

FIRST READING May 17, 2022

SECOND READING June 21, 2022

PASSED June 21, 2022

AN ORDINANCE NO. BR2022-18

AN ORDINANCE TO AMEND CHAPTER 10 (“BUSINESS REGULATIONS”), ARTICLE II (“OCCUPATION TAXES”) OF THE CODE OF THE CITY OF BLUE RIDGE, GEORGIA TO REASSIGN CERTAIN DUTIES TO THE CITY ADMINISTRATOR OR HIS/HER DESIGNEE; TO CHANGE CERTAIN DEADLINES; AND FOR OTHER PURPOSES.

WHEREAS, the City Council of the City of Blue Ridge, Georgia, previously adopted Ordinance No. BR2020-25, which called for the payment of an occupation tax for any business, trade, profession or occupation within the City for the year 2021 and succeeding years; and

WHEREAS, Ordinance No. BR2020-25 is now codified in Chapter 10 (“Business Regulations”), Article II (“Occupation Taxes”) of the Code of the City of Blue Ridge, Georgia (“Code”); and

WHEREAS, City staff has recommended certain changes to Chapter 10 (“Business Regulations”), Article II (“Occupation Taxes”) of the Code to reassign certain duties to the City Administrator or his/her designee and to change certain deadlines; and

WHEREAS, the City Council finds it in the public interest to adopt the changes recommended by City staff.

NOW, THEREFORE, BE IT ORDAINED, AND IT IS HEREBY ORDAINED by the authority of the City Charter and general law, that Chapter 10 (“Business Regulations”), Article II (“Occupation Taxes”) of the Code of the City of Blue Ridge, Georgia, is hereby amended to read as follows:

SECTION 1.

AMENDMENT TO CHAPTER 10 (“BUSINESS REGULATIONS”), ARTICLE II (“OCCUPATION TAX”)

Chapter 10 (“Business Regulations”), Article II (“Occupation Taxes”) is hereby amended to read as follows:

ARTICLE II. OCCUPATION TAXES

Sec. 10-49. Occupation tax required for business dealings within the city.

For the year 2021 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 said business, trade, profession or occupation; which tax and any applicable certificate, except for practitioners of professions (including the legal profession, which does not have to display the certificate) and occupations, 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 certificate shall be shown to any police officer of the city upon his or their request.

(Ord. No. BR2020-25, § 110.25, 11-30-2020)

Sec. 10-50. Construction of terms; definitions.

- (a) Wherever the term "City of Blue Ridge" is used herein, such term shall be construed to mean "Blue Ridge, Georgia"; wherever the term "city" is used herein, it shall be construed to mean "Blue Ridge, Georgia."
- (b) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Business means any person, corporation, partnership, or other legal entity which exerts substantial efforts within the city, engages in, causes to be engaged in, and/or represents or holds out to the public to be engaged in any occupation or activity with the object of gain or benefit, either directly or indirectly.

Business location or office means and includes any structure or vehicle where a business, profession, or occupation is conducted, but shall not include a temporary or construction work site, which serves a single customer or project, or a vehicle used for sales or delivery by a business or practitioner of a profession or occupation, which has a location or office. A temporary work site which serves multiple customers is included in this definition. The renter's or lessee's location which is the site of personal property which is rented or leased from another does not constitute a location or office for the personal property's owner, lessor, or the agent of the owner or lessor. The site of the real property which is rented or leased to another does not constitute a location or office for the real property's owner, lessor, or the agent of the owner or the lessor, in addition to showing the property to prospective lessees or tenants and performing maintenance or repair of the property, otherwise conducts the business of renting or leasing the real property at such site or otherwise conducts any other business, profession, or occupation at such site.

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

Employee.

- (1) Except as otherwise provided in subsection (2) of this definition, "employee" means an individual whose work is performed under the direction and supervision of the employer and whose employer withholds FICA, federal income tax, or state income tax from such individual's compensation or whose employer issues to such individual for purposes of documenting compensation a form IRS W-2 but not a form IRS 1099.
- (2) An individual who performs work under the direction and supervision of one business or practitioner in accordance with the terms of a contract or agreement with another business which recruits such individual as an employee of the business or practitioner which issues to such individual for purposes of documenting compensation a form IRS W-2.

Engaged in business means doing or performing of any act or selling any goods or services, or soliciting business, or offering any goods or services for sale primarily in an attempt to make a profit, including selling or performing services of the character of a wholesaler or retailer, or being involved in any of the functions performed as a manufacturer, or renting real or personal property; all of the foregoing performed either as an owner, operator or agent of any business, trade, profession, or occupation within the city.

