

ORDINANCE NO. 679-10

AN ORDINANCE OF MIAMI SHORES VILLAGE, FLORIDA, AMENDING CHAPTER 14, ARTICLE II. AND SECTIONS 14-16 through 14-34 OF THE CODE OF ORDINANCES OF MIAMI SHORES VILLAGE, FLORIDA, EFFECTING A CHANGE IN TERMINOLOGY TO REFLECT THE STATUTORY CHANGE FROM OCCUPATIONAL LICENSE TO LOCAL BUSINESS TAX RECEIPT, AND INCREASING RATES FOR LOCAL BUSINESS TAX RECEIPTS, AS CONTAINED WITHIN THE SCHEDULE OF LICENSE TAXES; PROVIDING FOR CONFLICTS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, In 2006, the Florida Legislature amended Chapter 205 of the Florida Statutes to reflect a change in terminology from Occupational Licenses to Local Business Tax Receipts; and,

WHEREAS, Chapter 205 allows for municipalities that meet certain criteria, to increase the local business tax up to a maximum of 5% every other year; and

WHEREAS, Miami Shores Village has not raised the local business tax rates since the 2007-2008 fiscal year; and

WHEREAS, It is in the best interest of Miami Shores Village to amend Chapter 14, Article II, and Sections 14-16 through Section 14-34 to reflect the 2006 change in terminology and to increase the tax rate;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF MIAMI SHORES VILLAGE, FLORIDA:

SECTION 1. That Chapter 14, Article II and Sections 14-16 through Section 14-34 of the Miami Shores Village Code of Ordinances shall stand amended to read as follows:

ARTICLE II. LOCAL BUSINESS TAX

Sec. 14-16. Definition.

The word "person" wherever used in this article shall mean either an individual, firm, partnership, corporation, association, executor, administrator, trustee or other legal entity, whether singular or plural, masculine or feminine.

Sec. 14-17. Required; hours for retail sales.

(a) The local business tax shall be levied on:

- (1) Any person who maintains a permanent business location or branch office within the village, for the privilege of engaging in or managing any business in the village.

- (2) Any person who maintains a permanent business location or branch office within the village, for the privilege of engaging in or managing any profession or occupation within the village.
  - (3) Any person who does not qualify under subsection (1) or subsection (2) and who transacts any business or engages in any occupation or profession in interstate commerce, if the license tax is not prohibited by Section 8, Article I of the United State Constitution.
- (b) No person shall, within the limits of the village, engage in or manage any business, occupation or profession without first having paid the amount of local business tax required by this chapter and without first having obtained from the village a local business tax receipt therefor issued for and applying to the current tax receipt year, or fractional part thereof, during which such business, occupation or profession is commenced, carried on or engaged in. Such local business tax receipt shall be applied for and obtained before the commencement of any such business, occupation or profession, and annually thereafter on or before September 30 of each year as long as such business, occupation or profession is carried on.
- (c) The retail sale of consumer goods between the hours of 1:00 AM and 6:00 AM is prohibited.

Sec. 14-18. Application.

Prior to the issuance of any local business tax receipt, a written application therefor, signed by an officer, partner or owner of the proposed business, occupation or profession, shall be filed with the village clerk upon the prescribed forms. The furnishing of all necessary information pertinent to the establishment of the proper license tax or fee for such license is required.

Sec. 14-19. Value of stock carried.

The value of stock carried shall be the cost value of all stock in trade and merchandise on hand as of the close of the fiscal year of the business's next preceding the start of the tax receipt period in question. Where the tax receipt is not a renewal or the tax receipt has not completed one fiscal year, then the value of stock carried shall be the cost value of all stock in trade and merchandise on hand as of the date of commencement of business.

Sec. 14-20. False statements in application.

Any tax receipt obtained under the provisions of this article upon a misrepresentation of a material fact shall be deemed null and void and shall be subject to prosecution for doing business without a tax receipt.

Sec. 14-21. Determination of classification.

In the event of a disagreement between applicant and the village on the question of proper classification of any business, occupation or profession, the village clerk shall decide the proper classification, with the right in the applicant to appeal from such decision to the village manager.

Sec. 14-22. Term, duration.

