds, certificates of qualification, certificates of competency or any other regulatory matter shall first, before the issuance of an occupation tax certificate, show evidence of such qualification.

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

Section 12.13 Filing Returns, Other Information Required or Requested.

a. On or before January 1 of each year, an individual, business or practitioner subject to this occupation tax ordinance shall file with city clerk on a form approved by and available from the city a signed return attesting to the number of employees of such business or practitioner during the calendar year.

b. Individuals, businesses and practitioners doing business in the city shall submit to the city clerk or make available within the city within 30 days such information as may be required or requested by the city to determine the applicability and amount of the occupation tax or to facilitate levying or collection of the occupation tax fee.

Section 12.14 Confidentiality.

Information provided by a business or practitioner to the city for the purpose of determining the applicability and amount of the occupation tax or levying or collecting the occupation tax is confidential and exempt from disclosure under O. C. G .A. article 4 of chapter 18 of title 50. Such information may be provided to the governing authority of another local government for occupation tax or prosecution for failure or refusal to pay occupation tax.

Section 12.15 Date Due; Penalty.

a. Any occupation tax fee due pursuant to this article shall be due and payable annually on March 1. In the event that any person commences business or initially engages in a regulated activity in the city after March 1 in any year, the tax shall be due and payable on the date of the commencement of the business or regulated activity.

b. Any individual, business or practitioner subject to any occupation tax imposed by this article which is unpaid for 90 days after the date on which payment was due shall be subject to a penalty of ten percent of the tax due.

Section 12.16 Enforcement; Violations.

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

b. The city clerk shall issue executions against individuals, businesses and practitioners for taxes and fees which are due and owing. Such executions shall bear interest at the rate authorized by O. C. G. A. § 48-2-40 or, if such statute should be repealed, one percent per month. The lien shall cover the property of the individual, business or practitioner liable for payment of the delinquent occupation tax and become fixed as of the date and time the occupation tax became delinquent. The execution shall be levied by city clerk of the city upon property of the delinquent tax payer located in the city and sufficient property shall be advertised and sold to pay the amount of the execution, including penalty, interest and costs. All other proceedings in relation thereto shall be as provided by the code and charter of the city and the laws of Georgia. The defendants at execution shall have the rights of defense, by affidavit of illegality of the tax or otherwise as provided by the charter of the city and the laws of Georgia in regard to tax execution.

c. When nulla bona entry has been entered upon an execution, the person against whom the entry is made shall not be allowed or entitled to have or collect any fees or charged whatever for services rendered after the entry of the nulla bona. If, at any time after the nulla bona entry has been made, the person against whom the execution issued pays the tax in full together with all interest and costs accrued on the tax, the person may collect any fees and charges due to such person as is such person had never defaulted in the payment of the tax.

d. Individuals, businesses and practitioners who fail or refuse to pay any occupation tax charged pursuant to this article shall, upon conviction, be punished as provided in section 1.7.

e. Individuals, businesses and practitioners who fail or refuse to make a timely or truthful tax return or make available truthful and accurate information the city requests or requires for determining applicability or amount of occupation tax, or for levying or collecting such occupation tax shall be subject to penalty as provided in section 1.7.

f. All persons subject to the occupation tax imposed by this article shall be required to file for and pay such tax. For failure to do so, any officers or agents soliciting for or obtaining such person's business shall be subject to the same penalty as other persons, businesses or practitioners who fail to obtain, make a return for or pay the applicable occupation tax.

Section 12.17 Public Hearing.

The city shall conduct at least one public hearing before adopting any ordinance or resolution which will increase the occupation tax rate specified in section 12.7.

Section 12.18 Prior ordinance.

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

Sections 12.19 - 12.25 Reserved.

ARTICLE III. REGULATORY FEE.

Section 12.26 **Regulatory Fee.**

a. Businesses and individuals engaging in the occupations or businesses set forth in Appendix A must pay a non-refundable regulatory fee in accordance with the rate set forth in Appendix A.

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

c. Every business, individual, and location subject to payment of a regulatory fee levied by this ordinance shall display a current regulatory fee certificate in a conspicuous place at the location for which such certificate was issued. If the taxpayer does not have a permanent location within the City, the regulatory fee certificate or an unaltered duplicate of such certificate shall be shown to any police officer or city clerk upon request.

Sections 12.27 - 12.30 **Reserved.**

APPENDIX A

ARTICLE IV. POOL ROOMS, GAME ROOMS, BILLIARD HALLS AND INTERNET CAFES.

Section 12.31 Applicability.

a. The rules and regulations set forth in this ordinance shall govern the operation of all pool rooms, game rooms, billiard halls, and internet cafes in the City of Warwick, Georgia.

b. The terms "pool room" and billiard hall" shall have the same definitions herein as the terms "billiards" and "billiard room" as defined in O.C.G.A. § 48-8-1, as said statute now exists or shall be amended from time to time.

c. The term "game room" as used herein shall mean those establishments, any portion of whose revenue is from coin-operated pool or billiard tables, or coin-operated game machines of any kind, such as, for example only, pinball, baseball, or video games.

d. The terms "Internet Café" and Internet Cafes" as used herein shall mean any business which offers to its customers, either as its principal business or incidental to its other businesses, the use of tow or more computers furnished by the business and connected to the internet, or which offers to its customers access to two or more connections to the internet for the use of customer-furnished computers.

Section 12.32 Application; Filing Form; Contents.

All persons 18 years of age or older desiring to obtain a license required for the operation of a pool room, game room, billiard hall, or internet café shall make written application at the business license office. Such application shall state the name and address of the applicant; the place where the proposed business is to be located; the nature and character of the business to be carried on; if a partnership, the names of the partners; if a corporation, the names of the officers and stockholders; and such other information as may be required by the director of the business license office or the police department; and be sworn to by the applicant or agent thereof.

Section 12.33 Investigation of Applicant.

a. All applicants shall be investigated by the Warwick Police Department and a report made to the City Clerk. This requirement shall be waived if a current investigation report is on file. "Current" is defined as being within the past six months.

b. The police reports shall be sent to the City Clerk to be placed in the applicant's file.

Section 12.34 Grounds for Refusal of License.

a. No license shall be issued to any person, partnership, corporation, or any individual

having an interest, directly or indirectly, either as owner, partner, or principal stockholder, who shall have been convicted or shall have taken a plea of nolo contendere, within the past five years immediately prior to the filing of said application, for any felony of any state or of the United States. The term "conviction" shall include an adjudication of guilt or plea fo guilty or nolo contendere or the forfeiture of a bond when charged with a crime.

b. No license shall be issued where there is evidence that the granting of such license will have an adverse impact on the health, safety, or welfare of the public.

Section 12.35 Sanitary and Toilet Facilities.

The place of business shall have separate restrooms for males and females. Such restrooms ***must be*** kept clean, and the premises shall be in compliance with all applicable rules and regulations of the Early County Health Department or departments of the City.

Section 12.36 Serving Food.

If food is served, the applicant shall have a valid health certificate issued by the Early County Health Department before any license can be issued.

Section 12.37 Hours of Operation.

Licensees for the operation of a pool room, game room or billiard hall shall be permitted to engage in such activities between the hours of 6 a.m. and midnight.

Section 12.38 Violations and Grounds for Revocation of License.

Commission of any of the following acts by a licensee, agent, or employee of a pool room, game room, billiard hall, or internet café shall be a violation of law and shall be grounds for revocation of a billiard license:

1. Engaging in, or permitting or allowing on the premises, sales, in violation of state or federal law, of "controlled substances," as that term is defined by state and/or federal law. The terms "permitting" and "allowing" as used herein include sales where the owner or operator in charge knew, or in the exercise of ordinary care should have known, that such sales were taking place, and failed to take effective action to stop them.

2. Permitting persons to loiter on the premises without legitimate business reasons who are known to the owner or operator or manager in charge of such business, or who in the exercise or ordinary care should be known to them, or who are reputed to be, illegal sellers or purveyors of controlled substances as heretofore defined.

3. Permitting any gambling or betting in the place of business or in the premises.

4. Permitting or committing any violation of state law or city ordinance.

5. It shall be unlawful for any person under 18 years of age to play billiards in, or for any other purpose to enter or remain in a pool room, game room, billiard hall, or internet café during hours and times when alcoholic beverages are sold, consumed, or dispensed therein. This subsection shall not apply to persons under 18 years of age who are accompanied by a parent or guardian. Any person desiring admission thereto during hours and times when alcoholic beverages are sold, consumed, or dispensed, who is or appears to be under 18 years of age, shall produce satisfactory identification and age verification or certify his or her age in writing or produce a written permit before he or she shall be allowed entry.

Section 12.39 Transferability of License.

A license for the operation of a pool room, game room, billiard hall, or internet café shall not be transferable except by application to the license review board in the same form and manner as an original application.

Section 12.40 Gambling Devices Prohibited.

No form of gambling shall be allowed in any pool room, game room, billiard hall, or internet café or in any other business place operated in connection therewith. No racing or other betting pool shall be exhibited or sold in such place of business. The use of baseball tickers and the posting of results of sporing events is expressly prohibited in billiard rooms or in any place operated in connection therewith. No alcoholic beverages shall be sold, served, or allowed to be used in or on the premises of any pool room, game room, billiard hall, or internet café or any place operated in connection therewith, except that this prohibition shall not apply if such premises or establishment is an establishment which is authorized to sell alcoholic beverages.

Section 12.41 Further Restrictions.