Manufacturing means a person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or commercial use any articles, substances or commodities, including, but not limited to, the following: materials upon which commercial activities have been applied, by hand or machinery, so that as a result thereof a new substance of trade or commerce is produced; the production or fabrication of special or custom-made articles; the making, fabrication, processing, refining, mixing, slaughtering, packing, aging, curing, preserving, canning, preparing and freezing of fresh foods, fruits, vegetables and meats.

Nonprofit organization means an organization which complies with U.S. Internal Revenue Code 501(a).

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

Person wherever used in this chapter shall be held to include sole proprietors, corporations, partnerships or any other form of business organization.

Practitioner of profession or occupation is one who by state law requires state licensure regulating such profession or occupation. The term "practitioner of profession or occupation" 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 the 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 or registration fee. The city is not authorized to require any administrative fee, registration fee, or fee by any other name in connection with a regulatory fee, except an occupation tax, as defined in O.C.G.A. § 48-13-5. Regulatory fees do not include development impact fees as defined by O.C.G.A. § 36-71-2(8) or other costs or conditions of zoning or land development.

Retailer means a person who sells to consumers or any other person for any purpose, other than for resale, any tangible personal property.

Services means the accommodating or performance of a duty or work by a person utilizing time or talents for direct or indirect remuneration.

Wholesaler means a person who sells to jobbers or to persons, other than consumers, any tangible personal property.

(Ord. No. BR2020-25, § 110.26, 11-30-2020)

Sec. 10-51. Occupation tax levied; restrictions.

- (a) As allowed by O.C.G.A. § 48-13-10(a)(4) an occupation tax shall be levied upon those businesses and practitioners of professions and occupations with one or more locations or offices within the corporate limits of the city and 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 the following criteria:
- (1) Number of full-time equivalent employees of the business or practitioner determined as follows:
 - a. By adding the total number of hours worked during the preceding calendar year by all employees and dividing that total by 2,080 (40 hours per week times 52 weeks), and rounding the result to the nearest whole. (0.5 or greater would be rounded up; less than 0.5 would be rounded down.)
 - b. Employees whose total number of hours worked are not available (such as salaried employees) shall be calculated at a rate of 40 hours per week.
 - c. In businesses where it can be shown that calculation by this method would be impractical, an alternate method may be used which would provide an accurate count of full-time equivalent employees.
 - d. An employee whose hours total more than 2,080 during a year, may be counted as having worked 2,080 hours.
 - e. Any alternate method is subject to the approval of the city council.
 - (2) For the purpose of calculating full-time equivalent employees, all employees, including owners, who actually perform work at the business shall be included.
- (b) (1) The city shall not require the payment of more than one occupational tax for each location that a business or practitioner shall have.
- (2) The city shall not require an occupation tax on those employees that were taxed by occupation tax in other localities or states, provided that those businesses were taxed in full compliance with O.C.G.A. §§ 48-13-7 and 48-13-14. Upon request by the City Administrator or his/her designee, the operator of a business shall be required to provide proof that the business was taxed pursuant to O.C.G.A. §§ 48-13-7 and 48-13-14.
 - (3) An occupation tax shall not be levied in any other manner except as described in this section.

(c) Occupation tax schedule.

(1) The occupation tax levied shall be based upon the following tax table:

Tax Table

<i>Number of Employees</i>	<i>Tax Amount</i>
1—50	\$250.00
51 and above	\$500.00

(2) In addition to the tax from the above tax table, there shall be assessed an administrative fee in an amount as established from time to time by the mayor and city council and set out in the city fee schedule for each business/occupation tax account.

(Ord. No. BR2020-25, § 110.27, 11-30-2020)

Sec. 10-52. Paying occupation tax of business with no location in the state.

For out-of-state businesses with no location in the State of Georgia, the 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. No. BR2020-25, § 110.28, 11-30-2020)

Sec. 10-53. 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. Except for practitioners of professions and occupations, no business shall conduct any line of business without first having that line of business registered with the City Administrator or his/her designee and that line of business being noted by the City Administrator or his/her designee upon the occupation tax certificate form which is to be displayed by the business owner.

(Ord. No. BR2020-25, § 110.29, 11-30-2020)

Sec. 10-54. Number of businesses considered operating in city.

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

(Ord. No. BR2020-25, § 110.30, 11-30-2020)

Sec. 10-55. Professionals as classified in O.C.G.A. § 48-13-9(c)(1) through (18).

