

Legistar #  
171078

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ORDINANCE NO. 171078

An ordinance of the City of Gainesville, Florida, amending sections 25-45, 25-50 and 25-50.1 of the Code of Ordinances related to the Local Business Tax to conform to statutory amendments and sunset provisions; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, at least 10 days' notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of public hearings to be held in the City Commission Auditorium, City Hall, City of Gainesville; and

WHEREAS, the Public Hearings were held pursuant to the published notice described at which hearings the parties in interest and all others had an opportunity to be and were, in fact heard.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:

Section 1. Sections 25-45, 25-50 and 25-50.1 of Article III, Chapter 25 are amended to read as set forth below. Except as amended herein, the remainder of Article III, Chapter 25 remains in full force and effect.

Chapter 25 – TAXATION

ARTICLE III. – LOCAL BUSINESS TAX

Sec. 25-45. - Same—Transfer.

- (a) All business tax receipts except those issued pursuant to the business tax exemptions set forth in ~~subsection~~ 25-50(~~f~~) may be transferred to a new owner when there is a bona fide sale of the business upon payment of a transfer fee of ten percent of the annual business tax but not less than \$3.00 nor more than \$25.00 and presentation of evidence of the sale and the original business tax receipt.

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- 31  
32 (b) Upon written application and presentation of the original business tax receipt, any receipt  
33 ~~except those issued pursuant to the business tax exemption set forth in subsection 25-~~  
34 ~~50(f)~~ may be transferred from one location to another location in the same municipality,  
35 upon payment of a transfer fee in accordance with the schedule set out in Appendix A.

36  
37 **Sec. 25-50. - Exemptions.**

- 38  
39 (a) ~~All disabled persons physically incapable of manual labor, all widows or widowers with~~  
40 ~~minor dependents, and all persons 65 years of age or older shall be allowed to engage in~~  
41 ~~any business, occupation or profession without being required to pay a business tax,~~  
42 ~~except for a license to sell intoxicating liquors or malt and vinous beverages, provided~~  
43 ~~they:~~

- 44 (1) ~~Live in Alachua County.~~  
45 (2) ~~Employ not more than one employee or helper, and~~  
46 (3) ~~Use their own capital only, not in excess of \$1,000.00.~~

- 47  
48 (b) ~~Any bona fide, permanent resident elector of the state who is a veteran of any war in~~  
49 ~~which the United States Armed Forces participated and who was honorably discharged~~  
50 ~~from the service of the United States and who at the time of application for a business tax~~  
51 ~~receipt, shall be disabled from performing manual labor shall, upon due proof of~~  
52 ~~qualifications for exemption, be granted a business tax receipt to engage in any business,~~  
53 ~~profession or occupation which may be carried on mainly through the personal efforts of~~  
54 ~~the receipt holder as a means of livelihood and for which the business tax does not exceed~~  
55 ~~the sum of \$50.00, or shall be entitled to an exemption to the extent of \$50.00 on any~~  
56 ~~business tax to engage in any business, profession or occupation which may be carried on~~  
57 ~~mainly through the personal efforts of the receipt holder as a means of livelihood when~~  
58 ~~the business tax therefor shall be more than \$50.00. The unremarried spouse of the~~  
59 ~~deceased disabled veteran of any war in which United States Armed Forces participated~~  
60 ~~will be entitled to the same exemptions as the disabled veteran.~~

- 61  
62 (a) The following persons are entitled to an exemption from a business tax and any fees  
63 imposed under this chapter, provided such person completes and signs, under penalty of  
64 perjury, a Request for Fee Exemption furnished by the city and provides written  
65 documentation in support of his or her request for an exemption:

- 66  
67 (1) A veteran of the United States Armed Forces who was honorably discharged upon  
68 separation from service, or the spouse or unremarried surviving spouse of such a  
69 veteran.  
70 (2) The spouse of an active duty military servicemember who has relocated to the  
71 municipality pursuant to a permanent change of station order.  
72 (3) A person who is receiving public assistance as defined in Section 409.2554, Florida  
73 Statutes.

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74 (4) A person whose household income is below 130 percent of the federal poverty level  
 75 based on the current year's federal poverty guidelines.

76  
 77 (b) If a person who is exempt under subsection (a) owns a majority interest in a business with  
 78 fewer than 100 employees, the business is exempt. Such person must complete and sign,  
 79 under penalty of perjury, a Request for Fee Exemption to be furnished by the city and  
 80 provide written documentation in support of his or her request for an exemption for the  
 81 business under this subsection.

82  
 83 (c) With the exception of a veteran under subsection (a)(1), any person who claims an  
 84 exemption under subsection (a) must annually certify each fiscal year that he or she  
 85 continues to qualify for the exemption on record, and provide written documentation.

86  
 87 (d) All disabled persons physically incapable of manual labor, widows with minor  
 88 dependents, and persons 65 years of age or older, with not more than one employee or  
 89 helper, and who use their own capital only, not in excess of \$1,000, and who live in  
 90 Alachua County, may engage in any business or occupation without being required to pay  
 91 a business tax. The exemption provided in this section shall be allowed only upon the  
 92 certificate of the county physician, or other reputable physician, that the applicant is  
 93 disabled, the nature and extent of the disability be specified therein, and in case the  
 94 exemption is claimed by a widow with minor dependents, or a person over 65 years of  
 95 age, proof of the right to the exemption shall be provided.