It shall be unlawful for any pool room, game room, billiard hall, or internet café to maintain connections with any place where gambling or illegal activity is conducted or where persons congregate for the illegal consumption, sale, possession, barter, manufacture, exchange, purchase, dispensation, delivery, or other dealing in of alcoholic beverages for any immoral purpose.

Section 12.42 Access to the Public.

All internet cafes shall be open to view and accessible to the public, and no computers shall

be placed in a private room or any portion of the business closed off to the public or to the rest of the building by doors or partitions of any kind. Windows shall not be blackened or covered with closed blinds, curtains or anything which interferes with visibility through the window. The operation of all computers shall be subject to electronic visual surveillance at all times. Videotapes, DVDs or any other recording shall be maintained by the establishment for a period of not less than 30 days. Transactions of any kind shall be made subject to electronic visual surveillance.

Section 12.43 Enforcement.

It shall be the duty of the police or other constituted authorities to inspect all public pool rooms, game rooms, billiard halls, and internet cafes in the City for the purpose of ascertaining whether or not the provisions of this ordinance are being observed; and it shall be the duty of such officer to report all violations promptly to the City Attorney and furnish the City Attorney such information and assistance as is necessary for the prosecution of such violations. Whenever the state shall revoke any permit or license held by the licensee, the license shall thereupon be automatically revoked without any action of the City Council.

Section 12.44 Exemption.

This ordinance shall not apply to billiard tables or billiard rooms operated by private industrial concerns; Young Men's Christina Associations; religious orders; charitable institutions; state, county, or city institutions; fraternal orders; or bona fide clubs using such tables for members or employees only.

Section 12.45 Additional Ground to Revoke or Suspend a License to Operate a Pool Room, Game Room, Billiard Hall or Internet Café.

In addition to revocation or suspension of a license for the reasons herein before specified, the license to operate a pool room, game room, billiard hall, or internet café' may be further revoked for violation of any of the following standards:

1. In the event the licensee permits public drunkenness and disorderly conduct among his patrons or employees after warning by the City officer, such failure to act shall be grounds for revocation or suspension.

2. In the event the licensee receives notice from Public Safety or City officials of any violations of any ordinance other than the above, without correction thereof, such failure to act shall be grounds for automatic revocation.

3. In the event of the violation of any state or federal laws by the licenses, his agents, or servants on the premises, said violations shall be grounds for revocation or suspension.

4. In the event of conviction of a crime involving moral turpitude by the licensee of premises, said conviction shall be grounds for revocation or suspension.

Section 12.46 Appeals.

a. No license required by this ordinance shall be denied, suspended, or revoked without the opportunity for a hearing.

b. The business license director shall provide written notice to the owner-applicant and licensee of his order to deny, suspend, or revoke the license. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the owner-applicant and licensee of the right to appeal under the provisions of this ordnance. Any owner-applicant or licensee who is aggrieved or adversely affected by a final action of the business license director may have a review thereof in accordance with the appeal procedures specified in this ordinance.

Section 12.47 Notices.

For the purpose of this ordinance, notice shall be deemed delivered when personally served or, when served by mal, within three days after the date of deposit in the United States mail.

Section 12.48 Penalties.

Any person who violates any provision of this ordinance may, upon conviction, be punished by a fine not to exceed $1,000 for each offense and/or imprisoned in the common jail of the county for a period not to exceed 180 days.

Section 12.49 Severability.

Should any part portion, or paragraph of this ordinance be declared unconstitutional or void by a court of competent jurisdiction, such declaration shall not affect the remaining portion of this ordinance not so declared to be invalid; and same shall remain of full force and effect as if separately adopted.

Sections 12.50 - 12.55 Reserved.

ARTICLE V. INSURANCE COMPANIES.

Section 12.56 Enforcement.

The fees and taxes levied by this article may be enforced by execution in the same manner as other taxes of the city. A violation of this article shall be grounds for refusing or revoking a license, and the person responsible may be punished as for violations of this Code as provided in section 1.7.

Section 12.57 Insurer License Fees.

There is hereby levied for the year 1995 and for each year thereafter an annual license fee upon each insurer doing business within the city, in the amount of $50.00. For each separate business location in excess of one not covered by section 12.43, which is operating on behalf of such insurers within the city, there is hereby levied a license fee in the amount of $50.00. For the purpose of this article, the term "insurer" means a company which is authorized to transact business in any of the classes of insurance designated in O. C. G. A. § 33-3-5.

Section 12.58 License Fee for Insurers Insuring Certain Risks at Additional Business Locations.

For each separate business location, not otherwise subject to a license fee hereunder, operated and maintained by a business organization which is engaged in the business of lending money or transacting sales involving term financing and in connection with such loans or sales offers, solicits or takes application for insurance through a licensed agent of an insurer for insurance, said insurer shall pay an additional license fee of $17.50 per location for the year 1995 and for each year thereafter.

Section 12.59 Insurance Agency License Fees–Independent Insurance Agencies, Brokers, Etc., Not Otherwise Licensed.

There is levied for the year 1995 and for each year thereafter an annual license fee upon independent agencies and brokers for each separate business location from which an insurance business is conducted and which is not subject to the company license fee imposed by section 12.42 in the amount of $50.00 for each such location within the city.

Section 12.60 Due Date for License Fees.

License fees imposed in section 12.42 and 12.43 of this article shall be due and payable on the first day of 1995 and on the first date of each subsequent year.

Section 12.61 Gross Premiums Tax–Imposed on Life Insurers.

There is hereby levied for the year 1995 and for each year thereafter an annual tax based solely upon gross direct premiums upon each insurer writing life, accident, and sickness insurance within the State of Georgia in an amount equal to one percent of the gross direct premiums received during the preceding calendar year in accordance with O. C. G. A. § 33-8-8.1. Gross direct premiums as used in this section shall mean gross direct premiums as used in O. C. G .A. § 33-8-4. The premium tax levied by this section is in addition to the license fees imposed by section 12.42 of this article.

Section 12.62 Same–All Other Insurers.

There is hereby levied for the year 1995 and for each year thereafter an annual tax based solely upon gross direct premiums upon each insurer, other than an insurer transacting business in the class of insurance designated in subsection 1 of O. C. G. A. § 33-3-5, doing business within the State of Georgia in an amount equal to two and one half percent of the gross direct premiums received during the preceding calendar year in accordance with O. C. G. A. § 33-8-8.2. Gross direct premiums as used in this section shall mean gross direct premiums as used in O. C. G. A. § 33-8-4. The premium tax levied by this section is in addition to the license fees imposed by section 12.42 of this article.

Section 12.63 Reports–Companies Generally.

a. Every insurance company doing business within the city and subject to the fees and taxes imposed in this article shall file with the clerk-treasurer, on forms prescribed by him, a report showing:

1. The names and addresses of its agents representing such company in the city;

2. The location and person in charge of each business location within the city operated and maintained by such company.

3. The classes of insurance written;

4. Such other reasonable information as may be required; and

5. In addition, shall furnish complete information regarding the premiums received, by class, from policies written on risks residing or located within the city.

b. Such report shall be made over affidavit of an officer of such company. It is declared to be a violation of this article for any person or his agents to knowingly give false or incomplete information on any such report. Such report shall be filed at the time of paying the license fee and premium tax.

Section 12.64 Same–Separate Locations.

a. The person for each insurance business location subject to license fee under this article shall file with the clerk-treasurer a report, on forms prescribed by him, showing:

1. The address of the business location;

2. The class or classes of insurance written;

3. The names of the persons writing insurance at such location;

4. The names of the companies represented; and

5. Such other reasonable information as may be required.

b. Such report shall be made over affidavit of the person in charge of such business location. It is declared to be a violation of this article for any person or his agents to knowingly give false or incomplete information on any such report. Such report shall be filed at the time of paying the license fee.

Section 12.65 Same–Use.

All reports required to be filed under this article shall be confidential and the information contained therein shall be solely for the use of the officers of the city responsible for administering this article.

Sections 12.66 - 12.70 Reserved.

ARTICLE VI. BONDSMEN.

Division 1. Generally.

Section 12.71 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:

Bondsman means any person who shall for compensation sign any bond for the appearance of any accused person in any court in the county, or who shall procure bond for such person, or who shall deposit collateral for such person in lieu of bond.

Section 12.72 Violations–Effect on License.

The city council shall have the right, after reasonable notice and hearing, to revoke or suspend a license for noncompliance with this article.

Section 12.73 Same–Penalty Generally.

Any professional bondsman convicted of violating this article shall be punished as provided in section 1.7, and in addition thereto his license shall be revoked.

Section 12.74 Authority of Sheriff; Effect on License.

The sheriff shall have the right at all times to require a professional bondsman to submit a financial statement and a schedule of bonds upon which he appears as surety. If such information discloses the insolvency of a bondsman because of an excess of liability over assets, the city council shall have the right to revoke or suspend the license of such bondsman. Any professional bondsman who shall fail to furnish such information on demand, or who shall furnish false information, shall after reasonable notice and hearing have his license revoked or suspended by the city council.

Section 12.75 Sureties Generally.

Nothing contained in this article shall be construed as affecting the right of a citizen to sign a bond nor for compensation, or the right of surety companies who have complied with the laws of this state regulating such companies to carry on their regular business.

Section 12.76 - 12.80 Reserved.

Division 2. Licenses.

Section 12.81 Required.

It shall be unlawful for any person to engage in the business of professional bondsman until granted a license by the city council, upon recommendation of the police chief and the sheriff of the county.

