



City of Carrollton, Georgia

Code of Ordinances

Chapter 22 - Businesses

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Chapter 22 - BUSINESSES

ARTICLE I – IN GENERAL

Secs. 22-1—22-25. - Reserved.

ARTICLE II. - BUSINESS OCCUPATION TAXES AND REGULATORY FEES

Sec. 22-26. - Definitions.

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

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

Dominant line means the type of business activity, within a multiple line business, from which the business derives its largest amount of gross receipts.

Gross receipts.

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

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

(2) Gross receipts shall not include the following:

- a. Sales, use or excise tax.
- b. Sales returns, allowances and discounts.
- c. Interorganizational sales or transfers between or among the units of a parent-subsidiary controlled group of corporations as defined by 26 U.S.C. § 1563(a)(1), or between or among the units of a brother-sister controlled group or corporations as defined by 26 U.S.C. § 1563(a)(2).
- d. Payments made to a subcontractor or an independent agent.
- e. Governmental and foundation grants, charitable contributions or the interest income derived from such funds received by a nonprofit organization which employees salaried practitioners otherwise covered by this article, if such funds constitute 80 percent or more of the organization's receipts.
- f. Proceeds from sales to customers outside the state.

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

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

ordinance or resolution. The term "occupation tax" as used in this article is for revenue purposes only and is not for regulatory purposes and is not to be considered as a regulatory fee.

Person includes sole proprietors, corporations, partnerships, nonprofit or any other form of business organization, but specifically excludes charitable nonprofit organizations which qualify as such under the Internal Revenue Code of the United States of America.

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

Regulatory fees means payments, whether designated as license fees, permit fees or by another name, which are required by a local government as an exercise of its police power and as a part of or as an aid to regulation of an occupation, profession or business. The amount of a regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the city. A regulatory fee may not include an administrative fee. Development impact fees as defined by O.C.G.A. § 36-71-2(8) or other costs or conditions of zoning or land development are not regulatory fees.

(Ord. of 12-4-95, § 19-37)

Cross reference— Definitions generally, § 1-2.

State law reference— Similar provisions, O.C.G.A. § 48-13-5.

Sec. 22-27. - Required for business dealings in the city; display of registration.

For the year 1996 and succeeding years thereafter, each person engaged in any business, trade, profession or occupation in the city, whether with a location in the city or in the case of an out-of-state business with no location in the state exerting substantial efforts within the state pursuant to O.C.G.A. § 48-13-7, shall pay an occupation tax for such business, trade, profession or occupation. The tax and any applicable registration shall be displayed in a conspicuous place in the place of business, if the taxpayer has a permanent business location in the city. If the taxpayer has no permanent business location in the city, such business tax registration shall be shown to the city clerk or designated representatives.

(Ord. of 12-4-95, § 19-36)

State law reference— Authority to levy occupation tax, O.C.G.A. §§ 48-13-6, 48-13-7.

Sec. 22-28. - Tax levied, restrictions.

(a) An occupation tax shall be levied upon those businesses and practitioners of professions and occupations with one or more locations or offices in the city and/or upon the applicable out-of-state businesses with no location or office in the state pursuant to O.C.G.A. § 48-13-7 based upon gross receipts of the business or practitioner in combination with the profitability ratio for the type of business, profession or occupation as measured by nationwide averages derived from statistics, classifications or other information published by the U.S. Office of Management and Budget, the U.S. Internal Revenue Service or successor agencies of the United States.

(b) The tax rate determined by profitability ratios in combination with gross receipts for each business, trade, profession or occupation shall be as follows and will be developed and updated from time to time by the city clerk:

Profitability Ratio/ Tax Class	Tax Rate per \$1,000.00 of Gross Receipts
1	0.9500
2	0.9501
3	0.9502

Profitability Ratio/ Tax Class	Tax Rate per \$1,000.00 of Gross Receipts
4	0.9503
5	0.9504
6	0.9505
7	1.0000

(c) Payment; exemptions.

(1) No business or practitioner shall be required to pay more than one occupation tax for each of its locations, nor shall that tax exceed the actual and final occupation tax charged to the business for the previous tax year multiplied by the percentage increase in the Consumer Price Index for the previous year. Where a business subject to the occupation tax for the calendar year has been conducted for only a part of the preceding year the next year's tax shall be based on the estimated gross receipts put on an annual basis with the part-year receipts bearing the same ratio to the whole-year gross receipts as the part year bears to the whole year. For subsequent years the previous year's occupation tax shall be the most recent actual and final amount of tax levied in accordance with a final return made after the end of the year in accordance with the applicable provisions set forth in this article.

(2) No occupation tax will be required upon more than 100 percent of a business' gross receipts.

(3) No occupation tax will be required on receipts on which such tax has been levied in other localities or states.

(4) An occupation tax shall be required from real estate brokers, agents, or companies whose offices are located outside the city and who sell property inside the city in accordance with the provisions of O.C.G.A. § 48-13-17, as amended.

(5) An occupation tax shall not be levied in any other manner except as described in this section.

(6) Occupation taxes are limited to the gross receipts earned in the state.

(7) Out-of-state businesses with no location in this state shall be assessed occupation taxes based on the gross receipts of the business as defined in O.C.G.A. § 48-13-7 (see the definition gross receipts in section 22-26) which are reasonably attributed to sales or services in the state.

(Ord. of 12-4-95, § 19-39; Ord. of 2-19-96(1))

Sec. 22-29. - Administrative and regulatory fee structure; tax structure.

(a) A nonprorated, nonrefundable administrative fee as set forth in the schedule of fees and charges shall be required on all business and occupation tax accounts for the initial start-up, renewal or reopening of those accounts.

(b) A regulatory fee will be imposed as provided under O.C.G.A. § 48-13-9 on those applicable businesses. A regulatory fee may not include an administrative fee.

(c) The regulatory fee schedule for persons in occupations and professions is as follows:

Profit Ratios	Tax Class
0.84— 2.84	1
3.15— 3.98	2
4.03— 4.80	3
5.00— 5.89	4
6.10— 6.77	5
7.14— 9.09	6
10.13—217.51	7

Standard Industrial Classification (SIC) Codes
Ranked According to Nationwide Averages of Profitability Ratios

SIC	Profit Ratio	Tax Class
55	0.84	1
45	1.26	1
<u>54</u>	1.80	1
<u>50</u>	1.82	1
51	1.82	1
47	2.29	1
99	2.30	1
52	2.45	1
15	2.50	1
57	2.55	1
37	2.71	1
<u>42</u>	2.74	1

<u>86</u>	2.75	1
59	2.77	1
41	2.84	1
53	3.15	2
17	3.28	2
75	3.29	2
<u>22</u>	3.39	2
80	3.41	2
<u>58</u>	3.47	2
83	3.68	2
12	3.68	2
11	3.68	2
24	3.75	2
<u>70</u>	3.75	2
16	3.76	2
56	3.83	2
33	3.90	2
25	3.98	2
63	4.03	3
8	4.12	3
7	4.12	3
9	4.12	3
31	4.14	3
<u>78</u>	4.18	3

<u>30</u>	4.27	3
23	4.47	3
20	4.64	3
73	4.75	3
40	4.75	3
76	4.80	3
<u>82</u>	5.00	4
<u>34</u>	5.18	4
72	5.29	4
01	5.43	4
02	5.43	4
39	5.44	4
89	5.89	4
84	6.10	5
32	6.12	5
27	6.28	5
14	6.31	5
<u>26</u>	6.39	5
36	6.44	5
81	6.49	5
29	6.56	5
87	6.77	5
<u>62</u>	7.14	6
49	7.17	6

79	7.21	6
<u>38</u>	7.90	6
35	8.04	6
64	8.31	6
48	8.51	6
65	9.09	6
28	10.13	7
10	10.77	7
13	11.67	7
21	13.48	7
61	31.60	7
<u>46</u>	39.38	7
60	41.00	7
67	217.51	7

(Ord. of 12-4-95, § 19-38, app. A)

Sec. 22-30. - Paying tax of business with no location in the state.

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

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

(Ord. of 12-4-95, § 19-40)

Sec. 22-31. - Dominant line of business to be identified on business registration.

The business registration of each business operated in the city shall identify the dominant line of business that the business conducts.

(Ord. of 12-4-95, § 19-41)

Sec. 22-32. - Separate places of business.

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

(Ord. of 12-4-95, § 19-42)

Sec. 22-33. - Professionals as classified in state law.

Practitioners of professions as described in O.C.G.A. § 48-13-9(c)(1) through (18) shall elect as their entire occupation tax one of the following:

(1) The occupation tax based on gross receipts combined with profitability ratios as set forth in section 22-28

(2) A fee as set forth in the schedule of fees and charges per practitioner who is licensed to provide the service, such tax to be paid for the practitioner's city office or location, provided, however, that a practitioner paying according to this subsection shall not be required to provide information to the local government relating to the gross receipts of the business or practitioner. The per-practitioner fee applies to each person in the business who qualifies as a practitioner under the state's regulatory guidelines and framework.