Except as otherwise provided, local business tax receipts shall expire on the thirtieth (30<sup>th</sup>) day of September of each year. No tax receipt shall be issued for more than one year.

Sec. 14-23. Issuance for fractional part of year.

Unless otherwise provided, for each local business tax receipt obtained between October 1 and April 1, the full tax for one year shall be paid, and for each local business tax receipt obtained from April 1 to September 30, one-half the full tax for one year shall be paid.

Sec. 14-24. One location under each license.

All local business tax receipts provided for in this article shall be issued for and apply to only one location or place of business.

Sec. 14-25. Exemptions.

Exemption from the payment of the local business tax set forth in this article shall be allowed in such cases as are provided for in this article in accordance with the exemptions provided for by the laws of the state.

Sec. 14-26. Bills or notices for local business tax receipt.

It is hereby declared to be unnecessary for the village to send out bills or notices to persons engaged in business in the village with respect to the payment or nonpayment of business tax receipts.

Sec. 14-27. Display.

Every local business tax receipt shall be posted in a conspicuous place in the place of business for which it is issued and the holder of such license shall exhibit same to any code inspector or police officer upon being requested to do so.

Sec. 14-28. Transfer - Location change.

- (a) Local business tax receipts may be transferred from one location to another, provided that the tax receipt is presented to the village clerk for the approval of such transfer.
- (b) Upon written request and presentation of the original tax receipt, any tax receipt may be transferred from one location to another location, subject to approval by village and county permitting agencies, and payment of a transfer fee of up to ten percent of the annual tax, but not less than \$3.00 nor more than \$25.00.

Sec. 14-29. Same – Ownership change.

- (a) Local business tax receipts issued by the village may be transferred as to ownership with the approval of the village clerk.
- (b) Any local business tax receipt may be transferred to a new owner, when there is a bona fide sale of the business, upon payment of a transfer fee of up to ten percent of the annual tax, but not less than \$3.00 nor more than \$25.00, and presentation of the original tax receipt and evidence of the sale.

Sec. 14-30. Duplicates.

The village clerk is hereby authorized and empowered to cause to be executed and delivered an appropriate duplicate tax receipt certificate upon evidence that the original certificate was mutilated, destroyed or lost.

Sec. 14-31. Revocation.

- (a) The village manager shall have the authority to revoke any local business tax receipt issued as authorized by the Code.
- (b) Revocation of a local business tax receipt shall be based upon the fact that the application for the tax receipt contains a fraudulent statement or misrepresentation.
- (c) Notice of such revocation of a local business tax receipt shall be given in writing to the holder thereof, setting forth the grounds alleged for revocation, and designating a time and place for requesting a hearing. Notice shall be mailed to the local business tax receipt holder at the last known address.

Sec. 14-32. Compliance with village regulations prior to issuance.

Any business location may be inspected by the village as to its compliance with zoning, building, and other regulatory ordinances of the village prior to the issuance of a local business tax receipt.

Sec. 14-33. Schedule of local business taxes.

The various businesses, occupations and professions within the village are hereby classified for the purpose of this article and assessments of business taxes therefore are hereby fixed as follows:

(a) Amusements:

**Game Machines**, electronic or mechanical, not more than 2  
at any 1 location, each machine ..... \$42.10

**Public Performances**, exhibitions and entertainment. Any presentation to the public, for profit, of theatrical plays or dramatic works, musical entertainment, magic shows, dog exhibitions or contests, where the performance is not given in a locally licensed theater or private or public school (and excluding entertainments given for charitable or benevolent purposes):

For each day during which any performance or performances  
are given or presented ..... 140.65

(b) The renting of living accommodations:

**Apartment Houses, Hotels and Motels**, renting furnished or unfurnished:

**Hotels and Motels:**

1 to 10 rooms ..... 42.10  
11 to 25 rooms ..... 105.00

**Apartments:**

For 1 to 4 rental units.....	141.12
For each additional 1 to 4 rental units .....	35.28

"Rooms" shall not include lobbies, outer screened porches,  
bathrooms or closets.