Section 12.82 Fee.

The annual license fee for a professional bondsman shall be as established by the city council from time to time and on file in the office of the clerk-treasurer.

Section 12.83 Qualifications.

In order to qualify as a professional bondsman, an applicant must meet the following standards:

1. Not be convicted of a felony during the five years next before application.
2. Have a net worth of $25,000.00, as shown by a financial statement prepared by a certified public accountant licensed to practice in the state.
3. Have an escrow account of $2,500.00; provided, a bondsman may draw down such escrow after the principals bonded by him have appeared and upon the bondsman surrendering his license.
4. Have letters of approval from chief of police and the sheriff of the county.

Sections 12.84 - 12.85 Reserved.

ARTICLE VII. FINANCIAL INSTITUTIONS.

Section 12.86 **Business License Tax.**

Pursuant to O. C. G. A. § 48-6-93, there is levied for each year an annual business license tax upon state and national banking associations, federal savings and loan associations and state building and loan associations at the rate of 0.25 percent of the gross receipt of such institutions. Gross receipts shall mean gross receipts as defined in O. C. G. A. § 48-6-93. Notwithstanding any other provisions of this article, the minimum amount of business license tax due from any depository financial institution pursuant to this section shall be $1,000.00 per year.

Section 12.87 **Due Date; Filing of Return.**

a. Each depository financial institution within the city shall file a report of its gross receipts with the city on March 1 of the year following the year in which such gross receipts were measured. Such returns shall be in the manner and in the form prescribed by the commissioner of the department of banking and shall be based upon the allocation method set forth in O. C. G. A. § 48-6-93(d). The tax levied pursuant to this article shall be assessed and collected based upon the information provided in such return.

b. The due date of taxes levied by this article shall be April 1 of each year.

Sections 12.88 - 12.90 **Reserved.**

ARTICLE VIII. PAWNBROKERS.

Section 12.91 License Required.

No person shall conduct or operate the business of pawnbroker without having first obtained a license therefor as provided in this article; or in violation of any of the provisions contained in this article. Any pawnbroker's license may be revoked by the city council for any violation of any provisions of this article.

Section 12.92 Application; Investigation.

Application for pawnbroker's license shall be made to the clerk-treasurer and shall state thereon the name of the applicant; the place of business; and the number of employees intended to be engaged. The chief of police or any other officer of the city designated by the city council shall investigate each applicant for such license and shall report back to the city council whether or not such applicant is a person of good character; no license shall be issued to a person who has been convicted of the offense of receiving stolen goods or of burglary or robbery.

Section 12.93 License Fee.

The annual fee for a pawnbroker's license shall be as established by the city council from time to time and on file in the office of the clerk-treasurer. This fee shall be payable in advance. No license shall be issued until the fee is paid.

Section 12.94 Records.

Every pawnbroker doing business in the city shall keep a record of every article pledged with him or sold to him. This record shall be open to the inspection of any police officer at any time during the hours of business.

Section 12.95 Weapons.

A pawnbroker licensed under this article may receive as a pledge, or purchase and sell, any legal weapon not prohibited from ownership by age or otherwise, by state or federal law, provided the pawnbroker has the required federal and state licenses therefor.

Section 12.96 Business Transactions Involving Minors.

No pawnbroker's license shall be issued to any person who is not 18 years of age or over. No pawnbroker shall employ a person of less than 18 years of age to assist him in his business.

Section 12.97 Stolen Goods.

It shall be the duty of every pawnbroker to report to the police any article pledged with him, or which is sought to be pledged with him, if he shall have reason to believe that the article was stolen or lost, and found by the person attempting to pledge it in the case of a lost article.

Sections 12.98 - 12.100 **Reserved.**

ARTICLE IX. ELECTRIC SUPPLIERS.

Section 12.101 **Gross Receipts Business Established; Verified Statement of Revenues to Be Filed.**

Each electric supplier (including specifically electric membership corporations whether or not operated for profit), within the meaning of O. C. G. A. § 46-3-1, et seq., distributing and selling electric power within the city which is not otherwise paying a franchise fee pursuant to a franchise agreement, and whether or not said electric supplier has, operates and maintains offices within the city shall pay a gross receipts tax at the rate of four percent on any and all gross revenues derived from distribution and sale of electric power to their customers, members, or purchasers within the city, according to the verified statement of said gross revenues which shall be submitted by said electric supplier at the time said taxes are paid.

Section 12.102 **Taxes Payable Monthly; Taxes to Be in Lieu of Certain Other Taxes.**

The taxes hereinbefore set out in this article, shall be due and payable to the city on the twentieth day of each month, calculated on gross revenues billed for the immediately preceding month; also, the percentage of said gross revenues hereinbefore prescribed to be collected shall be in lieu of all other license and business or occupational taxes, but shall not at any time be considered to interfere with, or in any way prevent the collection of ad valorem taxes upon the property of said electric supplier in the same manner as all other property, real and personal, in the city is taxed.

Section 12.103 **Electric Service Within the City.**

Electric suppliers distributing and selling power within the city, and which do not have a franchise agreement with the city, do not acquire any additional rights by the payment of the tax herein levied under this article other than those rights granted under the Georgia Electric Territorial Service Act.

Section 12.104 **Enforcement and Administration.**

a. The city clerk shall be responsible for the administration and enforcement of this article, and shall have the power to prepare and provide the necessary forms and for the collection of the tax herein levied.

b. The city clerk shall issue executions for the collection of all outstanding and unpaid taxes imposed and assessed by this article. The unpaid taxes and executions shall be collected in the manner provided by law for the collection of other taxes due the city.

c. If any clause, sentence, paragraph, section or part of this article shall be adjudged by a court of competent jurisdiction to be invalid for any reason, such judgment shall not affect, impair, or invalidate the remainder.

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

e. The effective date of this article shall be March 1, 1995, and taxes levied herein shall begin to accrue on March 1, 1995.

Sections 12.105 - 12.110 Reserved.

ARTICLE X. ADULT ENTERTAINMENT ESTABLISHMENTS.

Section 12.111 Purpose and Findings.

a. Purpose: The purpose of this article is to regulate certain types of businesses, including, but not limited to, adult entertainment establishments to the end that the many types of criminal activities frequently engendered by such businesses will be curtailed. However, it is recognized that such regulation cannot defacto approach prohibition. Otherwise, a protected form of expression would vanish. As to adult dance establishments, this chapter represents a balancing of competing interests: reduced criminal activity and protection of the neighborhoods through the regulation of adult entertainment establishments versus the protected rights of adult entertainment establishments and patrons.

b. Findings: Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and reports made available to the Council and on the findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 426 U.S. 50 (1976); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *City of Erie v. Pap's A.M.*, 120 S. Ct. 1382 (2000); and upon studies in other communities including but not limited to: St. Mary's, Georgia; Rome, Georgia; Phoenix, Arizona; North Hanover County, North Carolina; Garden Grove, California; Los Angeles, California; Whittier California; Adams County, Colorado; Denver, Colorado; Manatee County, Florida; Indianapolis, Indiana; Minneapolis, Minnesota; St. Paul, Minnesota; Kansas City, Missouri; Las Vegas, Nevada; Cattaraugas County, New York; Islip, New York; New York City, New York; Cleveland, Ohio; Oklahoma City, Oklahoma; Amarillo, Texas; Austin, Texas; Beaumont, Texas; Cleburne, Texas, El Paso, Texas; Dallas, Texas; Houston, Texas; Newport News, Virginia; Bellevue, Washington; Des Moines, Washington; Seattle, Washington; St. Croix County, Wisconsin; and also on findings from the Report of the Attorney General's Working Group on The Regulation Of Sexually Oriented Businesses (June 6, 1989, State of Minnesota); and the Final Report of the Attorney General's Commission of Pornography, the Council finds:

1. Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.

2. Certain employees of sexually oriented businesses, defined in this Ordinance as adult theaters and adult dance establishments engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.

3. Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially in those which provide private or semi-private

booths or cubicles for viewing films, videos, or live sex shows.

4. Offering and providing such space encourages such activities, which creates unhealthy conditions.

5. Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purposes of engaging in sex within the premises of such sexually oriented business.

6. At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.

7. Since 1981 and to present, there has been an increasing cumulative number of reported cases of AIDS (acquired immunodeficiency virus caused by the human immunodeficiency virus (HIV) in the United States: 600 in 1982; 2,200 in 1983; 4,600 in 1984; and 8,555 in 1985.

8. As of December, 2002 there had been 26,008 reported cases of AIDS in the State of Georgia making Georgia the ninth highest state in the country for cumulative AIDS cases.

9. The number of cases of early (less than one year) syphilis in the United States reports annually has risen, with 33,613 cases reported in 1982, and 45,200 through November, 1990.

10. The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990.

11. In his report of October 22, 1986, the Surgeon General of the United States has advised the American Public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.

12. According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

13. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because of activities conducted there are unhealthy, and in part, because

of the unregulated nature of the activities and the failure of the owners and those operators of the facilities to self-regulate those activities and maintain those facilities.

14. Numerous studies and reports have determined that semen is found in the area of sexually oriented businesses where persons view adult oriented films.

15. The findings in Subsections (1) through (14) raise substantial governmental concerns.

16. Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

17. A reasonable licencing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place an incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety, and welfare of its patrons and employees, as well as the citizens of the City. It is appropriate to require reasonable assurances that the license is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

18. Removal of the doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theaters.

19. Requiring licensees of sexually oriented businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.

20. The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in the preventing the spread of sexually transmitted diseases.