Practitioners of professions as described in O.C.G.A. § 48-13-9(c)(1) through (18) shall have as their entire occupation tax for the year 2021 and subsequent years: The occupation tax based on number of employees.

(Ord. No. BR2020-25, § 110.31, 11-30-2020)

Sec. 10-56. Practitioners exclusively practicing for the 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. BR2020-25, § 110.32, 11-30-2020)

Sec. 10-57. Purpose and scope of tax.

The tax levied herein is for revenue purposes only and is not for regulatory purposes.

(Ord. No. BR2020-25, § 110.33, 11-30-2020)

Sec. 10-58. When tax due and payable; effect of transacting business when tax delinquent.

- (a) Each such business or occupation tax shall be for the calendar year 2021 and succeeding calendar years thereafter unless otherwise specifically provided. Said registration and occupation tax shall be payable January 1 of each year and shall be delinquent if not paid by January 2 of each year and shall be subject to penalties for delinquency as prescribed in this chapter. In the event that any person commences business on any date after January 1 in any year, the tax shall be due and payable thirty days following commencement of the business.
- (b) The tax certificate herein provided for shall be issued by the City Administrator or his/her designee. If any person, firm, or corporation whose duty it is to obtain a registration shall, after said registration or occupation tax become delinquent, transacts, or offer to transact, business in the city such person shall, in addition to remedies provided herein be punished as provided in this chapter.
- (c) In addition to the above remedies, the City Administrator or his/her designee through the city attorney may proceed to collect delinquent business or occupation tax in the same manner as provided by law for tax executions.
- (d) If a practitioner of law commences business in the city on or after July 1 in any year, the occupation tax for the remaining portion of the year shall be 50 percent of the tax imposed for the entire year and shall be due and payable on January 1 for the previous calendar year.

(Ord. No. BR2020-25, § 110.34, 11-30-2020)

Sec. 10-59. Allocation of employees of businesses with multiple intra or interstate locations.

For those businesses who have multiple locations inside and outside of the city where the number of employees can be allocated to each location, the number of employees used to determine the occupational tax assessed will be those employees attributed to each city location. In the case where the number of employees attributed locally cannot be determined in those businesses with multiple locations, the total number of employees 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) Information necessary to allocate the number of employees of the business or practitioner; and
- (2) Information relating to the allocation of the business' or practitioner's number of employees by other local governments.

(Ord. No. BR2020-25, § 110.35, 11-30-2020)

Sec. 10-60. Exemption on grounds that business is operated for a charitable purpose.

No business on which a business registration or occupation tax is levied by this chapter shall be exempt from said registration or tax on the ground that such business is operated for a charitable purpose, unless 80 percent or more of the entire proceeds from said business are devoted to such purpose.

(Ord. No. BR2020-25, § 110.36, 11-30-2020)

Sec. 10-61. Evidence of state registration required if applicable.

Each person who is licensed under O.C.G.A. title 43 of the state license examining boards shall provide evidence of proper and current state licensure before the city registration may be issued.

(Ord. No. BR2020-25, § 110.37, 11-30-2020)

Sec. 10-62. Evidence of qualification required if applicable.

- (a) Any business required to obtain health permits, bonds, certificate of qualification, certificates of competency or any other regulatory matter shall first, before the issuance of a city business registration, show evidence of such qualification.
- (b) Any business required to submit an annual application for continuance of that business shall do so before the registration is issued.

(Ord. No. BR2020-25, § 110.38, 11-30-2020)

Sec. 10-63. Liability of officers and agents; registration required; failure to obtain.

- (a) All persons subject to the occupation taxes provided in this chapter shall be required to take out the necessary registration and obtain the necessary tax certificate for said business prescribed in this chapter, 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 certificate. Every person commencing business in the city after January 1 of each year shall obtain the registration and obtain the tax certificate herein provided for before commencing the same; and any person transacting or offering to transact in the city any kind of business, trade, profession or occupation without first having so obtained said registration shall be subject to penalties provided herein and upon conviction, be punished as provided in this chapter. If any person, firm, or corporation whose duty it is to obtain a registration and an occupation tax certificate shall fail to pay such tax in a timely fashion, such offender shall be subject to penalties provided in O.C.G.A. § 48-13-21.
- (b) It shall be unlawful for the owner, proprietor, manager, executive officer or employee of any business, coming within the provisions of this chapter, to make a false registration for such business, or to give or file, or direct the giving or filing, of any false information with respect to the occupation tax due under the provisions of this chapter or upon which any occupation tax due under the provisions of this chapter is based.

