

ORDINANCE NO. 26-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, PERTAINING TO BUSINESS TAX RECEIPTS; AMENDING SPECIFIC SECTIONS OF CHAPTER 102, TAXATION, ARTICLE II, "BUSINESS TAX RECEIPT," IN ORDER TO MAKE CERTAIN PROCEDURAL CHANGES TO THE PROCESS OF APPLICATION, REVIEW, AND ISSUANCE OF BUSINESS TAX RECEIPTS, MAKING REFERENCES TO BUSINESS TAX RECEIPTS UNIFORM THROUGHOUT THE CODE, REMOVING REFERENCES TO A REVIEW FOR ZONING CONSISTENCY, AND CORRECTING SCRIVENERS ERRORS; AMENDING SECTION 102-27, "PENALTY"; AMENDING SECTION 102-41, "ADMINISTRATION BY TAX COLLECTOR"; AMENDING SECTION 102-42, "FAILURE TO PAY TAX; ISSUANCE OF WARRANT"; AMENDING SECTION 102-43, "REFUNDS"; AMENDING SECTION 102-44, "BUSINESS TAX RECEIPT REQUIRED; REGULATORY FEES ADDITIONAL"; AMENDING SECTION 102-45, "DESIGNATION OF DESCRIPTIONS WITHIN CLASSIFICATIONS"; AMENDING SECTION 102-46, "WRITTEN APPLICATION, REQUIRED STATEMENT"; AMENDING SECTION 102-47, "TERM OF LICENSE, DELINQUENT PENALTIES"; AMENDING SECTION 102-49, "OTHER REQUIRED LICENSE OR CERTIFICATES OR FICTITIOUS NAME REGISTRATION PREREQUISITE"; REPEALING AND RESERVING SECTION 102-50, "ZONING USE PERMIT"; AMENDING SECTION 102-51, "TEMPORARY LICENSES"; AMENDING SECTION 102-52, "DISPLAY OF LICENSE"; AMENDING SECTION 102-53, "TRANSFER OF LICENSE"; AMENDING SECTION 102-66, "OCCUPATIONAL LICENSE TAX CLASSIFICATIONS SUBJECT TO TAX AND TAX RATES APPLIED TO EACH CLASSIFICATION"; AMENDING SECTION 102-70, "CLASSIFICATION 25: HOTELS, MOTELS, PUBLIC LODGING"; AMENDING SECTION 102-72, "CLASSIFICATION 27: CIRCUSES, TRAVELING SHOWS, TENT SHOWS, ETC.; SIDE SHOWS"; AMENDING SECTION 102-73, "CLASSIFICATION 29: CAFES, RESTAURANTS AND OTHER EATING ESTABLISHMENTS; FOOD SERVICE, FOOD CONCESSIONS, FOOD CATERING AND MOBILE FOOD CARTS"; AMENDING SECTION 102-74, "CLASSIFICATION 30: CONTRACTORS AND CONSTRUCTION TRADES"; AMENDING SECTION 102-76, "CLASSIFICATION 34: ASTROLOGERS, FORTUNETELLERS, PSYCHICS, CLAIRVOYANTS, ETC."; AMENDING SECTION 102-81, "CLASSIFICATION 40: MISCELLANEOUS BUSINESS NOT OTHERWISE PROVIDED OR DEFINED"; AMENDING SECTION 102-82, "CLASSIFICATION 41: AUDITORIUMS, STADIUMS, MOTION PICTURE SHOWS, THEATERS AND DRIVE-IN THEATERS"; AMENDING SECTION 102-83, "CLASSIFICATION 43: PAWNBROKERS"; AMENDING SECTION 102-87, "CLASSIFICATION 48: RETAIL SALES"; AMENDING SECTION 102-88, "CLASSIFICATION 49: SCHOOLS, COLLEGES, TRAINING AND

INSTRUCTION”; AMENDING SECTION 102-90, “CLASSIFICATION 53: TRADING, ETC., IN INTANGIBLE PERSONAL PROPERTY”; AMENDING SECTION 102-91, “CLASSIFICATION 55: COIN-OPERATED MACHINES”; AMENDING SECTION 102-94, “FLEA MARKETS, OTHER OPEN MARKETS”; AMENDING SECTION 102-95, “ELECTRIC POWER PLANTS, GAS PLANTS, TELEPHONE SYSTEMS AND COMMUNITY TELEVISION ANTENNA COMPANIES”; AMENDING CHAPTER 62, ARTICLE VI, DIVISION 2, “ADMINISTRATION AND ENFORCEMENT”; SPECIFICALLY REPEALING AND RESERVING SECTION 62-1155, “ZONING APPROVAL FOR BUSINESS TAX RECEIPT; APPROVAL OF HOME OCCUPATIONS”; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN CODE.

