

ORDINANCE 2023-____

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, REMOVING IN ITS ENTIRETY ARTICLE III, SECTIONS 6-44 THROUGH 6-55 FROM THE CODE OF ORDINANCES STYLED "LICENSING", AS THE LICENSE FORMERLY KNOWN AS AN "OCCUPATIONAL LICENSE"; THIS BEING REPLACED WITH A "BUSINESS TAX RECEIPT", AS CODIFIED IN ARTICLE V, SECTIONS 26-151 THROUGH 26-162 OF THE VILLAGE CODE STYLED "LOCAL BUSINESS TAX"; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE. *(Sponsored by Administration and Prepared by Heidi Siegel, Director of Community and Economic Development)*

WHEREAS, Ordinance No. 2007-08, pursuant to the then recently enacted State law, amended the Code of Ordinances by changing the Code's nomenclature from "Occupational License" to "Business Tax Receipt", and created Article V, Sections 26-151 through 26-162; and

WHEREAS, though Article V established the Business Tax Receipt sections of the Code, it did not eliminate Article III concerning Occupational Licenses; and

WHEREAS, in order to correct the Code, the Mayor and Village Council wish to remove Article III, Section 6-44 through 6-55 of the Code of Ordinances.

NOW, THEREFORE, BE IT ENACTED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are incorporated as if set forth in full.

Section 2. Article III, Section 6-44 through 6-55 of the Code of Ordinances of the Village of Palmetto Bay, attached as ("Exhibit A"), is hereby rescinded.

1 **Section 3. Severability.** The provisions of this Ordinance are
2 declared to be severable, and if any sentence, section, clause, or phrase
3 of this Ordinance shall, for any reason, be held to be invalid or
4 unconstitutional, such decision shall not affect the validity of the
5 remaining sentences, sections, clauses, or phrases of the Ordinance, but
6 they shall remain in effect it being the legislative intent that this Ordinance
7 shall stand notwithstanding the invalidity of any part.

8
9 **Section 4. Codification.** It is the intention of the Village Council,
10 and it is hereby ordained the provisions of this Ordinance shall become
11 and be made part of the Code of Ordinances of the Village of Palmetto
12 Bay, Florida, that sections of this Ordinance may be renumbered or re-
13 lettered to accomplish such intentions, and that the word "Ordinance"
14 shall be changed to "Section" or other appropriate word.
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16 **Section 5. Effective Date.** This Ordinance shall take effect
17 immediately upon enactment at Second Reading.
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19 **PASSED AND ADOPTED ON FIRST READING** this 4th day of
20 December, 2023.
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22 **PASSED AND ADOPTED ON SECOND READING** this ____day of
23 ____, 2024.
24
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27 Attest: _____
28 **Missy Arocha** **Karyn Cunningham**
29 **Village Clerk** **Mayor**
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31 **APPROVED AS TO FORM AND LEGAL SUFFICIENCY:**
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33
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35 _____
36 **John C. Dellagloria**
37 **Village Attorney**
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1 **VOTE ON FIRST READING:**
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3 Mayor Karyn Cunningham _____
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5 Council Member Steven Cody _____
6
7 Council Member Marsha Matson _____
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9 Vice-Mayor Leanne Tellam _____
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11 Council Member Patrick Fiore _____
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14 **FINAL VOTE AT ADOPTION ON SECOND READING:**
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16
17 Mayor Karyn Cunningham _____
18
19 Council Member Steven Cody _____
20
21 Council Member Marsha Matson _____
22
23 Vice-Mayor Leanne Tellam _____
24
25 Council Member Patrick Fiore _____

~~ARTICLE III. LICENSING~~

~~Sec. 6-44. Occupational license tax imposed.~~

- ~~(a) Every person, as defined in F.S. § 205.022(3), engaged in or managing any business, profession or occupation in the village is required to obtain an occupational license issued by the village.~~
 - ~~(b) This occupational license tax requirement shall apply to:

 - ~~(1) Any person who maintains a permanent business location or branch office within the village for the privilege of engaging in or managing any business, profession, or occupation within the village;~~
 - ~~(2) Any person who does not qualify under the provisions of subsection (1) above and who transacts any business or engages in any occupation or profession in interstate commerce where such license tax is not prohibited by Section 8, Art. 1, United States Constitution, and includes but is not limited to insurance companies.~~~~
 - ~~(c) A person shall be required to pay an occupational license tax to the village as outlined in the tax schedule. A license tax shall be required for each type of business performed at the applicant's location that requires a separate license tax as outlined in the tax schedule.~~
- ~~(Ord. No. 03-10, § 1, 7-7-2003; Ord. No. 2011-06, § 1, 9-12-2011)~~

~~Sec. 6-45. Application; administrative fee.~~

- ~~(a) The village manager shall develop and implement administrative procedures and forms relating to the issuance of occupational licenses.~~
- ~~(b) No license shall be issued or renewed except upon written application filed with the village manager. The application shall include a statement, under oath, detailing the full and complete information necessary to calculate the applicable tax. The application shall be signed by an officer, partner or owner of the proposed business, occupation, or profession and shall be filed with the village together with payment of the applicable tax.~~
- ~~(c) All occupational licenses shall be applied for an issued in the real name of the applicant. In cases where the applicant does or will do business under a fictitious trade name or firm name, the application and license, if issued, will show the real name as well as the fictitious trade or firm name of the applicant. In such case, the applicant shall deliver to the village either:

 - ~~(1) A copy of application for registration of a fictitious name as required by Florida law; or~~
 - ~~(2) If such name is already registered, a copy of the applicant's or new owner's current fictitious name registration from the Florida Secretary of State, Division of Corporations.~~~~

- ~~(d) An applicant will be allowed one reapplication for an occupational license, if, for some reason, the initial application for the license is not approved. Should the reapplication not be approved, the applicant shall remove all evidence of a business operation from the premises until such time as the reasons for the disapproval have been resolved to the satisfaction of the village manager.~~
- ~~(e) The following requirements must be met prior to the issuance of a village occupational license:~~
- ~~(1) Subject to the exceptions provided in F.S. § 205.194, all applicants who are required to obtain a state and/or county license, registration or certification, as a pre-condition for operating a business or practicing a profession, must show proof of having obtained such a license or certification.~~
 - ~~(2) All applicants seeking to operate a business from a building constructed within the last 12 months must produce a certificate of occupancy.~~
 - ~~(3) The village manager shall have appropriate village staff review the village's land development regulations and determine if the type of proposed business at the listed location is a permitted use in the particular land development district. If the use is not permitted, the applicant shall be required to show evidence of a vested right for a legal nonconforming use or an approved variance or special exception.~~
 - ~~(4) All applicants must show proof that the applicant has complied with all annual inspections required under this Code and paid any required inspection fees.~~
- ~~(f) A fee of _____ dollars (\$_____.00) shall be paid per business location or branch office for the review and processing of all applications for new and renewal licenses to ensure compliance with the requirements of the village's land development regulations.~~

~~(Ord. No. 03-10, § 1, 7-7-2003)~~

~~Sec. 6-46. Term of licenses; half-year licenses; transfer of license.~~

- ~~(a) Occupational licenses shall expire on the September 30 of each year, except as otherwise provided by law. No license shall be issued for more than one year. For each license obtained between October 1 and April 1, the full tax for one year shall be paid. For each license obtained between April 1 and September 30, one-half the full tax for one year shall be paid.~~
- ~~(b) Any license may be transferred with the approval of the village manager or his/her designee when there is a bona fide sale and transfer of the business and the property used and employed therein as stock in trade. Such transfer shall be made within 30 days after such bona fide sale has taken place and shall effect upon payment of a transfer fee of up to ten percent of the annual license tax, but not less than \$3.00 and after presentation of evidence of both the sale and of the original license. If the provisions of this section are not strictly and completely complied with in every respect, the license pertaining to the business shall be null and void and have no further effect.~~

