

ORDINANCE NO. 2008-01

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA; AMENDING IN FULL ARTICLE II OF CHAPTER 10 OF THE CODE OF ORDINANCES OF THE TOWN; AMENDING IN FULL ARTICLE II OF CHAPTER 14 OF THE CODE OF ORDINANCES OF THE TOWN; AMENDING IN FULL SECTION 1-5.25 OF ARTICLE V OF THE LAND DEVELOPMENT CODE OF THE TOWN; INCORPORATING CHANGES TO CHAPTER 205 OF THE FLORIDA STATUTES: CHANGING OCCUPATIONAL LICENSES TO BUSINESS TAX RECEIPTS; PROVIDING FOR REPEAL; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, The Florida Legislature has made certain amendments to Chapter 205 of the Florida Statutes dealing with local occupational licenses; and

WHEREAS, Local occupational licenses are now known as Business Tax Receipts; and

WHEREAS, The Town Council for the Town of Malabar has determined that the amendments to Chapter 205 of the Florida Statutes should be incorporated into the Code of Ordinances of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA AS FOLLOWS:

Section 1: Article II of Chapter 10 is amended in full to read as follows:

“ARTICLE II. ADULT-ORIENTED ENTERTAINMENT

DIVISION 1. GENERALLY

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:

“Adult arcade” means an establishment where, for any form of consideration, one or more motion picture projectors, slide projectors or similar machines, for viewing by five (5) or fewer persons each, are used to show films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by emphasis upon the depiction or description of specified sexual activities or specified anatomical areas. For the purposes of this article, "adult arcade" is included within the definition of "adult motion picture theater."

“Adult bookstore” means a place which has more than five (5) percent of its stock in trade and sells or offers for sale, for any form of consideration, any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes, slides or other visual representations or recordings, novelties and devices that have as their primary or dominant theme matter depicting, illustrating, describing or relating to specified sexual activities or specified anatomical areas; or

(2) Instruments, novelties, devices or paraphernalia that are designed for use in connection with specified sexual activities.

An adult bookstore includes a place with only a portion or section of its area set aside for the display or sale to adults of materials listed in subsections (1) and (2) above, except that any place, otherwise included within this definition, that derives not more than ten (10) percent of its gross income from the sale of materials listed in subsections (1) and (2) above shall be exempt from the provisions of this chapter so long as such material is kept in a location where it is not visible to the customers of such place.

“Adult dancing establishment” means a commercial establishment that permits, suffers or allows dancers to display or expose specified anatomical areas. Any establishment on whose premises an employee, who need not be the same employee, displays or exposes specified anatomical areas on more than one day in a 30-day period shall be deemed an adult dancing establishment and shall be required to obtain a license under this article.

“Adult entertainment establishment” means an adult motion picture theater, an adult massage establishment, an adult bookstore or an adult dancing establishment.

“Adult massage establishment” means a site or premises, or portion thereof, upon which any person who is an employee manipulates the superficial tissues of the body of another person, with the hand, foot, arm or elbow, but not including licensed health-care facilities; licensed physicians, chiropractors or nurses engaged in the practice of their professions; educational athletic facilities, if the massage is a normal and usual practice in such facilities; or establishments exempted under F.S. § 480.034.

“Adult motion picture booth” means an enclosed area designed or used for the viewing by one or two (2) persons of motion pictures, films, videocassettes, slides or other photographic reproductions that have as their primary or dominant theme matters depicting, illustrating or relating to specified sexual activities or specified anatomical areas. For the purposes of this article, an "adult motion picture booth" is included within the definition of an "adult motion picture theater."

“Adult motion picture theater” means an enclosed building, or a portion or part of an enclosed building, or an open-air theater designed to permit viewing by patrons seated in automobiles, used to present on a regular basis, for any form of consideration, film material that has as its primary or dominant theme matters depicting, illustrating or relating to specified sexual activities for observation by adult patrons thereof, and includes any hotel or motel, boardinghouse, rooming house or other lodging for transient customers that advertises the presentation of such film material. For the purposes of this article, an "adult motion picture theater" includes both an "adult arcade" and an "adult motion picture booth" and the buildings or places containing adult arcades and/or adult motion picture booths.

“Alcoholic beverage” means all beverages containing more than one percent of alcohol by weight.

“Commercial” means operated for pecuniary gain which shall be presumed for any establishment which has received a Business Tax Receipt. For purposes of this article, operation for pecuniary gain shall not depend on actual profit or loss.

