

ORDINANCE NO. 14-28

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF EUSTIS, FLORIDA; REPEALING ORDINANCE NO. 07-04; REPLACING CHAPTER 86, ARTICLE V.: BUSINESS TAX OF THE CITY OF EUSTIS CODE OF ORDINANCES IN ITS ENTIRETY; PROVIDING FOR CONFLICT WITH EXISTING ORDINANCES; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 205 of the Florida Statutes authorizes municipalities to levy a business tax for the privilege of engaging in or managing any business, profession, or occupation within its jurisdiction; and

WHEREAS, Chapter 86, Article V., of the City of Eustis Code of Ordinances was established in 1959 and last modified by Ordinance 07-04 to address legislative changes to Chapter 205 of the Florida Statutes; and

WHEREAS, the City Commission of the City of Eustis finds that Chapter 86, Article V. of the City of Eustis Code of Ordinances should be amended to clarify the Business Tax Receipt process and regulations; and

WHEREAS, the City Commission of the City of Eustis finds that Chapter 86, Article V. of the City of Eustis Code of Ordinances should be amended to simplify the Business Tax Schedule and provide for tax rates that are competitive with surrounding municipalities.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF EUSTIS, FLORIDA AS FOLLOWS:

Section 1. That Ordinance No. 07-04 is hereby repealed and replaced in its entirety with this Ordinance No. 14-28, to be codified as Chapter 86, Article V: Business Tax, City of Eustis Code of Ordinances as follows:

Article V: BUSINESS TAX

***State law references: Local Business Tax Act, ,F.S. Ch. 205**

Section 86-221. Levy.

A local business tax is hereby imposed and levied upon and shall be collected from:

- (a) Every person exercising the privilege of carrying on or engaging in any business, profession or occupation and who maintains a permanent business location or branch office within the City;

- (b) Every person exercising the privilege of carrying on or engaging in any business, profession or occupation at their residence within the City;
- (c) Every person who conducts business within the City limits, including, but not limited to those operating mobile food trucks or providing mobile services, roadside vendors, solicitors and peddlers; unless such person is engaging or managing a business , profession or occupation regulated by the Department of Business and Professional Regulations as per Chapter 205.065, Florida Statutes.
- (d) Any person who transacts any business or engages in any occupation or profession in interstate commerce where such a business tax is not prohibited by Section 8, Article 1 of the United States Constitution.

State law references: Similar provisions, F.S. § 205.042.

Sec. 86-222. Business Tax Receipt required.

- (a) No person shall engage in any business, profession, occupation, trade, or industry within the City without first having procured a Business Tax Receipt from the Finance Director, or designee, except that Special Events need only meet the requirements Article IV., Chapter 18 of the City of Eustis Code of Ordinances.
- (b) Any sign, advertisement, building occupancy of non-residential property, directory listing or activity, including storage of equipment, indicating that a business, calling, profession or occupation is operating at a location within the City shall be prima facie evidence that the person is liable for a Business Tax Receipt. Any sign, advertisement, directory listing of activity, storage of commercial equipment indicating a home occupation is operating at a residential location within the City shall be prima facie evidence that the person is liable for a Business Tax Receipt.
- (c) All City-franchised operations shall be required to maintain a Business Tax Receipt even if the office is not located within the City limits.
- (d) Businesses/organizations/persons providing evidence of exemption in accordance with Chapter 205 of the Florida Statutes shall not be subject to the business tax as outlined in Section 86- 233. However, they shall be subject to the requirements of Section 86-223, including application filing, application fee, approval of business location and building permit and/or life safety inspections and associated fees as applicable.

(Code 1959, § 12-1)

Sec. 86-223. Applications and Business Tax Receipt prerequisites.

- (a) All Business Tax Receipts:
 - (1) Separate Business Tax Receipt for each business: Each Business Tax Receipt shall be issued for, and apply to, only one place of business within the City. If a person operates a business at more than one location, a separate receipt shall be required for each business location. Any person operating two or more

unrelated businesses at a single location shall be required to have a separate Business Tax Receipt for each individual business.