This election is to be made on an annual basis and must be done by November 1 of each year. Should this election not be made by November 1, the occupation tax officer will apply the per-practitioner rate set forth in the schedule of fees and charges.

(Ord. of 12-4-95, § 19-43)

Sec. 22-34. - Practitioners exclusively practicing for a government.

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

(Ord. of 12-4-95, § 19-44)

Sec. 22-35. - Purpose and scope of tax.

The occupation tax levied in this article is for revenue purposes only and is not for regulatory purposes, nor is the payment of the tax made a condition precedent to the practice of any such profession, trade or calling. The occupation tax only applies to those businesses and occupations which are covered by the provisions of O.C.G.A. §§ 48-13-5 to 48-13-26. All other applicable businesses and occupations are taxed by the local government pursuant to the pertinent general and/or local law and ordinance.

(Ord. of 12-4-95, § 19-45)

Sec. 22-36. - When tax due and payable; effect of transacting business when tax delinquent.

(a) Each such occupation tax shall be for the calendar year 1996 and succeeding calendar years thereafter unless otherwise specifically provided. The registration and occupation tax shall be payable January 1 of each year and shall, if not paid by March 15 of each year, be subject to a ten percent penalty for delinquency, in addition to a 1.5 percent penalty for each succeeding month thereafter. The tax required for any member of the State Bar of Georgia for the initial year of practice shall be due 75 days from the beginning of practice. On any new profession, trade or calling begun in the city in 1996 or succeeding years thereafter, the registration and tax shall be delinquent if not obtained immediately upon beginning business and a ten percent penalty imposed. The tax registration provided for in this section shall be issued by the city clerk, and if any person whose duty it is to obtain a registration shall, after the registration or occupation tax becomes delinquent, transact or offer to transact, in the city, any of the kinds of professions, trades or callings subject to this article without having first obtained such registration, such offender shall, upon conviction by the municipal court judge, be punished as provided in section 1-11. The punishment provisions of this section shall not apply to any profession whose practice is regulated by the Supreme Court of Georgia.

(b) In addition to the remedies set forth in subsection (a) of this section, the city clerk may proceed to collect in the same manner as provided by law for tax executions.

(Ord. of 12-4-95, § 19-46; Ord. of 11-17-97)

Sec. 22-37. - Allocation of gross receipts of business with multiple intrastate or interstate locations.

For those businesses that have multiple locations inside and outside of the city where the gross receipts can be allocated to each location, the gross receipts used to determine the occupation tax assessed will be those gross receipts attributed to each city location. Where the dollar amount of gross receipts attributed locally cannot be determined in those businesses with multiple locations, the total gross receipts will be divided by the total number of locations in the city and elsewhere and allotted to those locations. Upon request, the business or practitioner with a location or office situated in more than one jurisdiction shall provide to the city the following:

- (1) Financial information necessary to allocate the gross receipts of the business or practitioner; and
- (2) Information relating to the allocation of the business' or practitioner's gross receipts by other local governments.

Where the business has locations outside of the city and taxation is levied for a criteria other than gross receipts in the other local governments, the city shall not assess more than the allotted share of gross receipts for the local operation.

(Ord. of 12-4-95, § 19-47)

Sec. 22-38. - Exemption on grounds that business is operated for charitable purpose.

No business on which a business registration or occupation tax is levied by the article shall be exempt from such registration or tax on the grounds that such business is operated for a charitable purpose, unless 100 percent of the entire proceeds from the business are devoted to such purpose.

(Ord. of 12-4-95, § 19-48)

Sec. 22-39. - State registration evidence required, display.

(a) Each person who is licensed by the secretary of state pursuant to O.C.G.A. § 43-1-1 et seq. shall provide evidence of proper and current state licensure before the city registration may be issued.

(b) Each person who is licensed by the state shall post the state license in a conspicuous place in the licensee's place of business and shall keep the license there at all times while the license remains valid.

(Ord. of 12-4-95, § 19-49)

Sec. 22-40. - Evidence of qualification required, if applicable.

Any business required to obtain health permits, bonds, certificates of qualification, certificates of competency or any other regulatory matter shall first, before the issuance of a city business registration, show evidence that such requirements have been met.

(Ord. of 12-4-95, § 19-50)

Sec. 22-41. - Liability of officers and agents; registration required; failure to obtain.

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

(Ord. of 12-4-95, § 19-51)

Sec. 22-42. - When registration and tax due and payable; effect of transacting business when tax delinquent.

(a) Each such registration shall be for the calendar year in which the registration was obtained unless otherwise specifically provided. There is hereby imposed a penalty upon each business which fails to apply for and obtain an appropriate business registration and pay all tax and fees as provided in this article by March 15 of each year hereafter. Every person commencing business in the city after January 1 of each year shall obtain the registration required before commencing such business. Any person transacting or offering to transact in the city any business, trade, profession or occupation without first having obtained such

registration shall be subject to the penalties set out in this article. Such penalties shall be in addition to all other penalties, civil and criminal, provided in this article; and may be collected by the remedies provided for in the article for collection of the occupation tax, and shall have the same lien and priority as the occupation tax to which the penalty is applied.

(b) The registration provided for in this section shall be issued by the city clerk, and if any person whose duty is to obtain a registration shall, after the occupation tax becomes delinquent, transact or offer to transact, in the city, any of the kinds of businesses, trades, professions or occupations without having first obtained such registration, such offender shall be subject to the penalties provided thereof.

(Ord. of 12-4-95, § 19-52)

Sec. 22-43. - Penalty for violation of article.

Any person violating any provisions of this article shall, upon conviction before the municipal court judge, be punished as provided in section 1-11, at the discretion of the municipal court judge. The penalties provided herein shall not apply to any profession whose practice is regulated by the Supreme Court of Georgia.

(Ord. of 12-4-95, § 19-53; Ord. of 11-17-97)

Sec. 22-44. - City clerk; subpoena and arrest powers.

The city clerk or his designated representatives shall have full subpoena powers in conjunction with any violation or other enforcement/administrative purposes pertaining to this article for 1996 and succeeding years.

(Ord. of 12-4-95, § 19-54)

Sec. 22-45. - Businesses not covered by this article.

The following businesses are not covered by the provisions of this article but may be assessed an occupation tax or other type of tax pursuant to the provisions of other general laws of the state or by local law:

- (1) Those businesses regulated by the state public service commission.
- (2) Those electrical service businesses organized under O.C.G.A. tit. 46, ch. 3.
- (3) Any farm operation for the production from or on the land of agricultural products, but not including agribusiness.
- (4) Cooperative marketing associations governed by O.C.G.A. § 2-10-105.
- (5) Insurance companies governed by O.C.G.A. § 33-8-8 et seq.
- (6) Motor common carriers governed by O.C.G.A. § 46-7-15.
- (7) Those businesses governed by O.C.G.A. § 48-5-355; businesses that purchase carload lots of guano, meats, meal, flour, bran, cottonseed or cottonseed meal and hulls.
- (8) Agricultural products and livestock raised in the state governed by O.C.G.A. § 48-5-356.
- (9) Depository financial institutions governed by O.C.G.A. § 48-6-93.
- (10) Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55.
- (11) Nonprofit organizations and state and local authorities.

(Ord. of 12-4-95, § 19-55)

Sec. 22-46. - Exclusion by statute.

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

(Ord. of 12-4-95, § 19-56)

Sec. 22-47. - Filing of returns showing gross receipts for preceding year; determination of estimated and final taxes.

(a) All occupation taxes levied under this article are levied on the amount of business to be transacted during the current calendar year. However, for the convenience of both the city and the taxpayer, each business subject to the occupation tax levied in section 22-38 shall, on or before the dates hereinafter set forth, file with the city clerk the return hereinafter specifically provided for, showing the gross receipts of that business during the preceding calendar year. This return shall be used as the basis for making estimated payments on the occupation tax for the current calendar year. The actual and final amount of tax levied for business

transacted in the current calendar year shall be paid in accordance with a final return to be made after the end of the year, in accordance with the procedure set forth in this section.

(b) The owner, proprietor, manager or secretary officer of the business subject to the occupation tax of the current calendar year shall, at the end of the preceding year, and on or before November 1 of the current calendar year, file with the city clerk, on a form furnished by the clerk, a signed return setting forth the amount of gross receipts of such business for the entire preceding calendar year. This return will be used to determine the final tax for the calendar year just completed and as an estimate of the gross receipts and occupation tax for the current year.