“Commercial establishment” means any business location, place or business conducting or allowing to be conducted on its premises any commercial activity.

“Employee” means a person who works or performs in a commercial establishment, irrespective of whether the person is paid a salary or wage by the owner or manager of the premises and for purposes of this article shall include agents and subcontractors of the owner.

“Enforcement official” means an officer or employee of the Town designated on an annual basis as the individual to be responsible for the enforcement of this article by means of inspection of the premises and inquiry resulting in a recommendation for the issuance of a Business Tax Receipt and in a report of violations to the Town Council. He may delegate his duties to one or more other Town officials or other persons qualified by experience, education or background to aid him in this endeavor. All delegation of his duties shall be approved by the Town Council.

“Establishment” means a physical plant or location or the commercial activities or operations being conducted, or both together, as the context of this article may require.

“Fire chief” means the fire chief for the Town.

“Inspector” means an employee of the public health department, building department, zoning department or fire department that inspects a receipted premises under this article and who takes or requires the actions authorized by this article in case of violations being found on a receipted premises, and requires corrections of unsatisfactory conditions found on the premises.

“Receipted premises” means not only rooms and areas where adult material is sold, offered, presented or stored or where any form of adult entertainment is presented, but also all other rooms in any building or structure within five hundred (500) feet over which the receipt holder has some dominion and control and to which customers or patrons may freely pass, and shall include all of the floor or land areas embraced within the plan appearing on or attached to the application for the license involved and designated as such on the plan.

“Person” means any individual, firm, association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, corporation, and any other group or combination.

“Personal advertising” means any communication on the part of an employee of an adult entertainment establishment that is designed to encourage a prospective patron to enter the establishment and is performed by repeatedly speaking in a raised tone of voice, by making prominent physical gestures, such as waving or repeatedly pointing, or by holding signs or other written statements. Personal advertising shall not include oral or physical references to an adult entertainment establishment by patrons or spectators.

“Principal stockholder” means any individual, partnership or corporation that owns or controls, legally or beneficially, ten (10) percent or more of a corporation's capital stock, and includes the officers, directors and principal stockholders of a corporation that is a principal stockholder under this article; provided, that if no stockholder of a corporation owns or controls, legally or beneficially, at least ten (10) percent of the capital stock, all stockholders shall be considered principal stockholders, and further provided, that if a corporation is registered with the Securities and Exchange Commission, or pursuant to F.S. ch. 517, and its stock is for sale to the general public, it shall not be considered to have any principal stockholders.

“Recognized school” means any school or educational institution licensed to do business as a school or educational institution in the state in which it is located, or any school recognized by or approved by or affiliated with the American Massage and Therapy Association, Inc., and which has for its purpose the teaching of the theory, method, profession or work of massage, which school requires a resident course of study not less than seventy (70) hours before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning following the successful completion of such course of study or learning.

“Religious institution” means a building which is used primarily for religious worship and related religious activities.

“School” means an institution of learning for minors, whether public or private, which offers instruction in those courses of study required by F.S. ch. 233, or which is maintained pursuant to standards set by the state board of education. This definition includes a nursery school, kindergarten, elementary school, junior high school, senior high school or any special institution of learning under the jurisdiction of the state department of education, but it does not

include a vocational or professional institution or an institution of higher education, including a community or junior college, college or university.

“Specified anatomical areas” means:

- (1) Less than completely and opaquely covered:
 - a. Human genitals or pubic region.
 - b. Human buttocks, anus, anal cleft or cleavage.
 - c. Human female breasts.
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

“Specified criminal act” means a violation of this article; an offense under F.S. ch. 800; an offense under F.S. §§ 806.01, 806.111 or 806.13(2) (c); an offense under F.S. ch. 796, or an offense under F.S. §§ 849.09(2), 849.10 or 849.25(3).

“Specified sexual activities” means:

- (1) Human genitals in a state of sexual stimulation, arousal or tumescence.
- (2) Acts of human adomitism, anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellatio, flagellation, frottage, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sapphism, sexual intercourse, sodomy, urolagnia or zoerasty.
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock, anus, anal cleft, anal cleavage or female breast.
- (4) Excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above.

“Straddle dance” means the placing, for any form of consideration, of the buttocks, pubic or genital area of an owner or employee, whether clothed or not, in contact with the pubic or genital area of a patron or spectator, whether clothed or not, or within one foot of the face of a patron or spectator.

Sec. 10-27. Scope.

