

ORDINANCE NO. 21-08

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA; AMENDING SECTIONS 28-91 THROUGH 28-100 AND CREATING NEW SECTIONS 28-101 AND 28-102 OF CHAPTER 28, ARTICLE IV OF THE CITY CODE; UPDATING AND MODERNIZING CITY CODE PROVISIONS GOVERNING OCCUPATIONAL LICENSES/BUSINESS TAX RECEIPTS AND RELATED MATTERS, INCLUDING CHANGES NECESSARY FOR CONSISTENCY WITH THE CURRENT STATUTES UNDER CHAPTER 205, FLORIDA STATUTES, WITH RESPECT TO TERMINOLOGY, RULES, REGULATIONS, PROCEDURES, AND OTHER MATTERS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND THE EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, current provisions within the City of Belle Isle (“City”) Code of Ordinances utilize outdated terminology when referring to occupational licenses as opposed to business tax receipts and local business taxes; and

WHEREAS, the City desires to update the Code of Ordinances to accurately reflect the statutory provisions, terminology, rules, regulations, and procedures set forth in Chapter 205, Florida Statutes, relating to local business taxes and business tax receipts, formerly known as occupational licenses, and to make other appropriate changes and additions; and

WHEREAS, the City has authority to enact business tax ordinances and resolutions pursuant to Section 205.0315, Florida Statutes and other law; and

WHEREAS, the City recognizes that, pursuant to Section 205.0535, Florida Statutes, under certain circumstances the City would need to establish an equity study commission and appoint members thereon prior to adopting a local business tax reclassification and revision ordinance that reclassifies businesses, professions, or occupations or otherwise establishes new rate structures pursuant to Section 205.0535; and

WHEREAS, the City Code amendments effected by this Ordinance do not reclassify any businesses, professions, or occupations, nor establish new rate structures, and therefore no equity study commission is required pursuant to Section 205.0535, Florida Statutes.

NOW, THEREFORE, be it ordained by the City Council of the City of Belle Isle, Florida, as follows:

SECTION 1. Recitals. The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance.

SECTION 2. City Code Amendment. Sections 28-91 through 28-100 of the City Code of Ordinances are hereby amended, and new Sections 28-101 and 28-102 are hereby created within Chapter 28, Article IV of the City Code of Ordinances, all as follows (words that are stricken out are deletions; words that are underlined are additions):

ARTICLE IV. - LOCAL ~~OCCUPATION LICENSE~~ BUSINESS TAX

Sec. 28-91. ~~Occupational license~~ Local business tax receipt required.

~~(a) An occupational license~~ A local business tax for the privilege of engaging in or managing any business, profession or occupation within the corporate limits of the city is required to be paid and shall be levied on:

(1) Any person who maintains a permanent business location or branch office within the city, for the privilege of engaging in or managing any business within ~~it's~~ the city's jurisdiction.

(2) Any person who maintains a permanent business location or branch office within the city, for the privilege of engaging in or managing any profession or occupation within ~~it's~~ the city's 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 ~~license~~ local business tax is not prohibited by US Const. art. I, § 8.

(4) Any person engaged in a home occupation within the city's jurisdiction, ~~home occupation shall be licenses under section 50-103(a).~~

(b) No person shall engage in or manage any business, occupation or profession for which there is a local business tax required by this chapter or any other ordinance of the city, unless such person shall first procure a local business tax receipt to conduct the same from the city.

(c) Any sign, advertisement, social media post, building occupancy, directory listing, or activity, or activity indicating that a business, calling, profession, or occupation is being conducted at a location within the city limits shall be prima facie evidence that the person or entity is liable for paying a local business tax.

Sec. 28-92. Dates due and delinquent; penalties.

(a) The payment of the local business tax is evidenced by the city's issuance of a local business tax receipt. All ~~occupational licenses~~ local business tax receipts shall be sold by the city clerk beginning August 1 of each year, are 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. Licenses Local business tax receipts that are not renewed when due and payable are 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 shall not exceed 25 percent of the ~~occupational license~~ local business tax for the delinquent establishment.