(c) Where a business subject to the occupation tax for the calendar year has been conducted for only a part of the preceding year, the amount of gross receipts for such part shall be reported in the return. The return shall also show a figure putting the receipts for such part of a year on an annual basis with the part-year receipts bearing the same ratio to the whole-year gross receipts as the part year bears to the whole year. The figure shall be used as the estimate of the gross receipts of the business for the current calendar year in establishing the business tax liability.

(Ord. of 12-4-95, § 19-57)

Sec. 22-48. - Filing of returns showing actual gross receipts; procedure where taxes overpaid or underpaid.

(a) On or before November 1 of each year, the owner, proprietor, manager or executive officer of the business liable for said occupation tax levied for the year shall file with the city clerk, on a form furnished by the city clerk, a signed return setting forth the actual amount of the gross receipts of such business during the preceding calendar year.

(b) If the amount of the occupation tax for the preceding year based on the return provided for in this section and on the rate of the tax provided for in this article, is less than the amount of occupation tax theretofore paid by the business based on the estimate filed pursuant to section 22-47, the difference in the amount shall be due and payable by the taxpayer to the city on December 31 of the current year and delinquent if not paid on or before such date.

(c) If the amount of the occupation tax for the preceding year based on the return provided for in this section and on the rate of such tax provided for in this article exceeds the amount of occupation tax theretofore paid by such business based on the estimate filed pursuant to section 22-47, the difference in such amount shall be refundable by the city to the taxpayer; or, if such business continues to be conducted in the city during the current year, such difference in amount may be credited by the city on the amount of occupation tax to be paid to the city by such business for the current year. This election is to be taken by the city or taxpayer.

(Ord. of 13-4-95, § 19-58)

Sec. 22-49. - When tax due and payable.

The amount of occupation tax shall be payable to the city, at the office of the city clerk, on January 1 of each year and is delinquent if not paid on or before March 15 of each year.

(Ord. of 12-4-95, § 19-59)

Sec. 22-50. - Payment of tax by newly established businesses.

In the case of a business subject to occupation tax for a calendar year, which was not conducted for any period of time in the corporate limits of the city in the preceding year, the owner, proprietor, manager or executive officer of the business liable for occupation tax shall estimate the gross volume of revenue from commencing date to the end of the calendar year, and that estimate shall be the basis for the initial occupation tax subject to adjustment of the actual and final amount as per section 22-47.

(Ord. of 12-4-95, § 19-60)

Sec. 22-51. - More than one place or line of business.

Where a business is operated at more than one place or where the business includes more than one line, such business shall be required to obtain the necessary registration for each location and line and pay an occupation tax in accordance with the prevailing taxing method and tax rate for each location and line.

(Ord. of 12-4-95, § 19-61)

Sec. 22-52. - Returns confidential.

Except in the case of judicial proceedings or other proceedings necessary to collect the occupation tax hereby levied, it shall be unlawful for any officer, employee, agent or clerk of the city, or any other person, to divulge or make known in any manner the amount of gross receipts or any particulars set forth or disclosed in any occupation tax return required under this article. All contents of such return shall be confidential and open only to the officials, employees, agents or clerks of the city using such returns for the purpose of this occupation tax levy and the collection of the tax. Independent auditors or bookkeepers employed by the city shall be classed as "employees." Nothing in this section shall be construed to prohibit the publication by city officials of statistics, so classified as to prevent the identification of particular reports or returns and items thereof; or in the inspection of the records by duly qualified employees of the tax departments of the state, the United States and other local governments.

(Ord. of 12-4-95, § 19-62)

Sec. 22-53. - Inspections of books and records.

In any case the city clerk, through his officers, agents, employees or representatives, may inspect the books of the business for which the returns are made. The city clerk shall have the right to inspect the books or records for the business of which the return was made in the city, and upon demand of the city clerk such books or records shall be submitted for inspection by a representative of the city within 30 days. Failure of submission of such books or records within 30 days shall be grounds for revocation of the tax registration currently existing to do business in the city. Adequate records shall be kept in the city for examination by the city clerk at that officer's discretion. If, after examination of the books or records, it is determined that a deficiency occurs as a result of underreporting, a penalty of 125 percent of the prime interest rate times the amount deficient will be assessed for the period delinquent. For purposes of this section, the prime interest rate shall be that which is published by The Wall Street Journal on the first business day of the year in which the underreporting is identified.

(Ord. of 12-4-95, § 19-63)

Sec. 22-54. - Revocation of registration.

Upon the failure of any business to pay the occupation tax or any part thereof before it becomes delinquent, or upon failure to make any of such returns within the time required in this article, or upon failure to make a true return, or upon failure to amend a return to set forth the truth, or upon failure to permit inspection of its books as provided in this article, any business tax registration granted by the city under this article permitting the owner of such business for the current year shall be, ipso facto, revoked. No new business tax registration shall be granted by the city for the operation of a business for which any part of the occupation tax provided for in this article is at that time unpaid, or to an individual, firm or corporation who has failed to submit adequate records as requested by the city clerk in accordance with provisions found in section 22-48. In the case of those practitioners where the local government cannot suspend the right of the practitioner to conduct business, the imposition of civil penalties shall be permitted and pursued by the local government in the case of delinquent occupation tax.

(Ord. of 12-4-95, § 19-64)

Sec. 22-55. - Noncompliance.

Any persons, their managers, agents or employees, who do business in the city after the registration for such business has been revoked as provided in this article, are hereby required to make occupation tax returns, and who fail to make such returns within the time and in the manner provided in this article, who refuse to amend such returns so as to set forth the truth, or who shall make false returns; and any persons, their managers, agents or employees who refuse to permit an inspection of books in their charge when the officers, agents, employees or representatives of the city request such inspection, during business hours, for the purpose of determining the accuracy of the returns provided for in this article, shall be subject to penalties provided in this article. In the case of those practitioners where the local government cannot suspend the right of the practitioner to conduct business, the imposition of civil penalties shall be permitted and pursued by the local government in the case of

delinquent occupation tax. These penalties may consist of either a percentage of the amount due or a flat fee fine.

(Ord. of 12-4-95, § 19-65)

Sec. 22-56. - Lien for delinquent tax.

In addition to the other remedies provided in this article for the collection of the occupation tax levied in this article, the city clerk, upon any tax becoming delinquent and remaining unpaid, may issue execution for the correct amount of the tax against the persons, partnership, or corporation liable for the tax, which execution shall bear interest at the rate of 12 percent per annum from the date when such tax or installment becomes delinquent, and the general lien shall cover all property in the city of the person, partnership or corporation liable for the tax, all as provided by the ordinances and Charter of the city and the laws of the state. The lien of the occupation tax shall become fixed on and date from the time when such tax or any installment thereof becomes delinquent. The execution shall be levied by the city clerk upon the property of defendant located in the jurisdiction, and sufficient property shall be advertised and sold to pay the amount of the execution, with interest and costs. All other proceedings in relation thereto shall be had as is provided by the ordinances and Charter of the city and the laws of the state, and the defendant in the execution shall have rights of defense, by affidavit of illegality and otherwise, which are provided by the applicable laws in regard to tax executions. When a nulla bona entry has been entered by proper authority upon an execution issued by the city clerk against any person defaulting on the occupation tax, the person against whom the entry was made shall not be allowed or entitled to have or collect any fees or charges whatsoever for services rendered after the entry of the nulla bona. If, at any time after the entry of nulla bona has been made, the person against whom the execution issues pays the tax in full together with all interest and costs accrued on the tax, the person may collect any fees and charges due him as though he had never defaulted in the payment of the taxes.

(Ord. of 12-4-95, § 19-66)

Sec. 22-57. - Amendment, repeal of article.

This article shall be subject to amendment or repeal, in whole or in part, at any time, and no such amendment or repeal shall be construed to deny the right of the city to assess and collect any of the taxes or other charges prescribed. Such amendment may increase or lower the amounts and tax rates of any occupation and may change the classification thereof. The payment of any occupation tax provided for shall not be construed as prohibiting the levy or collection by the city of additional occupation taxes upon the same person, property or business.

(Ord. of 12-4-95, § 19-67)

Sec. 22-58. - Application of article to prior ordinance.

This article does not repeal or affect the force of any part of any ordinance heretofore passed where taxes levied under such prior ordinance have not been paid in full. So much and such parts of ordinances heretofore and hereinafter passed as provided for the issuing and enforcing of execution for any tax or assessment required by such ordinance, or that imposed fines or penalties for the nonpayment of such tax, or for failure to pay regulatory fees provided for in such ordinance or failure to comply with any other provisions of this article shall continue and remain in force until such tax, regulatory fee or assessment shall be fully paid.

(Ord. of 12-4-95, § 19-68)

Sec. 22-59. - Enforcement.

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

(Ord. of 12-4-95, § 19-69)

Sec. 22-60. - Article to remain in full force and effect.

This article shall remain in full force and effect until changed by amendment adopted by the city council. All provisions hereto relating to any form of tax levied in this article shall remain in full force and effect until such taxes have been paid in full.