This article shall be the sole ordinance regulating adult entertainment and service activities, except such applicable provisions as are contained in the zoning code. All other ordinances regulating or purporting to regulate adult entertainment and service activities, as herein defined and regulated, are made inapplicable to adult entertainment and service activities.

Sec. 10-28. Construction of article.

This article shall be liberally construed to accomplish its purpose of permitting, through the issuance of a Business Tax Receipt, and regulating adult entertainment and service activities.

Sec. 10-29. Obscenity, minors; state-preempted matters.

Nothing in this article shall be construed to allow or permit the possession, distribution and transportation of obscene materials or to authorize the exposure of persons under eighteen (18) years of age to harmful motion pictures, exhibitions, shows, representations and presentations. These matters are preempted to the state and are subject to state regulation, and it is not the intent of the Town Council to legislate with respect to preempted matters.

Sec. 10-30. Prohibited locations.

No person shall cause or permit the establishment, substantial enlargement or transfer of ownership or control of an adult bookstore, adult motion picture theater, adult massage establishment or an adult dancing establishment within one thousand (1,000) feet of another such establishment; within one thousand (1,000) feet of any preexisting religious institution or school; within one thousand (1,000) feet of an area zoned for residential use within the Town; or

within one thousand (1,000) feet of an establishment that in any manner sells or dispenses alcohol. The above distance requirements shall be considered locational only.

Sec. 10-31. Measurement of distance.

Distance from a proposed adult entertainment establishment to an existing adult entertainment establishment, a church, an establishment that sells or dispenses alcohol or a school shall be measured by following the shortest route of ordinary pedestrian travel along a public right-of-way from the main entrance of the proposed adult entertainment establishment to the main entrance of the existing adult entertainment establishment, the main door of the church or the place to the nearest point on the school grounds in use as a part of the school facilities. The distance from a proposed adult entertainment establishment to an area zoned for residential use shall be measured by following the shortest route of ordinary pedestrian travel along a public right-of-way from the main entrance of the proposed adult entertainment establishment to the nearest property line of any property zoned for residential use.

Sec. 10-32. Permitting, selling or dispensing alcoholic beverages on premises where display of specified anatomical areas allowed.

It shall be unlawful for any person maintaining, owning, managing or operating a commercial establishment, regardless of whether it has been issued a Business Tax Receipt under this article, to permit, sell or dispense alcoholic beverages on the premises of the commercial establishment where such person knowingly, or with reason to know, permits or suffers any person on the premises to exhibit or display specified anatomical areas or employ any devices or coverings which are intended to give the appearance of specified anatomical areas. For purposes of this article, any persons present on the premises that are responsible for managing or supervising the day-to-day operations of the establishment shall be deemed to act as a receipt holder and their actions or knowledge shall be imputed to the receipt holder.

Sec. 10-33. Consumption, possession of alcoholic beverages by persons observing or participating in display of specified anatomical areas.

It shall be unlawful for any owner, employee or patron of a commercial establishment, regardless of whether it has been issued a Business Tax Receipt under this article, to consume, possess or have custody of alcoholic beverages, where such person knowingly and willfully observes or participates in the exhibition or display of specified anatomical areas or the exhibition or display of any devices or coverings which are intended to give the appearance of specified anatomical areas.

Sec. 10-34. Straddle dancing prohibited in certain establishments; unlawful touching of employees or patrons.

(a) It shall be unlawful for any owner, employee, customer or patron of a commercial establishment, regardless of whether it has been issued a Business Tax Receipt under this article, to participate in a straddle dance where such employee, customer or patron knows, or has reason to know, that alcoholic beverages are sold, dispensed or brought onto the premises for consumption on the premises.

(b) No owner or employee, while on the premises or within the scope of an employee's employment, shall contract or agree to perform, for any form of consideration, a straddle dance within five hundred (500) feet of the premises.

(c) It shall be unlawful for a customer or patron of a premise to touch with the hands specified anatomical areas of an owner or employee, whether the owner or employee is clothed or not.

(d) It shall be unlawful for an owner or employee to touch with the hands specified anatomical areas of a customer or patron.

- (e) It shall be unlawful for an owner or employee to permit a customer or patron of a premises to touch with the hands specified anatomical areas of an owner or employee, whether the employee is clothed or not.
- (f) It shall be unlawful for a customer or patron of a premise to suffer or permit an owner or employee to touch with the hands specified anatomical areas of such customer or patron.

Sec. 10-35. Sitting in lap prohibited in certain establishments.