(b) Any person who engages in or manages any business, occupation, or profession without first obtaining ~~an occupational license~~ a local business tax receipt, if required, is subject to a penalty of 25 percent of the license due, in addition to any other penalty provided by law or ordinance.

(c) Any person who engages in any business, occupation, or profession covered by this article, who does not pay the required ~~occupational license~~ local business tax within 150 days

after the initial notice of tax due, and who does not obtain the required ~~occupational license~~ local business tax 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 \$250.00.

(d) Any person owing delinquent local business taxes shall be required to pay such delinquent taxes before being issued a new local business tax receipt.

Sec. 28-93. Requirement to report status of fictitious name registration and identification numbers.

(a) As a prerequisite to receiving an ~~occupational license~~ a local business tax receipt under this article or transferring a local business license tax receipt under section 28-94, the applicant or new owner must present to the city either:

(1) A copy of the applicant's or new owner's current fictitious name registration, issued by the division of corporations of the department of state; or

(2) A written statement, signed by the applicant or new owner, which sets forth the reason that the applicant or new owner need not comply with the Fictitious Name Act, F.S. § 865.09.

(b) No ~~license~~ local business tax receipt shall be issued unless the federal employer identification number or social security number is provided by the person ~~to be licensed~~ requesting a local business tax receipt.

Sec. 28-94. Issuance; transferability.

(a) An ~~occupational license~~ A local business tax receipt is not valid for more than one year and all ~~licenses~~ local business tax receipts expire on September 30 of each year, except as otherwise provided by law. No ~~license~~ local business tax receipt shall be issued for any fractional portion of any year, however, the rate charged for the initial ~~license~~ local business tax receipt issued to a business new to the city after December 31 shall be prorated on a quarterly basis, i.e., a fee of three-quarters the annual rate will be assessed from January 1 through March 31, one-half the annual rate from April 1 through June 30 and one-fourth the annual rate thereafter for the remainder of the license term.

(b) Any ~~occupational license~~ 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 of \$3.00 or ten percent of the annual ~~license~~ local business tax, whichever is greater, up to \$25.00, and presentation of the original ~~license~~ local business tax receipt and evidence of the sale.

(c) Upon written request and presentation of the original ~~license~~ local business tax receipt, any ~~license~~ local business tax receipt may be transferred from one location to another location within the city upon payment of a transfer fee of \$3.00 or ten percent of the annual ~~license~~ local business tax, whichever is greater, up to \$25.00.

(d) ~~Local business tax receipts for h~~Home occupations licenses are non-transferable and cannot be used by the ~~applicant-taxpayer~~ for any premises other than that premises for which it was originally granted. If a home occupation ~~business license~~ is to be transferred to a new owner and/or new location, a new ~~license~~ local business tax receipt needs to be applied for and obtained according to section 50-103 of this Code.

Sec. 28-95. Exhibit and display.

All ~~occupational licenses~~ local business tax receipts shall be conspicuously displayed at the place of business, at all times. ~~An occupational license~~ A local business tax receipt issued for coin-operated devices shall be posted permanently and conspicuously on the coin-operated device for which the ~~occupational license~~ local business tax receipt was issued.

Sec. 28-96. Exemptions.

The following exemptions apply to the provisions of this article:

(1) Vehicles used by any person issued ~~an occupational license~~ a local business tax receipt under this article for the sale and delivery of tangible personal property at either wholesale or retail from such person's place of business on which the ~~license~~ local business tax is paid shall not be construed to be separate places of business, and no ~~license~~ local business tax shall be levied on such vehicles or the operators thereof as salespersons or otherwise.

(2) No ~~occupational license~~ local business tax receipt shall be required of any natural person for the privilege of engaging in the selling of farm, aquacultural, grove, horticultural, floricultural, tropical piscicultural, or tropical fish farm products, or products manufactured therefrom, except intoxicating liquors, wine, or beer, when such products were grown or produced by such natural person in the state.