WHEREAS, pursuant to Section 102-41, Brevard County Code of Ordinances, the Brevard County Tax Collector administers the collection of Business Tax Receipts, as authorized by Florida Statute; and

WHEREAS, through various provisions of the Brevard County Code of Ordinances including, but not limited to, Section 102-50, “Zoning Use Permit”, Brevard County has required that issuance of such Business Tax Receipts be contingent on a review of the business to ensure compliance with Brevard County zoning regulations; and

WHEREAS, such review takes place within the Brevard County Planning and Development Department, an agency of the Brevard County Board of County Commissioners; and

WHEREAS, the Office of the Attorney General has opined that issuances of business tax receipts should not be contingent on such reviews; and

WHEREAS, there are other processes in place which allows those parties seeking information on zoning to obtain that information; and

WHEREAS, the Brevard County Board of County Commissioners desires to ensure its procedures for collection of business taxes are consistent with standards established by State law; and

WHEREAS, the Brevard County Board of County Commissioners also desires to make a variety of clarification and amendments to increase the efficiency of the collection process.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Underline indicates additions.
~~Strikethrough indicates deletions.~~

SECTION 1. Recitals. The foregoing recitals are deemed true and correct and are hereby adopted and incorporated herein by this reference.

SECTION 2. Section 102-27, Brevard County Code, entitled “Penalty”, is hereby amended to read as follows:

Section 102-27 - Penalty.

Any person who shall carry on, engage in or conduct any business, business location, profession or occupation for which a business tax receipt license is required under the provisions of this article without first obtaining such business tax receipt license, or who falsifies information on a business tax receipt license application, shall be punished as provided in Section 1-7 of the Code of Ordinances of Brevard County, Florida, and Chapter 205, Florida Statutes.

SECTION 3. Section 102-41, Brevard County Code, entitled “Administration by tax collector”, is hereby amended to read as follows:

Section 102-41 – Administration by tax collector.

- (a) The county business taxes shall be collected by the tax collector of the county and issued by such officer.
- (b) The tax collector shall collect such business taxes and may deduct an amount based on the actual cost of collection and administration from the gross amount so collected, the balance of such collection shall be remitted to the board of county commissioners and the incorporated areas, as provided in F.S. § 205.0536. The tax collector shall certify annually to the board of county commissioners the estimated cost of collection and administration. The estimated cost of collection and administration shall be based on the following expenses: salaries and benefits, data processing, telephones, annual depreciation of equipment, supplies, postage and mailing of business tax receipts licenses, and travel. ~~The board of county commissioners shall review the estimated cost of collection and administration submitted by the tax collector annually and shall approve the estimated cost provided; however, the board may adjust or modify the estimated cost of collection and administration.~~

SECTION 4. Section 102-42, Brevard County Code, entitled “Failure to pay tax; Issuance of warrant”, is hereby amended to read as follows:

Section 102-42 – Failure to pay tax; Issuance of warrant.

- (a) Whenever any person who is subject to the payment of the tax provided by this article shall fail to pay the same when due, the tax collector of the county may issue a warrant directed to all and singular the sheriffs of the state, commanding them and each of them to levy upon and sell any real or personal property of the person liable for the tax within his respective

jurisdiction for the amount thereof and the cost of executing the warrant and to return such warrant to the tax collector issuing same and to pay him the money collected by virtue thereof within 60 days from the date of the warrant. The sheriff to whom the warrant may be delivered shall proceed in all respects and in the same manner prescribed by law in regard to executions issued against property upon judgments of a circuit court, and shall be entitled to the same fee for his services in executing the warrant, to be collected in the same manner.

- (b) The tax collector may file a copy of the warrant with the clerk of the circuit court of the county to the sheriff of which the original delivered, and the clerk shall record the same, whereupon the amount of the warrant and recording fee shall become a lien upon the title to and interest, whether legal or equitable, in any property, whether real, personal or mixed, of the person against whom the warrant is issued, in the same manner and to the same extent as a judgment duly docketed in the office of the clerk of the circuit court with execution duly issued and in the hands of the sheriff. Any person subject to the tax provided by this article who fails to pay such tax shall, on petition of the tax collector, be enjoined by the circuit court from engaging in the business for which he has failed to pay such business tax receipt license until such time as he shall pay the same and costs of such action.

SECTION 5. Section 102-43, Brevard County Code, entitled “Refunds”, is hereby stricken in its entirety and RESERVED as follows:

Section 102-43 – Refunds Reserved.

~~Where a business tax has been paid for by an applicant and issued by the tax collector of the county, and is subsequently determined that due to an error of commission or omission by the tax collector of the county no such license was required, then an application may be made to the tax collector of the county for a refund. If the tax collector determines that the business tax was issued because of such error, he shall refund to the applicant any monies erroneously collected from such applicant.~~

SECTION 6. Section 102-44, Brevard County Code, entitled “Business tax receipt required; regulatory fees additional”, is hereby amended to read as follows:

Section 102-44 – Business tax receipt required; regulatory fees additional.