96  
 97 (e) Neither subsection (d) nor any other law or ordinance exempts any person from the  
 98 payment of any amount required by law for the issuance of a license to sell intoxicating  
 99 liquors or malt and vinous beverages.

100  
 101 (f) Any person who claims an exemption under subsection (d) must annually certify each  
 102 fiscal year that he or she continues to qualify for the exemption on record.

103  
 104 (eg) College and high school students may, with the approval of the athletic association or  
 105 proper school authorities, sell the pennants, badges, insignia and novelties of their school  
 106 without being required to pay a business tax.

107  
 108 (eh) Nothing in this article shall be construed to require a business tax receipt for practicing  
 109 the religious tenets of any church.

110  
 111 (ei) All persons who are full-time employees of the University of Florida, do not have offices  
 112 off the University of Florida campus, and do not hold themselves out to the public as  
 113 available for practice of their professions, shall be exempt from the payment of the local  
 114 business tax.

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116 ~~(f) All persons who conduct their business, profession, or occupation at a permanent business~~  
 117 ~~location or branch office located in an area designated as an enterprise zone pursuant to~~  
 118 ~~F.S. Ch. 290, shall be exempt from 50 percent of the local business tax levied by this~~  
 119 ~~chapter for that permanent business location or branch office.~~

121 (g) All persons engaging in or managing a business, profession, or occupation regulated by  
 122 the Department of Business and Professional Regulation who have paid a local business  
 123 tax for the current year to the county or municipality in the state where their permanent  
 124 business location or branch office is maintained shall be exempt from payment of the  
 125 local business tax levied by this article for work or services on a temporary or transitory  
 126 basis in the city.

127  
 128 **Sec. 25-50.1. ~~Same~~ Enterprise zone.**

129  
 130 ~~(a) Any business subject to the local business tax which exercises its privilege to do business~~  
 131 ~~at a permanent business location or branch office in the enterprise zone established by~~  
 132 ~~Resolution R050296 may receive a 50 percent reduction in the local business tax levied~~  
 133 ~~for the business located in the enterprise zone.~~

134  
 135 ~~(b) Before a business tax receipt with the exemption authorized herein may be issued, the~~  
 136 ~~applicant must provide proof to the city that the applicant is entitled to such exemption.~~  
 137 ~~Such proof shall be made by means of a statement filed under oath with the tax collecting~~  
 138 ~~authority, which statement indicates that the permanent business location or branch office~~  
 139 ~~of the applicant is located in the enterprise zone as defined in Resolution R050296. In~~  
 140 ~~order to obtain the exemption herein authorized, any business renewing its business tax~~  
 141 ~~receipt must file the required proof with its local business tax payment on or before~~  
 142 ~~October 1 of the affected fiscal year. Any business failing to timely file required proof~~  
 143 ~~and payment will forfeit its right to the exemption for that fiscal year.~~

144  
 145 ~~(c) Any business tax receipt obtained with the exemption herein authorized which was~~  
 146 ~~procured by the commission of fraud, shall be deemed null and void. Any person who~~  
 147 ~~fraudulently obtained such exemption and thereafter engages, under color of the business~~  
 148 ~~tax receipt, in any business, profession, or occupation requiring the business tax receipt is~~  
 149 ~~subject to prosecution for engaging in a business, profession, or occupation without~~  
 150 ~~having the required business tax receipt under the laws of the state.~~

151  
 152 ~~(d) Any business tax receipt issued with the exemption herein authorized in nontransferable.~~  
 153 ~~The exemption authorized by this section does not apply to any penalty authorized in F.S.~~  
 154 ~~§ 205.053.~~

155  
 156 ~~(e) This exemption shall be applicable beginning with business tax receipts or occupational~~  
 157 ~~licenses issued for the 1995/1996 fiscal year.~~

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159 ~~(f) No business tax receipt shall be issued with the exemption authorized in this section for~~  
160 ~~any period beginning on or after January 1, 2016.~~

161  
162  
163 **Section 2.** It is the intention of the City Commission that the provisions of Section 1 of  
164 this Ordinance shall become and be made a part of the Code of Ordinances of the City of  
165 Gainesville, Florida, and that the sections and paragraphs of this Ordinance may be renumbered  
166 or relettered in order to accomplish such intentions.

167 **Section 3.** If any word, phrase, clause, paragraph, section or provision of this ordinance  
168 or the application hereof to any person or circumstance is held invalid or unconstitutional, such  
169 finding shall not affect the other provisions or application of the ordinance which can be given  
170 effect without the invalid or unconstitutional provisions or application, and to this end the  
171 provisions of this ordinance are declared severable.

172 **Section 4.** All ordinances or parts of ordinances, in conflict herewith are to the extent of  
173 such conflict hereby repealed.

174 **Section 5.** This ordinance shall become effective immediately upon final adoption.

175  
176 **PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.**

177  
178  
179 \_\_\_\_\_  
180 LAUREN POE  
181 MAYOR

182  
183  
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186 ATTEST: Approved as to form and legality

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188

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190

191 \_\_\_\_\_  
192 OMICHELE D. GAINERY  
193 CLERK OF THE COMMISSION

191 \_\_\_\_\_  
192 NICOLLE M. SHALLEY  
193 CITY ATTORNEY

193

194

195 This ordinance passed on first reading this \_\_\_\_ day of \_\_\_\_\_, 2019.

196

197 This ordinance passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2019.

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