

FIRST READING _____

SECOND READING _____

PASSED _____

AN ORDINANCE TO AMEND THE CITY OF DAWSONVILLE OCCUPATION TAXES AND MISCELLANEOUS BUSINESS REGULATIONS ORDINANCE REGARDING GENERAL BUSINESS LICENSING, REGISTRATION AND FEES; TO PROVIDE FOR REGULATION OF PAWNSHOPS; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, Article IX, Section IV, Paragraph I of the Georgia Constitution authorizes municipal governments to levy and collect taxes and fees within their municipal limits;

WHEREAS, the General Assembly of Georgia authorized local governments to impose business and occupation taxes and regulatory fees in O.C.G.A. § 48-13-5, et seq;

WHEREAS, the General Assembly of Georgia authorized municipalities to license pawnbrokers, define their powers and privileges by ordinance, impose taxes upon them, revoke their licenses, and exercise such general supervision as will ensure fair dealings between the pawnbroker and its customers in O.C.G.A. § 44-12-136, and

WHEREAS, the City of Dawsonville has determined that it is in the best interest of the health, safety and welfare of its citizens to amend its code to provide for taxation and regulation of businesses,

NOW THEREFORE, pursuant to the authority granted to the City of Dawsonville by its Charter and the authority referenced above, the Council of the City of Dawsonville hereby ordains as follows:

SECTION 1. AMENDMENT OF OCCUPATION TAX PROVISION

Section 8-21 through 8-61 of Chapter 8, Article II of the Code of Dawsonville Georgia, are repealed in their entirety and the new Sections 8-21 through 8-58 set forth below are adopted.

ARTICLE II- BUSINESS REGISTRATION AND FEES

Sec. 8-21. - Occupation tax required; occupation tax required for business dealings within the city.

Each person engaged in any business, trade, profession or occupation in the City of Dawsonville, Georgia, whether with a location in the City of Dawsonville, 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; which tax and any applicable certificate, except for practitioners of professions 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 of Dawsonville, Georgia. If the taxpayer has no permanent business location in the City of Dawsonville, Georgia, such business tax certificate shall be shown to a city code enforcement officer, planning director, chief financial officer or to any law enforcement officer of the City of Dawsonville, Georgia, upon their request.

Sec. 8-22. - Construction of terms; definitions.

(a) Wherever the term "City of Dawsonville" is used herein, such term shall be construed to mean "Dawsonville, Georgia"; wherever the term "city" is used herein, it shall be construed to mean "Dawsonville, Georgia."

(b) As used in this chapter, the term:

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

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 shall include 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 unless, 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 I.R.S. W-2 but not a form I.R.S. 1099.

(2) An individual who performs work under the direction and supervision of one (1) business or practitioner in the terms of a contract or agreement with another business which recruits such individual is an employee or practitioner which issues to such individual for purposes of documenting compensation a form I.R.S. W-2.

Engaged in business means doing or performing of any act of 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, if the business pays an occupation tax.

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. "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 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 the code section. Regulatory fees do not include development impact fees and 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 performing 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.

Sec. 8-23. - Regulatory fee structure.

A regulatory fee, if any, will only be imposed as provided under state law on those applicable businesses. A regulatory fee may not include an administrative fee.

Sec 8-24. - Occupation tax levied; 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 within the corporate limits of the city of and 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:

(1) Number of full-time equivalent employees of the business or practitioner determined as follows:

By adding the total number of hours worked during the preceding calendar year by all employees and dividing that total by two thousand eighty (2,080) (forty (40) hours per week times fifty-two (52) weeks) and rounding the result to the nearest whole. (Five-tenths (0.5) or greater would be rounded up; less than five-tenths (0.5) would be rounded down.)

Employees whose total number of hours worked are not available (such as salaried employees) shall be calculated at a rate of forty (40) hours per week.

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.

An employee whose hours total more than two thousand eighty (2,080) during a year, may be counted as having worked two thousand eighty (2,080) hours.

(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 (1) 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 any city official, including, but not limited to, personnel of the finance department, and planning and zoning department, 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. The occupation tax levied shall be based on the table located in the City of Dawsonville Fee Schedule.

Employee 1-9	1 employee = \$100; 2 to 5 employees= \$150.00; 6 to 9 employees = \$200
Employee 10 +	\$200.00 plus 15.00 per employee over 9, i.e. 10 employees would be \$215.00

Sec. 8-25. - Paying occupation tax of business with no location in Georgia.

For out-of-state businesses with no location in Georgia, occupation taxes apply to the employees of the business which are reasonably attributed to sales or services in the state. 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 Georgia is in the city and the business or practitioner:

- (1) Has one (1) 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.

Sec. 8-26. - 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 planning and zoning department and that line of business being noted by the planning director or chief financial officer upon the occupation tax certificate form which is to be displayed by the business owner.

Sec. 8-27. - Number of businesses considered operating in city.

Where a person conducts business at more than one (1) store or place, each store or place shall be considered a separate business for the purpose of occupation tax.

Sec. 8-28. - Professionals as classified in O.C.G.A. §§ 48-13-9(c)(1)-(18).

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

- (1) One (1) of the following:
 - a. The occupation tax based on number of employees.
 - b. A fee of four hundred dollars (\$400.00) per practitioner who is licensed to provide the service, such tax to be paid at the practitioner's office or location. The per practitioner fee shall include all persons in the business who qualify as a practitioner under the state's regulatory guidelines and framework.

Sec. 8-29 – Home Occupation

The occupation tax or license fee for a profession or business conducted as a home occupation shall be \$75.00 regardless of any contrary provision set forth herein.

Sec. 8-30. - Purpose and scope of tax.

