

ORDINANCE

TO IMPOSE REGULATORY FEES ON BUSINESSES SUBJECT TO THE JURISDICTION OF THE CITY OF BERKELEY LAKE; TO PROVIDE DEFINITIONS; TO PROVIDE PENALTIES AND ENFORCEMENT; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF BERKELEY LAKE that Chapter 32 of the Code of Ordinances of the City of Berkeley Lake shall be amended to add Section 32-102 entitled "Regulatory Fees"

32-102

Regulatory Fees.

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

(A) "Regulatory fees" means payments, whether designated as license fees, permits fees, or by any other name, which are required by the City to approximate the cost of regulatory activity by the City. The regulatory fee does not include an administrative fee or registration fee. Regulatory fees do not include development impact fees as defined by paragraph (8) of Code Section 36-71-2, other costs or conditions of zoning or land development or local alcoholic beverage license fees authorized by Title 3 of the O.C.G.A.

(B) "Regulatory Fee Certificate" means a document issued by the City of Berkeley Lake acknowledging payment of a regulatory fee.

2. Regulatory Fee

(A) Businesses and individuals engaging in the occupations or businesses as exemplified by Appendix A, following O.C.G.A. § 48-13-9(b)(1-31), must pay a non-refundable regulatory fee in accordance with the rates and fees established by the City Council by resolution and maintained in the office of the City Clerk.

(B) If a business or individual initially engages in an activity

regulated by the City on or after July 1 in any year, the regulatory fee for the remaining portion of the year shall be fifty percent (50%) of the regulatory fee for the entire year.

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

3. Exemptions

The following groups shall be exempt from paying regulatory fees:

(A) Disabled veterans of any war or armed conflict in which any branch of the United States armed forces was involved, whether under United States command or otherwise;

(B) Blind persons;

(C) Veterans of peace-time service in the United States armed forces who have a disability that was incurred during the time of service;

(D) A local board of education; and

(E) Any state or local authority, nonprofit organization, or vendor acting pursuant to a contract with a tax-exempt agricultural fair.

4. Date Due; Penalty and Interest.

(A) Regulatory fees authorized by this ordinance shall be paid before commencing business as a condition precedent for transacting business, or practicing certain professions and shall subsequently be paid on an annual basis. The regulatory fee shall be paid with the business license application and any applicable occupational taxes per Article 32-101 of the Berkeley Lake Code of Ordinances.

(B) All licenses granted hereunder shall expire on December 31 of each year. Each subsequent application shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no

previous license had been held.

(C) All licenses granted hereunder shall be for the calendar year and the full regulatory fee must be paid for a license application.

(D) Regulatory fees may be paid after commencing business or the practice of a profession when:

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

(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 or the practice of a profession.

(E) Any individual, business or practitioner subject to any regulatory fee imposed by this ordinance which is unpaid for sixty (60) 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.

5. Filing Application; Other Information Required or Requested.

(A) On or before March 1 of each year, individuals, businesses and practitioners doing business within the city and subject to the regulatory fees ordinance shall file with the City Clerk on a form approved by and available from the City, a signed application for a business license which includes the applicable regulatory fees and the calculation of any applicable occupational taxes pursuant to Article 32-101 of the City Code of Ordinances.

(B) Individuals, businesses and practitioners doing business in the City shall make available to the City within thirty (30) calendar days such information as may be required or requested by the City to determine the applicability and amount of the regulatory fee(s) or to facilitate levying or collection of the regulatory fee(s).

6. Enforcement; Violations.

(A) It is the duty of the City Clerk to administer and enforce the provisions of this ordinance, to perform all functions necessary to administer and enforce this ordinance and to summon violators of

this ordinance to appear before the Municipal Court. The City Clerk may issue executions against individuals, businesses and practitioners for taxes or fees which are due and owing and any penalty and interest imposed by Section 4.