21. In the prevention of the spread of communicable diseases, it is desirable to obtain a limited amount of information regarding certain employees who may engage in the conduct which this Ordinance is designed to prevent, or who

are likely to be witnesses to such conduct.

22. The fact that an applicant for an adult use license has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this Ordinance.

23. The barring of such individuals from the management of adult uses for a period of years serves as a deterrent to, and prevents conduct which leads to, the transmission of sexually transmitted diseases.

24. The general welfare, health, morals and safety of the citizens of this City will be promoted by the enactment of this Ordinance.

Section 12.112 Definitions.

The following terms used in this chapter defining adult entertainment establishments shall have the meanings indicated below:

a. "Adult bookstore" means an establishment having a substantial or significant portion of its stock in trade, books, magazines, or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising 20 percent of its net sales, consisting of printed materials which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

b. "Adult business" means either:

1. Any business other than those expressly specified in this article, where employees or patrons expose specified anatomical areas or engage in specified sexual activities; or

2. Any other business or establishment which offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing, discussing, or relating to specified sexual activities or specified anatomical areas.

c. "Adult dancing establishment" means a business that features dancers displaying or exposing specified anatomical areas.

d. "Adult motion picture theater" means an enclosed building with a capacity for 50 or more persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for

observation by patrons therein.

e. "Adult mini-motion picture theater" means an enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

f. "Adult hotel or motel" means a hotel or motel wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

g. "Adult motion picture arcade" means any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

h. "Adult video store" means any establishment having a substantial or significant portion of its stock in trade, video tapes, or movies or other reproductions, whether for sale or rent, which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising five percent of its total floor space, devoted to the same or display of such material or which derives more than five percent of its net sales from videos which are characterized, distinguished, or relating to specified sexual activities or specified anatomical areas.

i. "Church" means a temple or building consecrated to the honor of God or other supreme being and religion or an assembly of persons united by the profession of the same religious faith, meeting together routinely for religious worship.

j. "Erotic dance establishment" means a nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers, go-go dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

k. "Encounter center or rap establishment" means any business, agency, or person who, for any form of consideration or gratuity, provides a place where two or more persons may congregate, assemble, or associate for the primary purpose of engaging in, describing, or discussing specified sexual activities, or exposing specified anatomical areas.

l. "Escort bureau" or "introduction services" means any business, agency, or person who, for a fee, commission, hire, reward, or profit furnishes or offers to furnish names or persons, or who introduces, furnishes, or arranges for person who may accompany other persons to or about

social affairs, entertainments or places of amusement, or who may consort with others about any place of public resort or within any private quarters.

m. "Good moral character" means a person is of good moral character according to this chapter if that person has not been convicted of a drug-related or alcohol-related felony or sex-related crime in the past five years.

n. "Minor" means any person who has not attained the age of 18 years.

o. "Specified sexual activities" shall include any of the following:

1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation, or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relations, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellation, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or

2. Clearly depicted human genitals in a state of sexual stimulation, arousal, or tumescence; or

3. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or

4. Fondling or touching of nude human genitals, pubic region, buttocks, or female breast; or

5. Masochism, erotic or sexually oriented torture, beating, or the inflicting of pain; or

6. Erotic or lewd touching, fondling, or other sexual contact with an animal by a human being; or

7. Human excretion, urination, menstruation, vaginal or anal irrigation.

p. "Specified anatomical areas" shall include any of the following:

1. Less than completely and opaquely covered human genitals or pubic region, buttock, or female breast below a point immediately above the top of the areola; or

2. Human male genitalia in a discernibly turgid state, even if completely and

opaquely covered.

q. "Adult store" means a commercial establishment or other establishment which has a significant or substantial portion (20 percent or more) of its stock in trade or derives a significant or substantial portion (20 percent or more) of its revenues or devotes a significant or substantial portion (20 percent or more) of its interior business or advertising to the sale, rental, or any form of consideration of any instruments, devices, paraphernalia, products, article or articles which are designed, sold, or viewed for use in connection with "specified sexual activities" as defined herein, or which are sold or marketed primarily for stimulation of human genital organs.

r. An establishment may have other principle business purposes that do not involve the activities defined herein and still be categorized or classified as an adult entertainment establishment under this portion of the code. Such other business purposes will not serve to exempt such establishment from being categorized as an adult entertainment establishment herein so long as one of the principle business purposes is defined in this code. A principle business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or activity of the establishment.

Section 12.113 Regulations.

a. No person, firm, partnership, corporation, or other entity shall advertise, or cause to be advertised, an adult entertainment establishment, as defined in this chapter, without a valid adult entertainment occupation tax certificate issued pursuant to this chapter.

b. No later than March 1 of each year, an adult entertainment establishment applicant shall file a verified report with the license officer showing the applicant's gross receipts and amounts paid to dancers for the preceding calendar year.

c. An adult entertainment establishment applicant shall maintain and retain for a period of two years the names, addresses, and ages of all persons employed as dancers.

d. No adult entertainment establishment applicant shall employ or contract with, as a dancer, a person under the age of 18 years or a person not licensed pursuant to this chapter.

e. No person under the age of 18 years shall be admitted to an adult entertainment establishment.

f. An adult entertainment establishment, as defined in this chapter, shall be closed between 2 a.m. and 9 a.m. on weekdays and 2:55 a.m. and 9 a.m. on Saturday and Sunday.

g. No employee while semi-nude shall knowingly or intentionally touch a customer or the clothing of a customer nor shall any patron knowingly or intentionally touch an employee while they are semi-nude.

h. If any portion or subparagraph of this section of this chapter or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of application to other persons or circumstances shall not be affected.

i. No employee while semi-nude in a sexually oriented business shall receive pay or gratuity directly from any patron or customer or for any customer or patron to pay or give any gratuity directly to any employee while that employee is semi-nude in a sexually oriented business

j. No person shall knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition, unless the person is an employee, who, while semi-nude, is at least six (6) feet from any patron or customer and on a stage at least two feet from the floor.

k. No escort bureau or introduction service shall employ anyone under the age of 18 years. No escort bureau or introduction service shall provide or agree to provide and escort for any person under the age of 18 years.

Section 12.114 **Regulations Pertaining to Exhibition of Sexually Explicit Films, Videos, of Live Entertainment in Viewing Rooms**

a. A person who operates or causes to be operated a sexually oriented business (other than an adult motel) which exhibits on the premises, in a viewing room of less than 150 square feet of floor space, a film, video cassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

1. Upon application for Occupational Tax Certificate, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall designate the place at which the permit if granted will be conspicuously posted. A professionally prepared diagram is not required, however, each diagram should be drawn to a designated scale or be oriented to the north or some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The City may waive the foregoing diagram for renewal applications is the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

2. The applicant shall be sworn to be correct and true by the applicant.

3. No alteration in the configuration or location of a manager's station may be made without prior approval of the City.

4. It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain any video reproduction or display equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

6. It shall be the duty of the licensee to ensure that the view area specified in the preceding subsection 5 remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks, or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons ill not be permitted in the application filed pursuant to subsection 1 of this section.

7. No viewing room may be occupied by more than one person at a time.

8. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five-foot candles as measured at the floor level.

9. It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

10. No licensee shall allow openings os any kind to exist between viewing rooms or booths.

11. No person shall make or attempt to make an opening of any kind between the viewing booths or rooms.

12. The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

13. The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

14. The licensee shall cause all wall surfaces and ceiling surfaces in the viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board, or other porous material shall be used within 48 inches of the floor.

Section 12.115 Public Nudity Prohibited.

No person, firm, partnership, corporation, or other entity shall publicly display or expose or suffer the public display or exposure, with less than a full opaque covering, of any portion of a person's genitals, pubic area, or buttocks in a lewd and obscene fashion or engage in specified sexual activities.

Section 12.116 Occupation Tax Certificate Required.

It is unlawful for any person, association, partnership, or corporation to engage in, conduct, or carry on, in or upon any premises within the City of Blakely any of the adult entertainment establishments defined in this chapter without an occupation tax certificate so to do. No occupation tax certificate so issued shall condone or make legal any activity thereunder if the same is deemed illegal or unlawful under the laws of the State of Georgia or the United States.

Section 12.117 Operation of Unregulated Premises Unlawful.

It is unlawful for any person to operate an adult bookstore, adult motion picture theater, adult mini-motion picture theater, adult hotel or motel, adult motion picture arcade, cabaret, encounter center, escort bureau, or adult business or adult dancing establishment unless such business shall have a currently valid occupation tax certificate or shall have made proper application for renewal within the time required thereof under this chapter, which occupation tax certificate shall not be under suspension or permanently or conditionally revoked.

Section12.118 Admission of Minors Unlawful.

It is unlawful for an applicant to admit or permit the admission of minors within a regulated premises.

Section 12.119 Sales to Minors Unlawful.

It is unlawful for any person to sell, barter, or give to any minor any service, material, device, or thing sold or offered for sale by an adult bookstore, adult motion picture theater, adult massage parlor, adult dancing establishment, or other adult entertainment facility.

Section 12.120 Location.