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- ~~(c) Upon written request and presentation of the original license, any license may be transferred from one location to another location upon payment of a transfer fee of up to ten percent of the annual license tax, but not less than \$3.00 and upon verification that such use is permitted by the village's land development regulations at the new location.~~
- ~~(d) Every person assuming operation of or purchasing an existing business which is required to be licensed under this article shall comply with the requirements of this article with 30 days of such assumption or purchase.~~
- ~~(Ord. No. 03-10, § 1, 7-7-2003)~~

~~Sec. 6-47. Due date for payment of occupational license tax; delinquent payment; penalties.~~

- ~~(a) On or before September 30 of each year, and prior to engaging in or managing any business, profession or occupation, every person shall obtain an occupational license from the village. In the event that September 30 falls on a weekend or holiday, the occupational license shall be obtained on or before the first working day following September 30.~~
- ~~(b) For licenses and fees for the year starting October 1, 200____, fees shall not be considered late and no additional late fees or penalties shall be imposed for any fees paid by December 31, 200____.~~
- ~~(c) Any person engaging in or managing any business, occupation or profession without first having complied with the provisions of this article shall be declared delinquent. Those licenses not renewed when due and payable shall be considered delinquent and shall be subject to a delinquency penalty of ten percent for the month of October, plus an additional five percent penalty for each month of delinquency thereafter until paid. However, the total delinquency penalty shall not exceed 25 percent of the applicable occupational license tax. Any person who does not pay the required occupational license tax within 150 days after the initial notice of the tax due, and who does not obtain the required occupational license is subject to civil actions and penalties, including court costs, reasonable attorney's fees, additional administrative costs incurred as a result of collection efforts, and a penalty of no more than \$250.00.~~
- ~~(d) Each and every day of selling or disposing of merchandise or engaging in a business or profession not in compliance in full with all of the provisions of this article shall constitute a separate and distinct violation of this article.~~
- ~~(e) The fact that any person represented himself as being engaged in any business, occupation, or profession for which any license is required shall be evidence of the liability of such person to pay an occupational license tax, regardless of whether such person actually transacts any business or practices a profession. Displaying a sign or advertisement indicating the conduct of a business or profession at a given location, advertising a business or profession in the telephone directory, newspaper, internet, or other media shall be prima facie evidence that such person is holding himself out to the~~

~~public as being engaged in a business or profession and shall be a sufficient predicate for conviction by the court or other enforcement authority.~~

- ~~(f) Any person who violates any provisions of this article shall, upon conviction, be punished by a fine not to exceed \$500.00 or imprisonment in the county jail not to exceed 60 days or both such fine and imprisonment. Each day that a violation continues shall be deemed a separate violation. Nothing contained in this chapter shall prohibit the village from enforcing this Code by any other means including, but not limited to, any enforcement provisions provided in F.S. ch. 162, or a civil action for appropriate relief in a court of competent jurisdiction. The enforcement procedures outlined herein are cumulative to all others and shall not be deemed to be prerequisites to filing suit for the enforcement of any section of this Code.~~

~~(Ord. No. 03-10, § 1, 7-7-2003)~~

~~Sec. 6-48. Grounds for denial.~~

~~After interview or investigation, the village manager shall not grant or issue a license to an applicant when the village manager determines that:~~

- ~~(1) The information provided by the applicant is false or incomplete.~~
- ~~(2) The applicable land development regulations do not permit the conduct of the particular business at the intended business location and the applicant has not provided evidence of a legal nonconforming use, variance or special exception.~~

~~(Ord. No. 03-10, § 1, 7-7-2003)~~

~~Sec. 6-49. Revocation of license.~~

- ~~(a) Notwithstanding any other provision of this article, the privilege of doing business within the village allowed by the issuance of an occupational license will be subject to summary administrative revocation by a written 30-day notice of revocation issued to the applicant by the village manager if it is determined that one or more of the following conditions, if applicable, exist:~~