The occupation tax levied herein is for revenue purposes only and is not for regulatory purposes, nor is the payment of the tax made a condition precedent to the practice of any such profession, trade or calling. The occupation tax 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 ordinance.

Sec. 8-31. - When registration and tax due and payable.

(a) The registration and occupation tax shall be due and payable to the city at the business license office of the city one calendar year from the date of original registration and shall be delinquent if not paid within 90 days of the due date. For any new profession, trade or calling begun in the city, the registration and tax shall be due and payable within 30 days of the commencement of the business.

(b) Regulatory fees authorized by this chapter shall be paid before commencing business as a condition precedent for transacting business.

(c) Regulatory fees may be paid after commencing business when:

(1) The work done, or services provided are necessary for the health and safety of one (1) or more individuals; and

(2) The work done, or services provided have no adverse effect on any other person; and

(3) Regulatory fees are tendered to the local government within two (2) business days after commencing business.

(d) The tax certificate herein provided for shall be issued by the planning director or chief financial officer.

(e) Payment of an occupation tax shall not be required prior to the commencement of business. Payment of an occupation tax shall not be required as a precondition for the practice of professions and occupations as set out in O.C.G.A. § 48-13-9(c).

Sec. 8-32. - 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 officer situated in more than one (1) 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's or practitioner's number of employees by other local governments.

Sec. 8-33. - Exemption on grounds that business operated for 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 grounds that such business is operated for a charitable purpose, unless eighty (80) percent or more of the entire proceeds from said business are devoted to such purpose.

Sec. 8-34. - Evidence of state registration required if applicable; state registration to be displayed.

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

Sec. 8-35. - 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.

Sec. 8-36. - Code enforcement officers and or the Planning Director or designee; business inspector.

Code enforcement officers and or the Planning Director or designee shall be classified as business inspectors with full subpoena and arresting powers in conjunction with any violation pertaining to the business tax ordinance. The planning director or chief financial officer 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 planning director or chief financial officer 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 planning director or chief financial officer shall not issue said certificate until the applicant exhibits to the planning director or chief financial officer such obtained permits, certifications and compliances;

(3) To audit periodically, and when deemed necessary by the planning director or chief financial officer, 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 insure the collection of same; and

(4) The planning director or chief financial officer 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 this state for the administration and enforcement of the provisions of this chapter and the collection of the occupation tax and fees hereunder.

Sec. 8-37. - Businesses not covered by this chapter.

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 Georgia 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.

(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 or vendor acting pursuant to a contract with a tax-exempt agricultural fair.
- (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 (4) events per year.
- (14) 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.

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 noncoverage.

Sec. 8-38. - 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 Georgia or of the United States.

Sec. 8-39. - 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 from the date of establishment of the business. However, for convenience of both the city and the taxpayer, those businesses subject to the occupation tax levied herein shall, on or before the times hereinafter set forth, file with the planning director or chief financial officer 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 from date of establishment of the business shall file with the planning and zoning department of the city, on a form furnished by the planning director or chief financial officer, a signed return setting forth the number of full-time equivalent employees of such business for the preceding calendar year.

(c) If any person fails to make a return, the planning director or chief financial officer 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 planning director or chief financial officer.

(1) The planning director or chief financial officer 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/her address as it appears in the records of the planning director

or chief financial officer. 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 penalty as required in section 8-49.

Sec. 8-40. - Payment of occupation tax by newly established businesses.

In the case of a business subject to occupation tax which was not conducted for any period of time in the corporate limits of the city previously, the owner, proprietor, manager or executive officer of the business liable for occupation tax shall estimate the number of full-time-equivalent employees anticipated to be employed during the next year. The estimate shall be, at a minimum, the number of full-time-equivalent employees which will be employed when the business begins operation.

Sec. 8-41. - More than one (1) place of business.

Where a business is operated at more than one (1) 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.

Sec. 8-42. - 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.

Sec. 8-43. - Inspection of books and records.

In any case the planning director or chief financial officer, through his officers, agents, employees or representatives, may inspect the books of the business for which the returns are made. The planning director or the chief financial officer or their 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 planning director, or chief financial officer or their designees such books or records shall be submitted for inspection by a representative of the city within thirty (30) days. 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 Superior Court of Dawson county for an in-camera inspection, prior to examination by the planning director or chief financial officer. Except for practitioners of professions and occupations electing to pay a flat fee in lieu of a per employee tax, adequate records shall be kept in Dawsonville, Georgia, for examination by the planning director or chief financial officer or their designees at their discretion. If, after examination of the books or records, it is determined that a deficiency occurs as a result of underreporting, a penalty of ten (10) percent of the deficiency and an additional one (1) percent of the deficiency for each month or fraction thereof that the deficiency was due and unpaid shall be assessed.

Sec. 8-44. - Tax certificate to be revoked for failure to pay tax, file returns, permit inspection of books.

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 occupation tax certificate shall be granted by the city to a person who has failed to submit adequate records as requested by the planning director or chief financial officer in accordance with provisions found in section 8-43. 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 county in the case of delinquent occupation taxes.

Sec. 8-45. - Effect of failure to comply with chapter provisions; continuing in business after tax certificate revocation.

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 Section 8-44 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 normal city 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.

Sec. 8-46. Effect of failure to comply with chapter provisions; penalties.

- (a) Any individual, business or practitioner subject to any occupation tax imposed by this ordinance which is unpaid for ninety (90) days after the date on which payment was due shall be subject to a penalty of ten percent (10%) of the tax or fee due, and interest at the rate of 1.5 percent (1.5%) per month.
- (b) Individuals, businesses and practitioners who fail or refuse to pay any occupation tax charged pursuant to this ordinance shall be subject to a civil fine, to be imposed by court of competent jurisdiction over enforcement of City's ordinances, not more than five hundred dollars (\$500.00), which may be enforced by the contempt power of the court.
- (c) Individuals, businesses and practitioners who fail or refuse to make a timely or truthful tax return or make available truthful and accurate information the City requests or requires for determining applicability or amount of occupation tax or for levying or collecting such occupation tax shall be subject to a civil penalty of up to one thousand dollars (\$1,000.00).

