

PART II - CODE OF ORDINANCES  
Chapter 11 - OCCUPATIONAL LICENSES AND TAXES

ARTICLE II. OCCUPATION TAX

**ARTICLE II. OCCUPATION TAX** <sup>131</sup>

[Sec. 11-33. Occupation tax required for business dealing in the City of Clarkston.](#)

[Sec. 11-34. Construction of terms; definitions.](#)

[Sec. 11-35. Administrative and regulatory fees.](#)

[Sec. 11-36. Occupation tax levied on basis of gross receipts and profitability ratio; restrictions.](#)

[Sec. 11-37. Levy of occupation tax on business with no location in Georgia.](#)

[Sec. 11-38. Reserved.](#)

[Sec. 11-39. The number of businesses considered to be operating in the city.](#)

[Sec. 11-40. Professionals as classified in O.C.G.A. section 48-13-9\(c\).](#)

[Sec. 11-41. Practitioners exclusively practicing for a government.](#)

[Sec. 11-42. Purpose and scope of tax.](#)

[Sec. 11-43. When tax due and payable.](#)

[Sec. 11-44. Exemption on grounds that business is operated for charitable purpose.](#)

[Secs. 11-45, 11-46. Reserved.](#)

[Sec. 11-47. Liability of officers and agents; registration required; failure to obtain.](#)

[Sec. 11-48. Civil penalty for transacting business when tax delinquent.](#)

[Sec. 11-49. Criminal penalty for article violation.](#)

[Sec. 11-50. City clerk; subpoena and arrest powers.](#)

[Sec. 11-51. Businesses not covered by this article.](#)

[Sec. 11-52. Occupation tax inapplicable where prohibited by law or provided for pursuant to other existing law.](#)

[Sec. 11-53. Occupation taxes levied on business to be transacted during current calendar year; filing of returns estimating gross receipts for the current calendar year.](#)

[Sec. 11-54. Filing of return showing actual gross receipts during a calendar year; procedure where taxes overpaid or underpaid.](#)

[Sec. 11-55. Reserved.](#)

[Sec. 11-56. Payment of occupation tax by newly established businesses; penalty for failing to register and pay tax for new business.](#)

[Sec. 11-57. More than one place or line of business.](#)

[Sec. 11-58. Returns confidential.](#)

[Sec. 11-59. Inspections of books and records.](#)

[Sec. 11-60. Tax registration to be revoked for failure to pay tax, file returns, or permit inspection of books.](#)

[Sec. 11-61. Lien taken for delinquent occupation tax.](#)

[Sec. 11-62. Enforcement of provisions.](#)

[Sec. 11-63. Requirement of public hearing before tax increase.](#)

[Sec. 11-64. Option to establish exemption or reduction in occupation tax.](#)

PART II - CODE OF ORDINANCES  
Chapter 11 - OCCUPATIONAL LICENSES AND TAXES

ARTICLE II. OCCUPATION TAX

**Sec. 11-33. Occupation tax required for business dealing in the City of Clarkston.**

Each person engaged in any business, trade, profession, or occupation in Clarkston, Georgia, and having a location in the city or, in the case of an out-of-state business with no location in Georgia, exerting substantial efforts within the state pursuant to O.C.G.A. § 48-13-7, shall pay an occupation tax for said business, trade, profession, or occupation in an amount to be determined as set forth in [section 11-36](#) of this article.

(Ord. No. 352, § 3, 12-8-10)

**Sec. 11-34. Construction of terms; definitions.**

As used in this article, the following terms shall have the indicated definitions:

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

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

- (1) Total income without deduction for the cost of goods or expenses incurred;
- (2) Gain from trading in stocks, bonds, capital assets, or instruments of indebtedness;
- (3) Proceeds from commissions on the sale of property, goods, or services;
- (4) Proceeds from fees for services rendered; and
- (5) Proceeds from rent, interest, royalty or dividend income.

*Gross receipts* shall not include the following:

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

*Location of office* shall not include a temporary work site which serves a single customer or project.