- (a) It shall be unlawful for any owner or employee, whether clothed or not, of a commercial establishment, regardless of whether it has been issued a Business Tax Receipt under this article, to sit in or otherwise occupy the lap of any customer or patron, where such owner, employee, customer or patron knows, or has reason to know, that alcoholic beverages are sold, dispensed or brought onto the premises for consumption on the premises.
- (b) It shall be unlawful for any customer or patron of a commercial establishment, regardless of whether it has been issued a Business Tax Receipt under this article, to sit in or otherwise occupy the lap of any owner or employee, whether such owner or employee is clothed or not, where such owner, employee, customer or patron knows, or has reason to know, that alcoholic beverages are sold, dispensed or brought onto the premises for consumption on the premises.
- (c) For purposes of this section, "lap" means the area between the waist and knees of any individual.

Sec. 10-36. Violations--Presumptions.

The following presumptions shall apply in actions brought for violations of this article:

- (1) Any person who owns, operates, maintains or enters a commercial establishment, which advertises within one hundred (100) feet of the premises of a commercial establishment to the general public that the establishment provides, allows or permits the exhibition or display of specified anatomical areas, is presumed to be aware that the exhibition or display of specified anatomical areas is taking place in the establishment.
- (2) Any establishment that has received a Business Tax Receipt to operate commercially is presumed to be a commercial establishment.

Sec. 10-37. Same--Proof.

- (a) In all actions, civil or criminal, for violation of this article, testimonial evidence that the beverage was an alcoholic beverage, beer or wine may be offered by any person who, by experience in the past in handling or using alcoholic beverages, beer or wine, or who by taste, smell or drinking of such liquids has knowledge of the presence of the alcoholic content thereof or the intoxicating effect thereof.
- (b) The presence of alcoholic content of any beverage, beer or wine may be shown by hydrometer or gravity test made in or away from the presence of the fact-finder by any person who has knowledge of the use of such instrument, but the production of such evidence is optional.

Sec. 10-38. Penalties.

Civil damages of one thousand dollars (\$1,000.00) per day per violation shall be assessed for each violation of this article. Furthermore, any person who violates any section of this article shall be prosecuted and punished in accordance with general criminal law and additionally shall be subject to suspension of his Business Tax Receipt or permit as provided in this article. Should the Town be compelled to initiate court proceedings in order to enforce the provisions of this article or to defend a lawsuit brought against it due to the provisions hereunder, and should the Town prevail or the case settle, it shall be entitled to recover from the opposing party reasonable attorneys' fees and costs.

Sec. 10-39. Immunity from prosecution.

All officers and employees of the Town who are acting within the scope of their authority and duties under this article shall be immune from prosecution, civil and criminal, and for trespass upon real property.

Sec. 10-40. Powers of Town Council to invoke judicial remedy.

The Town Council may bring suit to restrain, enjoin or otherwise prevent the violation of this article in the circuit court of the county.

Secs. 10-41--10-55. Reserved.”

Section2: Article II of Chapter 14 of the Code of Ordinances of the Town is hereby amended in full to read as follows:

“Sec.14-26. 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:

“Applicant” means any person desiring to obtain a Business Tax Receipt under the provisions of this article.

“Business” means any activity, enterprise, profession or occupation, performed or engaged in by any person for gain, benefit, advantage or livelihood, and shall include all such activities or enterprises whether performed in one or more establishments by one or more corporate or other organizational units including departments of an establishment operated through leasing arrangements. For purposes of this article a business not-for-profit shall be included within the terms of this definition unless otherwise exempted.

“Business Tax Receipt” means the document granted by the Town under the provisions of this article, and required of any person before such person can engage in any business within the Town.

“Classification” means the business a person has been designated to fall within under the schedule provided for in this article.

“Farmer” means those persons described in F.S. § 205.064, and any successor thereto.

“Fee” means those charges established by the Town Council contained within the schedule of this article, and as such charges may be amended from time to time, and promulgated pursuant to the authority conferred upon the Town by F.S. ch. 205, or any successor thereto, for the privilege of doing business in the Town.

“Person” means any individual, firm, partnership, joint venture, 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.

Sec. 14-27. Business Tax Receipt required.

No person shall engage in the activities for which a business tax receipt is required without first procuring a Business Tax Receipt from the Town, and, before issuance of such Business Tax Receipt, paying the amount of the fee required for any business as provided herein.

Sec. 14-28. Unlawful to operate business without Business Tax Receipt.