(Ord. No. BR2020-25, § 110.39, 11-30-2020)

Sec. 10-64. When registration and tax due and payable; effect of transacting business when tax delinquent.

- (a) Each such registration shall be for the calendar year 2021 and each succeeding calendar year thereafter 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 herein by January 1 of each year on March 2 of each year thereafter. The penalty for failure to comply with this section shall be assessed in the amount of ten percent of the occupational tax determined to be due and owing under the provisions of this chapter for the first 30 days or fraction thereof of delinquency. Additionally, any delinquent tax due shall begin to accrue interest on January 2 of each year at the rate of 1.5 percent of the occupation tax due for each delinquent month or fraction thereof of delinquency. Said penalties shall be in addition to all other civil penalties, herein provided; and may be collected by the remedies herein provided 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 certificate herein provided for shall be issued by the City Administrator or his/her designee, and if any person, firm or corporation whose duty it is to obtain a registration shall, after said occupation tax becomes delinquent, transact or offer to transact, in the city, any of the kind of business or trade without having first obtained said registration, such offender shall be subject to the penalties provided herein.

(Ord. No. BR2020-25, § 110.40, 11-30-2020)

Sec. 10-65. Penalty for chapter violation.

In addition to the other remedies available to the city for the collection of special taxes, occupation taxes, and license regulatory fees due the city from persons subject to the tax fee who fail or refuse to pay the tax or fee, the City Administrator or his/her designee through the city attorney shall issue executions against the delinquent taxpayers for any or all of the following: the amount of the taxes or fees due when the taxes or fees become due and any penalty or interest imposed by this chapter. In addition, the municipal court may impose a civil fine for failure to pay the occupation tax by April 15 of each year. Such a civil fine shall not exceed \$500.00 and may be enforced by the contempt power of the municipal court.

(Ord. No. BR2020-25, § 110.41, 11-30-2020)

Sec. 10-66. City Administrator or his/her designee as business inspector.

The City Administrator or his/her designee and the duly designated officers and inspectors of the city shall be classified as business inspectors with full subpoena and arresting powers in conjunction with any violation pertaining to the business tax for 2020 and succeeding years thereafter. The City Administrator or his/her designee shall administer and enforce the provisions of this chapter for the levy, assessment and collection and penalties imposed herein. In carrying out its responsibilities hereunder, the City Administrator or his/her designee shall have the following duties:

- (1) To prepare and provide the necessary forms for registration of a business, and for the submission of required information as may be necessary to properly administer and enforce the provisions of this chapter;
- (2) To issue to each person an occupation tax certificate within a reasonable time after the payment of the occupation tax assessed and levied in this chapter; provided, however, where under other ordinances of the city, permits, certifications, and compliance with the enumerated conditions are required for the operation of the business, the City Administrator or his/her designee shall not issue said certificate until the applicant exhibits to the City Administrator or his/her designee such obtained permits, certifications and compliances;
- (3) To audit periodically, and when deemed necessary by the City Administrator or his/her designee, the books and records of the businesses subject to the provisions of this chapter, and to require the submission of such additional information as may be necessary in order to correctly determine the amount of the occupation tax due and to ensure the collection of same; and
- (4) The City Administrator or his/her designee shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with this chapter or other laws of the city and the state or the constitution of the state for the administration and enforcement of the provisions of this chapter and the collection of the occupation tax and fees hereunder.

(Ord. No. BR2020-25, § 110.42, 11-30-2020)

Sec. 10-67. Businesses not covered by this chapter.

- (a) The following businesses are not covered by the provisions of this chapter but may be assessed an occupation tax or other type of tax or fee pursuant to the provisions of other general laws of the state or by act of local law.
- (1) Those businesses regulated by the state public service commission.
 - (2) Those electrical service businesses organized under O.C.G.A. title 46, chapter 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.
 - (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 governed by O.C.G.A. § 48-5-356.
 - (9) Disabled veterans and blind persons with proof of exemption under O.C.G.A. § 43-12-1.
 - (10) Depository financial institutions governed by O.C.G.A. § 48-6-93.
 - (11) Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55.
 - (12) Any state or local authority or nonprofit organization.
 - (13) Any person engaging in casual or isolated activity and commercial transactions, where such involve personal assets and are not an occupation for the individual.
 - a. In regard to yard/garage sales, this exemption shall apply to persons or nonprofit organizations conducting such sales at a private residence or at a commercial location with an occupancy permit and with permission of the property owner, not exceeding four events per year.
 - b. In regard to the rental of personally owned residences, this exemption shall apply to persons renting a maximum of five residences within the state.
- (b) The city may require any business claiming not to be covered by the provisions of this chapter to provide specific and detailed evidence showing such non-coverage.