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

PART II - CODE OF ORDINANCES  
Chapter 11 - OCCUPATIONAL LICENSES AND TAXES

ARTICLE II. OCCUPATION TAX

*Person* includes sole proprietors, corporations, partnerships, nonprofit, or any other form of business organization, but specifically excludes charitable nonprofit organizations which utilize fifty (50) percent of their proceeds for charitable purposes.

*Practitioner of profession or occupation* is one who by state law requires state licensure regulating such profession or occupation. Such 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 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 of O.C.G.A. § 36-71-2(8) or other costs or conditions of zoning or land development are not regulatory fees.

(Ord. No. 352, § 3, 12-8-10)

**Sec. 11-35. Administrative and regulatory fees.**

- (a) A non-prorated, nonrefundable administrative fee of fifty dollars (\$50.00) shall be required on all business and occupational tax accounts for the initial start-up, renewal, or reopening of those accounts.
- (b) A non-prorated, nonrefundable, regulatory fee will be imposed on certain businesses as provided for by O.C.G.A. § 48-13-9. The regulatory fee schedule for persons practicing the following listed occupations is as follows:

*Occupation      Regulatory Fee*

Carnivals .....\$300.00

Taxicab/limousine operators .....100.00

Pawnbrokers .....300.00

Dealers in precious metals .....75.00

Fortunetellers .....75.00

Used furniture dealers .....75.00

Car title loan companies .....75.00

Used appliance companies .....75.00

Secondhand stores .....75.00

Flea market operators .....75.00

(Ord. No. 352, § 3, 12-8-10)

PART II - CODE OF ORDINANCES  
Chapter 11 - OCCUPATIONAL LICENSES AND TAXES

ARTICLE II. OCCUPATION TAX

**Sec. 11-36. Occupation tax levied on basis of gross receipts and profitability ratio; restrictions.**

- (a) An occupation tax shall be levied upon those businesses and practitioners of professions and occupations with one (1) or more locations or offices in the corporate limits of Clarkston, Georgia and/or upon the applicable out-of-state businesses with no location or office in Georgia pursuant to O.C.G.A. § 48-13-7 based upon the following criteria:

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

- (b) *Occupation tax schedule.* 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 on Gross Receipts
Class 1	.0002160
Class 2	.0002772
Class 3	.0003792
Class 4	.0005040
Class 5	.0005724
Class 6	.0006360

- (c) *Restrictions on the imposition of occupation tax.*

- (1) No business or practitioner shall be required to pay more than one occupation tax for each of its locations.
- (2) No occupation tax will be required upon more than one hundred (100) percent of business's 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 taxing jurisdiction and who sell property inside the taxing jurisdiction.

PART II - CODE OF ORDINANCES  
Chapter 11 - OCCUPATIONAL LICENSES AND TAXES

ARTICLE II. OCCUPATION TAX

- (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 of Georgia.
- (7) Out-of-state businesses with no location in Georgia shall be assessed occupation taxes based on the gross receipts of the business as defined in O.C.G.A. § 14-13-7 (see subsection 11-34(2)a. and b. of this article) which are reasonably attributed to sales or services in the state.

(Ord. No. 352, § 3, 12-8-10)

**Sec. 11-37. Levy of occupation tax on business with no location in Georgia.**

An occupation tax is hereby imposed, in an amount to be determined by [section 11-36](#) of this article, on those businesses and practitioners of professions with no location or office in the state if the business's largest dollar volume of business in Georgia is in Clarkston and the business or practitioner:

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

(Ord. No. 352, § 3, 12-8-10)

**Sec. 11-38. Reserved.**

**Sec. 11-39. The number of businesses considered to be operating in the city.**

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. No. 352, § 3, 12-8-10)

**Sec. 11-40. Professionals as classified in O.C.G.A. section 48-13-9(c).**

- (a) Practitioners of professions as described in O.C.G.A. § 48-13-9(c)(1)—(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 11-36](#) of this article. Upon any audit as provided in [section 11-59](#) of this article, such professionals shall be allowed to redact from billing records used to establish the amount of tax due all information relating to clients or customers of such professional which said professional deems to be confidential.
  - (2) A fee of three hundred dollars (\$300.00) per practitioner who is licensed to provide the service, such tax to be paid at the practitioner's office or location; provided, however, that a practitioner paying according to this paragraph shall not be required to provide information to the 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.
  - (3) This election is to be made on an annual basis and must be done by January 15 of each year.
- (b) Notwithstanding any other provisions in this chapter, the payment of the occupational tax and the posting of the certificate as described herein shall not be a precondition to the practice of any of the