- (a) No person shall engage in any business or occupation or manage any business, business location or occupation in the incorporated or unincorporated areas of the county for which a business tax receipt is required by this article unless a local business tax receipt has been procured from the tax collector of the county. Such local business tax receipt shall be issued to each person upon payment of the local business tax provided in this article and upon full compliance with all requirements or

conditions specified under the classification requested, by this article in general, and by any other provisions of this Code.

- (b) Fees or business tax receipt licenses paid to any board, commission or officer for permits, registration, examination, inspection or other regulatory purposes shall be deemed to be regulatory and in addition to and not in lieu of any business tax receipt required by this article unless otherwise expressly provided by law.

SECTION 7. Section 102-45, Brevard County Code, entitled “Designation of descriptions within classifications”, is hereby amended to read as follows:

Section 102-45 – Designation of descriptions within classifications.

The tax collector is authorized to designate as many specific descriptions within each business tax receipt license classification as is necessary to comply with regulatory prerequisites, as well as provide uniformity and exclusivity within a class. The tax collector shall retain discretion as to limiting such ambiguous descriptions, or descriptions which may imply authentication of an activity which so closely resembles a regulated activity as to deceive the public by an applicant who may otherwise be attempting to circumvent a regulatory provision of this activity. Further, the tax collector may provide sufficient disclaimer on any business tax receipt license classification which may otherwise be too general as to determine regulatory compliance.

SECTION 8. Section 102-46, Brevard County Code, entitled “Written application, required statement”, is hereby amended to read as follows:

Section 102-46 – Written application, required statement.

No original business tax receipt shall be issued except upon tax collector’s determination the written application has been deemed to satisfy the requirements of Chapter 102, Article II, Code of Ordinances, Brevard County, Florida, and Chapter 205, Florida Statutes, of the person applying for such license. The tax collector of the county, before issuing a business tax receipt license, shall require the person applying for such business tax receipt license to file ~~under oath,~~ a statement giving full and complete information relative to the business activity, business location, ~~zoning,~~ or other contingency, as the case may be. The applications and statements required by this section shall be retained as a part of the records of the tax collector. The application form required shall be retained as a part of the records of the tax collector. The application form required shall be supplied by the tax collector.

SECTION 9. Section 102-47, Brevard County Code, entitled “Term of license, delinquent penalties”, is hereby amended to read as follows:

Section 102-47 – Term of license, delinquent penalties.

- (a) All ~~business tax receipts licenses~~ for the current ~~business tax receipt license~~ year shall be sold by the tax collector beginning ~~July~~ August 1 of each year and shall be due and payable on or before September 30 of each year and shall expire on September 30 of the succeeding year. If September 30 falls on a weekend or holiday, the tax shall be due and payable on or before the first working day following September 30. Business tax receipts Licenses 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, to a maximum of 25 percent. The delinquent renewal penalty is in addition to any other penalty provided by law or ordinance.
- (b) Any person who engages in or manages any business, occupation or profession without first obtaining a local business tax receipt, if required by this article, is subject to a penalty of 25 percent of the business tax receipt 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 business tax within 150 days after the initial notice of tax due, and who does not obtain the required business tax receipt 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 penalty up to \$250.00.

SECTION 10. Section 102-49, Brevard County Code, entitled "Other required licenses or certificates or fictitious name registration prerequisite", is hereby amended to read as follows:

Section 102-49 – Other required licenses or certificates or fictitious name registration prerequisite.

- (a) If a person applies for a business tax receipt for any profession or occupation regulated by the Department of Business and Professional Regulation, Florida Supreme Court, or other state regulatory agency ~~including which requires a license or certificate to be issued by another governmental agency, a commission or board in order for that person to be eligible to engage in such occupation in the county,~~ that person must provide adequate proof to the tax collector that he has obtained the required license or certificate prior to the tax collector's issuance of a business tax receipt.
- (b) Online renewals may provide for electronic certification by the applicant to meet the aforementioned requirement. ~~The applicant must provide adequate proof to the tax collector by submitting the original license or certificate, or a certified copy of it, at the time he makes application for the business tax receipt.~~

- (c) As a prerequisite to receiving a local business tax receipt under this article or transferring a ~~business tax receipt license~~ under ~~Section~~ 102-53, the applicant or new owner must present to the county that has jurisdiction to issue or transfer the business tax receipt license 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.