It shall be unlawful for any person to engage in any business or in keeping or maintaining any institution, establishment, article, utility or commodity without first procuring and paying for a Business Tax Receipt to do so, or to knowingly make a false statement in the application for Business Tax Receipt as to conditions or factors upon which the fee is or shall be based.

Sec. 14-29. Persons required to obtain a Business Tax Receipt

A fee for the privilege of engaging in or managing any business within the Town is hereby levied on:

- (1) Any person who maintains a business location or branch office within the Town for the privilege of engaging in or managing any business within its jurisdiction.
- (2) Any person who maintains a business location or branch office within the Town for the privilege of engaging in or managing any profession within its jurisdiction.
- (3) Any person who does not qualify under the provisions of subsections (1) and (2) above and who transacts any business or engages in any occupation or profession in interstate commerce where such fee is not prohibited in Section 8 of Article 1 of the United States Constitution.

Sec. 14-30. Exemptions.

- (a) Any persons entitled to exemption under the laws of the state shall be exempt from payment of a business tax under this article to the Town. If an exemption provision applies, a Business Tax Receipt must still be applied for and approved.
- (b) Veterans must be at least ten (10) percent disabled to qualify for exemption. The exemption from payment of a fee shall be to the extent of fifty dollars (\$50.00).
- (c) Nothing in this article shall be construed to require any farmer to procure a Business Tax Receipt to sell vegetables or fruits within the Town, if such vegetables or fruits are the produce of his own farm located within the state.
- (d) No Business Tax Receipt shall be required of any charitable, religious, fraternal, youth, civic, service or other such organization when the proceeds are used exclusively for the organization.
- (e) No separate Business Tax Receipt shall be required of a duly licensed mobile home manufacturer or any employee of such dealer or manufacturer for the purpose of setup operations.
- (f) No Business Tax Receipt shall be required in order to practice the profession of pharmacy.

Sec. 14-31. Term of Business Tax Receipt; half-year Business Tax Receipt for new businesses.

- (a) All Business Tax Receipts shall be due and payable on or before October 1. If October 1 falls on a weekend or holiday, the fee shall be due on or before the first working day after October 1. No Business Tax Receipt shall be issued for more than one year.
- (b) For each Business Tax Receipt obtained by any new business after April 1 of any year, one-half of the fee for one year shall be paid, unless otherwise provided herein.

Sec. 14-32. Delinquent fees.

- (a) Penalties for delinquency. All fees required to be paid by this article shall be deemed delinquent if not paid and renewed by October 1. All persons delinquent in the payment of such fees shall be required to pay a penalty of an additional ten (10) percent of the fee for the month of October plus an additional five (5) percent penalty for each month or part of a month

thereafter that such person is delinquent. However, the total delinquency penalty shall not exceed twenty-five (25) percent of the fee.

(b) Collection by Town Attorney. Collection procedures may be initiated by the Town attorney on those applicants who have not obtained their Business Tax Receipt by January 1 of each Business Tax Receipt year.

Sec. 14-33. Separate Business Tax Receipt for each business.

A separate Business Tax Receipt shall be obtained for each place of business conducted, operated, maintained or carried on by every person engaged in any business for which a Business Tax Receipt is required by the ordinances of the Town, even though such separate business is conducted within or upon the same premises.

Sec. 14-34. Change of location; fee.

Upon written request and presentation of the original Business Tax Receipt under this article, any Business Tax Receipt may be transferred from one location to another within the Town upon payment of a transfer fee of three dollars (\$3.00).

Sec. 14-35. Transfer of Business Tax Receipt to new owner fee.

A license under this article may be transferred to a new owner when there is a bona fide sale of a business upon payment of a transfer fee of three dollars (\$3.00) and a presentation of evidence of the sale and the original Business Tax Receipt.

Sec. 14-36. Preservation and display of Business Tax Receipt.

All Business Tax Receipts granted by the Town under this article shall be carefully preserved and displayed in a conspicuous place in the place of business authorized to be conducted by the Business Tax Receipt.

Sec. 14-37. Issuance of Business Tax Receipt not prima facie evidence of ability to conduct business.

All businesses are subject to Town zoning restrictions. The issuance of a Business Tax Receipt hereunder does not constitute the only authorization required to conduct a business in the Town. It shall not give a person the legal right and authority to conduct any business in violation of any other law, and in such event, no refund of the fee shall be authorized.

Sec. 14-38. Town not liable for damages for losses from revocation.