PART II - CODE OF ORDINANCES  
Chapter 11 - OCCUPATIONAL LICENSES AND TAXES

ARTICLE II. OCCUPATION TAX

professions described in O.C.G.A. § 48-13-9(c)(1)—(18). Those professionals who fail to pay the occupational tax or to post the certificate as required herein shall be subject to the penalties set forth in [section 11-49](#) of this article.

(Ord. No. 352, § 3, 12-8-10)

**Sec. 11-41. 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. No. 352, § 3, 12-8-10)

**Sec. 11-42. Purpose and scope of tax.**

The occupation tax levied herein is for revenue purposes only and is not for regulatory purposes, nor is the payment of the tax made a condition precedent to the practice of law within the city.

(Ord. No. 352, § 3, 12-8-10)

**Sec. 11-43. When tax due and payable.**

Each business within the city shall pay occupation tax on an annual basis for each calendar year. Said occupation tax shall be due and payable January 1 of each year and shall, if not paid by January 15 of each year, be subject to penalties for delinquency as prescribed in this article.

(Ord. No. 352, § 3, 12-8-10)

**Sec. 11-44. Exemption on grounds that business is operated for charitable purpose.**

No business shall be exempt from occupation tax on the ground that such business is operated for a charitable purpose, unless said business provides proof to the city clerk that fifty (50) percent or more of the entire proceeds from said business are devoted to such charitable purpose, as defined by the Internal Revenue Service.

(Ord. No. 352, § 3, 12-8-10)

**Secs. 11-45, 11-46. Reserved.**

**Sec. 11-47. Liability of officers and agents; registration required; failure to obtain.**

Should any business required to register and pay occupation tax pursuant to this chapter fail to do so, each officer or agent soliciting for or representing such business shall individually be subject to the various penalties provided for in this chapter for businesses that fail to obtain a registration or pay occupation tax.

PART II - CODE OF ORDINANCES  
Chapter 11 - OCCUPATIONAL LICENSES AND TAXES

ARTICLE II. OCCUPATION TAX

**Sec. 11-48. Civil penalty for transacting business when tax delinquent.**

- (a) Any existing or new business that transacts business within the city without first paying the required occupation tax for the applicable calendar year shall be subject to a civil penalty to be determined by the length of the delinquency and the principal tax amount due as indicated in subsection (b).
- (b) [Amount of penalty.]

Delinquency of 1—30 days:	5%
Delinquency of 31—90 days:	10%
Delinquency of 91—270 days:	15%
Delinquency of 271—365 days:	20%
Delinquency of more than one year:	30%

- (c) The city clerk shall not issue a business license to any person that is delinquent in paying occupation tax until such person has paid both the principal tax amount and the penalty amount provided for in this section.

(Ord. No. 352, § 3, 12-8-10)

**Sec. 11-49. Criminal penalty for article violation.**

Any person violating any provisions of this article shall, upon conviction before the city judge, be fined in an amount not exceeding five hundred dollars (\$500.00). Each day in which a violation occurs shall be treated as a separate violation.

(Ord. No. 352, § 3, 12-8-10)

**Sec. 11-50. City clerk; subpoena and arrest powers.**

The city clerk and its duly designated officers and inspectors or successors shall be classified as deputy marshal-business inspectors with full subpoena and arrest powers in conjunction with any violation pertaining to this business tax ordinance.

(Ord. No. 352, § 3, 12-8-10)

**Sec. 11-51. 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:

PART II - CODE OF ORDINANCES  
Chapter 11 - OCCUPATIONAL LICENSES AND TAXES

ARTICLE II. OCCUPATION TAX

- (1) Those business regulated by the Georgia Public Service Commission.
- (2) Those electrical service businesses organized under O.C.G.A. § 46-3-1 et seq.
- (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.
- (8) Agricultural products and livestock raised in the State of Georgia 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.