(Ord. of 12-4-95, § 19-70)

Sec. 22-61. - Public hearing for use of additional revenue.

In any year when revenue from occupation taxes is greater than revenue from occupation taxes for the preceding year, the city shall hold one or more public hearings as a part of the process of determining how to use the additional revenue.

(Ord. of 12-4-95, § 19-71)

Sec. 22-62. - Option to establish exemption or reduction in tax.

Notwithstanding any other provision of this article, the mayor and city council may by subsequent ordinance or resolution provide for an exemption or reduction in occupation tax or a credit against occupation tax owed to one or more types of businesses or practitioners of occupations or professions as part of a plan for economic development or attracting or encouraging or maintaining selected types of businesses or practitioners of selected occupations or professions. Such exemptions or reductions in occupation tax shall not be arbitrary or capricious.

(Ord. of 12-4-95, § 19-72)

Secs. 22-63—22-80. - Reserved.

ARTICLE III. - INSURERS

Sec. 22-81. - License fees.

There is hereby levied an annual license fee upon each insurer doing business within the city in an amount as set forth in the schedule of fees and charges. For each separate business location in excess of one not covered by section 22-82 which is operating on behalf of such insurers within the city, there is hereby levied a license fee in the amount as set forth in the schedule of fees and charges. For the purposes 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.

Sec. 22-82. - License fee for additional business locations.

For each separate business location not otherwise subject to a license fee pursuant to this section, 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, such insurer shall pay an additional license fee as set forth in the schedule of fees and charges per location for each year.

(Ord. of 1-1-95, § 2)

Sec. 22-83. - Insurers agency license fees; independent insurance agencies, brokers, not otherwise licensed.

There is hereby levied 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 22-81 hereof in an amount set forth in the schedule of fees and charges for each such location within the city.

(Ord. of 1-1-95, § 3)

Sec. 22-84. - Gross premiums tax—Life insurers.

There is hereby levied an annual tax based solely upon gross direct premiums upon each insurer writing life, accident and sickness insurance within the state 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 22-81.

(Ord. of 1-1-95, § 4)

Sec. 22-85. - Same—All other insurers.

There is hereby levied 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 O.C.G.A. § 33-3-5(1), doing business within the state in an amount equal to 2.5 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 22-81.

(Ord. of 1-1-95, § 5)

Sec. 22-86. - Due date for license fees.

License fees imposed in sections 22-81 and 22-82 shall be due and payable on the first day of each year.

(Ord. of 1-1-95, § 6)

Secs. 22-87—22-105. - Reserved.

ARTICLE IV. - PEDDLERS, SOLICITORS AND CANVASSERS

DIVISION 1. - PEDDLING

Sec. 22-106. - Purpose.

The purpose of this division is to protect, maintain, and enhance the public health, safety, and general welfare by regulating peddling, itinerant traders, and other door-to-door salesmen, generally known as peddlers. Such persons typically market magazines, appliances, house wares, and other goods and services by going door to door in neighborhoods and business districts. The citizens of the City of Carrollton, Georgia, are subject to unregulated peddling by sometimes questionable organizations or individuals, with illegitimate products, or no intent to deliver. It is the purpose of this division to regulate peddling in the City of Carrollton, Georgia, to protect the public health, safety and welfare. To achieve this end, this division requires peddlers to seek licenses and peddle under certain limitations. It also allows for the Chief of Police of Carrollton, Georgia, in his or her discretion, to conduct background checks on peddlers. However, it is not the intent of this division to require legitimate sales representatives, visiting businesses or persons they have already made appointments with or already have a legitimate business relationship with, to need licensing. Neither is it the intent of this division to infringe free speech rights or require licensing for persons going door-to-door for political campaigns, religious proselytizing, or other free speech reasons.

(Res. No. 12-2011, 2-6-12)

Sec. 22-107. - Definitions.

(a) **Definitions.** The following words as used in this article shall have the following meanings:

Applicant shall mean the person seeking a license.

City means the City of Carrollton, Georgia

Goods shall mean any sort of personal property (tangible or intangible), wares or merchandise that can be sold, including, but not limited to, brushes, vacuums, magazines, newspapers, luggage, house wares, electronics, computers, furniture, food, agricultural products, flowers, tools, clothing, decorative accessories, rugs, paintings, sculpture, dishes, make-up, and so forth.

License shall mean a permit to peddle.

Official photo identification shall mean an unexpired driver's license or identification card issued by Georgia, another U.S. state, or the U.S. military; or a U.S. passport.

Peddler means any person who engages in peddling.

Peddling or *to peddle* shall mean traveling from place to place or door to door on foot or in a vehicle and exhibiting, offering to sell, or selling goods and/or services, to households, businesses or passers-by. It shall also mean traveling from place to place or door to door taking orders for the sale of goods and/or services for delivery at another time or place. The solicitation of orders combined with a separate transaction to make delivery to the purchaser as a part of a scheme or design to evade the provisions of this article shall be deemed peddling. Visits by sales representatives pursuant to previously-arranged appointments with a specific business or person, or as a part of an on-going business relationship, shall not be deemed peddling.

Person shall mean any natural person, organization, corporate entity, or other business entity.

Services means the provision of any sort of professional or trade service to another, including for example, general maintenance, construction, painting, lawn service, house cleaning, mending, sharpening, motor repair, appliance repair, life insurance, burial insurance, and so forth.

Police chief means the chief of police of the City of Carrollton, Georgia, or his or her designee.

(Res. No. 12-2011, 2-6-12)

Sec. 22-108. - Restrictions.

(a) *License required.* It shall be unlawful for any person to engage in peddling in the city without first obtaining a license. Licenses shall be for a period of six months, and may be renewed. Each natural person engaged by an organization, corporate entity, and/or other business entity shall have a separate license to engage in peddling.

(b) *State law requirement.* In addition to this article, peddlers, as defined by state law, must obtain a license from the Probate Court of Carroll County, Georgia, under the requirements of O.C.G.A. § 43-32-1, et seq. The requirements of that statute are separate from this article, and obtaining only that license shall not satisfy the requirements of this article.

(Res. No. 12-2011, 2-6-12)

Sec. 22-109. - License requirements.

(a) *License application.* All applications for a license must be provided to the police chief. The police chief shall issue a decision within five business days of the application being filed.

(b) *Individual license required.* Each natural person seeking to peddle must obtain a license. If the applicant is working for another individual, corporation, or other business entity, that information must be disclosed on the application and the license, if granted.

(c) *Required information.* All applications for licenses must include, at a minimum, the following information, and shall be signed by the applicant:

- (1) Name and address of the applicant, including a local address where the applicant will be staying while peddling. If the applicant is working for an entity other than himself, such as a corporation or another individual, provide the name of the employer, provide the headquarters address and address of the Carroll County, Georgia, office, or the address of the closest branch office if there is no Carroll County, Georgia office;
- (2) Applicant's height, weight, age, sex, race, and social security number for background check purposes;
- (3) Photocopy of driver's license or other official photo identification of the applicant;
- (4) Proposed peddling activity including identification of the type of business, and the goods or services to be sold;
- (5) If a vehicle is to be used, a description of the vehicle together with the license plate;
- (6) The desired duration of the license (maximum is six months, except for yard sales, estate sales, and garage sales, as set forth in section 22-113);
- (7) The application shall contain a statement that the submission of the application shall be considered to be consent that a background check may be run by the police chief at his or her discretion on the applicant, and a statement that all information contained therein is true and correct; and
- (8) Any additional information the police chief may find reasonably necessary for a fair determination as to whether the proposed event will endanger public health, safety or welfare.

(d) *License and identification carried.* The signed license is to be kept on-site in the possession of a peddler at all times that peddling is underway. Licenses shall be displayed at the request of any law enforcement

personnel. Official photo identification shall also be kept on the person of a peddler at all times he or she is peddling, and shall be presented upon request of any citizen or law enforcement personnel. It shall be a violation of this article to fail or refuse to display a license or official photo identification when requested by law enforcement personnel.

(e) *Duration, renewal.* A peddler license shall be valid for the period specified thereon, up to a maximum of six months. A peddler license may be renewed upon submission of an application for renewal. Upon application for renewal, the police chief shall check to insure no complaints or criminal charges have been made against the peddler, and shall apply the same criteria as applies to the initial grant of a license to renew the license.

(Res. No. 12-2011, 2-6-12)

Sec. 22-110. - Investigation and issuance.

(a) *Investigation.* The police chief shall review the application for license for completeness and compliance with the terms of this article. The police chief may, at his or her discretion, determine whether there are any records of complaints against the applicant in the records of the police department or the GCIC/NCIC crime database system. The police chief may, at his or her discretion, conduct a background check of the applicant. The police chief may, at his or her discretion, make any other inquiries he or she deems necessary for the investigation of the applicant.