(3) All disabled persons physically incapable of manual labor, widows with minor dependents, and persons 65 years of age or older, with not more than one employee or helper, and who use their own capital only, not in excess of \$1,000.00, shall be allowed to engage in any business or occupation without being required to pay for local business tax receipt~~an occupational license~~. The exemption provided by this subsection shall be allowed only upon the certificate of a reputable physician that the applicant claiming the exemption is disabled, the nature and extent of the disability being specified therein, and in case the exemption is claimed by a widow with minor dependents, or a person over 65 years of age, proof of the right to the exemption shall be made. Any person entitled to the exemption provided by this subsection shall, upon application and furnishing of the necessary proof as aforesaid, be issued a ~~license~~ local business tax receipt which shall have plainly stamped or written across the face thereof the fact that it is issued under this subsection and the reason for the exemption shall be written thereon. In no event under this or any other law shall any person, veteran or otherwise, be allowed any exemption whatsoever from the payment of any amount due for the issuance of a ~~license~~ local business tax receipt to sell intoxicating liquors or malt and vinous beverages.

(4) No ~~occupational license~~ local business tax receipt shall be required of any charitable, religious, fraternal, youth, civic, service, or other such organization when the organization makes occasional sales or engages in fundraising projects when the projects are performed

exclusively by the members thereof and when the proceeds derived from the activities are used exclusively in the charitable, religious, fraternal, youth, civic, and service activities of the organization.

(5) ~~An occupational license~~ A local business tax receipt shall not be required of a duly licensed mobile home dealer or a duly licensed mobile home manufacturer, or an employee of such dealer or manufacturer who performs set up operations as defined in F.S. § 320.822 to engage in such operations. However, such dealer or manufacturer shall be required to obtain ~~an occupational license~~ a local business tax receipt for such dealer's or manufacturer's permanent business location or branch office, which ~~license~~ local business tax receipt shall not require for its issuance any conditions other than those required by F.S. ch. 320.

(6) Nothing in this article shall be construed to require a ~~license~~ local business tax receipt for practicing the religious tenets of any church.

(7) The mandatory exemptions from the payment of local business taxes set forth in F.S. ch. 205, are incorporated herein.

Sec. 28-97. Exemptions allowed disabled veterans of any war or their married spouses.

(a) Any bona fide, permanent resident elector of the state who served as an officer or enlisted person during any of the periods specified in F.S. § 1.01(14) in the Armed Forces of the United States, National Guard, or United States Coast Guard or Coast Guard Reserve or any temporary member thereof, who has actually been or may hereafter be, reassigned by the air force, army, navy, coast guard, or marines to active duty during any war declared or undeclared, armed conflicts, crisis, etc., who was honorably discharged from the service of the United States, and who at the time of such person's application for a ~~license~~ local business tax receipt as hereunder mentioned shall be disabled from performing manual labor shall upon sufficient identification, proof of being a permanent resident elector in the state, and production of an honorable discharge from the service of the United States:

(1) Be granted a ~~license~~ local business tax receipt to engage in any business or occupation in the state which may be carried on mainly through the personal efforts of the ~~licensee~~ taxpayer as a means of livelihood and for which the license does not exceed the sum of \$50.00 for each without payment of any ~~license~~ local business tax otherwise provided for by law; or

(2) Be entitled to an exemption to the extent of \$50.00 on any ~~license~~ local business tax receipt to engage in any business or occupation in the state which may be carried on mainly through the personal efforts of the ~~licensee~~ taxpayer as a means of livelihood when the ~~license~~ local business tax for such business or occupation shall be more than \$50.00. The exemption heretofore referred to shall extend to and include the right of ~~licensee~~ taxpayer to operate an automobile-for-hire of not exceeding five-passenger capacity, including the driver, when it shall be made to appear that such automobile is bona fide owned or contracted to be purchased by the ~~licensee~~ taxpayer and is being operated by such ~~licensee~~ taxpayer as a means of livelihood and that the proper ~~license~~ local business tax for the operation of such motor vehicle for private use has been applied for and attached to said motor vehicle and the proper fees therefore paid by the ~~licensee~~ taxpayer.