No adult business or use restricted hereunder shall be located:

a. Within 1,000 feet of any parcel of land which is zoned for multi-family or single family uses or purposes;

b. Within 1,000 feet of any parcel of land upon which a church, school, governmental building simultaneously owned and occupied by such government, library, civic center, neighborhood public park, or neighborhood playground is located;

c. Within 1,000 feet of any parcel of land upon which another establishment regulated or defined hereunder is located;

d. Within the central business district of the City per map on file with the Planning Department;

e. Within any zoning category or district other than an adult zoning district (C-A).

f. For the purposes of this section, distance shall be from property line to property line using the closest property lines of the parcels of land involved. The term "parcel of land" means any quantity of land capable of being described by location and boundary, designated and used, or to be used, as a unit.

g. Within 1,000 feet of any parcel of land upon which an establishment is licensed to sell any form of alcoholic beverages;

h. Within 1,000 feet of any parcel of land upon which a day care center or child care facility is operated.

Section 12.121 Adult Entertainment Establishment Employees.

a. Qualifications. Employees of an adult use establishment shall be not less than 18 years of age. Every employee must be of good moral character, as defined in this chapter. Any employee who is convicted of a sex-related crime or drug-related or alcohol-related felony while employed as an adult use establishment employee shall not thereafter work on any premises requiring licenses under this chapter for a period of five years from the date of such conviction, unless a longer time is ordered by a court of competent jurisdiction. The term "convicted" shall include an adjudication of guilt or a plea of guilty. The fact that a conviction is being appealed shall have no effect on the revocation of the license. The terms "employed as an adult use establishment employee" and "work on any licensed premises" shall include all work done or services performed while in the scope of employment elsewhere than on the licensed premises.

b. Approval for Employment. Before any person may work on a regulated premises, he/she shall file a notice with the permitting officer of his/her intended employment on forms that require the information set forth in provision A of this section. The City shall have 15 days to investigate the information required by the employee. If the employee is found to be of good moral character, the permitting officer shall grant approval of employment. Upon approval, the employee may begin working on the regulated premises. If approval is denied, the prospective employee may, within 10 days of said denial, apply to the Chief of Police for a hearing. Within 10 days following the hearing, the prospective employee may appeal the decision of the Chief of Police to the City Council who shall issue such order as is required. The decision of the City Council may thereafter be appealed, within 30 days, to Early County Superior Court. An investigation fee of $50 shall accompany the notice of intended employment or a receipt of the permitting officer evidencing the payment of such fee at the time the notice is filed.

c. Suspension, Revocation of Permit. Conviction of violating the provisions of this code, the ordinances of the City of Blakely, laws and regulations of the State of Georgia, or the rules and regulations of the City shall subject an employee to suspension or revocation of permit.

d. Independent Contractors. For the purpose of this chapter, independent contractors shall be considered as employees and shall be permitted as employees, regardless of the business relationship with the owner or applicant of any adult entertainment establishment.

Section 12.122 Application; Applicant.

Application for Occupation Tax Certificate.

a. Any person, association, partnership, or corporation desiring to obtain an occupation tax certificate to operate, engage in, conduct, or carry on any adult entertainment establishment shall make application to the Mayor or City Council of the City of Blakely or the designee of the Mayor or City Council. Prior to submitting such application, a non-refundable processing fee of $1,000 shall be paid to the business license manager to defray, in part, the cost of investigation and report required by this chapter. The business license manager shall issue a receipt showing that such processing fee has been paid. The receipt, or a copy thereof, shall be supplied to the Mayor or the City Council at the time such application is submitted.

b. The application for permit does not authorize the engaging in, operation of, conduct of, or carrying on of any adult entertainment establishment.

c. A copy of the application shall be posted on the premises for which the application is sought.

Application Contents. Each application for an adult entertainment establishment occupation tax certificate shall contain the following information:

a. The applicant's full true name;

b. The present address and telephone number of the applicant;

c. Acceptable written proof that the applicant is at least 21 years of age;

d. Business, occupation, or employment history of the applicant for the five years immediately preceding the date of application. Business or employment records of the applicant, partners in a partnership, directors, and officers of a corporation.

e. The business license or occupation tax history of the applicant and whether such applicant, in previous operations in this or any other city, state, or territory under license, has had such license or occupation tax certificate for an adult entertainment business or similar type of business revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such action of suspension or revocation.

f. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the place and date of incorporation and the names and addresses of each of its current officers and directors. If the applicant is a partnership, the applicant shall set forth the name, residence address, and dates of birth of the partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership filed with the County Clerk. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply. The applicant corporation or partnership shall designate one of its officers or general partners to act as its responsible managing officer. Such designated persons shall complete and sign all application forms required of an individual applicant under this chapter, but only one application fee shall be charged.

g. If the applicant, any partners, or any corporate officers or directors, if the applicant is a corporation, have been convicted of any crime involving good moral character in the past five years and, if so, a complete description of any such crime including date of violation, date of conviction, jurisdiction and any disposition, including any fine or sentence imposed and whether terms of disposition have been fully completed.

h. If applicant is a person doing business under a trade name, a copy of the trade name properly recorded. If the applicant is a corporation, a copy of authority to do business in Georgia, including articles of incorporation, trade name affidavit, if any, and last annual report, if any.

i. At least three character references from individuals who are in no way related to the applicant or individual shareholders, officers, or directors of a corporation and who are not or will not benefit financially in any way from the application if the occupation tax certificate is granted and who have not been convicted of any crime involving moral character. The business license manager shall prepare forms consistent with the provisions of this subsection for the applicant who shall submit all character references on such forms.

j. Address of the premises to be regulated.

k. Whether the premises are owned or rented.

l. A plat by a registered engineer, licensed by the State of Georgia, showing the location of the proposed premises is not inconsistent with the provisions contained in Section 33.159 which provide that no adult business or use restricted shall be located within 1,000 feet of any parcel of land which is zoned for multifamily or single family use or purposes; within 1,000 feet of any parcel of land upon which a church, school, governmental building simultaneously owned and occupied by such government, library, civic center, neighborhood public park, or neighborhood playground is located; within 1,000 feet of any parcel upon which another establishment regulated or defined hereunder is located; within any zoning category other than industrial or general commercial; within 1,000 feet of any parcel of land upon which an establishment is licensed to sell any form of alcoholic beverages; within 1,000 feet of any parcel of land upon which a day care center or child-care facility is operated.

m. Each applicant for an adult entertainment establishment occupation tax certificate shall be verified and acknowledged under oath to be true and correct by:

1. If the applicant is an individual, the individual;

2. If by a partnership, by the manager or general partner;

3. If a corporation, by the present of the corporation;

4. If any other organization or association, by the chief administrative official.

Applicant to Appear. The applicant, if an individual, or designated responsible managing officer, if a partnership or corporation, shall personally appear at the City of Blakely and produce proof that a non-refundable application fee, established by resolution of the City Council, has been paid and shall present the application containing the aforementioned and described information.

Application–Investigation. The City shall have up to 45 days to investigate the application and the background of the applicant. Upon completion of the investigation, the Mayor and Council may grant the permit at its next regular meeting if it finds:

a. The required fee has been paid.
b. Application conforms in all respects to the provisions of this chapter.

c. The applicant has not knowingly made a material misrepresentation in the application.

d. The applicant has fully cooperated in the investigation of his application.

e. The applicant, if an individual, or any officers or directors, if the applicant is a corporation, or any of the partners, including limited partners, if the applicant is a partnership, has not been convicted in a court of competent jurisdiction of an offense involving a sex-related crime or drug-related or alcohol-related felony or convicted of an attempt to commit any of the above-mentioned offenses, or convicted in any state of any offense which if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses.

f. Applicant has not had an adult entertainment establishment occupation tax certificate or other similar license or permit denied or revoked for cause involving moral character in this City or any other City located in or out of this state prior to the date of application.

g. The building, structure, equipment, or location of such business, as proposed by applicant, would comply with all applicable zoning and distance laws.

h. The applicant is at least 21 years of age.

i. That the applicant, his or her employee, agent, partner, director, officer, or manager has not within five years of the date of the application knowingly allowed or permitted any of the specified sexual activities as defined herein to be committed or allowed in or upon the premises where such adult entertainment establishment is to be located, or to be used as a place in which solicitations for the specified sexual activities as defined herein openly occur.

j. That on the date the business for which an occupation tax certificate is required herein commences, and thereafter, there will be a responsible person on the premises to act as manager at all times during which the business is open.

k. That the proposed premises is not to be located within 1,000 feet of any parcel of land which is zoned for multifamily or single family uses or purposes; within 1,000 feet of any parcel of land upon which a church, school, governmental building simultaneously owned and occupied by such government, library, civic center, neighborhood public park, or neighborhood playground is located; within 1,000 feet of any parcel upon which another establishment regulated or defined hereunder is located within any zoning category other than industrial or general commercial; within 1,000 feet of any parcel of land upon which an establishment is licensed to sell any form of alcoholic beverages; within 1,000 feet of any parcel of land upon which a day care center or child-care facility is operated.

l. That the grant of such occupation tax certificate will not cause a violation of this chapter or any other ordinance or regulation of the City of Blakely, the State of Georgia, or the United States.

Persons Prohibited as Applicants.

a. No occupation tax certificate provided for by this chapter shall be issued to or held by:

1. An applicant who has not paid all required fees and taxes for a business at that location or property taxes.

2. Any person who is not of good moral character.

3. Any corporation, any of whose directors are not of good moral character.

4. Any partnership or association, any of whose partners or members are not of good moral character.

5. Any applicant who is not qualified to hold and conduct business according to the laws of the United States, the State of Georgia, or the City of Blakely.

