



Gwinnett County Zoning Requirements for Family Child Care Learning Home (FCCLH)

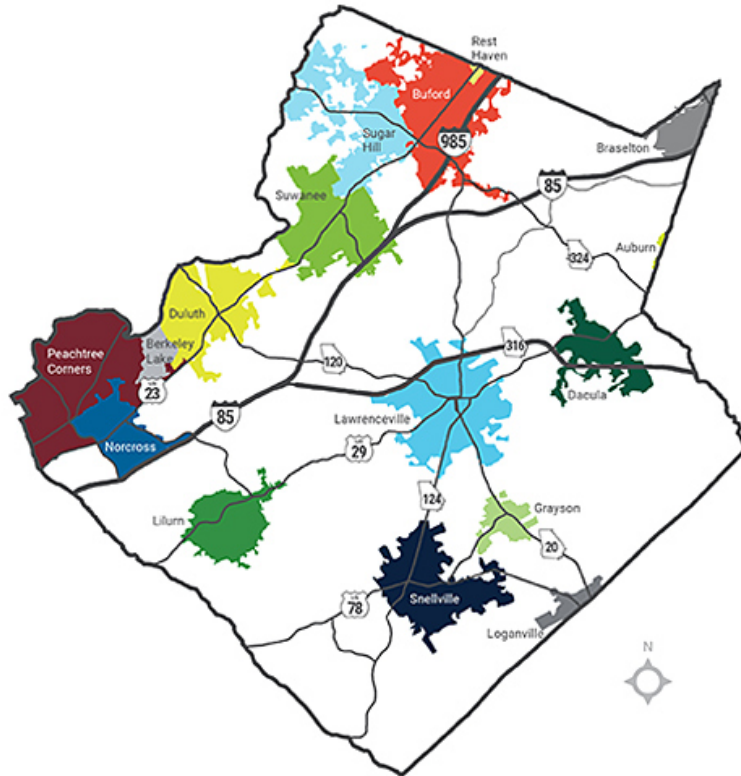
Narrative Explanation for FCC Applicants and Applicant Support Organizations

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For Family Child Care Marathon Project
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Note: This paper is intended to increase the supply of high quality affordable family child care in Georgia. The paper assists individuals interested in providing family child care, (aka Family Child Care Learning Homes), comply with zoning law in their city/county. Whenever possible, the authors quote from the law and include the specific section(s) which apply. Individuals using this document are requested to notify the authors (see e-mail above) if there are errors or misstatement in the paper. While the paper speaks directly to FCC applicants and applicant support organizations in Macon-Bibb County, we hope it serves as an example to applicants in other Georgia cities-counties of how to research the zoning law in their community

Note: This paper does not render legal or other professional advice concerning the zoning process in general or in a specific community. If you require this type of assistance, please consult a professional to represent you.

This paper is best understood and used in conjunction with a parallel document: *Gwinnett County Zoning Requirements for Family Child Care (FCC): Applicant Zoning Analysis for FCC Applicants and Applicant Support Organizations.*



BACKGROUND: DEPARTMENT OF EARLY CARE AND LEARNING (DECAL) LICENSING REQUIREMENTS

If you are interested in obtaining a FCCLH license, the Department of Early Care and Learning (DECAL) requires you show proof you meet several requirements for businesses of the local government (city or county) where you live. Three (3) requirements, zoning permit, business permit, fire department inspections are common to all applicants*. The DECAL publication, [Applicant's Guide to Licensing for Family Child Care Learning Homes \(Revised July 2020\)](http://www.dec.state.ga.us/documents/attachments/FCCLHApplicantGuide.pdf), Link: <http://www.dec.state.ga.us/documents/attachments/FCCLHApplicantGuide.pdf> describes the three as follows:

“Contact the local Fire Marshall to determine if there are local ordinances that apply to operating a Family Child Care Learning Home in your area.

Submit with the application a letter from the local zoning department indicating your residence is zoned for a Family Child Care, or a letter stating there are no zoning regulations.

Submit with the application a valid business license with the facility address or a letter stating a business license is not required/or will be issued upon completion of the Bright from the Start licensing process.”

*Source of water supply (Rules and Regulations Family Child Care Learning Homes 290-2-3.13 (1) (h) “Water supply and sewage disposal systems, if other than approved county or city systems, shall be approved by the proper authority having jurisdiction.

