

ORDINANCE 96-1

AN ORDINANCE TO IMPOSE AN OCCUPATION TAX WITHIN THE CITY OF SKY VALLEY, GA.

Section 1. Occupation Tax Required; Occupation Tax Required For Business Dealings In The City of Sky Valley.

(A) For the year 1996 and succeeding years thereafter, each person engaged in any business, trade, profession or occupation in Sky Valley, Ga., whether with a location in Sky Valley, 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 registration shall be displayed in a conspicuous place in the place of business, if the taxpayer has a permanent business location in Sky Valley, Georgia. If the taxpayer has no permanent business location in Sky Valley, Georgia, such business tax registration shall be shown to the City Clerk or to any police officer of said Sky Valley, Georgia upon request.

Section 2. Construction of Terms; Definitions.

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

(B) As used in this Article, the term:

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

(2) "Occupation tax" means a tax levied on persons, partnerships, corporation or other entities for engaging in an occupation, profession or business for revenue raising purposes.

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

(4) "Dominant line" means the type of business within a

multiple line business that the greatest amount of income is derived from.

(5) "Person" wherever used in this Article shall be held to include sole proprietors, corporations, partnerships, nonprofit or any other form of business organization.

(6) "'Practitioner of profession or occupation" is one who by state law requires state licensure regulating such profession or occupation.

(7) "Practitioners of professions and occupations" shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.

(8) "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.

SECTION 3. Occupation Tax Levied; Restrictions.

(A) An occupation tax shall be levied upon those businesses and practitioners of professions and occupations with one or more locations or offices in the City of Sky Valley or upon the applicable out-of state businesses with no location or office in Georgia pursuant to O.C.G.A 48-13-7 based upon the number of employees of the business or practitioner.

<u>Number of Employees</u>	<u>Tax Liability</u>
0 - 1 Employees	\$50.00
2 - 9 Employees	150.00
10 or more Employees	350.00

SECTION 4. Paying Occupation Tax of Business With No Location in Georgia.

Registration and assessment of an occupation tax is hereby imposed on those business and practitioners of professions with no location or office in the State of Georgia if the business's largest dollar volume of business in Georgia is in the City of Sky Valley and the business or practitioner:

(1) Has one or more employees or agents who exert substantial efforts within the jurisdiction of the City of Sky Valley 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 of Sky

Valley.

SECTION 5. Each Line of Business To Be Identified On Business Registration.

The business registration of each business operated in the City of Sky Valley shall identify the dominant line of business that the business conducts.

SECTION 6. The Number of Businesses Considered to Be Operating in Sky Valley.

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

SECTION 7. 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 that only applies to those businesses and occupations which are covered by the provisions of O.C.G.A. 48-13-5 to 48-13-26. All other applicable businesses and occupations are taxed by the local government pursuant to the pertinent general and/or local law and ordinance.

SECTION 8. When Tax Due and Payable; Effect of Transacting Business When Tax Delinquent.

(A) Each such occupation tax shall be for the calendar year 1995 and succeeding calendar years thereafter unless otherwise specifically provided. Said registration and occupation tax shall be payable January 1 of each year and shall be delinquent if not paid by March 1 of each year, be subject to penalties for delinquency as prescribed in this Ordinance. On any new profession, trade or calling begun in the City of Sky Valley in 1995 or succeeding years thereafter, the registration and tax shall be delinquent if not obtained immediately upon beginning business. The tax registration herein provided for shall be issued by the City Clerk and if any person, firm or corporation whose duty it is to obtain a registration shall, after said registration or occupation tax becomes delinquent, transact or offer to transact, in Sky Valley, any of the kind of profession, trade, or calling subject to this Ordinance without having first obtained said registration, such offender shall, upon conviction by the city judge, be punished by a fine not to exceed \$500.00 or imprisonment not to exceed 30 days, either or both in the discretion of the city judge.

(B) In addition to the above remedies, the marshal may proceed to collect in the same manner as provided by law for tax executions.

SECTION 9. Exemption on Grounds That Business Is Operated for Charitable Purpose.

No business on which a business registration or occupation tax is levied by this Ordinance shall be exempt from said registration or tax on the ground that such business is operated for a charitable purpose, unless fifty percent (50%) or more of the entire proceeds from said businesses are devoted to such purpose.

SECTION 10. Evidence of State Registration Required if Applicable; State Registration to Be Displayed.

(A) Each person who is licensed by the Secretary of State pursuant to Title 43 of the Official Code of Georgia Annotated shall provide evidence of proper and current state licensure before the City of Sky Valley registration may be issued.

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

SECTION 11. Evidence of Qualification Required If Applicable.

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

SECTION 12. Liability of Officers and Agents; Registration required; Failure to Obtain.

All persons subject to the occupation tax levy pursuant to this Ordinance shall be required to obtain the necessary registration for said business as described in this Ordinance, and in default thereof the officer or agent soliciting for or representing such persons shall be subject to the same penalty as other persons who fail to obtain a registration. every person commencing business in Sky Valley after January 1 of each year shall likewise obtain the registration herein provided for before commencing the same; and any person transacting, or offering to transact in Sky Valley, any of the kinds of business, trade, profession, or occupation without first having so obtained said registration, shall be subject to penalties provided thereof.

