

ORDINANCE NO. 2009-03

AN ORDINANCE OF THE TOWN OF ORCHID, FLORIDA, AMENDING CHAPTER 10 OF THE CODE OF THE TOWN OF ORCHID BY CREATING ARTICLE III, LOCAL BUSINESS TAXES; ADOPTING A LOCAL BUSINESS TAX PURSUANT TO CHAPTER 205, FLORIDA STATUTES, TO BE REQUIRED IN ORDER TO DO BUSINESS IN THE TOWN OF ORCHID; ADOPTING RATES PURSUANT TO SECTION 205.0315, FLORIDA STATUTES; PROVIDING FOR REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS; PROVIDING FOR INCORPORATION INTO THE CODE OF THE TOWN OF ORCHID; PROVIDING FOR SEVERABILITY; PROVIDING FOR ADOPTION BY REFERENCE OF THE LOCAL BUSINESS TAX RATE SCHEDULE AND CLASSIFICATIONS OF THE CITY OF SANIBEL, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of Orchid has determined that it is in the best interest of the Town to adopt a schedule of Local Business Taxes as provided by state law in order to conduct business in the Town of Orchid; and

WHEREAS, Section 205.0315, Florida Statutes, permits a municipality that has not adopted a Local Business Tax Ordinance to adopt a rate schedule that is reasonable and which incorporates the rate structure adopted by a jurisdiction with a comparable population that has implemented Section 205.0535, Florida Statutes; and

WHEREAS, the Town has researched the ordinances of local governments in the areas adjacent to and surrounding the Town of Orchid, and has determined that the rate structure enacted by the City of Sanibel is reasonable and meets the requirements set forth in Florida Statutes Section 205.0315; and

WHEREAS, the Town Council has decided to adopt the rate structure and classifications of the City of Sanibel, Florida; and

WHEREAS, the Town Council of the Town of Orchid hereby finds this ordinance to be in the best interests of the public health, safety, and welfare of the citizens of Orchid.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ORCHID, FLORIDA THAT:

Section 1. Recitals. The foregoing recitals are hereby fully incorporated herein by reference as legislative findings of the Town Council of the Town of Orchid, Florida.

Section 2. Local Business Tax Adopted. The Town Council of the Town of Orchid hereby adopts the following Local Business Tax Ordinance as set forth herein. The Local Business Tax Ordinance shall be created as Chapter 10, Article III of the Orchid Code of Ordinances as follows: (underlined type indicates additions and ~~strikeout~~ type indicates deletions, while asterisks (* * *) indicate a deletion from the Ordinance of text existing in Chapter 10. It is intended that the text in Chapter 10 denoted by the asterisks and set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this Ordinance).

CHAPTER 10. BUSINESSES

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ARTICLE III. LOCAL BUSINESS TAX

Sec. 10-25. Levied. A local business tax is hereby levied for the privilege of engaging in or managing any business, profession or occupation within the Town. Such local business tax is levied on any person who:

- (1) Maintains a permanent business location or branch office within the Town for the privilege of engaging in or managing any business in the Town.
- (2) Maintains a permanent business location or branch office within the Town for the privilege of engaging in or managing any profession or occupation within the Town .
- (3) Does not qualify under subsection (1) and who transacts any business or engages in any occupation or profession in interstate commerce, if such local business tax is not prohibited by section 8 of article I of the United States Constitution.

Sec. 10-26. Definitions.

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

Business license official means the official charged with the administration and enforcement of this chapter, as designated by the Town manager.

Employee means any person who engages in any business, profession or occupation under any appointment, agency, contract of hire or apprenticeship, express or implied, oral or written.

Merchandise means any goods, wares, commodities or items which are bought, sold, rented or leased in the normal course of business or trade.

Merchant means any person engaged in the business of selling merchandise at retail or wholesale. The term "merchant" shall not include the operators of bulk plants or service stations engaging principally in the sale of gasoline and other petroleum products; those conducting distress sales; installation contractors; milk and dairy products distributors; sellers of motor vehicles; peddlers of fuel oil, gasoline, LP gas, or produce; and operators of restaurants, cafes, cafeterias, caterers or hotels.

