

ARTICLE II. - LOCAL BUSINESS TAX

FOOTNOTE(S):

Editor's note—Ord. No. 1111, § 3, adopted May 8, 2007, changed the title of article II from "Occupational license" to "Local business tax."

State Law reference— Local business tax, F.S. Ch. 205.

Sec. 62-31. - Definitions.

The following words, terms and phrases when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amusement machines means, as used in the local business tax schedule, any coin-operated machine played for the purpose of amusement or entertainment, but shall not include coin-operated music devices, or coin-operated machines that return an article of value uniformly as to quality and quantity upon each insertion of a coin, nor shall this definition include weighing or stamp machines, coin-operated telephones, or machines or devices which operate upon the insertion of a \$0.01 piece.

- (1) *Dealer or lessor* means any person who leases, rents out or places under any kind of arrangement whatsoever, with any other person any amusement machine.
- (2) *Amusement parlor* means any business where more than three amusement machines, owned by him, are operated.

Business means any person holding himself out to the public, at a given location, by sign, printed matter, classified section, telephone directory, or city directory, or otherwise as being engaged in business, or as offering services or property to the public, regardless of whether such person actually transacts any business, or practices a profession, shall be considered as engaging in business and shall be liable for a local business tax therefor.

Premises means all lands, structures, places, and also the equipment and appurtenances connected or used therewith in any business, and also any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises.

Rental unit means a rental unit for the purpose of this article shall be construed to mean and include rooms, apartments, hotels, motels, motor courts, cottages, cabins and/or other buildings rented as living quarters by the day, week, month or year.

(Code 1983, § 11-103; Ord. No. 1111, § 3, 5-8-07)

Cross reference— Definitions generally, § 1-2

Sec. 62-32. - Levy.

The city does hereby levy a local business tax for the privilege of engaging in or maintaining any business, profession or occupation within its jurisdictional boundaries. The local business tax will be levied on:

- (1) Any person who maintains a permanent business location or branch office within the municipality, for the privilege of engaging in or managing any business within its jurisdiction.
- (2) Any person who maintains a permanent business location or branch office within the municipality, for the privilege of engaging in or managing any profession or occupation within its jurisdiction.
- (3) Any person who does not qualify under subsection (1) or subsection (2) of this section and who transacts any business or engages in any occupation or profession in interstate commerce, if the local business tax is not prohibited by Section 8 of Article I of the United States Constitution.

(Code 1983, § 11-101(A), 19-202; Ord. No. 1111, § 3, 5-8-07)

State Law reference— Similar provisions, F.S. § 205.042.

Sec. 62-33. - Compliance required.

It shall be unlawful for any person, either directly or indirectly, to conduct any business, profession or nonprofit enterprise, or to use in connection therewith any vehicle, premises, machine, or device, in whole or part, for which a local business tax receipt or permit is required by any law or ordinance of this city, without a local business tax receipt or permit therefor being first procured and kept in effect at all such times as required by this article.

(Code 1983, § 11-101(B); Ord. No. 1111, § 3, 5-8-07)

Sec. 62-34. - Special sales.

This article shall apply to all business in the nature of special sales for which a local business tax receipt is required by any law or ordinance of the city. It shall be unlawful for any person, either directly or indirectly, to conduct any such sale except in conformity with the provisions of this article.

(Code 1983, § 11-101(C); Ord. No. 1111, § 3, 5-8-07)

Sec. 62-35. - One act constitutes doing business.

For the purpose of this article, any person shall be deemed to be in business or engaging in nonprofit enterprise, and thus subject to the requirements of this article for any act of:

- (1) Selling any goods or service.
- (2) Soliciting business or offering goods or services for sale or hire.

(Code 1983, § 11-101(D))

Sec. 62-36. - Agents responsible.

The agents or other representatives of nonresidents who are doing business in this city shall be personally responsible for the compliance of their principals and of the businesses they represent with the provisions of this article.

(Code 1983, § 11-101(E))

Sec. 62-37. - Branch establishments.