IF YOU WANT TO BE A FAMILY CHILD CARE PROVIDER CARING FOR YOUNG CHILDREN WHILE THEIR PARENTS WORK, WHY DOES ZONING MATTER?

In each county and often large cities, zoning laws are put in place to maintain a certain harmony to the community by limiting the uses of the land. For instance, you would not want there to be a massive coal mining operation in the middle of a large suburban neighborhood. These laws divide the county into “**districts**” or “zones” and determine in each district, what and where certain buildings may be built, what occupations may use those buildings, how much space they can take up, how far apart they have to be, how far from the road they need to be and so on.

According to the Child Care Law Center, “Within each district, certain activities are allowed as a matter of right, meaning that property owners do not need to get permission from the local government to use their property in a particular ‘pre-approved’ manner”*

In a few Georgia counties/cities, (e.g. Clarkston, Roswell) **Family Child Care (FCC)** is permitted as a matter of right, although, even in these cities, a few conditions apply. In most counties/cities, FCC is a use that must be explicitly allowed within a district. The property owner must apply for permission to use the property in the specified manner and agree to meet any “conditions” (aka conditional use requirements), stated in the law for that particular use. However, because each city/county establishes their own zoning law, there is wide variation in how FCC is treated. The differences may show up in how FCC is defined, in which districts it is permitted or not permitted, what conditions an applicant must comply with, and what is the cost, time, and process involved in obtaining permission to use your home as a FCC business.

This paper aims to answer the following questions for **Gwinnett County** based on the *Gwinnett County Code of Ordinances*:

1. How is *family child care* defined within Gwinnett County?
2. What sort of conditions are put in place for *family child care*?
3. How would I locate what district I live in to determine if I qualify?
4. Within what district(s) is *family child care* allowed?
5. If I do qualify, what do I need to do?
6. Does it cost anything?

Note: While the paper speaks directly to FCC applicants and applicant support organizations in Gwinnett County, we hope it serves as an example to applicants in other Georgia cities-counties of how to research the zoning law in their community

*Child Care Law Center, 2003, A Child Care Advocacy Guide to Land Use Principles.

HOW IS FAMILY CHILD CARE DEFINED WITHIN GWINNETT COUNTY?

Within Gwinnett County, Georgia, family child care as a zone use is defined as “day care home, family” in Section 100-40 of the *Gwinnett County Code of Ordinances*. The definition is as follows:

A private residence operated by any person(s) who receives therein for pay for care and supervision, less than 24 hours per day, without transfer of legal custody, up to 5 children under 18 years of age who are not related to such persons and whose parents or guardians are not residents in the same private residence.

The use can also be seen listed as a “day care facility, family” within the *Table of Permitted And Special Uses*, Table 230.4 under Section 230-100.7. *Day care facility, family* is not explicitly defined, so it must be assumed that the two names are interchangeable within this context.

WHAT SORT OF CONDITIONS ARE PUT IN PLACE FOR FAMILY CHILD CARE?

There are no sections containing conditions or special permits necessary for a family day care home in Gwinnett County. The use is either permitted or prohibited in each district, which means it is either allowed as long as it fulfills the definition, or it is not allowed without making an appeal.

However, potential applicants should be aware of conditions set by the definition:

- Family day care has a **five-child maximum** by this definition. (This is *less* than the accepted six-child standard for family child care set by DECAL)
- The location of operation is required to be a private residence.
- Children related to the owner of the business are not counted in the overall total of children for the childcare home.