(Ord. No. BR2020-25, § 110.43, 11-30-2020)

Sec. 10-68. Occupation tax inapplicable where prohibited by law or provided for pursuant to other existing law.

This occupation tax is not levied upon any part of a business where such levy is prohibited or exempted by the laws of the state or of the United States.

(Ord. No. BR2020-25, § 110.44, 11-30-2020)

Sec. 10-69. Occupation taxes levied on business to be transacted during calendar year; filing of returns showing number of employees during preceding calendar year.

- (a) All occupation taxes levied by this chapter are levied on number of employees during the calendar year. However, for convenience of both the city and the taxpayer, those businesses subject to the occupation tax levied in sections 10-51 through 10-55, shall, on or before the times hereinafter set forth, file with the City Administrator or his/her designee the returns hereinafter specifically provided for, showing the number of full-time equivalent employees of that business during the preceding calendar year.
- (b) The owner, proprietor, manager or secretary officer of the business subject to said occupation tax for the current calendar year shall, at the end of the preceding year, and on or before April 15 of the current calendar year, file with the City Administrator or his/her designee, on a form furnished by the City Administrator or his/her designee, a signed return setting forth the number of full-time equivalent employees of such business for the preceding calendar year. The return calendar year 2005 shall include the number of full-time equivalent employees for calendar year 2004.
- (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 number of full-time equivalent employees for such part shall be set forth in said return. Said return shall also show a figure putting the full-time equivalent employees for such part of a year on an annual basis, which figure shall bear the same ratio to the number of employees for such part year as the full year bears to such part. Said figure shall be used as the estimate of the number of full-time equivalent employees of the business for the current calendar year.
- (d) If any person fails to make a return, the City Administrator or his/her designee may make an estimate of the number of full-time equivalent employees of the business. The estimate shall be made for the period or periods in respect to which the person failed to make the return and shall be based upon any information which is or may come into the possession of the City Administrator or his/her designee.
 - (1) The City Administrator or his/her designee shall give to the operator written notice of his determination. The notice may be served personally or by mail; if by mail, such service shall be addressed to the operator at his address as it appears in the records of the City Administrator or his/her designee. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.
 - (2) The amount of the determination shall bear interest and a penalty as required in this chapter.

(Ord. No. BR2020-25, § 110.45, 11-30-2020)

Sec. 10-70. Plan for economic development; prorated tax for persons 65 years of age or older conducting business from their homes with under ten thousand dollars annual gross income.

- (a) The city recognizes and encourages the fact that individuals within the city who have reached the age of 65 wish to remain involved in the economy of the area without pursuing

a full-time business or occupation. This involvement contributes to the economic development of the city, and as a means of encouraging this, the following plan for economic development shall apply:

- (b) Any person 65 years of age or older conducting business from his home with under \$10,000.00 annual gross income may conduct such business by paying one-half of the otherwise required business tax. Proof of qualification for this status must be provided to the City Administrator or his/her designee.

(Ord. No. BR2020-25, § 110.46, 11-30-2020)

Sec. 10-71. Payment of occupation tax by newly established businesses.

- (a) 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 number of full-time equivalent employees from commencing date to the end of the calendar year and such tax shall be paid as provided in section 59. The estimate shall be, at a minimum, the number of full-time equivalent employees which will be employed when the business begins operation.
- (b) Businesses beginning operation after July 1 of any calendar year shall pay a prorated business tax of 50 percent of the tax which would be due on an annual basis. The administrative fee shall not be prorated.

(Ord. No. BR2020-25, § 110.47, 11-30-2020)

Sec. 10-72. More than one place of business.

Where a business is operated at more than one place, the number of employees of each location will be entered on a separate occupation tax return on a form to be furnished by the city.

(Ord. No. BR2020-25, § 110.48, 11-30-2020)

Sec. 10-73. Issuance of executions against delinquent taxpayers.