(b) When any such person shall apply for a ~~license~~ local business tax receipt to conduct any business or occupation for which an ~~occupational license~~ local business tax shall exceed the sum of \$50.00, the remainder of such ~~license~~ local business tax in excess of \$50.00 shall be paid.

(c) The city shall issue to such persons as may be entitled hereunder a ~~license~~ local business tax receipt to the foregoing provision and subject to the conditions thereof. Such ~~license~~ local business tax receipt when issued shall be marked across the face thereof "Veterans Exempt Business Tax Receipt License—Not Transferable." Before issuing the same, proof shall be duly made in each case that the applicant is entitled under the conditions of this section to receive the exemption herein provided for. The proof may be made by establishing to the satisfaction of the city clerk by means of certificate of honorable discharge or certified copy thereof that the applicant is a veteran within the purview of this section and by exhibiting:

(1) A certificate of government rated disability to an extent of ten percent or more;

(2) The affidavit or testimony of a reputable physician who personally knows the applicant and who makes oath that the applicant is disabled from performing manual labor as a means of livelihood;

(3) The certificate of the veteran's service officer of the county in which the applicant lives, duly executed under the hand and seal of the chief officer and secretary thereof, attesting the fact that the applicant is disabled and entitled to receive a ~~license~~ local business tax receipt within the meaning and intent of this section;

(4) A pension certificate issued to such person by the United States by reason of such disability; or

(5) Such other reasonable proof as may be required by the city clerk to establish the fact that the applicant is so disabled.

All ~~licenses~~ local business tax receipts issued under this section shall be in the same general form as other occupational licenses and shall expire at the same time as such other ~~licenses~~ local business tax receipts.

(d) All ~~licenses~~ local business tax receipts obtained under the provision of this section by the commission of fraud upon the city shall be deemed null and void. Any person who has fraudulently obtained any such ~~license~~, or who has fraudulently received any transfer of a ~~license~~ local business tax receipt issued to another, and has thereafter engaged in any business or occupation requiring a ~~license~~ local business tax receipt under color thereof shall be subject to prosecution as for engaging in a business or occupation without having the required ~~license~~ local business tax receipt under the laws of the state.

(e) In no event shall any person, veteran or otherwise, be allowed any exemption whatsoever from the payment of any amount required for the issuance of the ~~license~~ local business tax receipt to sell intoxicating liquors or malt and vinous beverages.

(f) The unremarried spouse of the deceased disabled veteran of any war in which the United States Armed Forces participated will be entitled to the same exemptions as the disabled veteran.

Sec. 28-98. Provisions regarding professions regulated by the state department of business and professional regulation and other state boards or agencies.

~~Any person applying for an occupational license local business tax receipt pursuant to this article must exhibit an active state certificate, registration, license, permit as required pursuant to applicable state law, prior to being issued an occupational license.~~

(a) Any person applying for or renewing a local business tax receipt to practice any profession or engage in or manage any business or occupation regulated by the Department of Business and Professional Regulation, the Florida Supreme Court, or any other state regulatory agency, including any board or commission thereof, must exhibit an active state certificate, registration, or license, or proof of copy of the same, before such local business tax receipt may be issued. Online renewals may provide for electronic certification by an applicant to meet this requirement. This subsection shall not apply to professions or businesses having a license or registration under F.S. § 489.113, § 489.117, § 489.119, § 489.131, § 489.511, § 489.513, § 489.521, or § 489.537.

(b) In accordance with F.S. ch. 205, certain types of businesses and professions must meet certain licensing, certification, registration or other requirements prior to the city issuing or renewing a local business tax receipt. No local business tax receipt will be issued or renewed until the applicable requirements of F.S. ch. 205, are met.