**All other dwelling units, including single-family dwelling units.....** 49.20

(c) Merchants and dealers:

**Alcoholic Beverage Business Establishment** (Permitting ..... 166.70

stand alone business or within retail store)

**Arms** (including pistols, rifles, shot guns and firearms). .... 105.00

**Automobile Dealer** (permitting agency for sale of new automobiles, airplanes  
or other motor-driven vehicles, sale of secondhand vehicles taken in exchange  
on sale of new vehicles, and vehicle accessories):

Alone or in connection with any other business ..... 280.00

**Bakery** (permitting the manufacturing of bakery products customarily sold in  
a bake shop at retail only and includes other kinds of foodstuffs sold in delicatessens  
or bakeries) ..... 140.70

**Garage** (permitting keeping, storing, servicing and repairing of automobiles or other  
motor-driven vehicles, including sale of gasoline, motor oils, repair parts, etc., and  
auto painting, but not including sale of new or used vehicles):

Alone or in connection with any other business ..... 140.70

**Gasoline Station** (permitting the retail sale and direct delivery to motor vehicles  
of gasoline, lubricating oil, and minor motor vehicle accessories, but not including  
the keeping of any vehicles for rental or the performance of any auto body work,  
welding, painting or other than emergency repairs on any motor vehicle, and not  
including any repair work on buses or on trucks of 1 ½ ton capacity or more):

Alone or in connection with any other business ..... 316.62

**General Merchant** (permitting retail or wholesale sale of merchandise and tangible  
personal property of all kinds, including food for consumption off the premises, except  
those businesses or occupations otherwise specifically licensed in this section; permitting  
rental and repair of merchandise, and manufacture of products sold at retail only):

Alone or in connection with any other business:

Up to and including \$5,000.00 of value of stock carried..... 115.76

Over \$5,000.00, per each additional \$1,000.00 or major fraction thereof ..... 3.01

**Restaurant** (including soda fountains, cafes, lunch counters, cafeterias, dining rooms, tearooms, and all other establishments where food is sold for consumption on the premises; permits sales of cigars, tobacco and candy without additional license):

Alone or in connection with any other business, with chairs and stools, each to count the same as follows:

Minimum Fee, covering first 25 seats.....	105.00
For each additional seat over 25 .....	.61

<b>Printing and/or Publishing Establishment.....</b>	<b>105.00</b>
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- (d) Professional: The following practitioners are classed as "Professionals" and each person engaged in the practice of any such profession is required to take out a professional license as follows:

<b>Accountant, Auditor or Tax Consultant .....</b>	<b>126.63</b>
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<b>Attorney .....</b>	<b>126.63</b>
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<b>All other Professional classifications</b> , including; Architect, Chiropodist, Chiropractor, Dentist, Electrolysis, Engineer, Music Teacher, Naturopath, Optometrist, Osteopath, Physician, Podiatrist, Surgeon, Surveyor, Veterinarian.....	126.63
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Any person licensed by the State under Florida Basic Science Law for practice of the healing arts .....	126.63
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<b>For Hire Cars .....</b>	<b>126.63</b>
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<b>Gas Company .....</b>	<b>527.52</b>
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<b>Importing</b> , administrative office and/or representative .....	126.63
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<b>Insurance Agency .....</b>	<b>126.63</b>
Each Solicitor .....	6.93