Sec. 8-47. - Execution for delinquent occupation tax.

- (a) In addition to the other remedies herein provided for the collection of the occupation tax herein levied, the city director of planning and zoning, 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. Such executions shall bear interest at the rate authorized by O.C.G.A. § 48-2-40 or, if such statute should be repealed or ruled invalid by a court of competent jurisdiction, one percent (1%) per month. 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 chief financial officer 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 the laws of Georgia 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 the laws of Georgia in regard to tax executions.
- (b) When a nulla bona entry has been entered by property authority upon an execution issued by the chief financial officer against any person defaulting on the occupation tax, except for practitioners of professions and occupations, 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 with all interest, penalties and costs accrued on the tax, the person may collect any fees and charges due the person as though the person had never defaulted in the payment of the taxes.

Sec. 8-48. - 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.

Sec. 8-49. - 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 ordinance or 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.

Sec. 8-50. - Enforcement of provision.

It is hereby made the duty of the planning director and city code enforcement officers 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 planning director, chief financial officer or 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.

Sec. 8-51. - 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.

Sec. 8-52. - 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.

Sec. 8-53. - 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 (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 of selected occupations or professions. Such exemptions or reductions in occupation tax shall not be arbitrary or capricious.

Sec. 8-54. - 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.

Sec. 8-55. - 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.

Sec. 8-56. - Duty to keep information current.

Any person required by this chapter to register his or her business shall notify the planning and zoning department in writing within thirty (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 (1) business and the establishment of a new business for the purposes of this chapter.
- (3) The termination of any business.

Sec. 8-57. - 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 a 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.

Sec. 8-58. - 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, 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.

SECTION 2. ADDITION OF PAWNBROKERS PROVISION

Article IX Sections 8-500 thru 8-516 of Chapter 8 regarding the regulation of Pawnbrokers is hereby adopted and added to the Dawsonville Code of Ordinances as follows:

ARTICLE IX- PAWNBROKERS

Sec. 8-500. - Findings and intent.

This chapter is adopted to address the interest of public safety, health and the welfare of the community and to aid and assist in the recovery of stolen property, and to aid and assist local law enforcement in fulfilling their public safety functions. This chapter is enacted pursuant to O.C.G.A. § 44-12-130 et seq.

Sec. 8-501. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section:

Accepted identification means an official document, most commonly in the form of a plastic-coated/sealed card, issued for purposes of identification or driver's license.

These documents must be issued by one (1) of the fifty (50) states or a branch of the U.S. Military, i.e., Army, Navy, Air Force, Marines, Coast Guard, or current State of Georgia and counties of Georgia probation and parole cards. The identification must, at a minimum, bear a true photograph of the person presenting it, date of birth and description of the person.

Annual pawnshop license means an official document issued for any person, association, partnership, corporation or limited liability company, or any other entity to engage in or operate a pawnshop, or to conduct, promote, or carry on, in or upon any premises within the city, any pawnshop establishment as defined in this chapter. No license so issued shall condone or make legal any activity thereunder if the same is deemed illegal or unlawful under the laws of the state or the United States.

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

City means the City of Dawsonville, Georgia.

Deceptive business practice means any practices as defined in O.C.G.A. § 16-9-50.

Employee permit means an official document issued for permission to be employed or work in a pawnshop regulated by the City of Dawsonville, or to be a pawnbroker.

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

Interest in a pawnshop means the identification of any person involved or any member of his or her family being the outright owner of the pawnshop; a co-owner of the pawnshop; a partner in a partnership which owns all or part of the pawnshop; or a stockholder in any corporation organized for pecuniary gain which owns all or any part of the pawnshop.

Managing agent means an owner or full-time employee that has day-to-day managerial oversight of the pawnshop and is actively engaged in the daily operations of the pawnshop and resident of the State of Georgia.

Minor means any person who has not attained the age of eighteen (18) years.

Month means that period of time from one (1) date in a calendar month to the corresponding date in the following calendar month, but if there is no such corresponding date, then the last day of such following month.

New in box means any unused item in the original unopened, factory sealed boxes.

OCGA means Official Code of Georgia Annotated, as amended.

Pawnbroker means any person or employee engaged in whole or in part in the business of lending money on the security of pledged goods, or in the business of purchasing tangible personal property on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time, or in the business of purchasing tangible personal property from persons or sources other than manufacturers or licensed dealers as a part of or in conjunction with the business activities described in this paragraph.

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

Pawn transaction means any loan on the security of pledged goods or any purchase of pledged goods on the condition that the pledged goods may be redeemed or repurchased by the pledger or seller for a fixed price within a fixed period of time.

Person means an individual, partnership, corporation, joint venture, trust, association, or any other legal entity however organized.

Pledged goods means tangible personal property, including, without limitation, glass taken from buildings such as mantel mirrors, art glass, copper wire, or any kind of plumbing materials and all types of motor vehicles or any motor vehicle certificate of title, which property is purchased by, deposited with, or otherwise actually delivered into the possession of a pawnbroker in connection with a pawn transaction. However, for purposes of this chapter, possession of any motor vehicle certificate of title which has come into the possession of a pawnbroker through a pawn transaction made in accordance with law shall be conclusively deemed to be possession of the motor vehicle, and the pawnbroker shall retain physical possession of the motor vehicle certificate of title for the entire length of the pawn transaction but shall not be required in any way to retain physical possession of the motor vehicle at any time. Pledged goods shall not include choses in action, securities, or printed evidences of indebtedness.