(c) In the event the city is unsure of a proposed local business tax payer's legal requirements under law for having an active state certificate, registration, or license, the city shall have the right to require a proposed tax payer to present documentation and sign sworn written statements regarding such matters.

Sec. 28-99. Revocation.

The city council shall have the right and authority to revoke, after legal notice and public hearing, any ~~occupational license~~ local business tax receipt granted under this article whenever it is shown that the business is being conducted in such a manner as to be detrimental to the public health, safety or welfare or to the customers and patrons of the ~~licensee-taxpayer~~. Local business tax receipts for Hhome occupations licenses shall be revoked according to chapter 50, section 50-103 of this Code.

Sec. 28-100. Rate schedule.

The schedule of ~~fees tax amounts imposed for occupational licenses~~ local business tax receipts issued by the city shall be kept on file in the office of the city clerk. The schedule of local business taxes imposed may be amended from time to time by resolution of the city council.

Sec. 28-101. Compliance with ordinances required.

The issuance by the city and receipt by the applicant of a local business tax receipt shall in no case be deemed authority to conduct an occupation, business or profession in contravention of any ordinance of the city now existing or hereafter enacted, or to establish or maintain any nuisance. In addition to the payment of the local business tax and obtaining of a local business tax receipt pursuant to this article, any owner of a local business tax receipt must comply with all applicable ordinances and regulations of the city. The issuance or transfer of a local business tax receipt pursuant to this article shall not evidence, verify, or otherwise be interpreted as a statement by the city that the owner of a local business tax receipt or the location listed therein complies with state laws and city building codes, zoning laws, or other ordinances and regulations not set forth in this article. The issuance of a local business tax receipt shall not serve as a basis for equitable estoppel against the city to prevent the enforcement of state laws and city building codes, zoning laws and other ordinances and regulations not set forth in this article.

Sec. 28-102. Ordinance enforcement.

The city shall have the right, but not the obligation, pursuant to its zoning and home rule authority to evaluate the legality of any proposed or operating business and business location and, if applicable, to issue a notice to any person or entity applying for or who receives a local business tax receipt that a proposed or operating business or business location does not comply with the applicable laws, ordinances and regulations, and to take enforcement measures to ensure compliance with such laws, ordinances and regulations.

SECTION 3. Codification. Section 2 of this Ordinance shall be incorporated into the Belle Isle City Code. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this ordinance and the City Code may be freely made. In addition, to the changes made by this Ordinance, any and all references to “occupational license” and “occupational license tax” in the City Code of Ordinances shall be changed to read “local business tax receipt” and “local business tax,” respectively.

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. Conflicts. In the event of a conflict or conflicts between this Ordinance and any other ordinance or provision of law, this Ordinance controls to the extent of the conflict, as allowable under the law.

SECTION 7. Effective date. This Ordinance shall become effective immediately upon adoption by the City Council of the City of Belle Isle, Florida.

FIRST READING: _____, 2021

SECOND READING: _____, 2021

ADOPTED this ____ day of _____, 2021, by the City Council of the City of Belle Isle, Florida.

	YES	NO	ABSENT
Ed Gold	_____	_____	_____
Anthony Carugno	_____	_____	_____
Karl Shuck	_____	_____	_____
OPEN	_____	_____	_____
Rick Miller	_____	_____	_____
Jim Partin	_____	_____	_____
Sue Nielsen	_____	_____	_____

City of Belle Isle

Nicholas Fouraker, Mayor

Attest: _____

Yolanda Quiceno, CMC City Clerk

Kurt Ardaman, City Attorney

Approved as to form and legality for the use and reliance of the City of Belle Isle, FL, only.

STATE OF FLORIDA

COUNTY OF ORANGE

I, Yolanda Quiceno, City Clerk of the City of Belle Isle, do hereby certify that the above and foregoing document ORDINANCE 21-08 was duly and legally passed by the Belle Isle City Council, in session assembled on the ____ day of _____, 20____, at which session a quorum of its members were present.

Yolanda Quiceno, CMC-City Clerk