A local business tax receipt shall be obtained in the manner prescribed in this article for each branch establishment or location of business engaged in, as if each such branch establishment or location were a separate business; provided that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this article shall not be deemed to be separate places of business or branch establishments.

(Code 1983, § 11-102(A); Ord. No. 1111, § 3, 5-8-07)

Sec. 62-38. - Two businesses.

A person engaged in two or more businesses at the same location shall not be required to obtain separate local business tax receipts for conducting each of such businesses, unless otherwise provided in this article, but, when eligible, shall be issued one local business tax receipt for the highest amount payable for any one of the businesses, and shall be charged a fee of one-half of fee for each additional business. Such additional businesses shall be specified on the face of the local business tax receipt.

(Code 1983, § 11-102(B); Ord. No. 1111, § 3, 5-8-07)

Sec. 62-39. - Delivery only.

No local business tax receipt shall be required of any person for any mere delivery in the city of any property purchased or acquired in good faith from such person at his regular place of business inside or outside the city where no intent by such person is shown to exist to evade the provisions of this article.

(Code 1983, § 11-102(C); Ord. No. 1111, § 3, 5-8-07)

Sec. 62-40. - Renting rooms.

No local business tax receipt shall be required of any person where that person is renting an individual room within his home, and his home is not incidental to a business requiring a local business tax receipt for guest accommodation.

(Code 1983, § 11-102(D); Ord. No. 1111, § 3, 5-8-07)

Sec. 62-41. - Special permits for nonprofit enterprise.

The city local business tax receipt officer shall issue special permits without the payment of any local business tax or other charges therefor, to any person or organization for the conduct or operation of a nonprofit enterprise, either regularly or temporarily, when he finds that the applicant operates without private profit, for a public charitable, educational, literary, fraternal or religious purpose, with the approval of the city manager.

(Code 1983, § 11-102(E); Ord. No. 1111, § 3, 5-8-07)

Sec. 62-42. - Real estate agents.

No local business tax receipt shall be issued by the city to any real estate broker or real estate salesman operating from a location within the city who has not procured a proper registration certificate from the state real estate commission as required by state statutes.

(Code 1983, § 11-102(F); Ord. No. 1111, § 3, 5-8-07)

Sec. 62-43. - Operating from temporary quarters prohibited.

Businesses are prohibited from operating from any temporary quarters (i.e. tents, pushcarts, sheds, carpports, etc.) except for short term special events and then only with a permit issued by the city manager or his designee. A fee for the permit may be required.

(Code 1983, § 11-102(G))

Sec. 62-44. - Vending and amusement machines.

The business premises where a coin-operated or token-operated vending machine that dispenses products, merchandise, or services or where an amusement or game machine is operated must assure that a local business tax receipt for the machine is secured. The term "vending machine" does not include coin-operated telephone sets owned by persons who are in the business of providing local exchange telephone service and who pay the local business tax under the category designated for telephone companies in the city or a pay telephone service provider certified pursuant to F.S. § 364.3375. The local business tax for vending and amusement machines is assessed based on the highest number of machines located on the business premises on any single day during the previous licensing year or, in the case of new businesses, be based on an estimate for the current year. Replacement of one vending machine with another machine during a licensing year does not affect the tax assessment for that year, unless the replacement machine belongs to a local business tax classification that requires a higher tax rate.

(Code 1983, § 11-102(H); Ord. No. 1111, § 3, 5-8-07)

Sec. 62-45. - Term of local business tax receipt; penalty for operating prior to obtaining local business tax receipt; partial year tax.