Section 12.123 Occupation Tax Certificate.

a. Refusal, Appeal. If the City, following investigation of the applicant, deems that the applicant does not fulfill the requirements as set forth in this chapter, it shall notify the City Clerk of such opinion and, within 45 days of the date of the application, shall provide copies of the investigation report to the City Clerk. The City Clerk shall within 10 days, notify applicant by certified mail of such denial. Any applicant who is denied an occupation tax certificate may appeal such denial to the Mayor and Council by filing a written notice of appeal within 10 days of the receipt of notice from the City Clerk. A hearing before the Mayor and Council shall be scheduled within 45 days of such notice.

b. Renewal. Occupation tax certificates for adult entertainment establishments may be renewed on a calendar year basis provided that the applicants continue to meet the requirements set out in this chapter. The renewal fee for adult entertainment establishments permits shall be established by resolution of the City Council. Renewal applications shall be due by January 1 of the year for which such permit is requested.

c. Nontransferable. No adult entertainment establishment occupation tax certificate may be sold, transferred, or assigned by a permittee, or by operation of law, to any other person or persons. Any such sale, transfer, or assignment, or attempted sale, transfer, or assignment, shall be deemed to constitute a voluntary surrender of such permit, and such permit shall thereafter be null and void; provided and excepting, however, that if the applicant is a partnership and one or more of the partners should die, one or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without effecting a surrender or termination of such occupation tax certificate, and in such case, the occupation tax certificate upon notification to the City, shall be placed in the name of the surviving partner. An adult entertainment establishment occupation tax certificate issued to a corporation shall be deemed terminated and void when either any outstanding stock of the corporation is sold, transferred, or assigned after the issuance of a permit, or any stock authorized but not issued at the time of the granting of an occupation tax certificate is thereafter issued and sold, transferred, or assigned.

d. Change of Location or Name on Tax Certificate.

1. No adult entertainment establishment shall move from the location specified on its occupation tax certificate until a change of location fee, established by resolution of the City Council, has been deposited with the City and approval

has been obtained from the Mayor and Council for the City of Blakely. Such approval shall not be given unless all requirements and regulations as contained in the City Code have been met.

2. No applicant shall operate, conduct, manager, engage in, or carry on an adult entertainment establishment under any name other than his name and the name of the business as specified on his occupation tax certificate.

3. Any application for an extension or expansion of a building or other place of business where an adult entertainment establishment is located shall require inspection and shall comply with the provisions and regulations of this chapter.

Section 12.124 **Appeal**.

a. Procedure.

1. The applicant shall, within 10 days after being notified of an adverse determination, submit a notice of appeal to the City Clerk.

2. The notice of appeal shall be addressed to the Council and shall specify the subject matter of the appeal, the date of any original and amended application or requests, the date of the adverse decision or receipt of notice thereof, the basis of the appeal, the action requested of the Council, and the name and address of the applicant.

3. The City Clerk shall place the appeal on the agenda of the next regular Council meeting occurring not less than five nor more than 30 days after receipt of the application for Council action.

b. Council Determines Procedure. When an appeal is placed on the Council agenda, the Council may take either of the following actions.

1. Set a hearing date and instruct the City Clerk to give such notice of hearing as may be required by law.

2. Appoint a hearing officer and fix the time and place for hearing. The hearing officer may or may not be a City employee and may be appointed for an extended period of time. The City Clerk shall assume responsibility for such publication of notice of the hearing as may be required by law. If a hearing officer is appointed, the hearing shall be conducted in accordance with the procedures set out in this chapter.

Section 12.125 City Council Hearing.

Whenever the City Clerk has scheduled an appeal before the City Council, at the time and date set therefor, the Council shall receive all relevant testimony and evidence from the applicant, from interested parties, and from City staff. The City Council may sustain, over-rule, or modify the action complained of. The action of the City Council shall be final.

Section 12.126 Powers of Hearing Officer.

The hearing officer, appointed pursuant to the procedures set out in this chapter, may receive and rule on admissibility of evidence, hear testimony under oath, and call witnesses as he may deem advisable with respect to the conduct of the hearing.

Section 12.127 Rules of Evidence Inapplicable.

The City Council and the hearing officer shall not be bound by the traditional rules of evidence in hearings conducted under this chapter. Rules of evidence as applied in an administrative hearing shall apply.

Section 12.128 Hearing Officer--Report.

a. The hearing officer shall, within a reasonable time not to exceed 30 days from the date such hearing is terminated, submit a written report to the Council. Such report shall contain a brief summary of the evidence considered and shall state findings, conclusions, and recommendations. All such reports shall be filed with the City Clerk and shall be considered public records.

b. A copy of such report shall be forwarded by certified mail to the appellant the same day it is filed with the City Clerk, with additional copies furnished to the City Council and the Chief of Police.

c. The City Clerk shall place the hearing officer's report on the agenda of the next regular Council meeting occurring not less than 10 days after the report is filed and shall notify the appellant of the date of such meeting at least 10 days prior to the meeting unless the appellant stipulates to a shorter notice period.

Section 12.129 Hearing Officer Report--Action by Council.

The Council may adopt or reject the hearing officer's decision in its entirety or may modify the proposed recommendation. If the Council does not adopt the hearing officer's recommendation, it may:

a. Refer the matter to the same or another hearing officer for a completely new hearing

or for the taking of additional evidence on specific points, and, in either of such cases, the hearing officer shall proceed as provided in this chapter.

b. Decide the case upon a review of the entire record before the hearing officer with or without taking additional evidence.

Section 12.130 Penalty for Violation.

Any person violating the provisions of this chapter shall be guilty of a misdemeanor, punishable by a fine not to exceed $500 per violation or by imprisonment for a period not to exceed 90 days, or by both such fine and imprisonment. In addition to such fine and/or imprisonment, violation of this chapter shall also be grounds for immediate suspension or revocation of the occupation tax certificate issued hereunder.

Section 12.131 Unlawful Operation Declared Nuisance.

Any adult entertainment establishment operated, conducted, or maintained contrary to the provisions of this chapter shall be and the same is declared to be unlawful and a public nuisance. The City may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for abatement, removal, or enjoinment thereof, in the manner provided by law. It shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such adult entertainment establishment and restrain and enjoin any person from operating, conducting, or maintaining an adult entertainment establishment contrary to the provisions of this chapter. In addition, violation of the provisions of this chapter shall be per se grounds for suspension or revocation of the occupation tax certificate granted hereunder.

Section 12.132 Revocation and Appeal.

a. The Chief of Police shall be authorized to suspend or revoke an occupation tax certificate previously granted herein. In the event the Chief of Police seeks to suspend or to revoke an occupation tax certificate, the Chief of Police shall give written notification to the applicant of such action, and such notice shall contain a specification of the violation or violations and shall be served upon the licensee at least five days prior to the notice of hearing. The applicant shall be given written notice of the time and place of the hearing.

b. The Chief of Police shall be authorized to suspend or revoke an occupation tax certificate in the event of any one or more of the following:

1. An applicant gave false or misleading information in the original application process;

2. An applicant has knowingly allowed possession, use, or sale of controlled

substances on the premises and/or knowingly allowed possession, use, or sale of controlled substances to a minor on the premises;

3. An applicant has knowingly allowed the violation of an ordinance of the City or a violation of any criminal law of the State of Georgia to occur on the premises;

4. An applicant has violated any provision of this adult entertainment chapter;

5. An applicant has been convicted of any drug-related, alcohol-related, or sex-related crime by the State of Georgia or the City of Blakely regarding an offense which was committed on the premises or which would otherwise violate the provisions of this chapter; and

6. An applicant fails to pay any fee, occupation tax fine, or other amount of money due the City of Blakely under this chapter or any other taxing ordinance of the City of Blakely.

c. In the event the Chief of Police shall suspend or revoke any occupation tax certificate hereunder, the suspension or revocation shall be for a period of not less than one day nor more than 365 days, within the discretion of the Chief of Police. Provided, however, that the applicant shall be authorized to continue its business operations until that date of the hearing scheduled in accordance with subsection D of this section. No applicant may apply for an occupation tax certificate during any period of suspension or revocation. In any hearing conducted by the Chief of Police the Chief shall consider, among other things, the severity of the allegations, the evidence submitted, and the testimony presented in making any decision on suspension, revocation, and the duration of either.

d. In the event of a suspension or revocation by the Chief of Police, the applicant may appeal the decision of the Chief of Police to the Mayor and City Council for the City of Blakely by filing a written notice of appeal within 10 days from the date of the decision of the Chief of Police. Thereafter, a hearing shall be scheduled before the Mayor and Council within 45 days after the date of the notice of appeal by the applicant. After the hearing by the Mayor and Council, the City Council may take such action as it deems appropriate, including the upholding of the action of the Chief of Police or the imposition of such action as the Mayor and City Council may deem appropriate under the facts. The decision of the Mayor and City Council shall be final. Appeals from the decision of the Mayor and City Council shall be to the Superior Court of Early County filed within 30 days of the final action of the Mayor and City Council. In the event the applicant does not file an appeal from any decision of the Chief of Police, as provided herein, the decision of the Chief of Police shall be final.

Section 12.133 Occupation Tax Certificate and Annual Renewal Fees.

The adult entertainment establishment occupation tax and any renewal fee for such occupation tax certificate shall be based on the schedule contained in the ordinance providing for the issuance of business and occupation tax certificates.

Section 12.134 Change of Location.