(Ord. No. 352, § 3, 12-8-10)

**Sec. 11-52. Occupation tax inapplicable where prohibited by law or provided for pursuant to other existing law.**

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

(Ord. No. 352, § 3, 12-8-10)

**Sec. 11-53. Occupation taxes levied on business to be transacted during current calendar year; filing of returns estimating gross receipts for the current calendar year.**

All occupation taxes levied under this article are levied on the amount of business transacted during the current calendar year. Each business subject to this tax shall, between January 1 and January 15 of each calendar year, file with the city clerk a good faith estimate of the business' gross receipts for the current calendar year on a form provided by the city clerk. Said return shall be signed under oath by an officer, partner, or owner of the business. Said estimated amounts shall in no event be less than the amount of gross receipts on an annual basis returned on the business' most recent actual return as provided for in [section 11-54](#). This estimated return shall be used as the basis for making estimated payments of 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 determined in accordance with a final return made after year end as provided hereafter.

(Ord. No. 352, § 3, 12-8-10)

**Sec. 11-54. Filing of return showing actual gross receipts during a calendar year; procedure where taxes overpaid or underpaid.**

- (a) At the same time that a business files an estimate of gross receipts for the current year as required by [section 11-53](#), each business shall also file with the city clerk, on a form furnished by the city clerk, a return setting forth the actual amount of the gross receipts of such business during the year



PART II - CODE OF ORDINANCES  
Chapter 11 - OCCUPATIONAL LICENSES AND TAXES

ARTICLE II. OCCUPATION TAX

preceding the immediately preceding calendar year. Said return shall be signed under oath by an officer, partner, or owner of the business.

- (b) Where a business subject to the occupation tax for the current calendar year was conducted for only part of the year preceding the immediately preceding year the amount of gross receipts for such part of said year shall be reported in said return. Said return shall also show a figure putting the receipts for such part of a year on an annual basis with the part-year receipts bearing the same ratio to the whole-year gross receipts as the part year bears to the whole year.
- (c) If the amount of the occupation tax owing for the year, preceding the immediately preceding year based on the return provided for in this section and on the rate of said tax provided by this article exceeds the amount of occupation tax theretofore paid by said business based on the estimate established pursuant to [section 11-53](#) hereof, the difference in amount shall be due and payable by the taxpayer to Clarkston on or before January 15 of the current year and delinquent if not paid on or before January 15.
- (d) If the amount of the occupation tax paid for the year preceding the immediately preceding year based on the estimated return provided for in [section 11-53](#) and on the rate of said tax provided by this article exceeds the amount of occupation tax actually owed by said business based on the actual return for said year pursuant to subsection (a) or (b) of this section, then the difference in said amounts shall be refundable by the city to the taxpayer; or, if such business is continuing within the city, the city shall treat such amount as a credit toward the estimated taxes due for the current year.

(Ord. No. 352, § 3, 12-8-10)

**Sec. 11-55. Reserved.**

**Sec. 11-56. Payment of occupation tax by newly established businesses; penalty for failing to register and pay tax for new business.**

- (a) In the case of business subject to occupation tax for a calendar year, which was not conducted for any period of time in the corporate limits of Clarkston in the preceding year, such business shall estimate the gross volume of revenue from commencing date to the end of the calendar year and such tax shall be payable based upon that estimate and the tax rate in effect for that year. The tax so computed shall be due prior to commencing business within the city.
- (b) For each new business begun in Clarkston during a given year, occupation tax shall be delinquent if not paid prior to beginning business. A ten-percent penalty will be imposed on any new business failing to register and pay occupation tax before beginning operations, in addition to the other penalties provided for by this article.

(Ord. No. 352, § 3, 12-8-10)

**Sec. 11-57. More than one place or line of business.**

Where a business is operated at more than one (1) place or where the business includes more than one (1) line, said business will pay an occupation tax in accord with the prevailing taxing method and tax rate for the dominate line at each location.

(Ord. No. 352, § 3, 12-8-10)

PART II - CODE OF ORDINANCES  
Chapter 11 - OCCUPATIONAL LICENSES AND TAXES

ARTICLE II. OCCUPATION TAX

**Sec. 11-58. 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 city employee or officer, 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. The information received in such returns and the returns themselves are not subject to public scrutiny under O.C.G.A. § 50-18-70, et seq. See O.C.G.A. § 48-13-15.