- (a) A local business tax receipt will not be valid for more than one year and will expire on September 30 of each year, except as otherwise provided by law. All local business tax receipts shall be sold beginning August 1 of each year and shall be due and payable on or before September 30 of each year and expire on September 30 of the succeeding year. If September 30 falls on a weekend or holiday, the tax is due and payable on or before the first working day following September 30. Local business tax receipts that are not renewed when due and payable shall be considered delinquent and subject to a delinquency penalty of ten percent for the month of October, plus an additional five percent penalty for each subsequent month of delinquency until paid. However, the total delinquency penalty may not exceed 25 percent of the local business tax for the delinquent establishment.
- (b) Any person who engages in or manages any business, occupation, or profession without first obtaining a local business tax receipt, if required is subject to a penalty of 25 percent of the tax due, in addition to any other penalty provided by law or ordinance.
- (c) For each local business tax receipt issued between October 1 and April 1 of each year the full amount of local business tax hereby imposed shall be paid, and for each license issued on or after April 1 of each year, one-half of the total amount of the local business tax shall be paid. This section shall not apply to local business tax receipts authorized to be issued for a period less than six months except as otherwise specifically stated.

(Code 1983, § 11-104(A), (C), (D); Ord. No. 1111, § 3, 5-8-07)

Editor's note— Ord. No. 1111, § 3, adopted May 8, 2007, changed the title of § 62-45 from "Term of license; penalty for operating prior to obtaining license; partial year tax" to "Term of local business tax receipt penalty for operating prior to obtaining local business tax receipt; partial year tax."

State Law reference— Due dates, penalties, F.S. § 205.053; exemptions, F.S. §§ 205.063—205.193.

Sec. 62-46. - Formal application required; form and contents.

Every person required to procure a local business tax receipt under the provisions of any ordinance or law of the city shall submit, if requested, an application for such local business tax receipt to the city business tax officer. The application shall contain the following:

- (1) Form. A written statement upon forms provided by the city business tax officer. Such forms shall include an affidavit, to be sworn to by the applicant.
- (2) Contents. The disclosure of all information necessary to comply with application form and of any other information which the city business tax officer shall find to be reasonably necessary to the fair administration of this article.
- (3) Payment of fees. The full amount of fees chargeable for such local business tax receipt.

(Code 1983, § 11-105(A); Ord. No. 1111, § 3, 5-8-07)

Sec. 62-47. - Issuance of receipts.

Whenever a local business tax receipt cannot be issued at the time the application for such local business tax receipt is made, the city business tax officer shall upon request issue a receipt to the applicant for the money paid in advance. Such receipt shall not be construed as the approval of the city business tax officer for the issuance of a local business tax receipt; nor shall it entitle or authorize the applicant to open or maintain any business contrary to the provisions of this article.

(Code 1983, § 11-105(B); Ord. No. 1111, § 3, 5-8-07)

Sec. 62-48. - Duplicate receipt procedure.

A duplicate local business tax receipt or special permit shall be issued by the business tax officer to replace any local business tax receipt previously issued, which has been lost, stolen, defaced or destroyed, without any willful conduct on the part of the licensee, upon the filing by the licensee of an affidavit attesting to such fact and the paying to the business tax officer of a fee of \$5.00.

(Code 1983, § 11-105(C); Ord. No. 1111, § 3, 5-8-07)

Editor's note— Ord. No. 1111, § 3, adopted May 8, 2007, changed the title of § 62-48 from "Duplicate license procedure" to "Duplicate receipt procedure."

Sec. 62-49. - Supplemental local business tax receipt procedure.

When a local business tax receipt holder places himself in a new status, the business tax officer shall issue a supplemental local business tax receipt and such additional insignia as may be required.

(Code 1983, § 11-105(D); Ord. No. 1111, § 3, 5-8-07)

Editor's note— Ord. No. 1111, § 3, adopted May 8, 2007, changed the title of § 62-49 from "Supplemental license procedure" to "Supplemental local business tax receipt procedure."

Sec. 62-50. - Nonapproval of local business tax receipt.

The business tax officer shall, upon disapproving any application submitted under the provisions of this article, refund all fees paid in advance to the applicant, provided the applicant is not otherwise indebted to the city.