There is established an administrative fee of $10 to apply for a change of location for an adult entertainment establishment.

Section 12.135 Alcoholic Beverages--Prohibitions, Exceptions.

a. No person, association, partnership, or corporation licensed under this chapter of the City Code of the City of Blakely after the effective date of the ordinance codified in this section shall serve, sell, distribute, or suffer the consumption or possession of any intoxicating liquor, beer, or wine, or controlled substance upon the premises of any licensee.

b. This section shall not apply to nor prohibit the live performance of legitimate plays, operas, or ballets at mainstream theaters, concert halls, museums, or educational institutions holding a license, which derive less than 20 percent of its gross receipts from the sale of alcoholic beverages.

Section 12.136 Amortization.

Any sexually oriented business lawfully operating on January 1, 2005, that is in violation of this ordinance shall be deemed a non-conforming use. The Nonconforming use will be permitted to continue for a period not to exceed one year, unless sooner terminated for any reason or voluntarily discontinued for a period not to exceed one year, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such non-conforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later established business(es) is/are nonconforming.

Section 12.137 Severability.

If any section, clause, sentence, or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this ordinance.

Sections 12.138 - 12.140 Reserved.

ARTICLE XI. TATTOO ARTIST AND OPERATORS.

Division 1. Generally.

Section 12.141 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.

Tattoo means to mark or color the skin by pricking in coloring matter so as to form indelible marks or figures or by the production of scars; provided, however, the term "tattoo" shall not mean a tattoo placed upon the skin by a physician for medical identification purposes.

Tattoo artist means any person who actually performs the work of tattooing.

Tattoo establishment means any room or place where tattooing is practiced or where the business of tattooing is conducted or any part thereof.

Tattoo operator means any person who controls, operates, conducts or manages any tattoo establishment, whether actually performing the work of tattooing or not.

Section 12.142 Tattooing Certain Persons Prohibited.

No tattoo operator or tattoo artist shall tattoo any person who is under 18 years of age, any person who is under the influence of alcohol, drugs, or other stimulants or depressants or any person of unsound mind.

Sections 12.143 - 12.145 Reserved.

Division 2. Permit.

Section 12.146 Required.

No person shall operate a tattoo establishment or engage in the practice or business of tattooing as a tattoo operator or artist unless the person has first secured a permit from the city and paid a regulatory fee to the city in the amount of $300.00

Section 12.147 Application; Minimum Age; Fingerprinting, Photographing, Medical Certificate Required.

a. Any person desiring to operate a tattoo establishment or desiring to operate as a tattoo operator or tattoo artist shall make application for a permit to the department of public safety on forms supplied by the department.

b. The minimum age of each applicant shall be 18 years.

c. Fingerprints of all applicants shall be taken by the police department.

d. An applicant for a permit shall also furnish the police department two photographs showing a front and side picture of the full face of the applicant, size 2 ½ inches by 2 3/4 inches.

e. An applicant for a permit shall present to the police department a medical certificate from a medical doctor certifying that the person is sound physically and mentally, has good eyesight, and is not infected with a disease which can be communicated through openings in the human skin.

Section 12.148 Approval of Health Authorities Required.

A condition precedent to the issuance of a permit by the city under this division shall be satisfactory proof that the tattoo establishment has secured from the Early County Health Department a permit or license to operate the establishment.

Section 12.149 Location Restriction.

No permit shall issue for the operation of a tattoo establishment or to any person engaged as a tattoo operator or tattoo artist in any area other than those districts zoned Commercial (C) or Industrial (I) pursuant to the city's zoning ordinance.

Section 12.150 Contents, Transferability.

Every permit granted under this division shall be issued in the name of the individual person applying therefore, shall contain the location of the tattoo establishment where the applicant shall operate and shall not be transferable.

Section 12.151 Effect.

The permits issued under this division shall be cumulative and not in lieu of any business license issued by the city.

Section 12.152 Revocation.

Any person who shall conduct a tattoo establishment or engage in the business as a tattoo operator or tattoo artist without first securing a permit therefor or who shall knowingly violate any of the sections of this article shall subject the permit to revocation upon appropriate notice of hearing. Additionally, revocation of a license or permit procured by the Early County Health Department shall, upon notice of hearing, constitute grounds for revocation of the permit issued by the city. An artist's or operator's permit shall be subject to the revocation upon proof that the holder of the permit has become infected with a disease which can be communicated through openings in

the skin.

Sections 12.153 - 12.155 **Reserved.**

ARTICLE XII. JUNK DEALERS, JUNKYARDS AND OUTDOOR VEHICLE REPAIR OPERATIONS

Section 12.156 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:]

Junk means scrap, waste, or reclaimable material or debris, whether or not stored or used in conjunction with dismantling, demolition, processing, salvage, storage, bailing, disposal, or other use or disposition, including junked vehicles and parts thereof, equipment, metal, lumber, paper, cardboard, building materials, household appliances, and wood.

Junk dealer means any person, firm, or corporation who deals in junk.

Junkyard means any use involving the parking, storage, or dismantling of three or more junked vehicles, or the storage, bailing, or otherwise dealing in scrap iron, time, or other metals, used plumbing fixtures, old household appliances, and used brick, wood, or other building materials, as well as paper, cardboard, fabrics, or other such materials.

Junked vehicle means any wrecked or non-operable automobile, truck, or other vehicle that does not bear a current license plate, excluding farm equipment.

Non-conforming junkyard/outdoor vehicle repair establishment means a junkyard or any establishment engaging in outdoor vehicle repair in existence at the time of the adoption of this article.

Outdoor vehicle repair means the repair or the storage for repair of automobiles or other vehicles outside the confines of a building.

Section 12.157 Junkyard and Outdoor Repair Screening Requirements.

a. No person, firm, or corporation shall operate, use, or expand a junkyard or engage in outdoor vehicle repair as defined in this article until a valid license has been obtained permitting such operation on the site used. Application for license should be made on the proper form provided by the city clerk or the city clerk's designee. Licenses shall be issued according to the provisions of these requirements. The license required by this paragraph is a regulatory license and not a revenue measure.

b. These regulations are intended to shield junkyards and outdoor vehicle repair businesses from public view of the surrounding occupied properties and the public right-of-way, to reduce the impacts of potential noise emitting from junkyard and outdoor vehicle repair operations, and to protect the surrounding properties from the dangers of fire.

c. A vegetation buffer strip shall be required to be planted, or existing vegetation may be used, to form a hardy screen dense enough to interrupt vision and noise to a height of eight feet. The vegetation shall be set a minimum of five feet from the street right-of-way and adjacent to the side and rear property lines. The vegetation shall not encroach upon the adjacent property lines, shall provide a complete screen during all months of the year, and shall obtain its required height within five years.

d. In addition thereto, a permanent screened fence not less than six feet in height shall be erected enclosing the junkyard or outdoor vehicle repair operation and shall be set back from the vegetation barrier. The minimum front setback shall be ten feet from any street right-of-way. The fence shall completely obstruct vision. Wood or metal slotted chain link fencing shall be used. Gates shall be of the same material and shall obstruct visions when closed.

e. The parking of non-operable motor vehicles or the storage of junk on the public rights-of-way adjacent to the junkyard or outside the buffer or screen is specifically prohibited and shall be deemed a cause for immediate revocation of the license.

f. The city council may modify the requirements in relation to the junkyard or vegetation buffer strip where it determines that for reasons of topography compliance is not physically possible.

Section 12.158 Non-Conforming Junk, Junkyard, and Outdoor Vehicle Repair Screening.

a. All non conforming junkyards and businesses engaged in outdoor vehicle repair shall be made to conform with the provisions of this article upon expansion, and in any event within a period of one year after the adoption of this article. Expansion is defined as the extension onto additional lots or expansion on the same lots or expansion on the same lot which may be expected to double the use of land utilized for the storage of junk.

b. Outdoor storage of junk, non-commercial: All junk as defined herein shall be stored in such a manner as to not be visible to surrounding properties or from the public rights-of-way.

Section 12.159 Application for License; Report; Inspection.

a. Any person, firm or corporation desiring to operate a junkyard or to engage in outdoor vehicle repair must submit a detailed site plan outlining the location of the proposed enterprise, the setbacks, ingress/egress, fencing, and buffer zones as required by these regulations. A description of the proposed vegetative materials to be used shall be included in the application.

b. All persons buying junk and taking a license for same shall keep a daily list of all purchases, and from whom bought, and shall accept a license on the condition that their place of business shall be subject to inspection by the police officers of the city at any time when the mayor

shall order such place inspected, and a refusal of such person at any time to submit to such inspection of such place of business shall have the effect of revoking his license immediately, and his place of business shall be closed on order of the mayor.

Section 12.160 Procedure for License Approval.

Applications for license will be reviewed by the city council at their next regularly scheduled meeting following submission of a completed application. Approval will be made at that meeting or comments on the reason for a decline on the license request will be made in writing to the applicant. An application may be re-submitted with additional information.

Section 12.161 Violations and Penalties.

Any person, firm, or corporation who violates the provisions of this article shall be guilty of an offense and upon conviction shall be punished for each violation according to the ordinances of the City of Blakey. The municipal court may fix a punishment not to exceed $1,000.00 in fines or 180 days in jail, or both, for each violation and for each day such violation continues after notice.

Section 12.162 Effective Date.

This article shall become effective immediately upon its adoption [May 2, 2006].

Sections 12.163 - 12.165 Reserved.