(b) *Decision.* The police chief may grant or deny a license. The police chief shall issue a license as provided in this article from a consideration of the application and from such information as may otherwise be obtained, unless he or she finds that any or all of the following apply:

- (1) The applicant, or the organization, corporate entity or other business entity that the applicant is peddling on behalf of, has any criminal complaints pending against them, or has a criminal record involving crimes of theft, fraud, or other moral turpitude;
- (2) The background check revealed the applicant is not of good character, or the proposed goods and/or services are not legitimate or legal;
- (3) The grant of the license is contrary to the public's health, safety or general welfare; or
- (4) The application was not complete, or the application or license requested is not fully in compliance with the requirements of this division.

The police chief shall indicate on the application review form all reasons for rejection of the application.

(Res. No. 12-2011, 2-6-12)

Sec. 22-111. - Appeals.

(a) *Appeals.* Any person aggrieved by the denial or restriction of a license shall have the right to appeal the denial or restriction to the City Manager of Carrollton, Georgia. A written appeal shall be sent via certified mail or statutory overnight delivery to City of Carrollton, Attn: City Manager, 315 Bradley Street, Carrollton, Georgia 30117.

(b) *Procedure.* A meeting shall be conducted at Carrollton City Hall at a time mutually convenient to the applicant, police chief, and the city manager. The police chief shall appear and present his or her case and evidence as to why the license was denied. The applicant shall have the opportunity to present its case and evidence in support of the application. The hearing shall be conducted as a municipal court proceeding.

(c) *Standard of review.* The city manager, keeping in mind the purpose of this division, the substantive provisions therein, and giving deference to the judgment of the police chief, shall make a determination as to whether the denial or restriction was lawful and in the interests of the public health, safety and welfare, or whether the license should be issued or modified. If the latter, the city manager shall issue a license providing guidance as to the location, time, persons, and other criteria to comply with this division.

(Res. No. 12-2011, 2-6-12)

Sec. 22-112. - Peddling regulations; prohibited locations and times.

(a) *Prohibited times.* No solicitation shall be allowed during the following times:

- (1) At any time, as set by the National Weather Service, after sunset or before sunrise.

(b) *Prohibited locations.* No peddling shall be allowed at the following locations:

- (1) On any street or highway right-of-way;
 - (2) On any bridges and sidewalks;
 - (3) On any public property or governmentally-owned property; and
 - (4) On any private property without written permission of the property owner.
- (c) *Solicitation*. Solicitation shall not be allowed under a peddler's license. A separate solicitation event permit is required. See chapter 22, article IV ("Peddlers, Solicitors and Canvassers"), division 2, sections 22-121 through 22-130 for additional requirements.
- (d) *Peddlers under the age of 18*. Applications for peddlers under the age of 18 must be signed by an adult, and the adult must provide his or her address and relationship to the applicant, as well as be with the peddler under the age of 18 throughout his or her peddling activities.
- (e) *Exemptions*. The following types of persons are exempt from the necessity of obtaining a license under this division.

(1) Stationary road-side stands operated by a local farmer (meaning farmers with farms in Carroll County, Georgia; Haralson County, Georgia; Heard County, Georgia; Coweta County, Georgia; Paulding County, Georgia; Randolph County, Alabama; and Cleburne County, Alabama); however, such stands must comply with the city zoning regulations and other applicable regulations, and shall not be located on public rights-of-way;

(2) If listed below, the person is exempt from the necessity of compliance with this division; however, if requested by a law enforcement officer, the person must provide proof that it falls within one of the below categories:

- a. Organization qualified under Section 501(c) of the Internal Revenue Code of 1986 (certification from IRS must be provided if requested by a citizen or law enforcement officer);
- b. Non-profit corporation registered in Georgia (certification from the Georgia Secretary of State must be provided if requested by a citizen or law enforcement officer);
- c. Church; or
- d. Public or private school.

(Res. No. 12-2011, 2-6-12)

Sec. 22-113. - Yard sales, estate sales, and garage sales.

Yard sales, estate sales, and garage sales shall be limited to four nonconsecutive "one-day" sales per calendar year per address. Goods are restricted to used goods only. All yard sales, estate sales, and garage sales must be permitted pursuant to this article, but no fee shall be charged.

(Res. No. 12-2011, 2-6-12)

Sec. 22-114. - Records of transactions.

(a) Every peddler - as that term is defined in section 22-107 above - who sales, trades, or purchases or who offers for sale, trade, or purchase any gold, silver, jewelry, coins, antiques, or the like shall maintain a permanent electronic record of its transactions in which an accurate description of all property sold, traded, or purchased by the peddler can be transmitted to the city police department via an electronic automated reporting system. Each of these transactions shall contain an accurate description of all property sold, traded, or purchased by the peddler and shall be made at the time of each transaction, provided that the following information is included:

- (1) The date and time of the sale, trade, or purchase of the property.
- (2) The name, address and telephone number of the customer making the sale, trade, or purchase.
- (3) A description of the customer in terms of sex, race, date of birth, height and weight, as well as the driver's license number of the customer or some other identification card which contains a photograph of the customer.
- (4) A description of the property by serial, model or other number, if available, and by any identifying marks (e.g., brand name, color, style, etc.).
- (5) The number of the receipt or transaction issued for the property.
- (6) The price paid or the amount tendered.

(7) A photograph of the customer and the item sold, traded, or purchased, which will be taken with the electronic automated reporting system at the time of the transaction.

(8) The signature of the customer.

(b) Every such peddler shall enter each transaction as it occurs into the electronic automated reporting system or may elect to upload electronically via the internet a batch file of all transactions for each business day to the administrator of the electronic automated reporting system immediately at the conclusion of each business day. The administrator of the electronic automated reporting system will electronically transmit all transactions to the city police department.

(c) In the event that the electronic automated reporting system becomes temporarily or permanently disabled, any such peddlers will be notified as soon as possible. In this event, any such peddlers will be required to make records of transactions in paper form. Such paper forms must include all information as enumerated in paragraph (a) of this section. Any such peddlers shall maintain a three-day supply of these paper forms.

(d) Any duly authorized law enforcement officer may, during the ordinary hours of business or any other reasonable time, inspect any such peddler's electronic records at the peddler's place of business to ensure compliance with this section.

(e) The chief of police or his designee shall select and designate the required automated reporting system. There will be a fee assessed to the peddler for each reported transaction, a copy of which fee schedule is on file in the office of the city clerk. This fee will be invoiced to the peddler and collected by the chief of police or his designee, which may be a third party administrator of the automated reporting system.

(Res. No. 12-2011, 2-6-12)

Sec. 22-115. - Violations, enforcement.

(a) Persons peddling without a license, or in violation of the license, shall first be issued a written warning concerning his or her violation of this division.

(b) Regarding subsequent violations, persons shall be cited with a citation for prosecution in the Municipal Court of Carrollton, Georgia, in accordance with the requirements of law for such citations. Any law enforcement officer shall be authorized to issue such citations.

(c) Any person, organization, business, or entity in violation of the provisions of this division is subject to a fine of up to \$1,000.00 per day per violation per individual participant. The minimum fine shall be \$100.00 per day per violation per individual participant.

(d) Any violation of this article shall immediately revoke the license. The police chief shall also have the discretion to revoke the license upon charge of violation being made, or upon awareness of illegal or unauthorized activity, if license revocation is required in the best interests of public health, safety and welfare.

(e) Any person, organization, business, or entity found guilty of violating this division may not be issued a license for a two-year period from the date of the violation. Upon a second time being found guilty of violating this division, the person, organization, business, or entity shall be banned from further peddling in the city.

(f) The city attorney, or his or her designee, shall be authorized to seek injunctive relief and other relief in superior court if necessary to effectuate the intent of this division. The city shall be entitled to seek civil fines in the amounts specified above, and shall be entitled to its attorneys' fees for any successful action.

(Res. No. 12-2011, 2-6-12)

Sec. 22-116. - Severability.

If any paragraph, subparagraph, sentence, clause, phrase or any portion of this division be declared invalid or unconstitutional by a court of competent jurisdiction, or if any provision of any part of this division as applied to any particular situation or set of circumstances be declared invalid, or unconstitutional, such invalidity shall not be construed to affect the remaining portions of this division not so held to be invalid, or the application of this division or other circumstances not so held to be invalid. It is hereby declared to be the intent of the mayor and city council of the city to provide for separable and devisable parts and they hereby readopt any and all parts hereof as may not be held invalid for any reason.

(Res. No. 12-2011, 2-6-12)

Sec. 22-117. - Repealer.

The resolution from which this division derives repeals any prior ordinance or resolution in conflict herewith, except to the extent that said ordinance or resolution is more restrictive than this division, in which case that ordinance or resolution shall control.

(Res. No. 12-2011, 2-6-12)

Secs. 22-118—22-120. - Reserved.

