

ORDINANCE NO. 330

AN ORDINANCE AMENDING ARTICLE II OF CHAPTER 7 OF THE CODE OF ORDINANCES OF THE TOWN OF HAVANA PERTAINING TO OCCUPATIONAL LICENSES SO AS TO CONFORM THE SAME TO RECENT REVISIONS TO CHAPTER 205, FLORIDA STATUTES; CHANGING THE TITLE THEREOF FROM OCCUPATIONAL LICENSES TO LOCAL BUSINESS TAXES AND CHANGING ALL REFERENCES THEREIN FROM OCCUPATIONAL LICENSE TAX TO BUSINESS TAX AND ALL REFERENCES THEREIN FROM OCCUPATIONAL LICENSE TO RECEIPT FOR BUSINESS TAX; PROVIDING FOR REVISED DEFINITIONS; LEVYING A LOCAL BUSINESS TAX INSTEAD OF REQUIRING AN OCCUPATIONAL LICENSE FOR ENGAGING IN BUSINESS WITHIN THE MUNICIPALITY AND REQUIRING A RECEIPT FOR SAME; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE OF JANUARY 1, 2007.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HAVANA, FLORIDA:

That Article II of Chapter 7 of the Code of Ordinances of the Town of Havana pertaining to Occupational Licenses is hereby amended to read as follows:

SECTION 1. That the title to Article II of Chapter 7 of the Code of Ordinances of the Town of Havana is hereby changed from Occupational Licenses to Local Business Taxes.

SECTION 2. DEFINITIONS.

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Business:* Any commercial or mercantile activity or occupation engaged in by any person, real or otherwise, for personal gain, whether profitable or not, and for which the annual gross revenue exceeds \$1,000.00.

*Business Tax:* A tax levied on each business, occupation, or profession for the privilege of engaging in or managing any business, occupation, or profession within the town limits.

*Dance Hall:* Any designated area or place where public dancing is permitted.

*Employee:* In those instances where the receipt is based on the "number of employees", it shall mean partners, principals, full time people, part time people, temporary help, professionals, sub contractors, independent contractors, leased employees, etc. receiving a W2, K1 or 1099-MISC for \$3,600.00 or more for the previous calendar year. A new business shall be based on the number of employees on opening day.

*Flea Market:* A business or facility either temporary or permanent where temporary booths or stands are established to accommodate the vendor of primarily hand-crafted items or secondhand articles. Such booths may or may not be rented. Such booths are set up for a period not more than 7 days and then dismantled.

*Game Room:* A facility wherein more than 3 amusement vending machines or pool tables are located for public use.

*General Business:* Persons utilizing or renting space for a business at a physical location (including home base businesses). Including, but not limited to, Associations, Barber/Beauty Shops, Contractors, Dry Cleaners, Funeral Homes, Insurance Agencies, Printers, Repair Shops, etc..

*Merchant:* A business whose primary activity is selling, trading, or bartering permanent tangible personal property at a permanent location, operating out of a permanent structure. If primary business is licensed under another classification, no additional license is required if same owner's secondary business at same location is a merchant with annual gross revenues not exceeding \$1,000.00.

*Merchant, non permanent:* A business engaged in the business of trading, bartering, selling or servicing tangible personal property operating at a non permanent location other than at flea markets or out of a non permanent structure. Such business may be

conducted at or from a stand or booth.

*Business Tax:* A tax levied on each business, occupation, or profession for the privilege of engaging in or managing any business, occupation, or profession within the Town limits.

*Professional:* Any person engaged in any business, occupation or profession required to maintain an active and valid State of Florida, Department of Business & Professional Regulation or Florida Bar regulatory license, permit or certificate, unless otherwise classified.

*Receipt:* The document to be issued by the Town Clerk or his or her designee 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 that business tax.