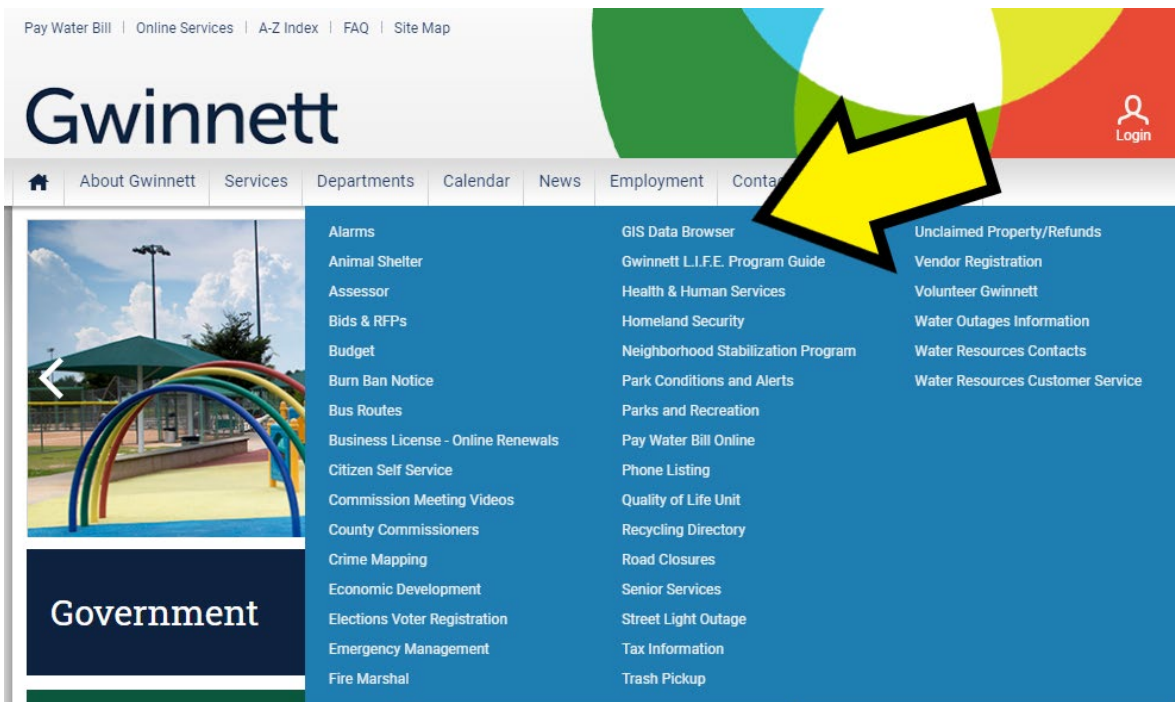
Though it is not explicitly stated, day care homes are prohibited in two-family townhouses, multifamily districts, and high-rise residencies.

Additionally, Section 42-55 requires any family day care home to obtain the “required fire permits, ... fire inspections, and a certificate of occupancy, prior to conducting business”. For the purpose of the fire code, family day care homes are defined as “... home in which more than three, **but fewer than seven**, clients receive care, maintenance, and supervision by other than their relative(s) or legal guardian(s) for less than 24 hours per day, generally within a dwelling unit.”

HOW WOULD I LOCATE WHAT DISTRICT I LIVE IN TO DETERMINE IF I QUALIFY?

Using the GIS data of Gwinnett County you can find your plot of land and then determine what district it resides in.

The GIS map can be found by first going to the Gwinnett County website [<https://www.gwinnettcountry.com/web/gwinnett/Home>] and then hovering over the Top Links drop down and choosing *GIS Browsing Data*. Follow the prompts to get to the GIS map page.

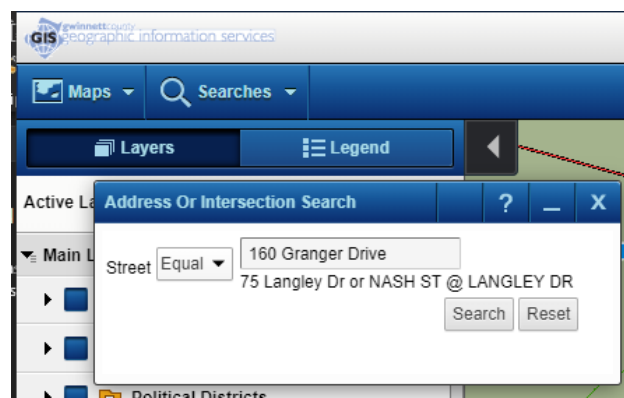


Step 1 Click 'GIS Data Browser' under the Top Links tab

You can also reach it with the following link:

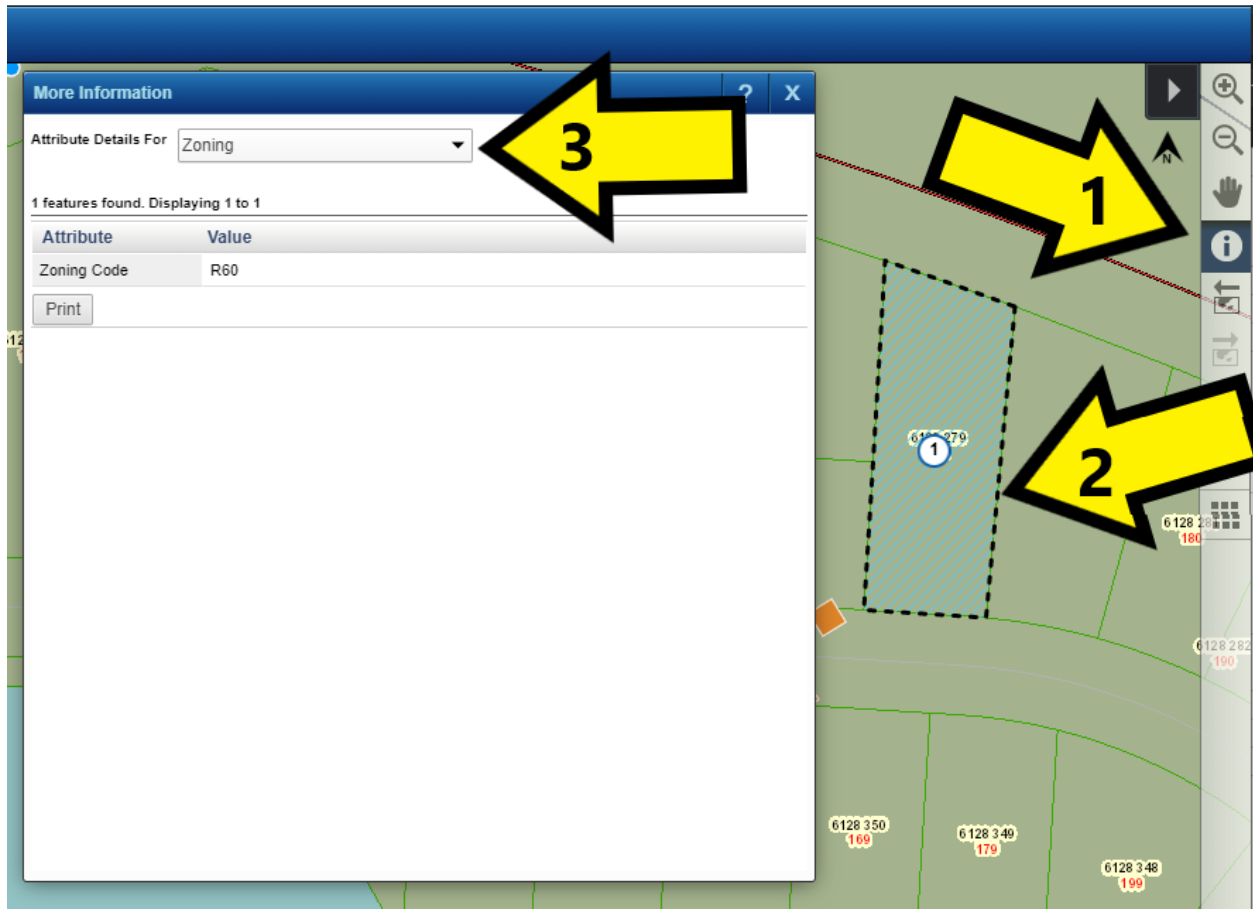
<https://gis.gwinnettcountry.com/GISDataBrowser/WebPages/Map/FundyViewer.aspx>

From the top left of the GIS page you can choose to search for your property. Choose to search for an *Address or Intersection* and then type in your street address.



Step 2 Search for your property

It will zoom in on the property searched which will be clearly demarcated (likely labeled with a '1' as well). From the right hand menu, choose the Information interaction option. Then, click on your piece of land to get the information about it. If the *Attributes Details For* option is not on Zoning, choose it from the dropdown to find the Zoning district the parcel of land is a part of.



Step 3 Click the i icon for information and choose Zoning from the dropdown

WHAT DISTRICT (S) ALLOW FAMILY CHILD CARE AND ARE THERE CONDITIONAL REQUIREMENTS?

In Gwinnett County each use falls under one of the four use case: Permitted, Special Use Permit, Accessory Use, or Prohibited. The classification of each district's user type is determined by the *Table of Permitted and Special Uses* under Appendix A. Section 230-100.7. Family day care homes are only Permitted or Prohibited as a use.