SECTION 11. Section 102-50, Brevard County Code, entitled "Zoning Use Permit", is hereby stricken in its entirety and RESERVED as follows:

Section 102-50 – Reserved Zoning Use Permit

~~Except as provided in section 102-51, no business tax receipt shall be issued for the use of any lands in the unincorporated areas of the county until the applicant therefor procures from the county planning and zoning director a use permit covering the land sought to be used for any such business, business location, profession or occupation. Such use permit shall be in accordance with such zoning regulations as may then be in effect; provided, however, if any such license sought to be procured pertains to an occupation lawfully entered into at the same location prior to the adoption of any such zoning regulation, and lawfully continuing at the same location in accordance with the nonconforming use provision of such zoning regulations, the necessity for such use permit shall be dispensed with by procurement from the proper zoning official of a certificate to such effect. The tax collector is authorized to administratively revoke the business tax receipt of any person when it is determined at a hearing set, duly announced, and conducted by the tax collector or his designee, that such person is carrying on, engaging in or conducting any business, profession or occupation at a location not properly zoned for such a business, business location, profession or occupation.~~

SECTION 12. Section 102-51, Brevard County Code, entitled "Temporary Licenses", is hereby renamed to "Temporary business tax receipts", and amended as follows:

Section 102-51 – Temporary business tax receipts licenses.

- (a) Any person who shall carry on, engage in or conduct any business, profession or occupation for which a business tax receipt license is required under the provisions of this article may obtain a temporary three-day business tax receipt, provided the business, profession or occupation is to be conducted in a publicly owned park or recreational facility in an unincorporated area of the county. ~~The applicant need not obtain a zoning use permit in order to qualify for the temporary license, provided the~~

~~applicant has obtained a permit to use the park or recreational facility for the designated business, occupation or profession, as provided in section 78-82.~~ The tax collector shall issue the temporary business tax receipt license upon presentation of the permit, and receipt of the appropriate fee. The fee shall be one-half the amount normally assessed for the activity as provided in this article.

- (b) Any business, profession or occupation which has a public park or recreational facility as its place of business, and which is under an established lease with county, state or municipal government, shall be exempt from the requirements of this section.

SECTION 13. Section 102-52, Brevard County Code, entitled “Display of license”, is hereby renamed to “Display of business tax receipt”, and amended as follows:

Section 102-52 – Display of business tax receipt ~~license~~.

- (a) The person obtaining a business tax receipt shall keep the same displayed conspicuously at the place of business and in such a manner as to be open to the view of the public and subject to the inspection of all duly authorized officers of the county. Upon failure to do so, such person may be subject to the payment of another business tax for engaging in or managing the business, business location, profession or occupation for which the license was obtained.
- (b) The tax collector may provide additional identification for certain classifications indicated in division 3 of this article, including, but not limited to, rearview mirror hang-tags, decals or stickers. Unless the county business tax receipt ~~license~~ number is displayed permanently as part of vehicle signage, such additional identification must be displayed conspicuously as indicated by such mirror hang-tag, decal or sticker identified by classification, and/or as instructed by tax collector.

SECTION 14. Section 102-53, Brevard County Code, entitled “Transfer of license”, is hereby renamed to “Transfer of business tax receipts”, and amended as follows:

Section 102-53 – Transfer of business tax receipts ~~license~~.

- (a) All county business tax receipts ~~licenses~~ may be transferred to a new owner when there is a bona fide sale of the business upon payment of a transfer fee of ~~5.00~~ \$3.70 and presentation of the original current business tax receipt ~~license~~ and evidence of the sale.
- (b) Upon written request and presentation of the original current business tax receipt ~~license~~, any business tax receipt ~~license~~ not otherwise exempted by the provisions of this article of F.S. ch. 205, or other state or federal law may be transferred from one location to another location in the county, upon

payment of a transfer fee of ~~5.00~~ \$3.70. All regulatory prerequisites ~~and zoning requirements~~ must be met for the new location as applicable.

SECTION 15. Section 102-66, Brevard County Code, entitled “Occupational license tax classifications subject to tax and tax rates applied to each classification”, is hereby renamed to “Occupational Business tax receipt classifications subject to tax and tax rates applied to each classification”, and amended as follows:

Section 102-66, Occupational Business ~~license~~ tax receipt classifications subject to tax and tax rates applied to each classification.

- (a) Business tax receipts ~~Licenses~~ required by this article must be classified by one or more of the following sections. Specific classification descriptions are provided to most accurately reflect the activity which is being conducted and ~~to correspond with approved zoning or~~ other statutory prerequisites. Other activities are not precluded, unless precluded by federal, state or local laws and ordinances.
- (b) For each business tax receipt license required by this article, the business tax receipt rate is \$37.00. A single business tax receipt license account may be classified in more than one section, however, the business tax receipt license tax for such business will not exceed \$37.00.
- (c) If a classification provides for exemptions or exceptions, and there is no other classification for which a business tax receipt license is due, such exemption will extend to the determination of whether a business tax receipt license is required.