(Ord. No. 352, § 3, 12-8-10)

**Sec. 11-59. Inspections of books and records.**

In any case, the city clerk, or his or her designated agents, may inspect the books and records, including sales and income tax returns filed with the state and federal governments, for the business or person for which the returns are made. The city clerk shall have the right to inspect the books or records for the business for which the return was made in Clarkston, and upon demand of the city clerk such books or records shall be submitted for inspection by a representative of the city within thirty (30) days. Failure of submission of such books or records within thirty (30) days shall be grounds for revocation of the tax registration currently existing to do business in Clarkston. If, after examination of the books, tax returns, or records, it is determined that a deficiency occurs as a result of underreporting, a penalty of one (1) percent per month on the amount determined to be delinquent will be imposed for the period of the delinquency.

(Ord. No. 352, § 3, 12-8-10)

**Sec. 11-60. Tax registration to be revoked for failure to pay tax, file returns, or permit inspection of books.**

Upon failure of any business to pay said occupation tax or any part thereof before it becomes delinquent, upon failure to make any of said returns by their due date, upon failure to make a true return, upon failure to amend a return to set forth the truth, or upon failure to permit inspection of its books, tax returns or records as required above, any business tax registration granted by the city under this article shall be, ipso facto, revoked. No new business tax registration shall be issued by the city until the event which caused revocation has been cured or satisfied. Revocation of a business tax registration shall have no effect upon the city's right to collect any delinquency or to enforce the other civil or criminal penalties provided in this article.

(Ord. No. 352, § 3, 12-8-10)

**Sec. 11-61. Lien taken for delinquent occupation tax.**

- (a) In addition to the other remedies herein provided for the collection of the occupation tax herein levied, the city clerk, upon any tax becoming delinquent and remaining unpaid, shall issue execution for the correct amount of said tax against the persons, partnership, or corporation liable for said tax. The lien shall cover the property in the city of the person, partnership, or corporation liable for said tax, all as provided by the ordinances and Charter of the city and the laws of Georgia. Said lien shall bear interest in the same manner as other tax liens of the city, and shall be subject to levy and sale as provided in the ordinances of said city.
- (b) In addition to the other remedies provided for in this chapter, the sheriff or marshal may proceed to collect unpaid occupation tax in the same manner as provided for at law for tax executions.

PART II - CODE OF ORDINANCES  
Chapter 11 - OCCUPATIONAL LICENSES AND TAXES

ARTICLE II. OCCUPATION TAX

(Ord. No. 352, § 3, 12-8-10)

**Sec. 11-62. Enforcement of provisions.**

It is hereby made the duty of the city clerk and police department to see that the provisions of this article relating to occupational taxes are observed; and to summon all violators to appear before the court.

(Ord. No. 352, § 3, 12-8-10)

**Sec. 11-63. Requirement of public hearing before tax increase.**

After January 1, 1996, the city council shall conduct at least one public hearing before adopting any ordinance or resolution which will increase the rate of occupation tax as set forth in this article.

(Ord. No. 352, § 3, 12-8-10)

**Sec. 11-64. Option to establish exemption or reduction in occupation tax.**

The city council may by subsequent ordinance or resolution provide for an exemption or reduction in occupation tax to one (1) or more types of businesses or practitioners of occupations or professions as part of a plan for economic development or attracting or encouraging selected types of businesses or practitioners. Such exemptions or reductions in occupation tax shall not be arbitrary or capricious, and the reasons for such grant shall be set forth in the minutes of the city council.

(Ord. No. 352, § 3, 12-8-10)

---

FOOTNOTE(S):

---

--- (3) ---

**Editor's note**— Ord. No. 352, § 3, adopted Dec. 8, 2010, repealed former Art. II, §§ 11-33—11-64, in its entirety and enacted new provisions as herein set out. Former Art. II pertained to similar subject matter and derived from Ord. No. 192, § 2, 11-1-94; Ord. No. 220, §§ 1—3, 6-2-98; Ord. No. 254, §§ 1—3, 12-4-01. ([Back](#))