- ~~(1) Serious or repeated violations of this Code or state statute.~~
- ~~(2) Misrepresentation(s) in the application.~~
- ~~(3) Misrepresentation(s) made to the village manager during the application and investigation process.~~
- ~~(4) Use of the business location for illegal or unsafe activities.~~
- ~~(5) Use of the business location for activities not contemplated in the application.~~
- ~~(6) Use of the business not in compliance with the conditions of the license.~~
- ~~(7) Lack of solid waste collection or utility services.~~

- ~~(8) Use of the business in a manner that constitutes a public nuisance.~~
 - ~~(9) Failure to maintain compliance with all applicable building code regulations.~~
 - ~~(10) Failure to obtain required annual inspections.~~
 - ~~(b) Such revocation may be appealed to the village manager within ten days of notice of revocation.~~
 - ~~(c) This section shall not affect the power of any of the courts of the state or any other governmental agency to revoke certain licenses where such revocation is specifically provided for by law.~~
- ~~(Ord. No. 03-10, § 1, 7-7-2003)~~

~~Sec. 6-50. Display of license.~~

- ~~(a) All persons to whom licenses are issued pursuant to this article shall cause the licenses to be displayed at all time in a prominent place in their business establishments. Failure to display in such a manner shall constitute a violation of this article.~~
 - ~~(b) If the person to whom the license is issued has no licensed business premises anywhere, he or she may carry the license on his or her person or in his or her vehicle.~~
- ~~(Ord. No. 03-10, § 1, 7-7-2003)~~

~~Sec. 6-51. Unclassified categories.~~

~~In the event application is made for a license not specifically enumerated in the tax schedule, the village manager or designee shall have the authority to determine the most nearly similar category that shall apply to the applicant. The village manager may consider the appropriate provisions of Ordinance 8A, Article X, of the Miami-Dade County Code as it existed on the effective date of Ordinance No. 03-10 when determining the category that shall apply to the applicant.~~

~~(Ord. No. 03-10, § 1, 7-7-2003)~~

~~Sec. 6-52. Refund of fees.~~

~~No portion of any occupational license tax shall be refunded unless such license tax was collected by mistake or in error.~~

~~(Ord. No. 03-10, § 1, 7-7-2003)~~

~~Sec. 6-53. Payment of license tax not to authorize commission of offense.~~

~~The payment of a license tax under this article shall not authorize or legalize in any manner whatsoever the commission of any violation, offense or crime against the village, the county, the state or the United States.~~

~~(Ord. No. 03-10, § 1, 7-7-2003)~~

~~Sec. 6-54. Exemptions; veterans' credit; exclusions.~~

- ~~(a) Eligibility. Members of exempt classes, as provided by F.S. ch. 205, are exempt from paying for a license under the provisions of this article.~~
- ~~(b) Veterans' credit. Any honorably discharged veteran of any branch of the armed forces of the United States or his/her un-remarried spouse who is disabled from performing manual labor and a permanent resident of the village shall receive a credit not to exceed \$50.00 on any village occupational license tax. Any license obtained under the provisions of this subsection shall be marked across the face with the words "Veteran's Exempt License — Not Transferable." Applicants granted a license under this subsection shall not be exempt from the other provisions of this article or this Code.~~
- ~~(c) Exclusions. Nothing in this article shall be construed to require an occupational license for:
 - ~~(1) Any religious, charitable, fraternal, youth, civic or service organization when the organization makes occasional sales or engages in fundraising, provided that the projects are performed exclusively by the members thereof and that the proceeds are used exclusively in the activities of the organization; or~~
 - ~~(2) Practicing the religious tenets of any church or temple.~~~~

~~(Ord. No. 03-10, § 1, 7-7-2003) Sec. 6-55. Tax schedule.~~

~~Licenses shall be issued to cover only one location and only one business classification. The initial amounts assessed as the occupational license tax against the various trades, businesses, and professions are set forth in the tax schedule, attached as Exhibit A to Ordinance No. 03-10, and are fully incorporated herein by reference. The tax schedule may be amended from time to time by resolution of the village council.~~

~~(Ord. No. 03-10, § 1, 7-7-2003)~~