<b>Insurance Adjuster .....</b>	<b>126.63</b>
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<b>Insurance Company</b> (each insurance company or association operating a company office in the Village) .....	126.63
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For each insurance company that transacts business or engages in any interstate commerce, if such license tax is not prohibited by Section 8, Article I of the U.S. Constitution .....	126.63
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For each agent operating from company offices located within the Village .....	6.93
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<b>Investment Counselor</b> (Not a dealer in securities).....	<b>126.63</b>
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<b>Investment and Securities Dealer</b> .....	126.63
Where the dealer offers facilities to the general public for dissemination of market information and quotations by use of a quotation board, projection of ticker tape or similar means .....	280.00
<b>Laboratory/Clinical</b> .....	126.63
<b><u>Laundry/Dry Cleaning Services:</u></b>	
Plants (Where work is done on premises) .....	280.00
Agency (Where no work is done on premises, includes laundromats).....	126.63
(e) Service Establishments:	
<b>Abstract and Title Company</b> .....	126.63
<b>Addressing, Mailing or Duplicating Service</b> .....	126.63
<b>Administrative Office</b> (Where manufacture and delivery of products and inventory is located entirely outside of the Village) .....	126.63
<b>Advertising Agency</b> .....	126.63
<b>Artist, Commercial</b> .....	126.63
<b>Auctioneer</b> .....	701.50
For each sale of goods, wares, merchandise, or real estate.....	126.63
<b>Banks, Savings &amp; Loan Associations and Similar Enterprises</b> .....	316.58
<b>Barbershop</b> .....	126.63
<b>Beauty Shop</b> .....	126.63
<b>Bookkeeping Service</b> .....	126.63
<b>Broker or Agent, Mercantile</b> .....	126.63
<b>Business Office, General</b> (for any business establishment not specifically covered in this section) .....	126.63
<b>Catering</b> (where shop is located in Village) .....	126.63
<b>Collection Agency</b> .....	126.63

**Detective Agency** (including all types of private investigative work):

Permitting 2 investigators or detectives .....	280.00
For each investigator or detective over 2, an additional .....	28.20
<b>Dressmaking</b> (Does not permit stock without Merchant's License .....	126.63
<b>Electric Light &amp; Power Company</b> .....	527.52
<b>Employment Agency</b> .....	126.63
<b>Express Company</b> (having place of business in the Village) .....	280.00
<b>Exterminating Service</b> (having place of business in the Village) .....	112.56
<b>General Service Establishment.</b> Each person engaged in any other business not specifically listed in this section whereby services are performed for the public in return for a consideration .....	126.63
<b>Loan Agency</b> (not small loan company or pawnbroker) .....	126.63
<b>Pawnbroker</b> .....	520.90
<b>Pharmacy</b> (Permitting stand alone business or within retail store) .....	166.70
<b>Photographer/Photo Studio/Photofinisher</b> (permits blueprinting and .....	126.63
photostating)	
<b>Private School</b> (Schools, Colleges, or any other educational or training services, studies or institutions operated for profit):	
For each School with more than 1 teacher .....	126.63
<b>Private School Leasing Temporary Facilities</b> (whether or not operated for profit, limited to 5 consecutive 1 year licenses):	
For each school having no more than 2 teachers .....	126.63
For each increment of 2 or less teachers .....	42.10
<b>Public Stenographer/Court Reporter</b> .....	126.63
<b>Real Estate Broker or Agent</b> .....	126.63
Each Salesperson connected therewith .....	6.93
<b>Reducing Salon</b> .....	126.63
<b>Shoe Repair Shop</b> .....	126.63
<b>Small Loan Company</b> (including all companies or agencies licensed by	



the State of Florida as small loan business) .....	211.05
<b>Tailor</b> .....	126.63
<b>Telephone Company</b> .....	527.52
<b>Travel Bureau/Ticket Office</b> .....	126.63
(g) For each Vending Machine, wherever situated (permitting ..... cigarette and copier/fax machines, blood pressure machines or other medical machines).	35.25

Sec. 14-34. Civil actions and penalties.

Any person engaged in any business for which a business tax receipt is required and 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 attorney's fees, additional administrative costs incurred as a result of collection efforts and a penalty of up to \$250.00.

SECTION 2. All ordinances or parts of ordinances in conflict herewith or inconsistent herewith, are hereby repealed, but only insofar as such ordinances may be inconsistent or in conflict with this Ordinance.

SECTION 3. 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 effect the validity of the remaining portions of this Ordinance, which shall be deemed to be severable therefrom.

SECTION 4. This Ordinance shall become effective immediately upon adoption, and the increased tax rates set forth herein shall be applied to the Fiscal Year 2010-2011 Local Business Tax Receipts.

PASSED ON first reading this 20<sup>th</sup> day of April, 2010.

PASSED AND ADOPTED ON second and final reading this 4<sup>th</sup> day of May, 2010.

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Al Davis, Mayor

ATTEST:

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Barbara A. Estep, MMC  
Village Clerk

APPROVED AS TO FORM:

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Richard Sarafan, Village Attorney