- (a) In addition to other remedies available under other ordinances of the city or under state statute for collection of occupational taxes and associated administrative fees from delinquent taxpayers, the City Administrator or his/her designee may issue executions against delinquent taxpayers for the amount of such unpaid occupational taxes and administrative fees due as of the day following the last day for payment, plus penalty and interest thereon as provided herein and as authorized by O.C.G.A. § 48-13-21.
- (b) The right of the city to prosecute criminally delinquent taxpayers violating this subchapter by failing to pay occupational taxes or by refusing to register voluntarily for such taxes shall be in addition to, and unaffected by, the remedy of issuing executions against delinquent taxpayers as authorized in subsection (a) of this section.
- (c) After the last day for payment of any occupational tax owed to the city, and receipt and posting of the license certificate issued by the city, any duly certified law enforcement

officer of the police department of the city, including, but not limited to, the police chief, the assistant police chief, and any other officer of the police department, may issue a citation to the person, managing agent, or professional, operating any business, occupation, or profession within the incorporated boundaries of the city for not having paid the occupational taxes imposed by this Code or the posting of the license certificate, or both.

- (d) Any citation issued to any person, managing agent, or professional of any business, occupation or profession, for operating without paying occupational taxes or posting the license certificate, or both, shall specify a date and time for appearance before the municipal court of the city, in order for said court to determine whether said person, managing agent or professional has been operating without the payment of occupational taxes or the posting of the license certificate, or both, and if found to be in violation of the occupational tax provisions of this Code by the failure to pay occupational taxes or the posting of the license certificate, or both, then the municipal judge, in the judge's discretion, may impose a civil fine for failure to pay the occupational tax (including the administrative fees) or the posting of the license certificate, or both, not to exceed \$500.00, and said civil fine may be enforced by the contempt power of the municipal court of the city. The city recognizes and acknowledges that only the Georgia Supreme Court has the power and authority to regulate the practice of law within the state, and no provision of this section shall be deemed to impose criminal penalties for the practice of law without an occupational tax license issued by the city or the failure to pay occupational taxes, or both. However, while legal professionals may be allowed to practice their occupations, failure to pay the occupational taxes imposed by this Code shall still subject them to interest, penalties, and any civil fine for failure to pay the taxes.

(Ord. No. BR2020-25, § 110.49, 11-30-2020)

Sec. 10-74. 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 any information provided for the purpose of determining the amount of occupation tax required under this chapter. Such information shall be confidential and open only to the officials, employees, agents or clerks of the city using said 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 "agents of the city." Nothing herein shall be construed to prohibit the publication by the city officials of statistics, so classified as to prevent the identification of particular reports or returns and items thereof, or information such as name, location, ownership and line of business with no association made to number of employees or amount of tax paid, or the inspection of the records by duly qualified employees of the tax departments of the State of Georgia or of the United States, and other local governments. Information provided by a business or practitioner may be disclosed to the governing authority of another local government for tax purposes.

(Ord. No. BR2020-25, § 110.50, 11-30-2020)

Sec. 10-75. Inspection of books and records.

In any case, the City Administrator, through his or her officers, agents, employees or representatives, may inspect the books of the business for which the returns are made. The City Administrator or his/her designees 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 Administrator or his/her designees 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 certificate currently existing to do business in the city. In the case of practitioners of professions and occupations, the city shall be sensitive to the issues of client or customer confidentiality. In such cases, the practitioner may redact information claimed to be privileged before disclosing books or records of financial transactions. If such practitioner alleges that redaction provides inadequate protection to the confidences of its clients or customers, such practitioner may petition the county Superior Court for an in-camera inspection, prior to examination by the City Administrator or his/her designee. Adequate records shall be kept in the city for examination by the City Administrator or his/her designees at his/her discretion. If, after examination of the books or records, it is determined that a deficiency occurs as a result of underreporting, a penalty shall be imposed as set forth herein.

(Ord. No. BR2020-25, § 110.51, 11-30-2020)

Sec. 10-76. Tax certificate to be revoked for failure to pay tax, file returns, permit inspection of books.

Except for a person whose qualifications to practice law are determined by the general laws of the state, the failure of any business to pay said occupation tax or any part thereof before it becomes delinquent or upon failure to permit inspection of its books as above provided, any business tax certificate granted by the city under this chapter permitting the owner of said business to do business in the city for the current year shall be, ipso facto, revoked. No new business tax certificate shall be granted by the city for the operation of a business for which any part of the occupation tax herein provided for is at that time unpaid, or to a person who has failed to submit adequate records as requested by the City Administrator or his/her designee in accordance with provisions set forth herein. In the case of practitioners of law, if any such person, firm, or corporation whose duty it is to obtain a registration and an occupation tax certificate shall fail to pay such tax in a timely fashion, such offender shall be subject to the penalties provided herein.

