ORDINANCE NO. 70

AN ORDINANCE OF THE TOWN OF CINCO BAYOU, FLORIDA, LEVYING AN OCCUPATIONAL LICENSE TAX FOR THE PRIVILEGE OF ENGAGING IN OR MANAGING ANY BUSINESS, PROFESSION OR OCCUPATION WITHIN THE CORPORATE LIMITS OF THE TOWN IN ACCORDANCE WITH FLORIDA STATUTES, CHAPTER 205(1979); ESTABLISHING CLASSIFICATIONS AND RATES; PROVIDING FOR LICENSE DATES DUE AND DELINQUENT, PENALTIES AND EXEMPTIONS; PROVIDING FOR SEVERABILITY OF ANY PORTION DECLARED INVALID; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND, PROVIDING FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CINCO BAYOU, FLORIDA:

SECTION 1. AUTHORITY. This ordinance is enacted pursuant to and in accordance with provisions of Chapter 205, Florida Statutes (Local Occupational License Tax Act).

SECTION 2. PURPOSE. Whereas the Town Council has deemed that a reasonable occupational license tax for the privilege of engaging in or managing any business, profession or occupation within the corporate limits of the Town of Cinco Bayou, Florida, is necessary; now therefore, the Town Council does hereby ordain that occupational license taxes be levied and imposed as provided herein.

SECTION 3. DEFINITIONS.

A. "Occupational license tax" means the fee which is imposed and levied on:

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

(2) Any person who maintains a permanent business location or branch office within this municipality, for the privilege of engaging in or managing any profession or occupation within its jurisdiction.

(3) Any person who does not qualify under the provisions of subsection (1) or subsection (2) and who transacts any business or engages in any occupation or

profession in interstate commerce, if such license tax is not prohibited by s.i of Art. I of the United States Constitution.

B. "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 shall include the plural as well as the singular.

C. "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 town, which institutions are more particularly defined and limited as follows:

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

(2) "Educational institutions" shall mean 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 Secondary Schools, the Department of Education or the Florida 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" shall mean only nonprofit corporations operating physical facilities in this town at which are provided charitable services, a reasonable percentage of which shall be without cost to those unable to pay.

SECTION 4. APPLICABILITY AND SCOPE. No person shall engage in or manage any business, profession, or occupation within the corporate limits of Cinco Bayou unless an appropriate occupational license has been procured from the Town Clerk, hereinafter referred to as "Tax Collector", by payment of the fees determined by the classification, category, and rate of the business, profession, or occupation as set forth in this ordinance. Occupational licenses shall be issued only for those businesses located in properly designated zoning districts. All applications for such licenses shall be placed on file with the Tax Collector at least twenty-four (24) hours prior to opening of the business; except renewals with no change in location. In addition to the payment of such fees, all delinquencies shall be subject to prosecution and the fines and penalties for the offense of engaging in, or carrying on, any business, occupation, or profession without first obtaining the appropriate occupation license therefor as required by this ordinance. No business shall transfer to a new location under a current regulatory certificate without first obtaining, in writing, from the appropriate Town Official, a verification of correct zoning for such business at the proposed location.

SECTION 5. OCCUPATIONAL LICENSES.

A. TERM: No license shall be issued for more than one (1) year and all licenses shall expire at midnight on September 30 of each year. The issuance of such license shall be commensurate with the fiscal year beginning on October 1, 1980.

B. ISSUANCE: All licenses shall be sold by the Tax Collector beginning September 1st of each year commencing with September 1, 1980, and shall be due and payable on October 1st of each year, and shall expire on September 30 of the succeeding year. Fractional year licenses for new businesses, professions, or occupations shall be based upon the prorata share of the annual fee. In the event that a person fails to obtain an occupational license, the person shall be subject to a penalty of twenty percent (20%) of the fee determined to be due in addition to any other penalty provided by law or ordinance. If an applicant shall fail to obtain such license for a period of ninety (90) days after same becomes due, the Town shall have the right or privilege of closing the business. The penalty provisions of this paragraph is hereby waived for the first six (6) months of the fiscal year beginning October 1, 1980.

C. RENEWALS: Upon notice, all licenses shall be renewed each year prior to expiration. Those licenses not renewed by October 1st of each year shall be considered delinquent and subject to a delinquency penalty of ten percent (10%) of the fee due for the month of October, plus an additional five percent (5%) penalty for each month of delinquency thereafter until paid; provided, the total delinquency penalty shall not exceed twenty-five percent (25%) of the occupational license fee for the delinquent establishment. Persons failing to obtain renewal licenses within a period of ninety (90) days after the renewal date shall be subject to closure of the business establishment.

D. TRANSFERS: Occupational licenses shall be good only for the business and the place named and for the person to whom issued. However, upon application to the Tax Collector, a certificate may be transferred to a new owner when there is a bona-fide sale and transfer of the property used in the business, stock, or trade, upon payment of a transfer fee of three dollars ($3.00) and presentation of evidence of the sale and the original certificate. Upon written request for verification of correct zoning and presentation of the original certificate to the Tax Collector, a certificate may be transferred from one physical location to another within the Town upon payment of a transfer fee of three dollars ($3.00).