*Rental Unit:* For the purposes of this ordinance, shall be construed to mean and include apartments, hotels, motels, motor courts, cottages, cabins, convalescent homes, rooms, mobile home parks, townhouses, offices, or other such units may be rented or leased by the day, week, month, year or longer and located on one lot, plot, or parcel of land.

*Square Footage:* The total square feet, at the end of the prior fiscal year, used for sales, storage and warehouse located in the Town limits on and off site, plus all retail office space. To the extent that an area is used for sales, storage or warehousing, it shall be included in the computation whether or not it shall be covered or open. A new business shall be based on the total square feet at opening.

*Vending and Amusement Machines:* Shall have the same meaning as provided in Section 205.0537, Florida Statutes, and shall be governed thereby.

## SECTION 2. LEVY OF BUSINESS TAX.

A business tax is hereby imposed and levied upon and shall be collected from every person exercising the privilege of carrying on

or engaging in any business, profession or occupation and who maintains a permanent business location or branch office within this municipality and any person who transacts any business or engages in any occupation or profession in interstate commerce where such a business tax is not prohibited by Section 8, Article 1 of the United States Constitution.

SECTION 3. BUSINESS TAX RECEIPT REQUIRED.

Any person who engages in or manages any business, occupation or profession for which there is a business tax required by this ordinance or any other ordinance of the Town, must have a valid receipt from the Town Clerk or his or her designee. Any sign, advertisement, building occupancy, directory listing or activity indicating that a business, calling, profession or occupation is being conducted at a location within this municipality shall be prima facie evidence that a person is liable for a business tax.

SECTION 4. EACH LOCATION AND BUSINESS ACTIVITY TO PAY  
A SEPARATE BUSINESS TAX.

A business tax receipt shall be obtained for each location or branch of the business within the Town as if the branch or location were a separate business, unless prohibited by Chapter 205, Florida Statutes. A business tax receipt shall also be obtained for each unique and different type of business activity. Whenever any business, occupation or profession shall fall into more than one of the classifications contained in the schedule hereinafter set forth in this ordinance, such occupation, business, or profession shall be required to comply with these requirements and to pay the tax imposed under or pertaining to each classification or privilege. The Town Clerk or his or her designee shall have the authority to determine the classification for each business activity. All business activities shall be assigned to at least one of the approved classifications. Many of the classifications are general in nature, and a more complete list of the businesses contained in each classification will be maintained by the Town Clerk.

SECTION 5. VEHICLES NOT SEPARATE PLACES OF BUSINESS.

Vehicles used by any person licensed under the laws of the

Town for the sale and delivery of tangible personal property at either wholesale or retail from his place of business on which a license is paid shall not be construed to be separate places of business, and no license may be levied on such vehicles or the operators thereof as salesmen or otherwise.

SECTION 6. BUSINESS TAX DUE DATES  
AND PRORATION.

(1) A business tax receipt is not valid for longer than one year. All receipts expire on September 30 and shall be payable on or before September 30 of each year, unless otherwise specifically provided by law. If September 30 falls on a weekend or holiday, the tax is due and payable on or before the first working day following September 30.

(2) Half year licenses may be issued by the Town Clerk or his or her designee for the period April 1 to September 30 upon the payment of one-half of the tax for one year.

SECTION 7. PAYMENT OF TAX AND ANY DELINQUENCY  
PREREQUISITE TO RECEIPT.

All receipts are issued by the Town Clerk or his or her designee upon the payment of the local business tax and any delinquency or penalty provided in this ordinance. Any person owing delinquent local business taxes shall be required to pay such delinquent local business taxes before being issued a new receipt.

SECTION 8. DELINQUENCY; PENALTIES; BUSINESS WITHOUT  
A RECEIPT

(1) Receipts that are not renewed by September 30 are delinquent and subject to a delinquency penalty of 10 per cent for the month of October, plus an additional 5 per cent penalty for each subsequent month of delinquency thereafter until paid. However, the total delinquency penalty shall not exceed 25 per cent of the local business tax for the delinquent establishment.