(Ord. No. BR2020-25, § 110.52, 11-30-2020)

Sec. 10-77. Effect of failure to comply with chapter provisions; continuing in business after tax certificate revocation.

Any persons, their manager, agent or employee, who does business in the city after the certificate for said business has been revoked as above; any person, their manager, agent or employee, who is hereby required to make returns showing the amount of full-time equivalent employees and who fail to make said returns within the time and in the manner herein provided, or refuse to amend such returns so as to set forth the correct information, or who shall make false

returns, and except for practitioners of professions and occupations electing to pay a flat fee in lieu of a per employee tax, any person, their manager, agent or employee who refuses 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 herein provided for, shall be subject to penalties provided in this chapter.

(Ord. No. BR2020-25, § 110.53, 11-30-2020)

Sec. 10-78. Execution for delinquent occupation tax.

In addition to the other remedies herein provided for the collection of the occupation tax herein levied, the City Administrator or his/her designee, upon any tax or installment of said tax becoming delinquent and remaining unpaid, shall issue execution for the correct amount of said tax against the person liable for said tax, which execution shall bear interest at the rate of 1.5 percent per month from the date when such tax or installment becomes delinquent, and the lien shall cover the property of the person liable for said tax, all as provided by the ordinances and Charter of the city and state law. The lien of said occupation tax shall become fixed on and date from the time when such tax or any installment thereof becomes delinquent. The execution shall be levied by the City Administrator or his/her designee upon the property of the person liable for said tax, and sufficient property shall be advertised and sold to pay the amount of said execution, with interest and costs. All other proceedings in relation thereto shall be had as is provided by the ordinances and the Charter of the city and state law and the defendant in said execution shall have rights of defense, by affidavit of illegality and otherwise, which are provided by the Charter of the city and state law in regard to tax executions. When a nulla bona entry has been entered by property authority upon an execution issued by the City Administrator or his/her designee against any person defaulting on the occupation tax the taxpayer 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 taxpayer against whom the execution issues pays the tax in full to other with all interest, penalties and costs accrued on the tax, the taxpayer may collect any fees and charges due the person as though the person had never defaulted in the payment of the taxes.

(Ord. No. BR2020-25, § 110.54, 11-30-2020)

Sec. 10-79. Amendment, repeal of provision.

This chapter 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 council to assess and collect any of the taxes or other charges prescribed. Said 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. No. BR2020-25, § 110.55, 11-30-2020)

Sec. 10-80. Applications of provisions to prior ordinance.

This chapter 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 ordinances, or that imposed fines or penalties for the nonpayment of such tax, or for failure to pay regulatory fees provided for in said ordinances, or failure to comply with any other provisions hereof, shall continue and remain in force until such tax, regulatory fee or assessment shall be fully paid.

(Ord. No. BR2020-25, § 110.56, 11-30-2020)

Sec. 10-81. Enforcement of provision.

It is hereby made the duty of the City Administrator or his/her designee and the police department to see that the provisions of this chapter relating to occupation taxes are observed; and to summon all violators of the same to appear before the municipal court. It is hereby made the further duty of the City Administrator or his/her designee, the chief of police, their designees and assistants, to inspect all certificates issued by the city, as often as in their judgment it may seem necessary to determine whether the certificate held is the proper one for the business sought to be transacted thereunder.

(Ord. No. BR2020-25, § 110.57, 11-30-2020)

Sec. 10-82. Provisions to remain in full force and effect until changed by council.

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

(Ord. No. BR2020-25, § 110.58, 11-30-2020)

Sec. 10-83. Requirement of public hearing.

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

(Ord. No. BR2020-25, § 110.59, 11-30-2020)

Sec. 10-84. Option to establish exemption or reduction in occupation tax.

The city may by subsequent ordinance or resolution provide for an exemption or reduction in occupation tax 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 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. No. BR2020-25, § 110.60, 11-30-2020)

Sec. 10-85. Conflicts between specific and general provisions.

Where there is an apparent conflict in this chapter between specific and general provisions, it is the intention hereof that the specific shall control.

(Ord. No. BR2020-25, § 110.61, 11-30-2020)

Sec. 10-86. Additional remedy.

