

**TOWN OF LOXAHATCHEE GROVES**

**ORDINANCE NO. 2017-18**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, PROVIDING FOR THE LEVY AND COLLECTION OF LOCAL BUSINESS TAXES WITHIN THE TOWN OF LOXAHATCHEE GROVES; PROVIDING FOR DEFINITIONS; PROVIDING FOR PENALTIES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Loxahatchee Groves may levy a local business tax pursuant to Chapter 205, Florida Statutes, the " Local Business Taxes," Chapter 166, Florida Statutes, the "Municipal Home Rule Powers Act," Article VII, Section 9( a) and Article VIII, Section 2( b), of the Florida Constitution, and the Town of Loxahatchee Groves Charter, as may be amended from time to time; and

**WHEREAS**, local governments impose local business taxes for the privilege or engaging in a business or profession within a municipality; and

**WHEREAS**, the Town Council of the Town of Loxahatchee Groves finds that levying and collecting local business tax receipts is fair and reasonable; and

**WHEREAS** the Town Council deems it to be in the best interest of the Town of Loxahatchee Groves to adopt these provisions regarding local business taxes.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, THAT:**

**Section 1.** The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

**Section 2.** That the Code of Ordinances of the Town of Loxahatchee Groves is hereby amended by enacting a new Chapter entitled "LOCAL BUSINESS TAX RECEIPTS" to read as

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follows: **CHAPTER \_\_\_\_\_ LOCAL BUSINESS TAX RECEIPTS**

**Sec. \_\_\_\_\_ Definitions.** In this ordinance, the following terms and phrases are in accordance with shall have the meanings set forth below, unless the context clearly indicates otherwise:

(A) “Business” “profession,” “occupation,” means work, vocation, commercial enterprise, corporation, partnership, cooperative, joint venture, business trust, sole proprietorship, establishment, trade, activity, in which a person is engaged, together with all activities devices, machines, vehicles and appurtenances used therein, any of which are conducted, for private profit, benefit, either directly or indirectly, on or from any premises in the City.

“Business,” “profession,” and “occupation” do not include the customary religious, charitable, or educational activities of nonprofit religious, nonprofit charitable, and nonprofit educational institutions in this state, which institutions are more particularly defined and limited as follows:

(1) “Religious institutions” means churches and ecclesiastical or denominational organizations or established physical places for worship in this state at which nonprofit religious services and activities are regularly conducted and carried on, and also means church cemeteries.

(2) “Educational institutions” means state tax-supported or parochial, church and nonprofit private schools, colleges, or universities conducting regular classes and courses of study required for accreditation by or membership in the Southern Association of Colleges and Schools, the Department of Education, or the Florida

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Council of Independent Schools. Nonprofit libraries, art galleries, and museums open to the public are defined as educational institutions and eligible for exemption.

(3) “Charitable institutions” means only nonprofit corporations operating physical facilities in this state at which are provided charitable services, a reasonable percentage of which are without cost to those unable to pay.

(B) “Classification” means the method by which a business or group of businesses is identified by size or type, or both.

(C) “Local Business Tax” means the fees charged and the method by which the Town grants the privilege of engaging in or managing any business, profession, or occupation within its jurisdiction. It does not mean any fees or licenses paid to any board, commission, or officer for permits, registration, examination, or inspection. Unless otherwise provided by law, these are deemed to be regulatory and in addition to, but not in lieu of, any local business tax imposed by any other jurisdiction.

(D) “Fee Schedule” means the categories, amounts, and rates adopted by the Town Council by Resolution.

(E) “Person” means any individual, firm, partnership, joint adventure, syndicate, or other group or combination acting as a unit, association, corporation, estate, trust, business trust, trustee, executor, administrator, receiver, or other fiduciary, and includes the plural as well as the singular.

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(F) "Receipt" means the document that is issued by the local governing authority which bears the words "Local Business Tax Receipt" and evidences that the person in whose name the document is issued has complied with the provisions of this chapter relating to the business tax.