(2) Any person who engages in or manages any business, occupation or profession without first obtaining a local occupational license, if required, is subject to a penalty of 25 per cent of the tax due, in addition to any other penalty provided by law or ordinance, and is required to purchase the receipt for

the remainder of the year, measured from the time the business activity began.

(3) Any person who engages in any business, occupation, or profession covered by this chapter, 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 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.

(4) If the business activity began in a prior year, the owner is required to pay the local business tax from the point of initiation of business activity, not to exceed 3 years, plus a penalty of 25 per cent.

(5) The Town Clerk or his or her designee can abate the penalty if it is determined that the owner acted in good faith on information provided by Town's receipt staff.

#### SECTION 9. EXEMPTIONS:

No receipt shall be required for religious, educational or charitable institutions as defined by state law, or for certain disabled persons, the aged, and widows and widowers with minor dependents, or for disabled veterans of any war or their unremarried spouses, or for the sale of farm products and related activities, all as provided by Chapter 205, Florida Statutes, as the same now exists or may hereafter be amended.

#### SECTION 10. TRANSFERS AUTHORIZED; FEE.

(1) A receipt may be transferred to a new owner when there is a bona fide sale of the business upon payment of a transfer fee in the amount of \$3.00 and presentation of evidence of the sale and the original receipt.

(2) In the event a business location is changed to another location within the Town limits, the holder of the receipt shall, within fifteen (15) days after the location is changed, have the receipt transferred to the new location. This transfer shall be made upon the presentation of the original receipt and evidence of location change, and upon payment of a transfer fee in the amount

of \$3.00.

(3) No transfers shall be authorized for changes in business classifications.

(4) A transferred receipt shall not be good for any time longer than that for which it was originally issued.

(5) A transferred receipt shall be of the same force and effect as the original receipt.

#### SECTION 11. RECEIPT TO BE EXHIBITED AND DISPLAYED.

Every person having a receipt must exhibit the receipt when called upon to do so by an authorized officer of the Town, and the receipt must be conspicuously displayed at all times at the place of business.

#### SECTION 12. ENFORCEMENT AND INSPECTION.

(1) The following persons are authorized to conduct inspections in the manner prescribed herein:

(a) The Town Clerk or his or her designee shall have the authority to make all investigations reasonably necessary for the enforcement of this ordinance.

(b) The Town Clerk or his or her designee has the authority to direct the inspection of receipts, their businesses and premises, by any Town officials having duties related to the receipts or businesses.

(c) All police officers shall have the authority to inspect and examine businesses to enforce compliance with this ordinance.

(2) The Town Clerk, his or her designee, or other authorized persons have the right and duty to inspect from time to time the records of any business in the corporate limits of the Town, where the local business tax is based on the number of employees, number of rental units or other financial or qualitative measures. Information obtained from an inspection or investigation shall be used along with other pertinent information in determining the proper classifications and business tax for the business. If it is determined that the required information has been misrepresented or misstated, the amount determined appropriate by the Town Clerk or

his or her designee is due and payable. If it is determined that a business is improperly classified, penalties as set forth in Section 7 hereof may be imposed. Any person hindering, impeding, or obstructing any authorized person in his investigation or inspection in the reasonable performance of his duties, as described, shall be guilty of an offense against the Town.

SECTION 13. REQUIREMENT TO FILE SWORN STATEMENT;  
PENALTY FOR MISREPRESENTATION.

Every person doing business in the Town, where the amount of the local business tax to be paid is dependent upon the number of employees, square footage or such other financial quantitative measurements, must file a sworn statement at the time payment is made. The Town Clerk or his or her designee may require quantitative measurements to be submitted each year prior to renewal. If the measurements are not rendered or are not rendered within the time frame specified, the Town Clerk or his or her designee may make an estimated tax assessment and add a ten per cent (10%) penalty for failure to render the measurements as required. Any person making a false statement in the application for a receipt or any person making or signing any application for a receipt, as provided for by this ordinance, in which the statements, matters or things set forth therein or any one or any part of them is untrue, shall upon conviction thereof be punished as provided by Section 1-9.