(2) Each applicant for a Business Tax Receipt shall supply the following items to the Development Services Director, or designee. Required submittals include, but are not limited to, the following:

(a) A fully completed and signed City of Eustis Business Tax Receipt Application, including the federal employer identification number or social security number of the business/business owner, accompanied by a ten dollar (\$10) non-refundable application fee

(b) A copy of the business' active Lake County Business Tax Receipt

(c) A copy of the business' current fictitious name registration, issued by the Division of Corporations of the Department of State, or a written statement signed by the applicant which sets forth the reason that the applicant need not comply with the Fictitious Name Act.

State law reference: Similar provisions, F.S. § 205.023.

(d) For businesses regulated by the State of Florida, including but not limited to, the following agencies, a copy of the active certification, license or registration issued to said business:

- (1) Agency for Health Care Administration
- (2) Board of Pharmacy
- (3) Department of Agriculture and Consumer Services
- (4) Department of Business and Professional Regulation
- (5) Division of Agents and Agency Services
- (6) Florida Department of Health
- (7) Office of Financial Regulation

State law reference: Similar provisions, F.S. § 205.194, 205.196, 205.1965, 205.1967, 205.1969, 205.1971, 205.1973, 205.1975

(e) For Solicitors, Peddlers and Canvassers: Home Solicitation Sale Permit issued by the Lake County Clerk of the Court

(f) For House Movers: Copy of bond (minimum five-thousand dollars (\$5,000))

(b) Home Occupations:

(1) A Business Tax Receipt shall not be issued until the Development Services Director, or designee, approves the business type proposed as a home occupation. Home Occupation Business Tax Receipts shall not be issued for

businesses that are not permitted by Section 109-4.2(g)(8) of the City of Eustis Land Development Regulations.

- (2) Prior to the issuance of a home occupation Business Tax Receipt, the applicant must acknowledge and provide his/her signature on an agreement to comply with the special conditions for home occupations contained in Section 109-4.2(g)(1) through (10) of the City of Eustis Land Development Regulations.
- (3) If the proposed home occupation involves potentially combustible or harmful materials, an inspection and approval by the Eustis Fire Department may be required prior to issuance of the Business Tax Receipt. In this case, payment of the fire inspection fee (and re-inspection fees, if necessary), on file in the City Clerk's Office, is required prior to issuance of the Business Tax Receipt.

(c) All Other Businesses, Occupations, and Professions:

- (1) A Business Tax Receipt shall not be issued for any business until the Development Services Director, or designee has approved the business type in the location thereof and verified compliance, to the extent possible based on applicant provided information, with the City of Eustis Land Development Regulations.
- (2) The Eustis Fire Department must inspect and approve each proposed business location/site for life safety compliance prior to issuance of a Business Tax Receipt. Payment of the fire inspection fee (and re-inspection fees, if necessary), on file in the City Clerk's Office, is required prior to issuance of the Business Tax Receipt.
- (3) A Business Tax Receipt shall not be issued for any business location/site until final inspections on any outstanding or required building permits are performed and approved by the Building Official, or designee.

(d) Exemptions

- (1) Businesses/organizations/persons possessing the following evidence of exemption in accordance with Chapter 205 of the Florida Statutes shall be subject to the requirements of Section 86-223, including application filing, application fee, approval of business location and building permit and/or life safety inspections and associated fees as applicable. However, approved exempt status businesses/organizations/persons shall not be subject to the business tax charges as outlined in Section 86-233.
- (2) Each applicant must submit the following information (as applicable) in order for the City to approve an exempt or partially exempt status for any business, organization or person, as provided in Chapter 205 of the Florida Statutes, and as may hereafter be amended:

- a. A copy of the letter from the Internal Revenue Service, which specifies the exempt status of the organization
- b. A copy of the nonprofit charter certificate issued by the state
- c. A copy of the state sales tax exemption certificate
- d. Certification by reputable physician that the applicant is disabled
- e. Proof that applicant is 65 years of age or older
- f. Proof of widowhood and existence of minor dependents
- g. Proof of veteran's status or widow/widower of veteran status, such as a certificate of honorable discharge
- h. Department of Agriculture and Consumers Services license for farm, grove, horticultural, floricultural, tropical piscicultural and tropical fish farm products, excepting those related to intoxicating liquors, wine or beer

State law references: Similar provisions, F.S. § 205.054, 205.064, 205.065, 205.162, 205.171, 205.191, 205.192, 205.193

Sec. 86-224. Business Tax Receipt issuance.

- (a) Upon approval from all departments referenced in Sec. 86-223, the Finance Director, or designee will notify the applicant that the Business Tax Receipt is approved for issuance.
- (b) The applicant is responsible for completing the process by providing payment for the business tax as outlined in Sec. 86-233 and for fire inspection fees as applicable.
- (c) If a department does not approve the application, the department shall set forth its objections and manner of correction. The applicant shall have 20 days from date of notification to correct all deficiencies. It shall be the responsibility of the applicant to request additional review and/or re-inspection within the 20-day period. If the applicant does not correct deficiencies within 20 days, the applicant must complete a new application and pay the new application fee plus any applicable re-inspection fees.

(Code 1959, § 12-3(a); Ord. No. 95-10, § 1(12-3), 5-4-1995)

Sec. 86-225. Display Business Tax Receipt.

It shall be the duty of all persons carrying on any business, profession or occupation to keep their Business Tax Receipts required by this article conspicuously displayed in their respective places of business. If the business is of a mobile nature, the tax receipt should be kept on their person.

(Code 1959, § 12-8; Ord. No. 95-10, § 4(12-8), 5-4-1995)

Sec. 86-226. Transfer of Business Tax Receipt.

- (1) Any business receipt may be transferred to a new owner when there is a bona fide sale of the business provided that there is payment of a transfer fee of up to 10 percent of the annual tax, but not less than \$3 nor more than \$25, and presentation of the original receipt and evidence of the sale. If such original Business Tax Receipt was approved for exempt status by the City, the exempt status does not automatically transfer. New evidence of exemption must be submitted and approved by the City.
- (2) Upon written request, any Business Tax Receipt may be transferred from one location to another location, provided applicable approvals and inspections are completed per Sec. 86-223. A transfer fee of up to 10 percent of the annual tax, but not less than \$3 nor more than \$25 will apply.

(Code 1959, § 12-6; Ord. No. 95-10, § 2(12-6), 5-4-1995)

State law references: Similar provisions, F.S. § 205.043(2), (3).

Sec. 86-227. Business Tax Receipts; dates due and delinquent; penalties

- (a) 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, plus a surcharge of \$100.00.
- (b) Any person who engages in any business, occupation, or profession covered by this chapter, who does not pay the required business tax within 150 days after the initial notice of tax due, and who does not obtain the required receipt is subject to civil actions and penalties, including court costs, reasonable attorneys' fees, additional administrative costs incurred as a result of collection efforts, and a penalty of up to \$250. This charge shall be in addition to general penalties as provided for by the Florida Statutes and/or in Sec. 1-14 and Chapter 2, Article III of the City of Eustis Code of Ordinances.
- (c) All Business Tax Receipts shall be sold by the City beginning July 1 of each year. Payments are due 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.
- (d) No Business Tax Receipt shall be issued for a period of more than one year, and prior to April 1 of each year, cannot be issued for less than one year. Beginning April 1 of each year, a Business Tax Receipt shall be issued for a six month period, upon payment of half the amount of the annual business tax, except as specifically mentioned in this article.

(e) Receipts that are not renewed when due and payable are delinquent and subject to a delinquency penalty of 10 percent for the month of October, plus an additional 5 percent penalty for each subsequent month of delinquency until paid. The total delinquency penalty, however, may not exceed 25 percent of the business tax for the delinquent establishment.