E. DISPLAY OF LICENSES: Every person having an occupational license shall conspicuously display their licenses at all times. Every person carrying on or practicing any trade, profession, calling, or occupation for which a license to practice such trade, profession, calling, or occupation is required by the laws of the State is required to present such certificate to the Tax Collector upon demand therefor before an occupational license shall be issued to such person to carry on or practice his trade, profession, calling, or occupation in the Town. The fact that any person representing himself as engaged in any business, calling, profession, or occupation for the transaction of which an occupational license is required or that such a person exhibits a sign or advertisement indicating such business, calling, profession, or occupation shall be evidence of the liability of such person to procure an occupational license.

SECTION 6. <u>SCHEDULE, OCCUPATIONAL LICENSE FEES</u>. Business categories are designated to identify the general type of business enterprise and a person within a category as determined by the Tax Collector shall pay the enumerated fee as calculated by the Tax Collector.

A. <u>Category 1</u>. Hotel, Motel, Apartments, and Mobile-Home Rentals: $1.00 for each room, minimum license $25.00.

B. <u>Category 2</u>. Eating Establishments: $.50 per seat, minimum license $50.00.

C. <u>Category 3</u>. Contractors: General Contractors, $150.00 each; all classes of Subcontractors, $25.00 each.

D. <u>Category 4</u>. Manufacturing: 1-10 Employees, $15.00; 11-20 Employees, $30.00; 21-30 Employees, $45.00; 31-40 Employees, $60.00; 41-50 Employees, $90.00; 51 or more Employees, $150.00.

E. <u>Category 5</u>. Professions: Dentist, Doctor, Lawyer, Accountant, Architect, Embalmer, Engineer, Real Estate Broker, or Other Professional, $100.00 each.

F. <u>Category 6</u>. Public Service: $50.00 each.

G. <u>Category 7</u>. Retail Store: 1-5 Employees, $25.00; 6-10 Employees, $100.00; 11-15 Employees, $200.00; 16-20 Employees, $300.00; 20 Employees and over, $500.00.

H. <u>Category 8</u>. Financial Institutions: Banks, Savings & Loan Associations, Loan Companies, Mortgage Brokers and other Money Lenders, $200.00.

I. <u>Category 9</u>. Selling tangible, personal property: Solicitor, Peddler, Salesman, Wholesaler, $25.00 each.

J. <u>Category 10</u>. Unclassified: Every business, occupation, or profession engaged in by any person, whether in a building, tent, or upon the street, vacant lot or anywhere in the open air, within the city and not specifically designated in this ordinance shall pay a license fee of $50.00.

K. Whenever the amount of a license tax shall be based on the number of persons employed, the number shall be the maximum number of persons employed during the preceding license year or business operating period, or the maximum number of persons reasonably expected to be employed or maintained during the period for which the license is to be issued, whichever number shall be the greater. The term "PERSONS EMPLOYED" includes all persons actively working in the business whether owners thereof or not.

SECTION 7. <u>FINES AND PENALTIES</u>: Any person convicted of a violation of this ordinance shall be subject to a fine not in excess of $200.00 and/or sixty (60) days in the designated Town Jail, subject to the discretion of the Court and each day's violation shall be considered a separate offense. The conviction and punishment of any person for transacting any business without an occupational license issued by the Tax Collector shall not excuse or exempt such person from the payment of any fees due or unpaid at the time of such conviction.

SECTION 8. <u>SEVERABILITY</u>. Should any word, sentence, phrase, clause, section, or provision of this ordinance be declared by any court of of competent jurisdiction to be invalid or unconstitutional, the same shall not affect the validity of this ordinance as a whole or any part thereof, other than the part so declared to be invalid.

SECTION 9. REPEALATION OF CONFLICTING ORDINANCES. All ordinances in conflict with this ordinance are hereby repealed and are replaced by this ordinance. However, the regulation herein of any business, trade, profession, or activity and imposing a fee therefor, shall not expressly or by implication make legal or permissible any such business, trade, profession, or activity expressly prohibited by existing State, Federal, or County laws or regulations, or any existing municipal ordinance.

SECTION 10. DUTIES OF THE TOWN TAX COLLECTOR.

A. DISPOSITION OF FUNDS: The Town Tax Collector shall ensure that all revenue derived from fees hereby imposed are paid into the general fund of the Town.

B. NOTICE OF FEES DUE: Annually, the Town Tax Collector shall prepare or cause to be prepared a notice of fees due and forward same to the person or business entity concerned so as to allow sufficient notification prior to the due date stipulated in this ordinance.

SECTION 11. EFFECTIVE DATE. This ordinance shall become effective immediately upon its final passage and adoption.

PASSED and ADDOPTED BY THE TOWN COUNCIL of the TOWN OF CINCO BAYOU, FLORIDA, this 2ND DAY OF ~~AUGUST~~ SEPTEMBER, 1980.

Irene E. Balsley

Irene Balsley, Mayor

ATTEST:

Albert S. Borchik

Albert S. Borchik, Jr., Town Clerk