Registered agent means a resident of Dawson County associated with the pawnshop upon whom any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee or owner may be served.

Sec. 8-502. - Enforcement.

The City Code enforcement officers and/or the Planning Director of the City of Dawsonville, Georgia, shall see that the provisions of this chapter are observed and enforced.

Sec. 8-503. - General policies and purposes.

- (1) Pawnbrokers may operate only after the issuance of a license for such operation by the city and only in the manner permitted by such license. Pawn transactions may only occur through a licensee who complies with the rules and regulations of this chapter and with the laws, licensing, regulatory and revenue requirements of the State of Georgia.
- (2) All licenses are a mere grant or privilege subject to all terms and conditions imposed by this chapter and state law and subject to being revoked by the city.
- (3) Each licensee of the city shall display the license issued under this chapter prominently at all times at the location for which the license is issued. A separate license must be issued for each location and a separate application must be made for each location.
- (4) It is not the intent of this chapter to regulate traditional secondhand dealers of property where no pawn transaction occurs.

Sec. 8-504. - Qualifications for issuance of pawnshop license.

Any person who desires to obtain a license for the operation of a pawnshop must meet the minimum qualifications set forth in this chapter. If the applicant is a partnership, each partner must meet the qualifications of any individual license and must make sworn statements of these qualifications as part of the application process. If the applicant is a corporation, the majority stockholder and each principle officer of the corporation must meet the qualifications as part of the application process.

- (1) Any person applying to operate a pawnshop for which a license is sought shall not have been convicted, pled guilty or entered a plea of nolo contendere to violating any provisions of this chapter or any other ordinance of the city, or rules or regulations of the city and shall not have been convicted of any crime involving "moral turpitude," a felony theft, burglary, robbery, or fraud, or have been convicted in any state of any offense which if committed or attempted in this state, would have been punishable as one (1) or more of the above-mentioned offenses, for a period of ten (10) years from the date of such convictions, unless a longer time is ordered by a court of competent jurisdiction. For purposes of this section, a conviction or plea of guilty or nolo contendere entered and terms completed for the above-mentioned offenses under the Georgia First Offender Act, O.C.G.A. § 42-8- 60 et seq., shall be ignored. Provided, however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender status or committed another crime

and the sentencing court ruled an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.

(2) Every managing agent applicant for a license shall be at least eighteen (18) years of age, a U.S. citizen or an alien lawfully admitted for permanent residency, and a resident of the State of Georgia, and shall make application on forms furnished by the planning and zoning department and in connection therewith, shall, under oath, answer all questions, supply all information and furnish all certificates, affidavits, bonds and other supporting data as required thereby.

(3) All licensed pawnshops must have and continuously maintain in Dawson County a registered agent upon whom any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee or owner may be served. This person must be a resident of Dawson County. The licensee shall file the name of such agent, along with the written, notarized consent of such agent with the city in such form as may be prescribed.

(4) All persons filing an application for a license will be required to complete a waiver in order for the applicant's criminal history to be obtained.

(5) No person shall have, own or enjoy any ownership, interest in, share in the profits from, or otherwise participate in the business of any pawnshop in the city unless a full description of such interest is disclosed upon the filing of an application for the original annual license. Said person shall be subject to the same qualifications as the license holder. Failure to qualify may be grounds for revocation of the license.

(6) The planning director may approve all applications for renewal of an existing license upon payment of the license fees for renewal of licenses, where no objections have been filed and the application clearly shows no change in the ownership, managing agent, location, or operation of the business. If objections have been filed or if there have been any changes in the ownership, managing agent, location, or operation of the business, a new application must be approved by the mayor and council. The city license issued shall be valid for the calendar year from the date of business establishment indicated thereon and shall expire at midnight one year thereafter unless renewed by the planning director prior to expiration. Renewal licenses for subsequent years become effective upon approval of the planning director. A licensee that desires to continue in business during the next or subsequent year must make application for and pay the required fees prior to expiration.

(7) No license shall be granted where the applicant has had any pawnshop license issued by any county, municipality, or other governmental subdivision which has been suspended or revoked.

(8) No license shall be granted for a location that is not in compliance with all federal, state, or local regulation, rule or ordinance.

(9) No license shall be issued where the applicant has supplied false information in the license application or where any required fee has not been paid by such applicant, including any fees or assessments owed to the city.

Sec. 8-505. - Pawnshop license application.

Before operating a pawnshop, any person desiring to do so shall first file an application for a license with the City of Dawsonville Planning and Zoning Department to operate a pawnshop, pursuant to the following:

(1) The application shall be made on an annual basis.

(2) All applications for a license shall be made in person by the applicant to the planning and zoning department in writing on forms furnished by the city the same shall be required on all owners, interest holders and partners, a signed affidavit by the applicant shall contain but not be restricted to the following statements and information:

- a. The applicant(s)'s full true and legal name(s) and any other aliases or name changes used in the last five (5) years.
- b. The telephone number, present address and length of residency of the applicant(s).
- c. Acceptable written proof that the applicant(s) is at least eighteen (18) years of age.
- d. Business, occupation or employment history of the applicant(s) for the five (5) years immediately preceding the date of the application.
- e. The pawnshop permit history of the applicant(s) and whether, in previous operations in this or any other city, state or territory, the applicant(s) has had such permit revoked or suspended. If such permit has been revoked or suspended, the applicant(s) must state the reason, and the business activity or occupation subsequent to such action of suspension or revocation.
- f. If the owner(s) is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with place and date of incorporation, and the names and addresses of each of its current officers and directors. If the owner(s) is a partnership, the applicant shall set forth the name, residence address and dates of birth of the partners. If the owner(s) is a limited partnership, it shall furnish a copy of its certificate filed with the county clerk or secretary of state. If one (1) or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply.
- g. If any of the owners, partners or interest holders have been convicted of any crime in the past ten years, a completed description of any such crime including date of violation, date of conviction, jurisdiction and any disposition, including any fine or sentence imposed and whether the terms of the disposition have been fully completed.
- h. If the owner is a person doing business under a trade name, a copy of the trade name, properly recorded, must be provided. If owner is a corporation, a copy of authority to do business in Georgia, including articles of incorporation, trade name, affidavit, if any, and the last annual report, if any, must be provided.
- i. Address of premises to be regulated.
- j. Whether the premises are owned or rented and must provide a copy of the deed or rental agreement.
- k. Each application for a license shall be verified and acknowledged under oath to be true and correct by all owners, partners and interest holders.
- l. The applicant must disclose any ownership interest in any other pawnshop, whether it is located locally or out of state and must disclose the nature of such ownership interest.
- m. Each applicant shall certify on the application that they have read this chapter and, if the license is granted, each licensee shall maintain a copy of this chapter on the premises.
- n. Any other information that may be required by the planning and zoning department to include, but not limited to, source of financing and any other information obtained during the investigative process for the business operation.

(3) The written application for the license shall be a permanent record which the licensee must maintain current as required by this chapter. Failure to maintain a current application shall be grounds for revocation of the license.

(4) No license shall be issued until a fee in an amount established by action of the mayor and council, is paid to the city by the applicant.

(5) The planning director shall investigate each applicant for such license and shall report to the mayor and council whether such applicant is a person of good character and has not been convicted of a criminal offense as indicated in this chapter. All applicants shall furnish all data, information and records requested of them, and failure to furnish such data, information and records within thirty (30) days from the date of such request shall automatically serve as grounds to deny the application. An applicant, by filing an application, agrees to produce for questioning any person or persons who are considered relevant to the ascertainment of facts relative to such license, as may be required by the mayor and council, the planning director, or other official designated by the mayor and council. The failure to produce such person within thirty (30) days after being requested to do so may result in denial of the application.

(6) No pawnbroker shall move from the location specified on its license until a change of location fee of one hundred dollars (\$100.00), has been paid to the city and approval has been obtained from the planning and zoning department. Such approval shall not be given unless all requirements and regulations as contained in the City Code have been met.

(7) In the event the "managing agent" changes, the licensee shall notify the city within five (5) days of the change. A fee of one hundred dollars (\$100.00) will be charged for the processing of an application for the change of the "managing agent," and such applicant must be approved by the planning director. If the applicant does not meet the qualifications for managing agent as required by this chapter and the application is denied, the applicant may appeal the decision of the planning director as set out in section 8-515.

(8) In the event the "registered agent" changes, the licensee shall notify the city within five (5) days of the change. A fine of twenty-five dollars (\$25.00) will be charged for the processing of a change in the "registered agent."

(9) No pawnbroker shall operate, conduct, manage, engage in, or carry on a pawnbroker business under any name other than the name of the business as specified on the license.

(10) The owner shall notify the planning and zoning department of any change in the information, material or data set out in the original application.

(11) Upon completion of the review of the application by the planning director the matter shall be placed on an agenda for mayor and council who may grant or deny the application consistent with this chapter. No application shall be acted upon by the mayor and council until a notice of such application in a local newspaper is published for at least four (4) different days prior to the regular meeting at which such application is to be presented and considered.

(12) No application shall be acted upon by the mayor and council except at a regular meeting of the council.

(13) Any applicant who is denied a license may appeal such denial by filing a notice of appeal pursuant to the appeal procedure set forth in section 2-16.

(14) Upon approval by the mayor and council of the application for a license, the planning and zoning department shall issue a license in accordance with the approved application. If the applicant is an individual, the license shall be issued in the name of the individual. If the application is a corporation, the license shall be issued in the name of the corporation. If the application is a partnership, the license shall be issued in the name of the partnership and in the name of one (1) of the partners. All licenses issued shall be granted for the full calendar year or for the number of months remaining in the calendar year. Any applicant granted a license before July 1 shall pay the full license fee without proration. License fees for licenses granted on or after July 1 shall be one-half ($\frac{1}{2}$) the annual license fee. License fees are not refundable once paid to the city.

Sec. 8-506. - Annual employee permit application.

All persons before being employed at a pawnshop or similar place where money is advanced on goods or other effects, or merchandise of any kind is taken in pawn shall first file an application with the Dawson County Sheriff's Office for a permit to work in such business. The issuance of such permit by the Dawson County Sheriff's Office will be based on a criminal history and background investigation of the applicant. The permit will expire at midnight one (1) year from the date of issuance.

