



DEVELOPMENT SERVICES

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ADMINISTRATIVE MEMORANDUM NO. 19-098

TO: Mark E. Berman, City Attorney
VIA: David L. Recor, ICMA-CM, Development Services Director
VIA: Jennifer Gomez, AICP, Assistant Development Services Director
FROM: Daniel T. Keester-O'Mills, AICP, Principal Planner
SUBJECT: Request for Ordinance / Amending Chapter 113 – BTR Exemptions
DATE: April 25, 2019

During last year's session of the Florida Legislature, a section within the Florida State Statutes, regulating Local Business Tax Receipts was amended. On July 13, 2018, the Florida Senate amended F.S.S. 205.055 exempting a business tax and any fees to veterans, spouses of veterans and certain service members, and low-income persons. The City of Pompano Beach Code of Ordinances related to Local Business Tax Receipts also offers exemptions related to the annual business tax receipt (113.28 Exemptions). Rather than continually updating the language, staff is proposing to amend the city code of ordinances to simply reference the state exemption.

Please review the proposed text amendment, and let us know if you have any questions. If you have no questions or corrections, please draft an ordinance for review and approval of the City Commission. We are also requesting confirmation that the ordinance will require one published notice in a paper of general circulation at least 10 days prior to the public meeting, pursuant to Fla. S. S. § 166.041 (3) (a).

Should you have any questions or comments, please contact me at extension 5541.

Enclosures:

- Florida State Statute 205.055 (Local Business Taxes)
- 113.28 Exemptions (Proposed Changes)

CHAPTER 205
LOCAL BUSINESS TAXES

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205.055 Exemptions; veterans, spouses of veterans and certain servicemembers, and low-income persons.—

(1) The following persons are entitled to an exemption from a business tax and any fees imposed under this chapter:

- (a) A veteran of the United States Armed Forces who was honorably discharged upon separation from service, or the spouse or unremarried surviving spouse of such a veteran.
- (b) The spouse of an active duty military servicemember who has relocated to the county or municipality pursuant to a permanent change of station order.
- (c) A person who is receiving public assistance as defined in s. 409.2554.
- (d) A person whose household income is below 130 percent of the federal poverty level based on the current year's federal poverty guidelines.

(2) A person must complete and sign, under penalty of perjury, a Request for Fee Exemption to be furnished by the local governing authority and provide written documentation in support of his or her request for an exemption under subsection (1).

(3) If a person who is exempt under subsection (1) owns a majority interest in a business with fewer than 100 employees, the business is exempt. Such person must complete and sign, under penalty of perjury, a Request for Fee Exemption to be furnished by the local governing authority and provide written documentation in support of his or her request for an exemption for the business under this subsection.

History.—s. 1, ch. 2018-80; s. 24, ch. 2018-118.

Pompano Beach, Florida Code of Ordinances

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§ 113.28 EXEMPTIONS.

(A) Disabled person, aged and widows.

(1) All disabled persons physically incapable of manual labor, widows with minor dependents, and persons 65 years of age or older residing in Broward County, with not more than one employee or helper, and who use their own capital only, not in excess of \$1,000, shall be allowed to engage in any business or occupation without being required to pay for a business tax receipt. The exemption provided by this section shall be allowed only upon the certificate of the county physician or other 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 section shall, upon application and furnishing of the necessary proof as aforesaid, be issued a business tax receipt which shall have plainly stamped or written across the face thereof the fact that it is issued under this section, and the reason for the exemption shall be written thereon.

(2) 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 required by law for the issuance of a business tax receipt to sell intoxicating liquors or malt and vinous beverages.

(B) Disabled veterans or their unremarried spouses.

(1) 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, crises, and the like, who was honorably discharged from the service of the United States, and who at the time of his or her application for a business tax receipt as hereinafter mentioned shall be disabled from performing manual labor, 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:

(a) Be granted a business tax receipt to engage in any business or occupation which may be carried on mainly through the personal efforts of the business tax receipt holder as a means of livelihood and for which the state, county, or city business tax receipt does not exceed the sum of \$50 for each without payment of any business tax receipt otherwise provided for by law; or

(b) When any such person shall apply for a business tax receipt to conduct any business or occupation for which the city business tax receipt as fixed by law shall exceed the sum of \$50, the remainder of such business tax receipt in excess of \$50 shall be paid by him in cash.

(2) (a) The Zoning Division shall issue to such persons as may be entitled hereunder a business tax receipt pursuant to the foregoing provision and subject to the conditions thereof. Such business tax receipt when issued shall be marked across the face thereof "Veterans Exempt Business Tax Receipt"- "Not Transferable." Before issuing the same, proof shall be duly made in each case that the applicant is entitled under the conditions of this law to receive the exemption herein provided for. The proof may be made by establishing to the satisfaction of such tax collecting authority 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 10% 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, 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 business tax receipt within the meaning and intent of this section;

4. A pension certificate issued to him or her by the United States by reason of such disability; or

5. Such other reasonable proof as may be required by the tax collecting authority to establish the fact that such applicant is so disabled.

(b) All business tax receipts issued under this section shall be in the same general form as other city business tax receipts and shall expire at the same time as such other licenses are fixed by law to expire.

(3) All business tax receipts obtained under the provisions of this section by the commission of fraud upon any issuing authority shall be deemed null and void. Any person who has fraudulently obtained any such business tax receipt, or who fraudulently received any transfer of a business tax receipt issued to another, and has thereafter engaged in any business or occupation requiring a business tax receipt under color thereof shall be subject to prosecution as for engaging in a business or occupation without having the required business tax receipt under the laws of the state. Such business tax receipt shall not be issued in any county other than the county wherein said veteran is a bona fide resident citizen elector, unless such veteran applying therefor shall produce to the tax collecting authority in such county a certificate of the tax collector of his or her home county to the effect that no exemption from a business tax receipt has been granted to such veteran in his or her home county under the authority of this section.

(4) 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 required by law for the issuance of a business tax receipt to sell intoxicating liquors or malt and vinous beverages.

(5) 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.

(C) Occasional sales by not-for-profit groups.

(1) No 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 fund-raising 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.

(2) It shall be the burden of the organization to demonstrate their exempt status by virtue of providing the business tax receipt inspector proper documentation.

(D) Carnivals and similar amusements.

(1) When an organization which is exempt under subsection (C) above desires to use, conduct, or sponsor a circus, carnival, or similar type of amusement organization or professional amusement person, there shall be submitted to the business tax receipt inspector a copy of an executed contract between the applicant and the circus, carnival, or similar type of amusement organization or professional amusement persons reflecting that no less than 20% of the gross proceeds will be paid to the applicant, or in lieu of such a copy, an affidavit to the same effect sworn to and signed by the applicant.

(2) The burden shall be on the organization to provide documentation supporting an exempt status.

(E) Any exemption as provided in §205.055, Florida Statutes, as amended.

(Am. Ord. 95-11, passed 10-25-94; Am. Ord. 2007-57, passed 7-10-07)