(Code 1959, § 12-2)

State law references: Similar Provisions F.S. § 205.053

Sec. 86-228. Duplicate Business Tax Receipts.

Duplicate Business Tax Receipts may be issued by the Finance Director or designee. A fee on file in the City Clerk's Office will be assessed for each duplicate Business Tax Receipt issued.

(Code 1959, § 12-3; Ord. No. 95-10, § 1(12-3), 5-4-1995)

Sec. 86-229. Misrepresentation of material fact.

Any tax certificate obtained under the provisions of this article upon a misrepresentation of a material fact shall be deemed null and void. The person who has engaged in any business under such tax receipt shall be subject to prosecution for doing business without a Business Tax Receipt to the same effect and degree as though no such tax receipt had ever been issued. (Sec. 86-227)

Sec. 86-230. Illegal businesses.

No local Business Tax Receipt issued under the provisions of this article, and no payment of any business tax required, imposed or levied under this article, shall be construed as authorizing the conduct or continuance of any illegal business, occupation or profession, or of any business, occupation or profession as may now or hereafter be prohibited by ordinance, or of any legal business, occupation or profession being conducted in an illegal manner.

Sec. 86-231. Local Business Tax Receipt is not regulatory license.

The local Business Tax Receipt issued under the authority of this article is a certificate of payment for that entity's business taxes levied for the privilege of engaging in a business, profession or occupation under the City's taxing power. The local Business Tax Receipt is not a regulatory license issued under the City's policing power. Possession of a Business Tax Receipt does not absolve the holder from compliance with all applicable provisions of the Eustis Code of Ordinances and Land Development Regulations.

Sec. 86-232. Authority to prescribe additional regulations.

The Development Services Director and/or Finance Director may make such rules and regulations that are consistent with this article, as may be necessary or proper for the enforcement of the provisions of this article.

Sec. 86-233. Business Tax Schedule.

The following enumeration of business taxes shall be paid to the City by the persons engaging in occupations, professions, trades, businesses and pursuits. The business tax is an annual tax, except as otherwise stated in this article:

TABLE INSET:

Home Occupation	\$ 25.00
All Other Businesses, Occupations & Professions	\$40.00
Mobile Vendors (participating in events only; no established permanent location)	\$40.00
Mobile Vendors, Roadside Vendors, Solicitors, Canvassers & Peddlers	\$80.00
Game Machines, Trade Machines, Vending Machines (each)	\$25.00

Section 2. All ordinances in conflict with the provisions of this Ordinance are hereby repealed.

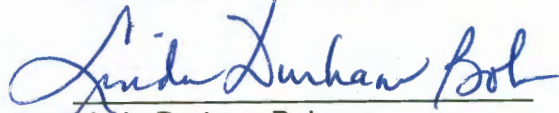
Section 3. This Ordinance shall become effective immediately upon passing.

Section 4. The provisions of this Ordinance are intended to be incorporated into the Code of Ordinances of the City of Eustis, Florida, and the sections of this Ordinance may be renumbered, relettered, and the word "ordinance" may be changed to "section," "article," or such other word or phrase in order to accomplish such intention.

Section 5. If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portion of this Ordinance.

PASSED, ORDAINED AND APPROVED in Regular Session of the City Commission of the City of Eustis, Florida, this 17th day of July, 2014.

CITY COMMISSION OF THE CITY OF EUSTIS, FLORIDA



Linda Durham Bob
Mayor/Commissioner


ATTEST:


City Clerk

CITY OF EUSTIS CERTIFICATION

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this 17th day of 2014 by Linda Durham Bob, Mayor and Mary C. Montez, City Clerk, who are personally known to me.


Notary Public - State of Florida
My Commission Expires: Aug 20, 2016
Notary Serial No: EE 219006

CITY ATTORNEY'S OFFICE

This document is approved as to form and legal content for use and reliance of the City Commission of the City of Eustis, Florida.



City Attorney's Office

7/17/2014
Date