(B) The City Clerk shall issue executions against individuals, businesses and practitioners for taxes or fees which are due and owing, penalties, or interest. Such executions shall bear interest at the rate authorized by O.C.G.A. § 48-2-40 or, if such statute should be repealed, one percent (1%) per month. The lien shall cover the property of the individual, business or practitioner liable for payment of the delinquent regulatory fee and become fixed as of the date and time the regulatory fee became delinquent. The execution shall be levied by the City Clerk of the City upon property of the delinquent tax or fee payer located in the City and sufficient property shall be advertised and sold to pay the amount of the execution, including penalty, interest and costs. All other proceedings in relation thereto shall be as provided by the Code and Charter of the City and the laws of Georgia. The defendants at execution shall have the rights of defense, by affidavit of illegality of the tax or otherwise as provided by the Charter of the City and the laws of Georgia in regard to tax executions.

(C) Individuals, businesses and practitioners who fail or refuse to pay any regulatory fee charged pursuant to this ordinance shall be subject to a civil fine, to be imposed by the Municipal Court in an amount not to exceed \$500.00, to be paid in addition to the regulatory fee owed and any penalty and interest as imposed by Section 4.

(D) Individuals, businesses and practitioners who fail or refuse to make available truthful and accurate information the City requests or requires for determining applicability or amount of regulatory fee, or for levying or collecting such regulatory fee shall be subject to fines in an amount not to exceed \$500.00, to be paid in addition to the regulatory fees owed and any penalty and interest imposed by Section 4.

(E) All persons subject to the regulatory fee imposed by this ordinance shall be required to file for and pay such tax or fee. For failure to do so, any officers or agents soliciting for or obtaining business for such person, business or practitioner shall be subject to the same penalty as other persons, businesses or practitioners who fail to obtain the required certificate or make a return for or pay the applicable regulatory fee.

6. Administrative Remedies

(A) A civil action to enforce the limitation on regulatory fees may be filed after the exhaustion of administrative remedies. The prevailing party in such an action shall be awarded reasonable attorney's fees.

(B) In the event that a business or practitioner subjected to regulatory fees pursuant to this ordinance deems such fees to exceed the reasonable cost of the regulatory activity performed, the business or practitioner shall appeal the cost of the regulatory fees to the full city council. If the city council shall determine that the fees exceed the reasonable cost of the regulatory activity, the city council shall impose a fee that does approximate the cost of the service provided.

7. Severability.

In the event any portion of this ordinance shall be declared or adjudged invalid or unconstitutional, it is the intention of the City Council of the City of Berkeley Lake that such adjudication shall in no manner affect the other sections, sentences, clauses or phrases of this ordinance which shall remain in full force and effect as if the invalid or unconstitutional section, sentence, clause or phrase were not originally part of the ordinance.

8. Repeal of Conflicting Provisions.

All ordinances or parts of ordinance in conflict with this ordinance are hereby repealed.

9. Effective Date.

This ordinance shall become effective _____, 2007.

SO ORDAINED this _____ day of September, 2007.

ATTEST:

Leigh Threadgill, City Administrator

Lois Salter, Mayor

First Read: 11/17/06

Second Read: 6/21/07

Adoption: 9/20/07 _____

APPENDIX A

Examples of businesses or practitioners of professions or occupations which may be subject to regulatory fees of local governments include, but are expressly not limited to, the following:

- (1) Building and construction contractors, subcontractors, and workers;
- (2) Carnivals;
- (3) Taxicab and limousine operators;
- (4) Tattoo artists;
- (5) Stables;
- (6) Shooting galleries and firearm ranges;
- (7) Scrap metal processors;
- (8) Pawnbrokers;
- (9) Food service establishments;
- (10) Dealers in precious metals;
- (11) Firearms dealers;
- (12) Peddlers;
- (13) Parking lots;
- (14) Nursing and personal care homes;
- (15) Newspaper vending boxes;
- (16) Modeling agencies;
- (17) Massage parlors;
- (18) Landfills;
- (19) Auto and motorcycle racing;
- (20) Boarding houses;
- (21) Businesses which provide appearance bonds;
- (22) Boxing and wrestling promoters;
- (23) Hotels and motels;
- (24) Hypnotists;
- (25) Handwriting analysts;
- (26) Health clubs, gyms, and spas;
- (27) Fortunetellers;
- (28) Garbage collectors;
- (29) Escort services;
- (30) Burglar and fire alarm installers; and
- (31) Locksmiths.