ARTICLE XIII. CABLE FRANCHISES.

Section 12.166 **Franchise Fee for State Issued Cable or Video Franchise.**

a. *Franchise fee specified.* The City hereby requires a franchise fee of 5% of gross revenues generated within the City for any cable or video state franchise issued in its corporate boundaries by the State of Georgia.

b. *Authorized designee.* The City hereby authorizes the City Clerk, upon receipt of notice to the City of its right to designate a franchise fee for an applicant for or holder of an existing state franchise, to provide written notice to the Secretary of State and each applicant for or holder of a state franchise within a service area that is wholly or partially located within the city limits of the 5% franchise fee rate applicable to such applicant or holder of a state franchise.

Sections 12.167 - 12.170 **Reserved.**

ARTICLE XIV. TELEPHONE COMPANY.

Section 12.171 **Due Compensation for Telephone Companies with End User Retail Customers Within the City.**

a. The city hereby requires due compensation of 3 percent of actual recurring local service revenues, as defined in paragraphs (8) and (9) of subsection (b) of Section 46-5-1 of the Official Code of Georgia Annotated; provided, however, that any company which pays in excess of 3 percent of actual recurring local service revenues pursuant to an existing franchise agreement shall continue to pay in accordance with the agreement until the expiration of the franchise agreement or December 31, 2012, whichever occurs first, and any company which pays in excess of 3 percent of actual recurring local service revenues in accordance with an occupational license tax arrangement shall continue to pay in accordance with such payment schedule until December 31, 2012.

b. Regarding any telephone company that does not have retail, end user customers located within the city's municipal boundaries, the payment by such company to a municipal authority in accordance with the rates set by regulations promulgated by the Department of Transportation for the use of its rights of way shall be considered the payment of due compensation.

Section 12.172 **Authorized Designee.**

The City Clerk shall, on behalf of the city, exercise day-to-day administrative duties necessary to fulfill the regulatory authority of the city under OCGA 46-5-1, et seq. and shall perform the following duties:

a. Review application information submitted by a telephone company to the city and, if an application is incomplete, notify the telegraph or telephone company within 15 business days of the receipt of such application, identifying in such notice all application deficiencies.

b. Report the receipt of a completed application to the Council within 60 calendar days of the receipt of such completed application.

c. Review payments of due compensation submitted by the company to ensure compliance with the provisions of the amended law and this ordinance.

d. Provide a coordination function between a telephone company and all city departments on any matter relating to the amended law and this ordinance.

e. Arrange and evaluate, no more than once a year, a comprehensive review of the records of a company which is reasonable related to the calculation and payment of due compensation.

f. Provide to all telegraph and telephone companies located in its rights of way written

notice of annexations and changes in municipal corporate boundaries.

Sections 12.173 - 12.180 **Reserved.**

ARTICLE XV. REGULATING EVENTS

Section 12.181 Definitions.

As used in this ordinance, the following terms shall have the meaning (the singular includes the plural):

Event means any gathering of two or more persons on real property located within the corporate limits of the City of Blakely pursuant to an arrangement by an owner of the premises, or pursuant to a rental of the premises from the owner, where the participants are charged.

Premises means the real property upon which an Event is being conducted.

Sponsor means the person or person conducting the Event, whether the owner of the premises or person or persons renting the premises for the purpose of conducting the Event.

Participant means the person or person attending an Event.

Section 12.182 Annual Business License Required.

No owner of real property within the corporate limits of the City of Blakely shall hold an Event on the property, or rent or lease the property to any person for the purpose of holding an Event thereon, or otherwise permit or allow such an Event to be held on the property, until such owner shall have obtained an annual business license authorizing the holding of Events on the property and/or the leasing and renting of property for such purpose, and shall have paid a license fee and a regulatory fee as hereafter provided.

Section 12.183 License Form.

The application for the license referred to in the preceding section shall be made to the City of Blakely on forms prepared by the Chief of Police, and among other things, shall specify the name and address of the license holder and the location and street address of the Premises to be licensed.

Section 12.184 Fees.

At the time of the filing of the application for license, the applicant shall pay a license fee of $75.00, together with a regulatory fee of $100.00 pursuant to O.C.G.A. Section 48-13-9. No license shall be granted without the license and regulatory fees having first been paid. The license fee and regulatory fee shall be for one calendar year, or for the balance of the calendar year, and the license shall expire unless the license is renewed and the license and regulatory fees for the new year are paid on or before five o'clock p.m. on the last day of January; provided, however, that no Event shall be held on the premises until the fees are paid and the license issued for the current year.

Section 12.185 Written Notice Required.

No event shall be held on real property within the corporate limits of the City unless at least 48 hours prior thereto written notice of intent to hold the Event shall have been given to the Chief of Police of the City, which notice shall state the name or names, identities, and addresses of the Sponsors of the Event, the date upon which and the hours during which the Event is proposed to be held.

Section 12.186 Prohibitions.

No license shall be issued pursuant to the provisions of Section 2 of this ordinance, and no Event shall be permitted on Premises:

a. Which are within three hundred (300) feet of any public or private school or church, measured from the nearest points of the nearest buildings on the properties.

b. Which are licensed to operate pursuant to the Adult Entertainment Establishment ordinance of the City, Article X of Chapter 12 of the Code of Ordinances of the City of Blakely.

c. Which are licensed o operate pursuant to the Pool Rooms, Game Rooms, and Billiard Halls ordinance of the City, Article IV of Chapter 12 of the Code of Ordinances of the City of Blakely.

Section 12.187 Alcoholic Beverages.

Unless the Sponsor shall file, with the notice required by Section 8 of this ordinance, an affidavit that no alcoholic beverages of any kind are to be sold, provided, or permitted to be consumed on the premises during the duration of the Event, the Sponsor shall obtain a special alcoholic beverage license to continue only for the duration of the Event, and shall pay to the City of Blakely at the time of the application a special alcoholic beverage license fee of $100.00.

All applications for the special alcoholic beverage license referred to herein shall meet the criteria set forth in Chapter 3 of the Code of Ordinances of the City of Blakely, entitled "Alcoholic Beverages", and the criteria for considering and issuing or denying such license set forth in said Chapter shall apply to the consideration and issuance or denial of the special license.

Notwithstanding any provision to the contrary in the Code of ordinances of the City, or elsewhere, such special alcoholic beverage license shall permit brown bagging and the furnishing, sale and/or consumption of beer and wine for consumption of the premises during the course of the Event.

Unless the special alcoholic beverage license provided by this Section is obtained, the sale, provision, possession, or consumption of alcoholic beverages on the premises shall not be permitted,

and shall be an offense punishable under the general alcoholic beverage ordinances of the City and the State, shall additionally be an offense punishable as provided in Section 1-7 of the Code of Ordinances of the City of Blakely, and shall be grounds for revocation fo the annual license issued to the owner of the property pursuant to Section 2 of this ordinance.

Section 12.188 Police Officer Required.

The Sponsor shall at Sponsor's expense provide a POST certified police officer who shall attend the Event for its entire duration. It shall be the duty of the police officer to see that the Event is conducted in compliance with all applicable laws and regulations, including, without limitation, the ordinances of the City, and in an orderly and peaceful manner consistent with the health, safety, and welfare of the City.

Section 12.189 Duty of Sponsor.

It shall be the duty, responsibility, and obligation of the Sponsor to see that the Event is at all times conducted in a lawful, orderly and peaceful manner, and so as not to disturb the community with loud noises or activities which are unlawful or which disturb the peach and quiet of the community. The Sponsor shall have the duty to see that there are no violations of the gambling or alcoholic beverage laws or other laws of the State and City.

Section 12.190 Prohibited Activity.

No activity or conduct shall be permitted on the Premises during the course of the Event which would require the Premises to be licensed under the Adult Entertainment Establishment Ordinances, Article X of Chapter 12 of the Code of Ordinances of the City of Blakely, or under the Pool Rooms, Game Rooms, and Billiard Halls Ordinance, Article IV of Chapter 12 f the Code of Ordinances of the City of Blakely. The violation of this provision shall constitute an offense for which the Sponsor and the persons violating this provision shall be punished under Section 1-7 of the Code of Ordinances f the City of Blakely, and shall be a ground for revocation of the license issued to the owner pursuant to Section 2 of this ordinance.

Section 12.191 Penalty.

Any Sponsor who shall conduct an Event who shall fail to maintain peace and order at the Event, or who shall permit the violation of the gambling laws, or the provision and/or the consumption on the Premises of alcoholic beverages without obtaining the required alcoholic beverage license and paying the license fee therefore, or who shall fail to comply with any of the provisions of this ordinance or any other laws of the State or ordinances of the City, shall be guilty of an offense punishable as provided in Section 1-7 of the Code of Ordinances of the City of Blakely.

Section 12.192 License Revocation.

In addition to the penalty provisions of this Ordinance, the annual license issued to the property owner pursuant to this Ordinance may be revoked by the City of Blakely for any violation of this Ordinance or any violations of the ordinances of the City and/or State or Federal laws. The license shall be revoked by written notice from the City of Blakely specifying the ground or grounds for revocation, and served upon the license holder personally or delivered to his residence of record. The license holder shall have the right to appeal the revocation to the Mayor and council of the City by filing written notice of appeal with the City Clerk on or before five o'clock p.m. of the 5th day thereafter. The appeal shall be held before the Mayor and the entire Council, or a quorum thereof, within ten day after filing of the notice.

Sections 12.193-12.200 **Reserved.**