(G) "Taxpayer" means any person liable for taxes imposed under the provisions of this chapter; any agent required to file and pay any taxes imposed hereunder; and the heirs, successors, assignees, and transferees of any such person or agent.

(H) "Independent contractor" has the same meaning as provided in section, 440.02(15)(d), Florida Statutes, as amended from time to time.

(I) "Town" shall mean Town of Loxahatchee Groves., Florida.

**Sec. \_\_\_ Tax Imposed.** Pursuant to Chapter 205, Florida Statutes, a Local Business Tax is hereby levied for the privilege of engaging in or managing any Business, Profession or Occupation within the boundaries of the Town, subject to the provisions of this ordinance. A local business tax is hereby imposed by the Town, commencing October 1, 2018, upon:

(1) Any person maintaining a permanent business location or branch office within the Town for the privilege of engaging in or managing any business, profession, or occupation within the Town's jurisdiction.

(2) Any person not maintaining a permanent business location or branch office within the Town who transacts any business or engages in any occupation or profession in interstate commerce where such tax is not prohibited by Section 8, Article 1 of the United States Constitution.

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**Sec. \_\_\_\_ Inapplicability of this Chapter.** This Chapter shall not apply to the contractor related businesses regulated under sections 489.113, 489.117, 489.119, 489.131, 489.511, 489.513, 489.521 or 489.537, Florida Statutes.

**Sec. \_\_\_\_ Applicability of exemptions.** The exemptions from municipal local business taxes provided by law shall be applicable in the Town.

**Sec. \_\_\_\_ Separate Business.** Each Business registered with the State shall constitute a single and separate Business, requiring a Business Tax Receipt for each registered Business entity.

(1) A separate Business Tax Receipt shall be obtained for each separate Business at the same location.

(2) Each receipt obtained by a Business shall be issued to cover only the Business licensed thereby at the location and in the category designated in such receipt.

**Sec. \_\_\_\_ Operating a Business.** Operating, engaging, or managing a business, occupation, or profession includes but is not limited to the following actions:

(1) Submission of a State and/or Federal filing indicating a principal address located within the City. Such filings include, but are not limited to:

(a) Filings with the Florida Secretary of State indicating a principal address located within the City, or

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- (b) Filings regarding a Federal Employer Identification Number (FEIN) or Taxpayer Identification Number (TIN),or
- (c) Filings regarding sales tax certificate,
- (2) Transacting Commerce from a Residential Property within the City,
- (3) Utilizing a Residential Property as a location for an address for Business correspondence,
- (4) Transacting Commerce from a Residential Property,
- (5) Executing a commercial lease for a location within the City,
- (6) Holding an active license, permit or business tax receipt issued by a government agency indicating that Person utilizes a business or mailing address within the City, or
- (7) Submission of tangible personal property tax documentation to the County that indicates a business address within the City.

**Sec. \_\_\_\_ Evidence of operating a business or profession.** The fact that any person represents himself/herself as being engaged in any business, occupation or profession for which a business tax receipt is required shall be evidence of the liability of such person to pay for a business tax receipt, regardless of whether such person actually transacts any business. Displaying a sign or advertisement indicating the conduct of a business or profession at any given location or advertising a business or profession in the classified section of the telephone directory or city directory or other media shall be prima facie evidence that such person is

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holding himself/herself out to the public as being engaged in a business or profession. Any part of a business also constitutes the operation of a business, (i.e. storage, yard for contractor's office that may be offsite). Any business or part thereof must be in accordance with zoning regulations.

**Sec. \_\_\_\_ Places of business; vehicles.** Vehicles used by any person licensed under this article for the sale and delivery of tangible personal property, at either wholesale or retail, from his/her place of business on which a tax is paid shall not be construed to be separate places of business.

**Sec. \_\_\_\_ Additional/Separate Fees.** A local business tax shall grant the privilege of engaging in or managing all businesses, professions, or occupations within the Town's jurisdiction. It shall not excuse or be in lieu of any fee charged for a license permit, registration, examination, or inspection, which is hereby deemed to be regulatory and in addition to and not in lieu of the local business tax imposed under the provisions of this article.