SECTION 16. Section 102-70, Brevard County Code, entitled “Classification 25: hotels, motels, public lodging”, is hereby amended to read as follows:

Section 102-70 – Classification 25: hotels, motels, public lodging.

- (a) Every person engaged in the business of renting accommodations, as defined in F.S. ch. 509, except nontransiently rented apartment houses is subject to this classification.
- (b) A business tax receipt for any business defined in F.S. ch. 509 may not be issued until the business requesting such business tax receipt license displays and exhibits to the tax collector a current state license for such business from the division of hotels and restaurants of the state department of business regulation, as required by F.S. ch. 509, or as subsequently designated by state law.
- (c) A business tax receipt for an adult congregate living facility may not be issued until the business requesting such business tax receipt license displays and exhibits to the tax collector a current state license for such

business from the state department of health and rehabilitative services, as required by F.S. ch. 400, or as subsequently designated by state law.

SECTION 17. Section 102-72, Brevard County Code, entitled “Classification 27: circuses, traveling shows, tent shows, etc.; side shows”, is hereby amended to read as follows:

Section 102-72 – Classification 27: circuses, traveling shows, tent shows, etc.; side shows.

- (a) Shows of all kinds, including circuses, vaudeville, minstrels, theatrical, traveling shows, exhibitions or amusement enterprises, including carnivals, rodeos, theatrical games or tests of skill, riding devices, dramatic repertoire and all other shows or amusements, or any exhibition giving performances under tents or temporary structures of any kind, is subject to this classification. Such business tax receipt license is good for one location only, however, the business licensee may return to the same location during the same business tax receipt license year without obtaining another business tax receipt license. Other permits and inspection fees would still apply to the return visit(s).
- (b) A business tax receipt license subject to this classification may not be issued until the business requesting such business tax receipt license has applied to the county building department for a permit and inspection of the grounds.
- (c) A business tax receipt license is not required of any show described in this section if the show, etc. is held at a permanent location which is licensed and classified as a stadium, theater, auditorium, convention center or for dancing/entertainment.
- (d) No business tax receipt is required of any show described in this section if the show is sponsored by a charitable organization, and proceeds are to be used for charitable purposes.
- (e) No business tax receipt is required of public fairs and expositions as defined and having the permit issued pursuant to F.S. ch. 616.

SECTION 18. Section 102-73, Brevard County Code, entitled “Classification 29: cafes, restaurants and other eating establishments; food service, food concessions, food catering and mobile food carts”, is hereby amended to read as follows:

Section 102-73 – Classification 29: cafes, restaurants and other eating establishments; food service, food concessions, food catering and mobile food carts.

- (a) Every person engaged in the business of operating a restaurant, café, snack bar, takeout service, dining room, drive-in eating establishment, food

catering, mobile food cart, food concession or other public eating place, whether operated in conjunction with some other line of business or not, is subject to this classification.

- (b) The seating capacity and classifications used by the division of hotels and restaurants of the state department of business regulation under F.S. § 509.251 or subsequently designated by Florida law, will be used in this section.
- (c) A business tax receipt for any business coming under the provisions of this section shall not be issued until the business requesting such business tax receipt ~~license~~ displays and exhibits to the tax collector a current state license from the division of hotels and restaurants of the state department of business regulation, as required by F.S. ch. 509, or as subsequently designated by state law.

SECTION 19. Section 102-74, Brevard County Code, entitled “Classification 30: contractors and construction trades”, is hereby amended to read as follows:

Section 102-74 – Classification 30: contractors and construction trades.

- (a) Each person who contracts or subcontracts to construct, alter, repair, dismantle or demolish buildings, roads, bridges, viaducts, sewers, water and gas mains, utility lines or engages in the business of construction, alteration, repairing, dismantling or demolition of buildings, land, roads, bridges, viaducts, sewers, water and gas mains, utility lines, is subject to this classification.
- (b) A business tax receipt for any business coming under the provisions of this section which is a regulated trade may not be issued until the business requesting such business tax receipt ~~license~~ displays and exhibits to the tax collector a current state or county certification or regulatory license, as required by laws and ordinances, or as subsequently designated by state law or ordinance.

SECTION 20. Section 102-76, Brevard County Code, entitled “Classification 34: astrologers, fortunetellers, psychics, clairvoyants, etc.”, is hereby amended to read as follows:

Section 102-76 – Classification 34: astrologers, fortunetellers, psychics, clairvoyants, etc.

- (a) Every astrologer, fortuneteller, psychic, clairvoyant, palmist, phrenologist, character reader, spirit medium, absent treatment healer, or mental healer and every person engaged in any occupation of a similar nature is subject to this classification.