If the applicant lives in a district where family day care homes are a **Permitted Use** this means that this use is allowed in the district and there are no conditions that have to be met to outside the definition in order to be compliant.

If the applicant lives in a district where family day care homes are a **Prohibited Use** then the use is not allowed in the district and will not be allowed under most any circumstance. An appeal to the Zoning Board of Appeals can be made for a Variance to allow for a family day care home by following the application procedures laid out in Section 270-100 of the Code of Ordinances. While this does *not guarantee* the allowance, it is a method of requesting a family day care home in a Prohibited district.

Refer to the table on the following page to determine use type by individual district.

Abbr	District Type	Status
RA-200	Agriculture Residence	Permitted
R-LL	Single Family Res. Large Lot	Permitted
R-100	Single Family Residences	Permitted
R-75	Single Family Residences	Permitted
OSC	Open Space Conservation	Permitted
R-60	Single Family Residences	Permitted
MH	Manufactured Housing	Permitted
TND	Traditional Neighborhood Development	Permitted
R-SR	Senior Oriented Residence	Prohibited
R-TH	Residences Townhouse	Prohibited
RM-13	Multifamily Residence	Prohibited
RM-24	Multifamily Residence	Prohibited
HRR	High-Rise Residence	Prohibited
O-R	Office-Residence	Prohibited
O-I	Office-Institutional	Prohibited
C-1	Neighborhood Business	Prohibited
C-2	General Business	Prohibited
C-3	Highway Business District	Prohibited
MU-N	Neighborhood Mixed Use	Prohibited
MU-C	Community Mixed Use	Prohibited
MU-R	Regional Mixed Use	Prohibited
M-1	Light Industry	Prohibited
M-2	Heavy Industry	Prohibited

IF I DO QUALIFY, WHAT DO I NEED TO DO?

If you reside in a district that allows day care homes as a Permitted Use and your home complies with all the conditions laid out in the definition, then the next step is to begin obtaining the necessary documents for the DECAL license. The following documents will be required:

- Zoning Certificate
- Business License (or letter indicating you are applying for one and cannot receive it until this license is complete)
- Fingerprint Processing / Record Check

Link: <http://www.dec.state.ga.us/documents/attachments/FCCLHApplicantGuide.pdf>

And in order to obtain a business license from Gwinnet County, the additional following documents will be required:

- Submission of Occupational Tax Application
- Certificate of Occupancy
- U.S. Citizen Affidavit
- E-Verify Affidavit
- U.S. Drivers License or Photo ID
- State License from the Department of Early Care and Learning [the above license]

Link: https://www.gwinnetcounty.com/static/departments/planning/pdf/LRB-03_business_occupation_tax_application.pdf

The following sections will explain where and how to obtain essential documentation for Gwinnett County.

Zoning Certificate:

This Zoning Certificate is simply a formalized letter from the county Planning and Development board stating what Zone you reside in and that the use you are attempting is / is not Permitted within it. In Gwinnett County any person applying for an in-home day care is required to obtain this document *in person* at the Planning Section office. This is in order to help the applicant get an idea for the entire process and make sure they are compliant before moving forward with the other steps.

In-Home Family Day Care – NOT AVAILABLE ONLINE

If you plan to operate a day care with 5 or less children within your home, the State requires you obtain Zoning Certification from the County. Completion of this certification can only be done **in person** at the Current Planning Section office (address below). The applicant will have to complete a County provided form and pay a \$50 fee to receive this certification.

Past this there are no other requirements related to zoning.

Fire Permits / Certificate of Occupancy:

The Certificate of Occupancy is a document issued by the county Fire Marshal's Office to indicate that fire inspections have been done and no fire safety violations exist on the premises. The easiest method to obtain one and have a fire inspection done is apply online through the Citizens Access portal at <https://eddspermits.gwinnettcountry.com/CitizenAccess/>. From here create an account and then create an application for a Certificate of Occupancy under *Residential / Commercial Services*.

The screenshot shows the Gwinnett County E-Services Website. At the top, the Gwinnett logo is displayed. Below it, there are navigation links for "Announcements" and "Collections". A search bar is located on the right side. The main navigation menu includes "Home", "Residential/Commercial Services", "Building/Fire/Development Services", "Fire Services", "Complaints/Violations", and "Development Services". The "Residential/Commercial Services" menu is expanded, showing a list of services: "E-Services Home", "Residential/Commercial Services", "Building/Fire/Development Services", and "Fire Services". A yellow arrow points to the "Find Your permit" link under the "Residential/Commercial Services" section.