**Sec. \_\_\_\_ Filing of application.** Before the Town shall be required to issue a local business tax receipt for engaging in or carrying on any of the businesses, professions, or occupations specified and set forth in this article, it shall be the duty of the applicant to file an application with the Town Clerk, such application to be in the form provided by the Town Clerk.

**Sec. \_\_\_\_ First-time Applicants.** Any Person applying for a Business Tax Receipt for the first time, to engage in any Business regulated by the Department of Business and

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Professional Regulation, or any board or commission thereof, must exhibit an active State certificate, registration, or license, or proof of copy of the same, before such Business Tax Receipt may be issued.

**Sec. \_\_\_\_ Non-renewal of Business Tax Receipt.** If the City is notified by the Department of Business and Professional Regulation that an Applicant is a Person for whom a Business Tax Receipt should not be renewed due to the suspension, revocation, or inactivation of such Person's State license, certificate, or registration, the City shall not renew such Business Tax Receipt unless such Person can exhibit an active State certificate, registration, or license.

**Sec. \_\_\_\_ Issuance of Receipt.** Upon payment of the taxes required by this article, the Town shall issue to the person paying the same a receipt signed by an official of the Town, which receipt shall expire at the end of the period for which such receipt is issued as specified in this article.

**Sec. \_\_\_\_ Period of Local Business Tax Receipt; issuance.** Unless otherwise provided, the amount of the local business tax specified by this article shall be on the basis of one year covering the period from October 1st to September 30th next succeeding, but receipts shall be issued in accordance with the following:

(1) Receipts issued between September 30th and March 30th shall pay the full amount.

(2) Receipts issued between April 1st and September 30th shall pay one-half of the full amount.

**Sec. \_\_\_\_ Expiration date.** No receipt shall be issued for more than one year, and all

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receipts shall expire on September 30th of each year unless otherwise provided.

**Sec. \_\_\_\_ Transfer to new ownership; fee.** All local business tax receipts may be transferred to a new owner for the same business activity for which it was originally issued when there is a bona fide sale of the business upon payment of a transfer fee of ten percent (10%) of the annual local business tax, but not less than \$3.00 and not more than \$25.00, and presentation of evidence of the sale and the original receipt. Upon written request and presentation of the original receipt, any receipt may be transferred from one location to another location within the Town upon payment of a transfer fee of ten percent of the annual local business tax, but not less than \$3.00 and not more than \$25.00.

**Sec. \_\_\_\_ Issuance of local business tax receipt to licensed professionals.** No local business tax receipt shall be issued to a licensed professional or business office unless the professional possesses a certificate from the state or applicable industry licensing board. Any licensed professional, either employed by a local business or an independent contractor shall provide satisfactory evidence that the certificate(s) or license(s) referred to in this article are still in force and effect.

**Sec. \_\_\_\_ Local business tax receipt required for additional trades, business, etc.** Any persons engaged in two or more trades, vocations, businesses, or professions enumerated herein for which a local business tax receipt is required shall be required to pay a local business tax receipt for each separate line of trade, business, vocation, or profession.

**Sec. \_\_\_\_ Rebates.** No portion of any business tax receipt paid in accordance with the amount due shall be rebated, unless it clearly appears that the business tax collected was in

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error.

**Sec. \_\_\_\_ Multiple Businesses.** If more than one (1) category of business is simultaneously operated from the same location, each category of business shall be applied for and taxed separately, including the payment of each respective business tax. If businesses are specifically listed in the Fee Schedule, they will be taxed individually.

**Sec. \_\_\_\_ Exemptions for local business tax receipts.** Any individual who engages in or manages a business, profession, or occupation as an employee of another person is not required to apply for an exemption from a local business tax, pay a local business tax, or obtain a local business tax receipt. For the purposes of this section, an individual licensed and operating as a broker associate or sales associate is considered an employee. A principal or employer who is required to obtain a local business tax receipt may be required to provide licensing information for individuals exempt under this section in order to obtain a local business tax receipt. An individual acting in the capacity of an independent contractor is not an employee and is required to obtain a local business tax receipt as provided in this article.