DIVISION 2. - SOLICITATION

Sec. 22-121. - Purpose.

The purpose of this division is to protect, maintain and enhance the public health, safety, and general welfare by regulating road-side solicitation and other charitable events where contributions are sought. Solicitors are put at risk by entering roadways and parking lots which put drivers and other pedestrians at risk. The citizens of the City of Carrollton, Georgia are subject to unregulated solicitation by sometimes questionable organizations, or solicitations in a hazardous manner or location. It is the purpose of this division to regulate solicitation on streets and highways and other public areas of the City of Carrollton, Georgia, to protect the public health, safety and welfare. Neither is it the intent of this division to infringe free speech rights or require permitting for persons going door-to-door for political campaigns, religious proselytizing, or other free speech reasons.

(Res. No. 13-2011, 12-5-11)

Sec. 22-122. - Definitions.

The following words, as used in this division, shall have the following meanings:

Applicant means the charitable organization seeking a permit.

Charitable organization means an organization which is qualified under Section 501(c) of the Internal Revenue Code of 1986, as amended; Georgia registered non-profit corporations; churches; and public and private schools. Charitable organizations must also either be registered with the Georgia Secretary of State pursuant to O.C.G.A. § 43-17-5, or be exempt from such registration pursuant to O.C.G.A. § 43-17-9.

City means the City of Carrollton, Georgia.

Event means any charitable solicitation within the City of Carrollton, Georgia.

Event permit means a permit issued pursuant to this division to conduct an event.

Organizer means the person responsible for organizing the event and whose name shall be on the application.

Permit means an event permit.

Police chief means the chief of police of the City of Carrollton, Georgia, or his or her designee.

Solicitor means any person who engages in solicitation.

Solicitation or charitable solicitation means the act of asking for employment, business, or contributions on a public road, street, highway, right-of-way, sidewalk or other public property from the occupant of any vehicle or any pedestrian.

Travel lanes means the marked lanes on a road or highway, or the lanes of travel for vehicles, including turn lanes, access lanes, and acceleration or deceleration lanes.

(Res. No. 13-2011, 12-5-11)

Sec. 22-123. - Restrictions.

(a) *Solicitation restricted.* Pursuant to O.C.G.A. § 40-6-97(b), the city prohibits any person from standing or entering on a highway, public street, or public right-of-way of the city for the purposes of soliciting employment, business solicitations, and/or contributions from the occupant of any vehicle or any pedestrian. Solicitation shall only be allowed by charitable organizations with an event permit, under the terms of this division. It shall be a violation of this division to engage in solicitation without an event permit, or otherwise not in accordance with the terms of this division and the event permit.

(b) *Event permit required.* No charitable organization is allowed to engage in solicitation on any highway, public street, or public right-of-way in the city without first obtaining an event permit. Persons, businesses, and organizations that are not charitable organizations as defined in this division are not eligible to receive a permit for solicitation. An event permit shall be obtained from the police chief. An event permit is not required for any event sponsored or conducted by the city or its departments and agencies.

(Res. No. 13-2011, 12-5-11)

Sec. 22-124. - Permit requirements.

(a) *Event permit application.* All requests for an event permit must be provided to the police chief at least five business days but no more than 60 calendar days prior to the date of the requested event. The police chief shall issue a decision within three business days of the application being filed. The police chief, for good cause shown, shall have the authority to consider any application under this section which is filed less than five business days before the date such event is proposed to be conducted, provided the police chief shall have adequate time to conduct the investigation. An application and event permit shall be required for each event, provided however only one application and event permit shall be required for each proposed event.

(b) *Required information for application.* All applications for event permits must include at a minimum the following information, and shall be signed by the organizer(s):

(1) Name and address of charitable organization, including headquarters address and address of the office within Carroll County, Georgia, if any, or the address of the closest office if there is no Carroll County, Georgia, office;

(2) Type of organization and certification, if listed below. The organization must provide proof that it falls within one of the below categories in order to apply for a event permit:

a. Organization qualified under Section 501(c) of the Internal Revenue Code of 1986 (certification from IRS must be provided with the application for event permit);

b. Non-profit corporation registered in Georgia (certification from the Georgia Secretary of State must be provided with the application for event permit);

c. Church; or

d. Public or private school.

(3) Name of organizer(s), and address, height, weight, age, sex, race, and social security number of each organizer for background check purposes;

(4) Photocopy of unexpired driver's license or other official photo identification of each organizer;

(5) Proposed solicitation activity, and purpose for solicitation activity (i.e., use of funds);

(6) Specific location(s) for event, including specific intersections, and number of solicitors at each such location;

(7) Date(s) and time(s) of event(s);

(8) Names of all participants proposed to be solicitors, and their ages;

(9) If any solicitors are under the age of 18, the names and addresses of adult supervisors; one adult supervisor per four solicitors under the age of 18 is required;

(10) If the event is to be held on behalf of any person or organization other than the applicant, a communication in written form from that person or organization authorizing the applicant to apply for the event permit;

(11) The application shall contain a statement that the submission of the application shall be considered to be consent by the organizer(s), the charitable organization, and the officers of the charitable organization for a background check to be run by the police chief at his or her discretion on any person named on the application, and a statement that all information contained thereon is true and correct; and

(12) Any additional information the police chief may find reasonably necessary for a fair determination as to whether the proposed event will endanger public health, safety, or welfare.

(c) *Organizer.* A minimum of one organizer is required for an event. No more than five persons shall be designated organizers for any event. The organizer(s) are required to be at the event in person at all times. There shall be one organizer for each location where solicitation is occurring. All events shall be conducted under the supervision of a person or persons making application for same (the organizer) and shall be conducted in a peaceable and orderly manner in compliance with the laws and ordinances applicable thereto.

(d) *Permit onsite.* The event permit bearing the signature of the police chief is to be kept on-site in the possession of an organizer at all times that the event is underway. If multiple locations are involved, an event permit copy shall be kept at each location by each organizer. Event permits shall be displayed at the request of any citizen or law enforcement personnel.

(e) *Safety vests.* Upon issuance of the event permit, the city shall provide city-owned safety vests that must be worn by each person participating in the event. At his or her discretion, the police chief may require a refundable deposit to ensure return of the city-owned safety vests. The amount of any such deposit, should the police chief deem it necessary, is in the sole discretion of the police chief.

(Res. No. 13-2011, 12-5-11)

Sec. 22-125. - Investigation and issuance.

(a) *Investigation.* The police chief shall review the application for completeness and compliance with the terms of this division. The police chief shall check if the charitable organization is registered with the Georgia Secretary of State, or is exempt under O.C.G.A. § 43-17-9. The police chief may investigate, at his or her discretion, whether there are any records of complaints against the applicant or organizers in the records of the police department or the GCIC/NCIC crime database system. The police chief may, at his or her discretion, conduct a background check of the organizers or corporate officers, or any other person named on the application. The police chief may, at his or her discretion, make any other inquiries he or she deems necessary for the investigation of the applicant or the organizers.

(b) *Decision.* The police chief may grant the application for event permit, deny the application for event permit, or grant a restricted event permit. The police chief shall issue an event permit as provided in this division from a consideration of the application and from such information as may otherwise be obtained, unless he or she finds that any or all of the following apply:

- (1) The conduct of the event will substantially interrupt the safe and orderly movement of traffic;
- (2) The conduct of the event will substantially interrupt the safe and orderly movement of firefighting equipment en route to a fire, or other emergency services;
- (3) The applicant or any organizers or participants have any criminal complaints pending against them, or have a criminal record involving crimes of theft, fraud, or other moral turpitude;
- (4) The applicant is not a qualifying charitable organization or is otherwise not a legitimate organization;
- (5) The police chief has reason to believe the event is a fraud or sham;
- (6) If a charitable organization required to be registered with the Georgia Secretary of State, under O.C.G.A. § 43-17-5, it is not so registered;
- (7) The conduct of the event is contrary to the public's health, safety, or general welfare; or
- (8) The application was not complete, or the application or event permit requested is not fully in compliance with the requirements of this division.

The police chief shall indicate on the application review form all reasons for rejection of the application.

(c) *Restrictions.* The police chief shall indicate on the event permit the permitted activities, locations, and times of the event. The police chief may approve a smaller or shorter event than requested, may reduce the number of solicitors, may approve a different location, or may generally make any other adjustments he or she believes necessary to the application to serve the public health, safety and welfare.

(d) *Non-content based review.* The content of the message of any applicant, their beliefs, the identification of the participants, or any other matter which does not directly impact on the public health, safety, and welfare, shall not be relevant to the determination of whether to grant or deny an event permit.

(Res. No. 13-2011, 12-5-11)

Sec. 22-126. - Appeals.