(Code 1983, § 11-105(E); Ord. No. 1111, § 3, 5-8-07)

Editor's note— Ord. No. 1111, § 3, adopted May 8, 2007, changed the title of § 62-50 from "Nonapproval of license" to "Nonapproval of local business tax receipt."

Sec. 62-51. - Compliance pending legal action.

When the issuance of a local business tax receipt is denied and any action instituted by the applicant to compel its issuance, such applicant shall not engage in the business for which the local business tax receipt was refused unless a local business tax receipt be issued to him pursuant to a judgment ordering such issuance.

(Code 1983, § 11-105(F); Ord. No. 1111, § 3, 5-8-07)

Sec. 62-52. - Display of local business tax receipt and insignia.

Every licensee under this article shall:

- (1) Post and maintain such local business tax receipt upon the licensed premises in a place where it may be seen at all times.
- (2) Affix any insignia, delivered for use in connection with his business premises, on the inside glass part of a window of his establishment, facing the public way or on the inside glass part of the door opening on the public way. Such insignia shall be placed and maintained so as to be plainly visible from the public way. Premises not fronting on public way at street level or not having a glass door opening upon the public way shall have the insignia displayed in the door, window, or other prominent place in the nearest proximity to the principal public entrance to his establishment, and the insignia shall be placed and maintained so as to be plainly visible from such public entrance.
- (3) Affix any insignia delivered for use in connection with a licensed motor vehicle on the windshield of the vehicle or as may be otherwise prescribed by the business tax officer or by law.
- (4) Affix any metal or other durable type of insignia delivered for use in connection with a wagon or other vehicle not operated by motor power, securely on the outside of such vehicle.
- (5) Carry such local business tax receipt on his person when he has no licensed business premises.
- (6) Affix any insignia delivered for use in connection therewith upon the outside of any coin-vending or other business machine or device, so that it may be seen at all times.
- (7) Not allow any local business tax receipt, special permit or insignia to remain posted, or displayed, or used, after the period for which it was issued has expired; or when it has been suspended or revoked, or for any other reason becomes ineffective. The local business tax receipt holder shall promptly return such inoperative local business tax receipt, special permit, or insignia to the local business tax officer.
- (8) Not loan, sell, give or assign to any other person, or allow any other person to use or display, or to destroy, damage or remove, or to have in his possession, except as authorized by the local business tax officer or by law, any local business tax receipt or insignia which has been issued to such licensee.

(Code 1983, § 11-106(B); Ord. No. 1111, § 3, 5-8-07)

Editor's note— Ord. No. 1111, § 3, adopted May 8, 2007, changed the title of § 62-52 from "Display of license and insignia" to "Display of local business tax receipt and insignia."

Sec. 62-53. - Transfer of local business tax receipt.

- (a) Any local business tax receipt may be transferred to a new owner when there is a bona fide sale of the business, upon payment of a transfer fee up to ten percent of the annual local business tax, but not less than \$3.00 nor more than \$25.00 and presentation of the original local business tax receipt and evidence of the sale.
- (b) Upon written request and presentation of the original local business tax receipt, any local business tax receipt may be transferred from one location to another location in the city upon payment of a transfer fee up to ten percent of the annual local business tax, but not less than \$3.00 nor more than \$25.00.

(Code 1983, § 11-106(C); Ord. No. 1111, § 3, 5-8-07)

Editor's note— Ord. No. 1111, § 3, adopted May 8, 2007, changed the title of § 62-53 from "Transfer of license; fees" to "Transfer of local business tax receipt."

Sec. 62-54. - Records.

- (a) A local business tax receipt holder shall keep all records and books necessary to the computation of his local business tax and to the enforcement of this article.
- (b) When the local business tax receipt holder has failed to keep the books and records required in this article, the local business tax officer or finance department shall make his or its own determination as to the financial statement for the business of such licensee.

(Code 1983, § 11-106(D); Ord. No. 1111, § 3, 5-8-07)

Sec. 62-55. - Effect on motor vehicles.