**Sec. \_\_\_\_ Display of local business receipt.** Each person holding a local business tax receipt under this Chapter shall keep the receipt posted in a conspicuous place, and the receipt shall be shown to any officer of the Town demanding to see it.

**Sec. Classification and Fee Schedule.** The Fee Schedule reflecting the amount of tax which shall be paid to the Town by each and every person, firm, association, corporation or business entity, engaged in or practicing such business, profession, or occupation within the

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jurisdiction of the Town shall be set by resolution of the Town Council which may be amended from time to time, as authorized by and pursuant to state law, and which shall be available at the office of the Town Clerk for review during normal business hours.

**Sec. \_\_\_\_ When taxes are due; expiration; penalty for delinquency.** All local business tax receipts shall be sold beginning August 1st of each year, shall be due and payable before September 30th of each year, and shall expire on September 30th of the succeeding year. If September 30th falls on a weekend or holiday, the tax is due and payable on or before the first working day following September 30th. Those receipts not renewed by October 1 shall be considered delinquent and subject to a delinquency penalty of ten (10) percent for the month of October, plus an additional five (5) percent penalty for each month of delinquency thereafter until paid, provided that the total delinquency penalty shall not exceed twenty-five (25) percent of the local business tax for the delinquent establishment.

**Sec. \_\_\_\_ Engaging in business, occupation, etc. without license; penalty.**

(a) Unless an exemption applies under the law, it shall be unlawful for any person to operate or engage in any business, trade, profession or occupation within the Town without a business tax receipt or upon a business tax receipt issued based on a false statement by the applicant or by another acting in his behalf.

(b) Any person engaging in or managing any business, occupation, or profession without obtaining a local business tax receipt required under this article shall be subject to a

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penalty of twenty five (25) percent of the license determined to be due, in addition to any other penalty provided by law or ordinance. This section may be enforced by citation to be reviewed by the special magistrate.

(c) In any prosecution under this chapter, the fact that such person is open for business shall be prima facie evidence of engaging in such business, trade, profession or occupation, and the burden shall be upon the defendant to rebut the same.

**Section 3. Penalties.**

(a) Civil actions and penalties;

Any person who engages in or managing any business, occupation, or profession covered by this article without obtaining a business tax receipt or who does not pay the required local business tax within 150 days after the initial notice of tax due, and who does not obtain the required 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.

(b)Code Enforcement

The Town may also enforce the provisions of this Chapter through its Code Enforcement process.

**Section 4.** It is the intention of the Town Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Town's Code of Ordinances upon the codification of the Town's ordinances, and that the Sections of this ordinance may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section", "Article" or

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such other word or phrase in order to accomplish such intention.

**Section 5.** All Ordinances or parts of Ordinances in conflict herewith are repealed to the extent of such conflict.

**Section 6.** If any Section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

**Section 7.** This Ordinance shall become effective immediately upon adoption.

*[Remainder of this page intentionally left blank]*

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 3<sup>rd</sup> DAY OF OCTOBER, 2017.**

Council Member LIANG offered the foregoing ordinance. Council Member MCLENDON seconded the motion, and upon being put to a vote, the vote was as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
DAVID BROWNING, MAYOR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
RON JARRIEL, VICE MAYOR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
RYAN LIANG, COUNCIL MEMBER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TODD MCLENDON, COUNCIL MEMBER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DAVID DEMAROIS, COUNCIL MEMBER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS 7<sup>th</sup> DAY OF NOVEMBER, 2017.**

ATTEST:

Virginia M. Walton  
Virginia M. Walton, Town Clerk

APPROVED AS T LEGAL FORM:

[Signature]  
Town Attorney

**TOWN OF LOXAHATCHEE GROVES,  
FLORIDA**

David Browning  
Mayor David Browning

Ronald Jarriel  
Vice Mayor Ron Jarriel

[Signature]  
Council Member Ryan Liang

[Signature]  
Council Member Todd McLendon

David DeMarois  
Council Member David DeMarois

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