- (1) All required applications for an annual employee permit shall be in writing and on forms provided by the Dawson County Sheriff's Office.
- (2) Every employee must disclose any ownership or interest in any other pawnshop, whether it is located locally, or o must disclose the nature of such ownership or interest as defined in this chapter.
- (3) Employees of a pawnshop, as defined herein, shall not be less than eighteen (18) years of age. Any employee who has been convicted, pled guilty or entered a plea of nolo contendere to violating any provisions of this chapter or any other ordinance of the city, or rules or regulations of the city, or any felony theft, burglary, robbery, or fraud, or has been convicted in any state of any offense which if committed in this state, would have been punishable as one (1) or more of the above-mentioned offenses, shall not be issued a permit to work on the premises of a pawnshop for a period of five (5) years from the date of such conviction, unless a longer time is ordered by a court of competent jurisdiction. For purposes of this section, a conviction or plea of guilty or nolo contendere entered and terms completed for the above-mentioned offenses under the Georgia First Offender Act, O.C.G.A. § 42-8-60 et seq., shall be ignored. Provided, however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender status or committed another crime and the sentencing court ruled an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.
- (4) All applications shall be completed by the applicant and sworn to and signed by the applicant in the presence of a notary public or other officer authorized to administer oaths.
- (5) All applicants shall furnish all data, information and records requested of them, and failure to furnish such data, information and records within thirty (30) days from the date of such request shall automatically serve as grounds to deny the application. An applicant, by filing an application, agrees to produce for questioning any person or persons who are considered relevant to the ascertainment of facts relative to such permit, as may be required by, the Dawson County Sheriff's Office. The failure to produce such person within thirty (30) days after being requested to do so may result in denial of the application.
- (6) All permits issued through administrative error can be terminated and seized by the Dawson County Sheriff's Office.
- (7) All permits issued hereunder remain the property of the Dawson County Sheriff's Office and shall be produced for inspection upon the demand of any officer of the Dawson County Sheriff's Office, the planning director or city code enforcement officer.
- (8) No pawnshop owner shall allow any employee or manager to work on the premises unless the employee or manager has in their possession a current valid city permit. Upon the filing of the notice with the Dawson County Sheriff's Office, the applicant may become a conditional employee and work on the licensed premises with a receipt issued by the Dawson County Sheriff's Office until such time the investigation is completed, and approval or denial of the permit is issued.
- (9) For the purpose of this section, independent contractors shall be considered as employees and shall be permitted as employees, regardless of the business relationship with the owner or managing agent of any pawnshop.

(10) Employee permits are nontransferable and are valid only for the individual named on the permit. Each such permit is valid for the individual named while employed in any establishment licensed in the city.

(11) Permits issued under this section shall be active for a period of one (1) year. At the expiration of one (1) year from the date of the issuance of the permit, it shall be the duty of the employee to renew the permit by going through the process described in this section. In addition, employees who cease employment with a pawn shop establishment with which they were employed when their permit was obtained for a period of six (6) months or more must also renew their permit before returning to a pawn shop establishment in the city.

(12) Employees after receiving their permit must notify the Dawson County Sheriff's Office of any changes in information originally provided to obtain an employee permit; otherwise, their permit is invalid. Employees who an offense that may affect their employment under this chapter are under a duty to fully inform the Dawson County Sheriff's Office such conviction, and to supply sufficient documentation relating to the conviction to allow the city to fully investigate failure to inform the Dawson County Sheriff's Office and/or provide documentation of any such conviction invalidates an emp and shall serve as automatic forfeiture and cancellation of the permit.

(13) It shall also be the duty of the pawn broker to file with the planning and zoning office and the Dawson County Sheriff's Office, on a monthly basis, a report which lists all employees currently employed in a capacity that would require an employee permit. Each such report shall include the name and date of birth of all such individuals, as well as the same information on all such individuals who have terminated employment during the one-month employment period. Failure to submit said report by the twentieth day each month shall constitute a violation of this Code.

(14) Any applicant who is denied a permit may appeal such denial by filing a notice of appeal pursuant to the appeal procedure set forth in section 2-16.

Sec. 8-507. - Commencement for business—Forfeiture of license.

(a) All holders of licenses under this chapter shall, within six (6) months after the issuance of the license, open for business the establishment referred to in the license, unless such period is extended by the mayor and council. Failure to open the licensed establishment as referred to in this subsection within the six-month period shall serve as an automatic forfeiture and cancellation of the license, and no refund of license fees shall be made to the license holder.

(b) Any holder of a license under this chapter who shall begin the operation of the business as authorized in the license, but who shall for a period of three (3) consecutive months thereafter cease to operate the business as authorized in the license, shall automatically forfeit his license, which license shall, by virtue of such failure to operate, be canceled without the necessity for any further action by the planning director, city code enforcement officer or the mayor and council.

Sec. 8-508. - License transfer.

No license granted for a pawnshop shall be transferable except upon application to planning and zoning department in the same form and manner, and subject to the same requirements with respect to the transferee as are applicable in an original application. Any such license may be transferred only to another applicant doing the same business at the same location as the license holder to whom the license was originally issued provided and excepting, however, that if the license holder is a partnership and one (1) or more of the partners should die, one (1) or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without affecting a surrender or termination of such license, and in such case, the license upon notification to the city shall be placed in the name of the surviving partner. When permission for transfer has been granted, the original licensee or transferee shall cease doing business and deliver the license to the planning director, who shall record such transfer, and the transferee shall pay a fee therefore as

a condition precedent to engaging in operations under the license. The fee for such transfer shall be established from time to time by the mayor and council.

Sec. 8-509.- Record 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 Dawson County Sheriff's Office via an electronic automated reporting system. Each of these transactions shall contain an accurate description of all property pledged, traded or sold to the pawnbroker 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 full name, street address and telephone number of the customer making the pledge, trade or sale.
- (3) The pawnshop shall require all persons pledging, trading, pawning, exchanging, or selling property to show accepted identification as defined in section 2-2 prior to conducting a pawnshop transaction.
- (4) 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.
- (5) 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.).
- (6) The number of the receipt or pawn transaction issued for the property pawned or bought.
- (7) The price paid, or the amount loaned.
- (8) The maturity date of the transaction, if a pawn.
- (9) 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.
- (10) The pawnshop shall obtain from each person pledging, trading, pawning, exchanging, or selling any property, the fingerprint of the right-hand index finger, unless such finger is missing, in which event the print of the next finger in existence on the right hand shall be obtained with a notation as to the exact finger printed. An electronic digital fingerprint scanner will be the primary method of entry required. The fingerprint shall be imprinted onto the pawn transaction form in the designated area along with the signature of the person pawning, trading, pledging, exchanging, or selling the property. The fingerprint must be clear and legible. In the event that more than one (1) pawn transaction form is required, a fingerprint and signature should be obtained for each form. Fingerprints and the information required herein shall be obtained each time such person pledges, trades, pawns, exchanges, or sells any property.
- (11) The signature of the customer.
- (12) The tag bearing the pawnshop transaction number must remain attached to the item until the property is disposed of by sale, trade, or other lawful means. This paragraph does not apply to the purchase of property from licensed wholesale or distributor businesses for the purpose of retail sales; however, the pawnshop shall be required to maintain all purchasing records for property exempted from this paragraph.