Gwinnett

Announcements [REDACTED] Collections

Search...

Home Residential/Commercial Services Building/Fire/Development Services Fire Services Complaints/Violations Development Services Z

Welcome to the Gwinnett County E-Services Website, Logan Creel
You have successfully logged in.

E-Services Home
Check your Cases, Pay Fees.
[My Projects](#) | [Pay Fees](#)

Residential/Commercial Services
Residential, Repair, Basement Remodeling, Deck Permits, Subcontractor Affidavit, Certificate of Occupancy (Tenant Name Change), Permit Extension/Renewal Request, Cell Tower/Oversized Sign Reg, Structure Registration.
[Create an Application](#) | [Find Your permit](#) | [Schedule An Inspection](#)

Building/Fire/Development Services
Electronic Plan Submittal for Plan, DOT ROW Utility Permit.
[Apply for a Permit](#) | [Search](#)

Fire Services
Bonfire, Consumer Fire Works, Motion Picture & Television, Outdoor Fireworks Display, Commercial Burn Pit, Fire Flame - Special Effects and Tent Permits
[Apply For a Permit](#) | [Search Permit](#)

Select a Permit Type

Choose one of the following available permit types. If you do not see your desired permit type or application type listed below please contact the department.

NOTE: For Permit types that require a permit fee, the fee must be paid before the permit is issued. The permit fee is assessed and paid at the end of the process.

▶ Affidavit

- Subcontractor Affidavit

▶ Commercial Building Permits

- Application for a Certificate of Occupancy – Select this permit type if you are moving into a space or there has been an ownership change; taking the space as is – No Construction
- Commercial Electrical Permit (cable TV power booster installation only)
- Gas Line Pressure Test (RECONNECT ONLY - NO WORK)



For further information, a helpful guide from the fire department on obtaining a Certificate of Occupancy can be found at the following link from the Gwinnet County website:

https://www.gwinnettcountry.com/static/departments/fire_emergency/pdf/obtaining_fire_permit.pdf

Business License / Occupational Tax Application:

The application for the Gwinnett County Occupational Tax License can be found at

<https://www.gwinnettcountry.com/web/gwinnett/Departments/PlanningandDevelopment/LicensingandRevenue>.

This same page also includes forms for the U.S. Citizen Affidavit and the E-Verify Affidavit that will need to be included with the license. Note that the Certificate of Occupancy *and* state license will need to be included with this document, meaning that it will need to be the last application filed for. With all the documents filled out they can be submitted either by email at NewBusinessLicense@gwinnettcountry.com or in person at 446 West Crogan Street Suite 130, Lawrenceville, GA 30046.

Check List for Attachments (Provide Copies)

- (All businesses)* If this business is a LLC, Corporation or Limited Partnership, provide a copy of the GA Secretary of State Certificate of Organization / Incorporation and Articles listing all officers and agents
- (All businesses)* If your profession / occupation is required to obtain a state license, health permit, or any other regulatory approval from any state, federal or professional licensing board, provide a copy of the current license / certification
- (All businesses)* Original notarized E-Verify Private Employer of Compliance Affidavit
- (All businesses)* Original notarized U.S. Citizen / Qualified Alien Affidavit along with a front and back copy of your secure and verifiable identification document
- (Commercial based businesses)* Certificate of Occupancy reflecting your DBA/Tradename
- (Home based businesses)* State of GA issued Driver's License/Photo ID showing current home address, which must match location address on Page 1

* Contact the Georgia Department of Revenue (Georgia Tax Center) to determine if required for this business type

DOES IT COST ANYTHING?

A Zoning Certificate Application will cost \$50.

A Certification of Occupancy costs on average \$180.

Issuance of the Business License is a fee of \$80.

The Occupational Tax is levied on a sliding scale explained by the following insert:

Fee Scale

Business Occupation Tax Certificate: Gwinnett has established six (6) tax classes, with rates ranging from \$0.65 per thousand dollars of gross revenue to \$1.30 per thousand dollars of gross revenue (see item #10 on the application form). There is a non-refundable and non-prorated \$80 flat fee associated with the issuance of the Business/Occupation Tax Certificate.