(a) *Appeals.* Any person aggrieved by the denial or restriction of an event permit shall have the right to appeal the denial or restriction to the City Manager of Carrollton, Georgia. A written appeal shall be sent via certified mail or statutory overnight delivery to City of Carrollton, Attn: City Manager, 315 Bradley Street, Carrollton, Georgia 30117.

(b) *Procedure.* A meeting shall be conducted at Carrollton City Hall at a time mutually convenient to the applicant, police chief, and the city manager. The police chief shall appear and present his or her case and

evidence as to why the application was denied. The applicant shall have the opportunity to present its case and evidence in support of the application.

(c) *Standard of review.* The city manager, keeping in mind the purpose of this division, the substantive provisions, and giving deference to the judgment of the police chief, shall make a determination as to whether the denial or restriction was just and in the interests of the public health, safety and welfare, or whether the event permit should be issued or modified. If the latter, the City Manager of Carrollton, Georgia, shall issue an event permit providing guidance as to the location, time, persons, and other criteria of this division.

(Res. No. 13-2011, 12-5-11)

Sec. 22-127. - Solicitation regulations; locations and times.

(a) *Prohibited times.* No solicitation shall be allowed during the following times:

(1) At any time, as set by the National Weather Service, after sunset or before sunrise.

(b) *Locations.* No solicitation shall occur on private property without written permission of the property owner. Upon request from law enforcement personnel, a solicitor must provide such written permission to solicit on the private property where solicitation is occurring. As to solicitors holding a valid event permit, they are required to stay on median strips, sidewalks, or otherwise out of the travel lanes. Solicitation from travel lanes is not permitted. When all vehicles are stopped at an intersection, solicitors may approach cars to receive donations if the occupants have indicated they seek to make a donation. Walking along a line of cars shall ONLY be permitted if the solicitor stays out of the travel lanes. No more than one charitable organization may solicit at the same intersection at the same time.

(c) *Duration.* An event may last no longer than two days. A separate event permit shall be required for each additional event (i.e., six days would require three event permits).

(d) *Solicitors under the age of 18.* All charitable organizations which are permitted to solicit funds must have one adult supervisor over the age of 21 for every four persons under the age of 18.

(e) *Peddling.* Peddling shall not be allowed under an event permit. A separate peddler's license is required. See chapter 22, article IV ("Peddlers, Solicitors and Canvassers"), division 1, sections 22-106 through 22-117 for more information.

(Res. No. 13-2011, 12-5-11)

Sec. 22-128. - Violations, enforcement.

(a) Persons soliciting without an event permit or in violation of the event permit shall first be issued a written warning concerning his or her violation of this division.

(b) Regarding subsequent violations, persons shall be cited with a citation for prosecution in the Municipal Court of Carrollton, Georgia, in accordance with the requirements of law for such citations. Any law enforcement officer shall be authorized to issue such citations.

(c) Any person, organization, business, or entity in violation of the provisions of this division is subject to a fine of up to \$1,000.00 per day per violation per individual participant. The minimum fine shall be \$100.00 per day per violation per individual participant.

(d) Any violation of this division shall immediately revoke the event permit. The police chief shall also have the discretion to revoke the event permit upon charge of violation being made, or upon awareness of illegal or unauthorized activity, if event permit revocation is required in the best interests of public health, safety and welfare.

(e) Any person, organization, business, or entity found guilty of violating this division may not be issued an event permit for a two-year period from the date of the violation. Upon a second time being found guilty of violating this division, the person, organization, business, or entity shall be banned from further solicitation in the city.

(f) The city attorney, or his or her designee, shall be authorized to seek injunctive relief and other relief in superior court, if necessary, to effectuate the intent of this division. The city shall be entitled to seek civil fines in the amounts specified above, and shall be entitled to its attorneys' fees for any successful action.

(Res. No. 13-2011, 12-5-11)

Sec. 22-129. - Severability.

If any paragraph, subparagraph, sentence, clause, phrase or any portion of this division be declared invalid or unconstitutional by a court of competent jurisdiction, or if any provision of any part of this division as applied to any particular situation or set of circumstances be declared invalid, or unconstitutional, such invalidity shall not be construed to affect the remaining portions of this division not so held to be invalid, or the application of this division or other circumstances not so held to be invalid. It is hereby declared to be the intent of the mayor and city council of the city to provide for separable and devisable parts and they hereby readopt any and all parts hereof as may not be held invalid for any reason.

(Res. No. 13-2011, 12-5-11)

Sec. 22-130. - Repealer.

The resolution from which this division derives repeals any prior ordinance or resolution in conflict herewith, except to the extent that said ordinance or resolution is more restrictive than this division, in which case that ordinance or resolution shall control.

(Res. No. 13-2011, 12-5-11)

Secs. 22-131—22-140. - Reserved.

DIVISION 3. - MONETARY SOLICITATION

Sec. 22-141. - Definitions.

The following words, as used in this division, shall have the following meanings Monetary solicitation or to monetarily solicit is an act or action performed by an individual that meets the following three criteria:

- (1) Is an in-person request of another individual, either orally or by gesture; and
- (2) The request is for an immediate distribution of money or anything of monetary value; and
- (3) The request occurs on public property, including, without limitation, city streets, sidewalks and parks.

For purposes of this division, monetary solicitation or to monetarily solicit shall not include: requests for signatures on a petition or other document; distribution of written material that requests individuals to send contributions by mail or make donations in some other manner at a later time; distribution of pre-addressed envelopes along with a verbal plea to contribute money, provided that no request for an immediate contribution is made; sale of literature or other merchandise or food where payment occurs at a separate time and location, including through mail order; or solicitation that is lawfully permitted pursuant to chapter 22, division 2 of this Code of Ordinances.

(Res. No. 06-2014, 5-5-14)

Sec. 22-142. - Restrictions.

(a) *Monetary solicitation in certain areas.* It shall be unlawful for any person to monetarily solicit in any of the following places:

- (1) Anywhere within the central business district of the city (i.e., that portion of the city zoned C-1 and generally described as Adamson Square and surrounding areas);
- (2) Within 15 feet of the entrance to or exit from any public toilet facility, which includes any temporary use site (port-a-toilet);
- (3) Within 15 feet of an automated teller machine (ATM), provided that when an ATM is located within an ATM facility, such distance shall be measured from the entrance or exit of the ATM facility;
- (4) In or within 15 feet of a parking lot, garage, or deck owned or operated by the city, including entry ways or exits;
- (5) Within 15 feet of any pay telephone, provided that when a pay telephone is located within a telephone booth or other facility, such distance shall be measured from the entrance or exit of the telephone booth or facility;
- (6) Within 15 feet of the entrance or exit of a building, whether publicly or privately owned, including without limitation any residence, business, event venue or athletic facility; and
- (7) Within 15 feet of or within a line for entry to any building, whether the building is publicly or privately owned, including without limitation any residence, business, event venue or athletic facility.

(b) *Aggressive monetary solicitation.* It shall be unlawful for any person to monetarily solicit in any of the following manners:

- (1) Blocking the path or passage of the person solicited;
- (2) Not allowing the person solicited to leave the presence of the solicitor, by following immediately behind or walking alongside the person solicited;
- (3) Using profane or abusive language, either during the solicitation or following refusal;
- (4) Continuing to monetarily solicit a person after that person has refused the solicitation verbally or by gesture;
- (5) Continuing to monetarily solicit a person located in or on a motor vehicle after that person has refused the solicitation verbally or by gesture;
- (6) Making any statement, gesture or other communication which a reasonable person in the situation of the person solicited would perceive to be a threat that is intended to compel or force the person solicited to accede to the demands of the solicitor; and/or
- (7) Touching the person solicited.

(Res. No. 06-2014, 5-5-14)

Sec. 22-143. - Penalties.

(a) Upon conviction under section 22-142(a) above, the violator may be sentenced to one or more of the following: the performance of up to 30 days community service; a monetary fine not to exceed \$1,000.00; and/or imprisonment not to exceed 180 days.

(b) Upon the first conviction under section 22-142(b) above, the violator may be sentenced to one or more of the following: the performance of up to 30 days community service; a monetary fine not to exceed \$1,000.00; and/or imprisonment not to exceed 180 days.

(c) Upon the second conviction under section 22-142(b) above, the violator may be sentenced to one or more of the following: the performance of up to 30 days community service; a monetary fine not to exceed \$1,000.00; and/or imprisonment not to exceed 180 days, provided that the sentence must include a minimum of 30 days imprisonment.

(d) Upon the third and future convictions under section 22-142(b) above, the violator may be sentenced to one or more of the following: the performance of up to 30 days community service; a monetary fine not to exceed \$1,000.00; and/or imprisonment not to exceed 180 days, provided that the sentence must include a minimum of 90 days imprisonment.

(Res. No. 06-2014, 5-5-14)

Secs. 22-144—22-150. - Reserved.

ARTICLE V. - LABOR ORGANIZERS

Sec. 22-151. - Sworn statement required.