SECTION 14. AGENT RESPONSIBLE FOR LOCAL BUSINESS TAX.

The agents, managers, or other representatives of nonresidents who are doing business in the Town are personally responsible for the compliance of their principals and of the business they represent with this ordinance.

SECTION 15. APPROVAL OF APPLICATION BY BUILDING  
INSPECTORS, ZONING OFFICIALS, HEALTH  
OFFICERS, AND POLICE DEPARTMENT.

All applications must be approved prior to issuance of a receipt by the Town zoning official's office. If the application is not approved, the local business tax will be refunded. All applications relating to the preparation, distribution, sales,



processing, or consumption of foods or other edible products must be approved prior to issuance of a receipt by the appropriate state agency. All applications relating to the hiring of a vehicle for transportation of passengers shall meet the requirements of this Code and state law prior to issuance of a receipt.

#### SECTION 16. ILLEGAL BUSINESS.

No receipt issued under the provisions of this ordinance, and no payment of any local business tax required, imposed or levied under this ordinance, shall be construed as authorizing the conduct or continuance of any illegal business, occupation or profession, or of any business, occupation or profession as may now or hereafter be prohibited by ordinance, or of any legal business, occupation or profession in an illegal manner.

#### SECTION 17. NOT REGULATORY LICENSES.

The receipts issued under the authority of this Code are licenses for payment of the local business taxes levied on the privilege of carrying on or engaging in a business, profession or occupation under the Town's taxing power. Receipts are not regulatory licenses.

#### SECTION 18. VIOLATIONS; PENALTIES AND REVOCATION.

Any person who violates any of the terms of this ordinance shall immediately cease such activities and shall be subject to penalties as provided by Section 1-9 of this Code.

#### SECTION 19. LOCAL BUSINESS TAX SCHEDULE.

No local business tax levied under the authority of this ordinance shall exceed that permitted under Chapter 205, Florida Statutes. The amount of the local business taxes levied and imposed upon every person who shall engage in or manage any business, profession, privilege, or occupation hereinafter mentioned within the Town is hereby fixed, granted, determined, and imposed at the following rates or amounts as recommended by the Equity Study Commission created for the Town by Resolution No. 94-03-R pursuant to Section 205.0535, Florida Statutes, to-wit:

**LOCAL BUSINESS TAX SCHEDULE**  
**EFFECTIVE JANUARY 1, 2007**

**AUTOMOBILE & OTHER VEHICULAR ACTIVITIES:**

Dealers-New and/or used cars	\$ 25.00
Dealers-New and/or used cars plus accessories and repairs under 1 ownership	\$ 50.00
Farm Equipment and Tractors	\$ 25.00
Mobile Home Dealers	\$ 25.00
Motorcycle	\$ 25.00
Railroad	\$ 35.00
Vehicle Leasing	\$ 25.00
Vehicles For Hire, each vehicle plus each operator	\$ 25.00 \$ 10.00
Miscellaneous	\$ 25.00

**BANKING/LENDING INSTITUTIONS**  
**(PER LOCATION)**

Automatic Teller machines - per service terminal (except those located on site of financial institution)	\$ 25.00
Commercial Banks	\$ 50.00
Credit Unions	\$ 50.00
Finance Company	\$ 50.00
Savings and Loans	\$ 50.00
Miscellaneous	\$ 50.00

**COMMUNICATIONS:**

Cablevision	\$ 100.00
Newspaper	\$ 20.00
Radio Station	\$ 50.00
Telegraph	\$ 50.00
Telemarketing	\$ 100.00
Telephone	\$ 100.00
Miscellaneous	\$ 100.00

**ENTERTAINMENT/AMUSEMENT:**

Amusement Parks	\$ 200.00 per day
Auctions	\$ 40.00
Bowling Alley-each lane	\$ 10.00
Circus or Carnival	\$ 200.00 per day
Dance/Music/Event Hall	\$ 50.00
Festivals, special events, etc.	\$ 200.00 per day