- (b) A business tax receipt for any person or business coming under the provisions of this section will include the following disclaimer: “Brevard County does not certify the credentials of the license holder ~~licenseholder~~.”
- (c) This section does not apply to any person conducting or participating in any religious ceremony or service when such person holds a certificate of ordination as a minister from any bona fide church or religious association maintaining a facility for holding regular services and having a creed or set of religious principles that is recognized by all churches of like faith, provided that such activities are confined to their religious services as part of the religious tenets of their church or religious association, and payment of any fee or admission is not required in order to participate.

SECTION 21. Section 102-81, Brevard County Code, entitled “Classification 40: miscellaneous business not otherwise provided or defined”, is hereby amended to read as follows:

Section 102-81 – Classification 40: miscellaneous business not otherwise provided or defined.

Every person engaged in the operation of any business of such nature that no other business tax receipt ~~license~~ classification from this article can be appropriated is subject to this classification. This includes, but is not limited to, aerospace industries, racetracks, exhibits, flea markets, convention centers, movie productions, promoters, barter services, etc. This section may not be construed to require a business tax receipt ~~license~~ when a person has otherwise been exempted by provisions of Interstate Commerce, or other laws and ordinances, especially as provided in F.S. ch. 205.

SECTION 22. Section 102-82, Brevard County Code, entitled “Classification 41: auditoriums, stadiums, motion picture shows, theaters and drive-in theaters”, is hereby amended to read as follows:

Section 102-82 – Classification 41: auditoriums, stadiums, motion picture shows, theaters and drive-in theaters.

Every person engaged in the business of operating auditoriums, stadiums, theaters, exhibition halls, drive-in theaters, is subject to this classification. Performances held at locations ~~licensed~~ under this classification are not subject to an additional business tax receipt ~~license~~. The specific exclusions and exceptions provided in ~~S~~section 102-75 apply to this section also, to the extent that such exclusions and exceptions apply to all activities held at such auditorium, stadium theater, exhibition hall.

SECTION 23. Section 102-83, Brevard County Code, entitled “Classification 43: pawnbrokers”, is hereby amended to read as follows:

Section 102-83 – Classification 43: pawnbrokers

- (a) Every person engaged in the business of pawnbroker is subject to this classification.
- (b) A business tax receipt required by this section shall not be issued until the person requesting such receipt license displays and exhibits to the tax collector a current state registration as a secondhand dealer as required by F.S. ch. 538, or as subsequently designated by state law.

SECTION 24. Section 102-87, Brevard County Code, entitled “Classification 48: retail sales”, is hereby amended to read as follows:

Section 102-87 – Classification 48: retail sales.

- (a) Every person engaged in and carrying on the business of retail sales is subject to this classification.
- (b) A business tax receipt license is required for each location, or place of sale in the unincorporated area of the county, whether permanent or mobile. A vehicle which is delivering products which were purchased or ordered from an mentioned business licensed location is not subject to an additional business tax receipt license.

SECTION 25. Section 102-88, Brevard County Code, entitled “Classification 49: schools, colleges, training and instruction”, is hereby amended to read as follows:

Section 102-88 – Classification 49: schools, colleges, training and instruction.

Every person engaged in the business of operating a school, college or other educational or training institution, or providing training or instruction for profit is subject to this classification. Persons giving individual lessons or instructions in their homes, without assistants or staff, are not subject to this classification or licensure.

SECTION 26. Section 102-90, Brevard County Code, entitled “Classification 53: trading, etc., in intangible personal property”, is hereby amended to read as follows:

Section 102-90 – Classification 53: trading, etc., in intangible personal property.

- (a) Every person engaged in the business of trading, bartering, serving or selling tangible property, as owner, agent, broker or otherwise, is subject to this classification for each place of business, stationary or movable, located in the unincorporated area of the county.
- (b) A vehicle which is delivering products which were purchased or ordered from the licensed location would not be subject to an additional business tax receipt license; however, if the vehicle has additional products available for peddling or selling onsite, an additional license for the mobile location must be obtained.

- (c) This section does not apply to sale of motor vehicles at wholesale only to licensed dealers.

SECTION 27. Section 102-91, Brevard County Code, entitled “Classification 55: coin-operated machines”, is hereby amended to read as follows:

Section 102-91 – Classification 55: coin-operated machines.