- (a) As an additional remedy for the non-payment of any occupational taxes, penalties, interest, assessments, or other charges, assessed to a taxpayer or citizen pursuant to the occupational tax ordinance of the city, and as designated and referenced within this chapter, when the person or entity owing said funds to the city is a water customer or sewer customer, or both, the City Administrator, the city attorney or other properly designated agent for the city may, in addition to all other remedies provided by the ordinances of the city of such non-payment, request that service be withheld until such time as the water customer or sewer customer, or both, is no longer delinquent in the payment of occupational taxes, interest, penalties, assessments and other charges owed to the city. The city council specifically finds that should a person or entity owe delinquent occupational taxes, interest, and penalties on July 1 of any year to the city, and be a utility customer of the city, and therefore be in violation of the city's ordinances, rules and regulations, that any properly designated agent for the city may disconnect and terminate water service, or sewer service, or both, until such time as said customer is no longer in violation of the ordinances, rules, and regulations of the city, and has paid all delinquent occupational taxes, interest, and penalties. All usual and standard fees, expenses, and charges, such as the disconnection charge and the reconnection fee, must also be paid by said customer, in order to again receive service from the city, as well as the customer complying with the ordinances, rules, and regulations of the city by payment of the owed amounts.
- (b) Prior to disconnection, the City Administrator or his/her designee shall mail a notice of the pending disconnection via regular mail to the address provided by the taxpayer no later than ten days before any disconnection. In the event no address was provided, the notice shall be mailed or hand delivered to the physical location of the business.

(Ord. No. BR2020-25, § 110.62, 11-30-2020)

Sec. 10-87. Occupation tax certificate not transferable.

An occupation tax certificate and/or regulatory fee certificate shall not be transferable and a transfer of ownership shall be considered in the same light as the termination of such business and the establishment of a new business. Therefore, a new certificate shall be required for each new owner of the business.

(Ord. No. BR2020-25, § 110.63, 11-30-2020)

Sec. 10-88. Duty to keep information current.

Any person required by this chapter to register his or her business shall notify the City Administrator or his/her designee in writing within 30 days of the following changes:

- (1) Any change of address of the business, in which case the same occupation tax certificate shall be valid at the new location.
- (2) Any change of ownership, in which case the transfer shall be treated as the termination of one business and the establishment of a new business for the purposes of this chapter.
- (3) The termination of any business.

(Ord. No. BR2020-25, § 110.64, 11-30-2020)

Sec. 10-89. Compliance with other ordinances and laws.

- (a) All businesses are required to comply with the provisions of all ordinances of the city and other laws and the issuance of an occupation tax receipt to any business pursuant to this chapter shall not authorize that business to engage in or carry on business or to perform any other activity in violation of state or federal law or regulations and other ordinances of the city nor shall it relieve that business from obtaining any certificate or permit required by the provision of other laws or ordinances.
- (b) No certificate shall be issued or renewed until any delinquent property taxes and other debts to the city have been paid.

(Ord. No. BR2020-25, § 110.65, 11-30-2020)

Sec. 10-90. Practitioners of professions and occupations.

It being the intention of the mayor and council that no portion of this taxation scheme shall be construed to be, or have the practical effect of, unauthorized regulation of practitioners of professions and occupations and if any provision hereof shall be construed by a court of competent jurisdiction to be an unlawful regulation of such profession, then such provision shall be considered rescinded by the mayor and council as if such provision had not been adopted, and in such case, the remaining provisions of this chapter shall be applied to such practitioner.

(Ord. No. BR2020-25, § 110.66, 11-30-2020)

Sec. 10-91. No increased revenue from the enactment of new regulations regarding occupational taxes.

The city council notes that the new regulations regarding occupational taxes are revenue neutral, and that the occupational taxes have not increased by the passage of this ordinance. To the extent revenue does increase, a public hearing shall be held before final adoption of this chapter.

(Ord. No. BR2020-25, § 3, 11-30-2020)

Secs. 10-92—10-110. Reserved.

SECTION 2.

SEVERABILITY.

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

SECTION 3.

REPEAL OF CONFLICTING ORDINANCES TO THE EXTENT OF THE CONFLICT.

All parts of prior ordinances, in conflict with the terms of this ordinance are hereby repealed to the extent of the conflict; but it is hereby provided, that any ordinance, or any provision of any ordinance, or law which may be applicable hereto and aid in carrying out and making effective the intent, purpose and provisions hereof, is hereby adopted as a part hereof, and shall be legally construed to be in favor of upholding this ordinance on behalf of the City of Blue Ridge, Georgia.

SECTION 4.

EFFECTIVE DATE.

The effective date of this ordinance shall be upon its passage by the City Council.

SO ORDAINED this 21 day of June 2022.

MAYOR AND CITY COUNCIL OF BLUE RIDGE



Mayor, City of Blue Ridge



Clerk, City of Blue Ridge