Game Room/Amusement center	\$ 25.00
plus each machine	\$ 5.00
Golf Course	\$ 25.00
Pool Tables, per table	\$ 10.00
Shooting Gallery or Range	\$ 25.00
Rinks: Skating, bicycle, motorcycle, etc.	\$ 50.00
Theaters-each screen	\$ 50.00
Miscellaneous	\$ 50.00
FLEA MARKET/FARMERS MARKET:	\$ 100.00
plus each space, stall, booth, stand	\$ 5.00
(on October 1 or opening day)	
FORTUNE TELLER/CLAIRVOYANT:	\$ 50.00
	per day
GAS AND OIL DEALERS:	
Wholesale gasoline, oil, propane, etc.	\$ 125.00
Retail propane, fuel oil, etc.	\$ 125.00
Retail gasoline and oil - per dispenser,	
hose or nozzle	\$ 5.00
Miscellaneous	\$ 125.00
GENERAL BUSINESS:	
1-5 employees	\$ 20.00
6-10 employees	\$ 30.00
11-20 employees	\$ 40.00
over 20 employees	\$ 50.00
INSURANCE COMPANIES: (no local office -	
sells policies within the Town limits)	\$ 30.00
JUNK DEALERS: (used parts, scrap metal, etc.)	\$ 100.00
MERCHANT/PERMANENT:	
0-3,000 square feet	\$ 20.00
3,001-6,000 square feet	\$ 40.00
6,001-9,000 square feet	\$ 80.00
over 9,000 square feet	\$ 100.00
MERCHANT/NON PERMANENT:	
Miscellaneous	\$ 50.00
Peddler	\$ 125.00
MISCELLANEOUS/UNCLASSIFIED:	\$ 100.00
PAWNBROKER:	\$ 100.00

PRODUCTION/MANUFACTURING:

1-10 employees	\$	25.00
11-50 employees	\$	30.00
51-100 employees	\$	40.00
over 100 employees	\$	60.00

PROFESSIONAL: (per professional unless otherwise classified)	\$	20.00
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RENTAL UNITS:

Hotel/Motel, Roominghouse, Bed & Breakfast plus per unit	\$	10.00
Apartment, Mobile Homes (lic. not required for 4 units or less) plus per unit or lot	\$	2.00
Warehouse plus per 1,000 square feet	\$	10.00
Miscellaneous plus per space, unit or 1,000 square feet	\$	2.00

RESTAURANTS:

0-50 seats	\$	20.00
51-70 seats	\$	30.00
71-100 seats	\$	40.00
over 100 seats	\$	50.00
No seating	\$	30.00
Mobile food cart	\$	30.00

VENDING MACHINES: (per machine)

Merchandise	\$	4.00
Service	\$	4.00
Amusement	\$	5.00

SECTION 20. REPEAL OF CONFLICTING ORDINANCES.

All ordinances or parts of ordinances in conflict herewith be and the same are thereby repealed.

SECTION 21. SEVERABILITY.

If any section, clause, sentence or phrase of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 22. CODIFICATION.

It is the intention of the Town Council and it is hereby provided that the provisions of this ordinance shall be made part of the Town's Code of Ordinances; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the work "ordinance" may be changed to "section", "article", or other appropriate designation.

SECTION 23. EFFECTIVE DATE.

This ordinance shall take effect on January 1, 2007.

INTRODUCED in open session of the Town Council of the Town of Havana, Florida, this 26th day of September, A.D. 2006.

ADOPTED AND PASSED on second and final reading in open session of the Town Council of the Town of Havana, Florida, this 31st day of October, A.D. 2006.

Z. J. Davis  
Presiding Officer of the Town Council  
of the Town of Havana, Florida

ATTEST:

Shelia A. Evans  
Clerk of the Town of Havana and  
Clerk of the Town Council thereof