- (a) In construing this section, unless the context otherwise requires, the following words or phrases are defined:
 - (1) *Laundromat* means each location at which laundry equipment is provided for use by the public.
 - (2) *Laundry equipment* means any equipment necessary for the operation of a coin-operated laundry, including washers, dryers, pressing or ironing machines and soap, bleach and laundry bag dispensing machines.
 - (3) *Merchandise vending machine* means any machine, contrivance or device which is set in motion or made or permitted to function by the insertion of a coin, slug, token or paper currency and dispenses merchandise without the necessity of replenishing the device between each operation.
 - (4) *Merchandise vending machine operator* means any person who operates for profit ten or more merchandise vending machines which are located in the unincorporated area of the county.
 - (5) *Service vending machine* means any machine, contrivance or device which is set in motion or made or permitted to function by the insertion of a coin, slug, token or paper currency and which disposes some service or amusement.
 - (6) *Service vending machine operator* means any person who operates for profit ten or more service vending machines which are located in the unincorporated area of the county.
- (b) Any person engaged in the business of a laundromat, or as a merchandise vending machine operator, or service vending machine operator, is subject to this classification.
- (c) The following vending machines and lockers are exempt from licensure by this section, and excluded from the count to determine operator status:
 - (1) All vending machines which dispense only United States postage stamps for newspapers

- (2) Coin-operated vending machines located in licensed places of business and dispensing only nuts, unadulterated citrus juices or milk.
- (3) Coin-operated parcel-checking lockers and toilet locks used in railroad, bus, airport stations, or depots, and in hotels, boarding houses, restaurants and restrooms for the convenience of the public.
- (4) All coin-operated telephones which are owned by a company licensed under Section 102-95.
- (d) All machines subject to a business tax receipt license ~~which are not located in a licensed business~~ must provide identification in a prominent place which includes the owner of the machine, or person responsible for its operation, and their address or telephone number.

SECTION 28. Section 102-94, Brevard County Code, entitled “Flea markets, other open markets”, is hereby amended to read as follows:

Section 102-94 – Flea markets, other open markets.

- (a) In construing this section, unless the context otherwise requires, the following words or phrases shall mean as follows:
 - (1) *Operator* means any person engaged in the business of operating a flea market or open space market at which space or stalls are rented for a consideration to persons other than the person operating the market for the sale of goods or services.
 - (2) *Personal household goods and personal property* means goods and property held for the personal use and not purchased for resale.
 - (3) *Temporary basis* means not more than three weeks in a six-month period beginning on the date of the first day of the sale.
- (b) Every operator engaged in the business of operating a flea market or open space market is subject to a license as classified within Section 102-81.
- (c) Occupants of stalls and spaces at flea markets or open space markets who sell goods and services, or otherwise conduct a business for profit, must obtain individual business tax receipts licenses ~~licenses~~ as required under the applicable classification in this division.
- (d) If the occupants of the stalls or spaces are county residents disposing of personal household good and personal property on a temporary basis, an individual business tax receipt license will not be required.

- (e) The operator of the flea market or open space market must make his rental records, as to names and rental dates of lessees, available for inspection by the tax collector or his deputies upon request.

SECTION 29. Section 102-95, Brevard County Code, entitled “Electric power plants, gas plants, telephone systems and community television antenna companies”, is hereby amended to read as follows:

Section 102-95 – Electric power plants, gas plants, telephone systems and community television antenna companies.

Every person engaged in the business of owning or operating telephone systems in the unincorporated area of the county for profit or in the business of furnishing electric power, gas or community television antenna service for a profit, is subject to a business tax receipt license; however, only one receipt license is required for the entire county, regardless of the number of business offices within the county.

SECTION 30. Section 62-1155, Brevard County Code, entitled “Zoning approval for business tax receipt; approval of home occupations”, is hereby stricken in its entirety and RESERVED as follows:

Section 62-1155. – Reserved. ~~Zoning approval for business tax receipt; approval of home occupations.~~

~~(a) Zoning approval for business tax receipt. Whenever any person, firm or corporation requests a zoning verification from the zoning division in order to obtain a business tax receipt, the zoning official is authorized to require adequate proof of ownership of the property in question. The information required is that deemed necessary by the zoning official to ensure that the proposed business will operate from the location given by the applicant. Such documentation may include copies of the deed to the property, a letter from the owner of record consenting to the applicant’s proposed business on the owner’s property, and copies of lease agreements, contracts or other pertinent data. Any person falsifying documents or providing false information for the purpose of obtaining zoning approval for a business tax receipt shall be subject to prosecution and a fine not to exceed \$500.00 or imprisonment in the county jail for a period not to exceed 60 days, or both such fine and imprisonment.~~

~~(b) Approval of home occupations.~~

~~(1) For purposes of this section, a home occupation is defined as any occupation where work is performed in the home in connection with which there is no commodity sold upon the premises, no more than one person employed other than a member of the immediate family residing upon the premises, and no mechanical equipment used except such as is normal in a residence or might be used incidental~~

~~to hobbies (such as small drills, sanders, etc.). A nonilluminated window or wall sign of one square foot or less may be permitted. Such home occupations are permitted in all of the residential zoning classifications. The principal use and appearance of the structure shall continue to be that of a residence.~~