Any general or special license fee required for any kind of vehicle, for the privilege of being operated upon the public highways, by any statute or ordinance, shall not abrogate, limit, or affect any further requirements of this Code or of other laws or regulations for additional and separate local business tax receipts, permits, and insignia and fees for such vehicles, or other uses, for and relating to the privilege of using such vehicles in the business so licensed.

(Code 1983, § 11-106(E); Ord. No. 1111, § 3, 5-8-07)

Sec. 62-56. - Enforcement and inspection.

- (a) Persons authorized to conduct inspections. The following persons are authorized to conduct inspections:
 - (1) Local business tax officer. The local business tax officer shall make all investigations reasonable necessary to the enforcement of this article.
 - (2) Officials having duties. The local business tax officer shall have the authority to order the inspection of licensees, their businesses and premises, by all city officials having duties to perform with reference to such licensees or businesses.
 - (3) Designated law enforcement officers. All designated law enforcement officers shall inspect and examine businesses located within their respective jurisdictions or beats to enforce compliance with the provisions of this article.
- (b) Authority to examine records. It shall be the right and duty of the city manager, his authorized deputy, auditor, inspector or representative, to inspect from time to time the records of any business in the city where the local business tax of such business is based on amount of inventory, number of employees, number of vehicles, or number of rental units. The information obtained from such inspection and investigation shall be used as an aid in determining the proper classification and local business tax for such business or establishment. Any person hindering, impeding or obstructing the city manager, his authorized deputy, auditor, inspector or representative, in the reasonable performance of his duty shall be guilty of an offense against the city and shall be penalized in accordance with section 1-16 of this Code.

(Code 1983, § 11-107; Ord. No. 1111, § 3, 5-8-07)

Sec. 62-57. - Right to revoke local business tax receipt.

- (a) The board of commissioners shall retain the right to revoke the local business tax receipt and prohibit the further conduct of business of any business establishment regulated by this article for good cause shown. "Cause" is hereby defined to mean the conduct of any business in such manner so as to constitute a public or private nuisance, or the operation of a business contrary to the provisions of the Code, or the operation of a business contrary to the provisions of the laws of the state, or the conduct of a business in such a manner so as to constitute a hazard to public health, safety or welfare of the city.
- (b) Prior to the revocation of any local business tax receipt, the board of commissioners shall cause written notice to be served upon the business whose local business tax receipt is sought to be revoked which notice shall state with particularity the precise cause or grounds for revocation of local business tax receipt and the exact nature of the charges against such business. Such notice shall be served upon the owner or operator of such business establishment and shall state the time and place a public hearing shall be had on such charges, cause or grounds. The public hearing shall be at least ten days after service of notice upon such business establishment.

- (c) At the date and time and place specified in the notice as provided in subsection (b) of this section, the owner, operator, agent or attorney of such business establishment may be heard as to why such local business tax receipt shall not be revoked. The board of commissioners shall be empowered at such hearing to receive evidence and administer oaths as to the grounds, cause, charges or want thereof for revocation of local business tax receipts.

(Code 1983, § 11-108; Ord. No. 1111, § 3, 5-8-07)

Editor's note— Ord. No. 1111, § 3, adopted May 8, 2007, changed the title of § 62-57 from "Right to revoke occupational licenses" to "Right to revoke local business tax receipt."

Sec. 62-58. - Citation for delinquency.

All local business taxes not paid shall be considered delinquent and cited accordingly and covered under the provisions of section 62-59 and this Code.

(Code 1983, § 11-109; Ord. No. 1111, § 3, 5-8-07)

Sec. 62-59. - Penalties.

Any person who engages in any business, occupation or profession covered by this article, who does not pay the required local business tax within 150 days after the initial notice of tax due and who does not obtain the required local business tax receipt is subject to civil actions and penalties including court costs, reasonable attorney fees, additional administrative costs incurred as a result of collection efforts and a penalty of up to \$250.00.

(Code 1983, § 11-110; Ord. No. 1111, § 3, 5-8-07)

State Law reference— Penalty authorized, F.S. § 205.053.