(b) Every pawnbroker 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 Dawson County Sheriff's Office.

(c) The pawnshop shall store the above records, digital images, and fingerprints for a period as designated by state statute and make them available to law enforcement personnel upon request.

(d) In the event that the electronic automated reporting system becomes temporarily or permanently disabled, or the system is terminated pawnbrokers will be notified as soon as possible, by the administrator of the system. Pawnshops that incur electronic system failures or other events that would cause partial or complete loss of electronic reporting, should immediately notify the Dawson County Sheriff's Office with the reason of the failure. In these events, 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. On a daily basis, all transactions not reported in the electronic automated reporting system, will be delivered to the Dawson County Sheriff's Office by the pawnshop within twenty-four (24) hours of the end of the business day for every day until the event has been corrected.

(e) Any duly authorized law enforcement officer authorized by the Dawson County Sheriff, may, during the ordinary hours of business or any other reasonable time, inspect any pawnbroker's electronic or paper records or any goods in his possession at the pawnbroker's place of business to ensure compliance not only with this section, but this chapter and state law.

(f) The Sheriff or his designee shall select and designate the required automated reporting system and required equipment needed. A fee will be assessed to each pawnshop for each reported transaction: said fee shall be an amount set by the Sheriff equal to that charged by the administrator of the automated reporting system.

The assessed fee to the pawnshops shall not exceed the actual cost charged by the City of Dawsonville or by the third-party administrator. This fee will be invoiced to the pawnbroker and collected by the Sheriff or his designee, which may be a third-party administrator of the automated reporting system.

Sec. 8-510.- 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 thirty (30) days or longer if directed by the Dawson County Sheriff's Office, before disposing of them by sale, transfer, shipment or otherwise. Non-pledged goods bought under this section shall be held for at least seven (7) calendar days before disposing of them by sale, transfer, shipment or otherwise.

Sec. 8-511. - Miscellaneous.

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

(b) It shall be unlawful for any pawnbroker to receive in pawn, pledge or sale, goods of any character or description any item which is a new in box item unless a receipt or other proof of purchase is provided.

(c) (1) No employee of the city who has any interest in a pawnshop, as defined herein, shall be assigned to work in any area or division of the city which regulates the business of pawnshops.

(2) No employee of the city with regulating authority may own, work in or be employed (paid or unpaid) by a pawnshop inside the city limits of the city. Regulating authority, for purposes of this section, is defined as any person involved in or assigned to the inspection of the premises, approval of the occupation tax certificate applications, annual pawnshop license applications, or annual employee permit applications; and granting or denying of such applications, or enforcement of this chapter and its provisions.

(3) No employee of the city with regulating authority as defined herein, may regulate a pawnshop where such is owned or operated by any person related to the employee of the city within a third degree of kinship. The term third-degree kinship shall include, for purposes of this chapter, children, grandchildren, mother, father, brothers and sisters, aunts and uncles, first cousins and in-laws.

(4) The definition of employees of the city does not include elected officials of the city.

(d) A pawnbroker selling goods other than those pledged may add new merchandise to its stock of the same type as that on which loans are made, up to a value of one thousand dollars (\$1,000.00) per month, without having to pay an additional occupation tax as would otherwise be imposed according to the terms of the business taxes of the city. The pawnbroker must maintain all records, invoices, and bills of sale for such merchandise which shall be subject to inspection and review by any duly authorized law enforcement. No article(s) shall be maintained on the premises for sale on a consignment basis for any citizen, employee or pawnbroker.

Sec. 8-512. - Lost or stolen items.

(1) It shall be the duty of every person operating or employed by a pawnbroker to report to the Dawson County Sheriff's Office any article or goods sold or pawned to the pawnbroker if that person shall have a reason to believe that the article or goods was stolen or lost when presented by the seller or customer.

(2) With respect to any item(s) which would normally have a serial number or other means of identification, any pawnbroker or employee of a pawnbroker who becomes aware that such items have had the identification removed, defaced or destroyed, such fact shall be immediately reported to the Dawson County Sheriff's Office.

(3) 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 Dawson County Sheriff's Office shall be done upon demand. The officer receiving the item shall give the pawnbroker a receipt for the item.

(4) The Dawson County Sheriff's Office has the authority to place property that is the subject of investigation on "investigative hold". In that event, the Dawson County Sheriff's Office shall notify the pawnshop of the need for an investigative hold and identify all property subject to the investigative hold. Upon notification, it shall be the responsibility of the pawnshop to maintain the subject property until such time as the property is released from the investigative hold status or the property is confiscated as evidence.

Sec. 8-513. - Denial, transfer, suspension, revocation or forfeiture of annual pawnshop license.

Denial, immediate suspension, revocation, or forfeiture of an issued license shall occur only after notice and opportunity for a hearing before the administrative hearing officer consistent with the procedures set forth in section 2-16, appeal procedure, and only on the following occurrences:

(1) Any license issued under this chapter for a pawnbroker shall be immediately revoked in the case of bankruptcy, receivership or levy of legal process upon the licensed outlet, pawnbroker or property therein.