Each person employed and engaged by a labor union in the business, occupation, enterprise or calling of labor union agent, labor union promoter, labor union organizer or labor union solicitor within the city limits, and while so engaged undertakes to collect funds or secure subscriptions to union authorization cards or other subscriptions on behalf of a labor union, shall, prior to undertaking to collect funds or secure such subscriptions, file with the mayor and city council a written statement, signed under oath, providing the following information:

- (1) His full name, including any name by which he is commonly known;
- (2) His present home address;
- (3) All previous home addresses for the past ten years if different from present address;
- (4) His age;
- (5) His place of birth;
- (6) The nature of any crime of which he has ever been convicted, together with the date, place and court of conviction;
- (7) The full name of the labor union by whom he is employed;
- (8) His position with such labor union;

- (9) The address of the principal office of such labor union;
- (10) The address of the labor union office out of which he works together with the name and address of his immediate superior in such labor union; and
- (11) Whether his income from such labor union depends in any manner upon his success in collecting funds or securing subscriptions to union authorization cards or other subscriptions.
- (Code 1975, § 13-61)*

Sec. 22-152. - Violations.

Any person failing to obtain a license under this article, or to comply with each of the terms of this article as herein provided and set out, shall be guilty of a misdemeanor.

(Code 1975, § 13-64)

Secs. 22-153—22-180. - Reserved.

ARTICLE VI. - PAWNSHOPS AND PAWNBROKERS

Sec. 22-181. - Definitions.

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

Employee means any person who works in a pawnshop, whether on a part-time or full-time basis, regardless of whether remuneration is received or not.

Pawnbroker means a person lending money on personal property, taking possession of such property and holding it as a pledge or pawn, as defined in O.C.G.A. § 44-12-130, for the security of a loan, or one who purchases property with the right of repurchase or redemption. Any person who purchases jewelry, guns, pistols, household effects or other articles of merchandise or personal property, and at the time thereof gives the seller the privilege of redeeming the same thereafter, shall be held and deemed a pawnbroker.

Pawnshop means any business that takes or receives by way of pledge, pawn or exchange, any goods, wares, merchandise or personal property of any kind as security for the repayment of money lent thereon.

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

(Res. No. 01-2009, Exh. A, 1-5-09)

Cross reference— Definitions generally, § 1-2

Sec. 22-182. - Responsibility for enforcement.

The city police department shall see that the provisions of this article are observed and enforced.

(Res. No. 01-2009, Exh. A, 1-5-09)

Sec. 22-183. - Employees.

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

(Res. No. 01-2009, Exh. A, 1-5-09)

Sec. 22-184. - Character of person connected with pawn business.

No owner, employee, pawnbroker or any person connected with a pawnshop for which a license or permit is sought shall have been convicted of a crime involving "moral turpitude" or shall have been convicted of any crime involving felony theft, burglary, robbery, or a violation of the "Family Violence Act."

(Res. No. 01-2009, Exh. A, 1-5-09)

Sec. 22-185. - Annual permit.

Before operating a pawnshop or becoming an employee of a pawnshop, any person must first file an application with the city police department for a permit to operate or be employed in the pawnshop, pursuant to the following:

- (1) The application shall be made on an annual basis;
- (2) No permit shall be issued until a fee in an amount established by the mayor and city council, a copy of which is on file in the office of the city clerk, is paid to the city;
- (3) The application shall state the address of the pawnshop; and
- (4) The application shall contain the full name, address, phone number, date of birth and social security number of any employee or pawnbroker;

The chief of police, or any other officer of the city designated by the mayor and city council, shall investigate each applicant for such license and shall report to the mayor and city council whether such applicant is a person of good character and has not been convicted of a criminal offense as indicated in this section.

(Res. No. 01-2009, Exh. A, 1-5-09)

Sec. 22-186. - Records of transactions.

(a) Every pawnbroker shall maintain a permanent electronic record of its pawn transactions in which an accurate description of all property pledged, traded or sold to the pawnshop can be transmitted to the city police department via an electronic automated reporting system. Each of these transactions shall contain an accurate description of all property pledged, traded or sold to the pawnshop and shall be made at the time of each transaction, provided that the following information is included:

- (1) The date and time of the purchase, pawn or sale of the property.
- (2) The name, address and telephone number of the customer making the pledge, trade or sale.
- (3) A description of the customer in terms of sex, race, date of birth, height and weight, as well as the driver's license number of the customer or some other identification card which contains a photograph of the customer.
- (4) A description of the pledged or purchased property by serial, model or other number, if available, and by any identifying marks (e.g., brand name, color, style, etc.).
- (5) The number of the receipt or pawn transaction issued for the property pawned or bought.
- (6) The price paid or the amount loaned.
- (7) The maturity date of the transaction, if a pawn.
- (8) A photograph of the customer and the item pawned or bought which will be taken with the electronic automated reporting system at the time of the transaction.
- (9) The signature of the customer.

(b) Every pawnshop shall enter each transaction as it occurs into the electronic automated reporting system or may elect to upload electronically via the internet a batch file of all transactions for each business day to the administrator of the electronic automated reporting system immediately at the conclusion of each business day. The administrator of the electronic automated reporting system will electronically transmit all transactions to the city police department.

(c) In the event that the electronic automated reporting system becomes temporarily or permanently disabled, pawnshops and pawnbrokers will be notified as soon as possible. In this event, the pawnbrokers will be required to make records of transactions in paper form. Such paper forms must include all information as enumerated in paragraph (a) of this section. Pawnbrokers shall maintain a three-day supply of these paper forms.

(d) Any duly authorized law enforcement officer may, during the ordinary hours of business or any other reasonable time, inspect any pawnbroker's electronic records at the pawnbroker's place of business to ensure compliance with this section.

(e) The chief of police or his designee shall select and designate the required automated reporting system. There will be a fee assessed to the pawnshop for each reported transaction, a copy of which fee schedule is on file in the office of the city clerk. This fee will be invoiced to the pawnbroker and collected by the chief of police or his designee, which may be a third party administrator of the automated reporting system.

(Res. No. 01-2009, Exh. A, 1-5-09)

State law reference— Required record of pawnbrokers, O.C.G.A. § 44-12-132 et seq.

Sec. 22-187. - Waiting period for disposal of articles.

Any pawnbroker or employee of a pawnshop who makes a loan on pledged goods, or buys pledged goods on the condition that the seller may repurchase said goods, shall hold said goods for at least 30 days before disposing of them by sale, transfer, shipment or otherwise. Nonpledged goods bought under this section shall be held for at least seven calendar days before disposing of them by sale, transfer, shipment or otherwise.
(*Res. No. 01-2009, Exh. A, 1-5-09*)

Sec. 22-188. - Dealing with minors.

It shall be unlawful for any pawnbroker or employee of a pawnshop to receive goods in pawn, trade, purchase or sale from a person under 18 years of age.

(*Res. No. 01-2009, Exh. A, 1-5-09*)

State law reference— Duration of pawn transactions, O.C.G.A. § 44-12-131.

Sec. 22-189. - Lost or stolen items.

(a) It shall be the duty of every person operating as or employed by a pawnbroker to report to the chief of police or his duly authorized agent any article or goods sold or pawned to him if he shall have a reason to believe that the article or goods were stolen or lost when presented by the seller or customer.

(b) With respect to any items which would normally have a serial number or other means of identification, if any pawnbroker or employee of a pawnshop becomes aware that such items have had the identification removed, defaced or destroyed, such fact shall be immediately reported to the chief of police or his duly authorized agent.

(c) If it is determined that an item bought, sold, traded or pawned by a seller or customer to the pawnbroker or his employee is the subject of any reported theft, then the surrender of said item to the chief of police or his duly authorized agent shall be done upon demand.

(*Res. No. 01-2009, Exh. A, 1-5-09*)

Sec. 22-190. - Violations.

(a) It shall be unlawful for any pawnbroker or employee of a pawnshop to violate any of the provisions of this article, whether or not such person or employee is the holder of a current valid permit issued according to the terms of this article. Further, any person failing to comply with any provision of this article or other rules, ordinances and regulations as may be passed by the mayor and city council for conduct of the business of a pawnbroker, shall upon conviction, have the license to conduct business revoked.

(b) It shall be unlawful for any pawnbroker or employee of a pawnshop to:

(1) Make any false statement in an application for any permit provided for in this article.

(2) Make any false entry in any record book, ledger or form required by the terms of this article.

(3) Violate any criminal law of this state while acting in the course of business as a pawnbroker or employee of a pawnbroker.

(c) Persons who violate this article shall be guilty of a misdemeanor.

(*Res. No. 01-2009, Exh. A, 1-5-09*)

Sec. 22-191. - Effective date.

The effective date of this article shall be April 1, 2009.

(*Res. No. 01-2009, Exh. A, 1-5-09*)