SECTION 13. When Registration and Tax Due and Payable; Effect of Transacting Business When Tax Delinquent.

(A) Each such registration shall be for the calendar year in which the registration was obtained unless otherwise specifically provided. There is hereby imposed a penalty upon each business which fails to apply for and obtain an appropriate business registration and pay all tax and fees as provided herein before January 1 of each year, and on January 1 each year hereafter.

Every person commencing business in Sky Valley after January 1 of each year shall obtain the registration required before commencing such business. Any person transacting or offering to transact in Sky Valley any business, trade, profession, or occupation without first having obtained said registration shall be subject to the penalties provided in Section 14. Said penalties shall be in addition to all other penalties, civil and criminal herein provided; and may be collected by the remedies herein provided for collection of the occupation tax, and shall have the same lien and priority as the occupation tax to which the penalty is applied.

(B) The registration herein provided for shall be issued by the City Clerk, and if any person, firm, or corporation whose duty it is to obtain a registration shall after said occupation tax becomes delinquent, transact or offer to transact, in Sky Valley, any of the kind of business, trade, profession, or occupation without having first obtained said registration, such offender shall be subject to the penalties provided thereof.

#### SECTION 14. Penalty of Ordinance Violation.

Any person violating any provisions of this Ordinance shall, upon conviction before the city or county judge, be fined in an amount not exceeding \$500.00 or imprisoned not exceeding 30, either or both, in the discretion of the city judge.

#### SECTION 15. Businesses Not Covered by This Ordinance.

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

- (1) Those businesses regulated by the Georgia Public Service Commission.
- (2) Those electrical service businesses organized under Chapter 3 of Title 46 of the Official Code of Georgia Annotated.
- (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. Section 2-10-105.
- (5) Insurance companies governed by O.C.G.A. Section 33-8-8, et. seq.

#### SECTION 16. Lien Taken for Delinquent Occupation Tax.

In addition to the other remedies herein provided for the collection of the occupation tax herein levied, the City Clerk of Sky Valley, Georgia, 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 persons, partnership, or corporation liable for said tax, which said execution shall bear interest at the rate of twelve percent (12%) per annum from the date when such tax or installment becomes delinquent, and the lien shall cover the property (in the City of Sky Valley) of the person, partnership, or corporation liable for said tax, all as provided by the ordinances and charter of said City of Sky Valley and the laws of Georgia. 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 of Police of said city upon the property of defendant located in said jurisdiction, 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 ordinances and charter of said 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 applicable laws in regard to tax executions. When a nulla bona entry has been entered by proper authority upon an execution issued by the City Clerk against any person defaulting on the occupation tax, the person against whom the entry was made shall not be allowed or entitled to have or collect any fees or charges whatsoever for services rendered after the entry of the nulla bona. If, at any time after the entry of nulla bona has been made, the person against whom the execution issues pays the tax in full together with all interest and costs accrued on the tax, the person may collect any fees and charges due him or her as though he or she had never defaulted in the payment of the taxes.

SECTION 17. Applications of provisions to Prior Ordinances.

This Ordinance 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.

SECTION 18. Provisions to Remain in Full Force and Effect Until Changed by Governing Body.

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

SECTION 19. Requirement of Public Hearing before Tax Increase.

After January 1, 1996, the Council shall conduct at least one

public hearing before adopting any ordinance or resolution which will increase the rate of occupation tax as set forth in this ordinance.

SECTION 20. Option to Establish Exemption or REduction in Occupation Tax.

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

SECTION 21. Conflicts between Specific and General Provisions.

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

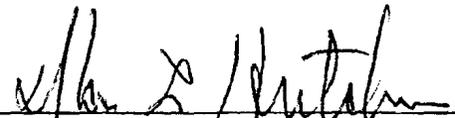
SECTION 22. Severability.

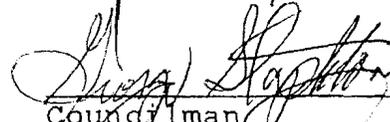
If any section, provision, or clause of any part of this Ordinance shall be declared invalid or unconstitutional, or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such individuality shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent that this Ordinance would have been adopted had such invalid portion not been included herein.

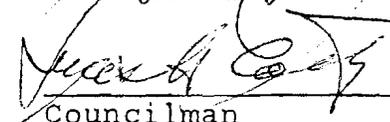
SECTION 23. Repeal of Conflicting Provisions.

All ordinances or part of ordinances in conflict with this ordinance, and not preserved hereby, are hereby repealed.

BE IT SO ORDAINED by the Mayor and Council this 9th day of January, 1996.

  
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Council President

  
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Councilman

  
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Councilman

Harold W. [unclear]  
Councilman

Dorothy O'Brien  
Councilman

Approved:

James Johnston  
Mayor

Attested:

Cessie S. Hennes  
City Clerk