(2) A license application may be denied to any applicant where it appears that the applicant would not have adequate participation in the proposed business to direct and manage its affairs, or where it appears that the application is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.

(3) Except as provided in the transfers, section 2-9, transfers, any change in the ownership of any entity owning a licensed location shall be grounds for the mayor and council to revoke any license issued under this chapter.

(4) A license shall be immediately suspended or revoked by the planning director upon learning that a licensee furnished fraudulent or untruthful information in the application for a license, or omits information required in the application for a license, or fails to pay all fees, taxes, or other charges imposed under the provisions of this chapter and the Code of Ordinances of the city, or engages in deceptive business practices as defined in this chapter.

(5) The license of any licensee does not meet the qualifications set forth in this chapter at any time such information to the mayor and council.

(6) The pawnbroker has been convicted, pled guilty or entered a plea of nolo contendere to violating any provisions of this chapter or any other ordinance of the city, or rules or regulations of the city, or felony theft, burglary, robbery, or fraud, or has been convicted in any state of any offense which if committed or attempted in this state, would have been punishable as one (1) or more of the above-mentioned offenses, within ten (10) years of the date of such conviction unless a longer time is ordered by a jury of competent jurisdiction. For purposes of this section, a conviction or plea of guilty or nolo contendere entered and terms completed for the above-mentioned offenses under the Georgia First Offender Act, O.C.G.A. § 42-8-60 et seq., shall be ignored. Provided, however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender status or committed another crime and the sentencing court ruled an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.

Sec. 8-514. - Denial, suspension, revocation or forfeiture of annual employee permit.

Denial, immediate suspension, revocation, or forfeiture of an issued permit shall occur only after notice and opportunity for a hearing before the administrative hearing officer consistent with the procedures set forth in section 2-16, appeal procedure, and only upon the following occurrences:

(1) The pawnshop employee has been convicted, pled guilty or entered a plea of nolo contendere to violating any provisions of this chapter or any other ordinance of the city, or rules or regulations of the city, or felony theft, burglary, robbery, or fraud, or has been convicted in any state of any offense which if committed or attempted in this state, would have been punishable as one (1) or more of the above-mentioned offenses, within five (5) years from the date of such conviction, unless a longer time is ordered by a jury of competent jurisdiction. For purposes of this section, a conviction or plea of guilty or nolo contendere entered and terms completed for the above-mentioned offenses under the Georgia First Offender Act, O.C.G.A. § 42-8-60 et seq., shall be ignored. Provided, however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender status or committed another crime and the sentencing court ruled an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.

Sec. 8-515. - Annual pawnshop license and annual employee permit appeal procedure.

Any pawnbroker whose license or any employee whose permit has been denied, suspended, revoked, or forfeited, may appeal same by filing a notice of appeal with the planning director, in cases involving annual pawnshop licenses, or to the Dawson County Sheriff's Office in cases involving annual employee permits, within ten (10) business days of the date on which the applicant is notified of same. The notice of appeal shall specify the subject matter of the appeal, the date of any original and amended application or requests, the date of the adverse decision (or receipt of notice thereof) the grounds or basis for the appeal, the action requested, the name and address of the applicant, and the reasons why the license or permit should not be denied, suspended, revoked or forfeited. The planning director, in cases involving annual pawnshop licenses, or the Dawson County Sheriff's Office in cases involving annual employee permits, shall schedule a hearing before the administrative hearing officer at a time and place not more than thirty (30) calendar days after receiving the notice of appeal. At the hearing, the applicant shall have the opportunity to present argument and evidence as

to why the annual pawnshop license or annual employee permit should be approved or should not be denied, suspended, revoked or forfeited. The planning director or Dawson County Sheriff's Office shall also be given the opportunity to present argument and evidence as to why the license or permit should not be approved, or should be denied, suspended, revoked or forfeited. The administrative hearing officer shall not be bound by the traditional rules of evidence in the hearing, but the rules governing evidence in administrative hearings shall apply. Both parties shall be afforded the opportunity to present evidence and cross-examine witnesses. The administrative hearing officer shall have the power to rule on the admissibility of evidence, hear testimony under oath, and consider documents and other tangible evidence presented.

The administrative hearing officer shall either approve issuance of a license, or permit or the suspension, revocation or forfeiture of the license or permit in writing and shall issue findings of fact with the reasons supporting his decision within fifteen (15) days of the conclusion of the hearing. The decision of the hearing officer shall be mailed or delivered to the appellant. If the hearing is not held within forty-five (45) days as provided herein, or the decision is not rendered within fifteen (15) days of the conclusion of the hearing as provided herein, then the applicant's license or permit shall be deemed to remain in effect, or if applicable the appellant's license or permit shall not be denied, suspended, revoked or forfeited unless the parties agree to a continuance, or the administrative hearing officer requests a continuance for good cause shown.

The appellant or the city shall have the right to appeal the decision of the administrative hearing officer to the Superior Court of Dawson County, Georgia, via certiorari as provided by Georgia law.

Sec. 8-516. - Violations.

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

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

(a) Make any false statement in an application for any license or permit provided for in this chapter.

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

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

(3) Any person violating any of the provisions of this chapter shall be punished as provided in section 1-8 of the Code of Ordinances of Dawsonville. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by any such person, and shall be punished accordingly.

SO ORDAINED THIS ____ DAY OF _____, 2018.

Mike Eason, Mayor

Caleb Phillips, Council Member Post 1

Stephen Tolson, Council Member Post 2

Jason Power, Council Member Post 3

Mark French, Council Member Post 4

ATTEST:

Beverly Banister, Clerk