~~No home occupation shall produce traffic, noise, smoke, dust, odors, vibration, heat, glare, fumes, electrical interference or other nuisance, in amounts detectable to normal sensory perception, beyond that which is common to a residential area. No toxic or combustible materials shall be stored on site. All work activities and all storage of products, equipment or materials shall be conducted entirely from inside an interior space.~~

~~Home occupations include architects, accountants, dental lab technicians, engineers, real estate brokers, real estate appraisers, interior decorators, fishing guides, computer generated work such as graphics, programming, desktop publishing and typesetting; domiciliary activities, insurance claim adjusters and other professional services, sales promotions and demonstrations of personal items that are identified with single family uses, cottage industries as defined below, and other similar occupations as determined by the zoning official, providing that in no way to be construed as wholesale or warehousing.~~

~~Occupations such as doctors, chiropractors, massage therapists, home care nurses, psychologists, psychiatrists, therapists and veterinarians are permitted only if no patients are treated in the home. Such occupations shall make house calls only. Lawn care services are permitted as home occupations provided all equipment is stored in an enclosed structure. Landscaping, bail bondsmen, distributorships, contractors and the building trades shall not be considered home occupations.~~

~~“Cottage industries” are defined as small scale or hobby manufacturing, assembly or production of handmade goods or products, on a scale accessory to and compatible with residential use, using machinery or equipment commonly found in the home or in a residential garage.~~

~~The zoning official may require a public hearing before the planning and zoning board or a favorable written petition from all property owners within 500 feet of the lot or parcel when in doubt of interpretation of the definition set out in this subsection with respect to any proposed occupation. Any home occupation that generates traffic through visitation in volumes that would require an off-street parking area for more than two motor vehicles is prohibited.~~

~~(2) — A home occupation permit may be issued administratively or after public hearings as specified in subsection (b)(1). The public hearings shall require an application fee on the part of the applicant. The amount of such fee shall be set by resolution of the board of county commissioners.~~

~~Each license will be reviewed and renewed annually at the same time that business tax receipts are renewed. The grant or renewal of a license shall not be deemed to vest or otherwise entitle the licensee to continue a home occupation or cottage industry that is not in compliance with subsection (b)(1). In the event this section is repealed or amended, home occupations or cottage industries shall not be deemed to have vested status.~~

~~The application requirements shall be those specified in section 62-1151 for amendments to the official zoning map together with a description of the home occupation requested. The public hearing requirements shall be those specified in section 62-1151 for amendment to the official zoning map, except that the planning and zoning board shall make the final determination as to permissibility of the home occupation and no hearing shall be required before the board of county commissioners.~~

~~At the public hearing, the planning and zoning board may impose reasonable conditions to protect the surrounding community from adverse effects of the home occupation.~~

~~(3) — Home occupations performed on parcels of land consisting of five acres or ore may have one or more of the criteria waived by the zoning official, except that there shall be no waiver granted to the requirement that no more than one person be employed other than a member of the immediate family residing upon the premises.~~

~~(4) — In all residential zoning classifications, where an existing single-family residential structure in excess of 8,000 square feet is located, such structure may be utilized for one or more of the following activities as a profit-making venture under this section, after a public hearing: civic fundraising events, private parties/dances, weddings, political fundraising events, civic and fraternal organizations functions or meetings. A public hearing shall be required as set forth in subsection (b)(1) of this section. The application for such public hearing shall include a list and description of all activities requested, and a site plan indicating the structure and the grounds, showing provision for parking areas commensurate with the activities specified.~~

~~(5) If at any time it is determined that the character of the home occupation has changed such that it is no longer within the scope and intent as originally approved, is not incidental to the primary use of the home as a residence, or is no longer compatible with the character of the neighborhood, as evidenced by code enforcement determination, the terms of the zoning use permit shall be deemed violated and the business tax receipt may be revoked administratively and deemed void. Upon such an occurrence, renewal of the zoning use permit is possible only by planning and zoning board action.~~

SECTION 31. Conflicting Provisions. In the case of a direct conflict between any provision of this ordinance and a portion or provision of any other appropriate federal, state or county law, rule, code or regulation, the more restrictive shall apply.

SECTION 32. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provision of this ordinance are declared severable.

SECTION 33. Effective Date. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten (10) days of enactment. This ordinance shall take effect upon adoption and filing as required by law.

SECTION 34. Inclusion in Code. It is the intention of the Board of County Commissioner that the provision of this ordinance shall become and be made a part of the Code of Ordinances of Brevard County, Florida; and that the sections of this Ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

DONE, ORDERED, AND ADOPTED, in regular session, this ___ day of _____, 2026

ATTEST:

BREVARD COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS

By: _____
Rachel M. Sadoff, Clerk

By: _____
Thad Altman, Chair
As approved by the Board on: _____