The Town shall not be liable for any loss, monetary or otherwise, due to the revocation of a Business Tax Receipt under this article. Revocation of a Business Tax Receipt shall require the business to cease operation in the Town. The revocation of a Business Tax Receipt shall continue until such time as the violation(s) that caused the revocation are certified by the building inspector as having been corrected. The following shall constitute grounds for revocation of a Business Tax Receipt:

- (1) A determination by the building inspector that any statement contained in the application for a Business Tax Receipt is false.
- (2) The Business Tax Receipt holder has violated Town or county ordinances or laws of the state in the practice of business for which such Business Tax Receipt is issued.
- (3) The Business Tax Receipt holder fails to comply with the zoning, fire prevention and code enforcement ordinances of the Town after reasonable notice shall have been given to the Business Tax Receipt holder to eliminate or correct any condition in violation of such ordinances of the premises for which such Business Tax Receipts are issued.

Sec. 14-39. Disagreement as to classification; right of appeal.

If there is a disagreement between the applicant and the Town on the question of proper classification for any person or business for which a Business Tax Receipt is issued or to be issued under this article, the building inspector shall decide the proper classification with the right of the applicant to appeal the decision of the Town Council, whose decision upon the point shall be final.

Sec. 14-40. Filing application where approval of building inspector required.
All applicants for Business Tax Receipts requiring approval of the building inspector shall submit applications to the Town building inspector not less than two (2) weeks prior to commencement of the proposed activity/function.

Sec. 14-41. Renewal notices; non-receipt of notice no defense.
The Town clerk shall send out annual renewal notices to all businesses that hold a Business Tax Receipt at the end of each fiscal year. Failure to receive such notice will not be considered a justifiable defense for nonpayment of any fee or late fee.

Sec. 14-42. Duties, responsibilities of Town clerk.
(a) The Town clerk shall keep a complete record of all Business Tax Receipts issued under this article, showing the nature of the Business Tax Receipt, the date of issuance, the date of expiration and to whom it was issued.
(b) The Town clerk is authorized to require updated Business Tax Receipt applications.
(c) Unless otherwise mandated, the responsibilities of the Town clerk are limited to the issuance of the Business Tax Receipt, keeping records as mandated by subsection (a) above and requiring updated Business Tax Receipt applications.

Sec. 14-43. Evidence of engaging in business.
The advertisement of any business by sign, newspaper, magazine, telephone listing or other public notice shall be evidence of the engaging in and carrying on the business in the Town so advertised.

Sec. 14-44. No refund of fee; exception.
No portion of any fee herein assessed shall be refunded, except when such fee is collected by mistake or error. Refunds shall not be made after the Business Tax Receipt period, from October 1 through September 30 for which the erroneous payment was made, has expired.

Sec. 14-45. Fee for business not specifically included in schedule.
Every business, fixed or temporarily engaged in by any person, whether in a building or tent, or upon a street, vacant lot or anywhere within the Town not herein specifically designated shall pay a fee of three hundred dollars (\$300.00).

Sec. 14-46. Business Tax Receipt fee schedule.
The Business Tax Receipt fee which shall be paid by every person engaging or managing businesses, professions or occupations for which a Business Tax Receipt is required is hereby fixed as follows:

	A
Abstract/title companies/agencies . . .	\$100.00
Accounting/bookkeeping/auditing service, certified . . .	100.00
Each assistant employed by firm . . .	70.00
Accounting/bookkeeping/auditing service, noncertified . . .	100.00
Advertising:	
a. Agents or agencies writing advertisements for profit . . .	80.00

- b. Maintaining billboards or signboards upon which advertising is displayed either by permanent sign painted thereon or paper posted or attached thereto . . . 200.00
- c. Outdoor advertising such as painted walls, bulletins, billposting, electrical displays, etc., for hire, per space, per year . . . 50.00
- d. Contracting for advertising in, or on, buses or other public carriers . . . 50.00
- Aircraft agency, including sales, service and for hire, new and used . . . 200.00
- Aircraft, flying schools or flight lessons . . . 100.00
- Ambulance service (not voluntary) . . . 65.00
- Each vehicle . . . 50.00
- Amusements:
 - a. Arcade operations (in addition to stickers) . . . 200.00
 - b. Billiards, pool:
 - First table . . . 20.00
 - Each additional table . . . 6.00
 - c. Bowling alley, per year . . . 31.25
 - In addition, for each lane . . . 6.25
 - d. Golf course . . . 300.00
 - e. Golf driving range . . . 50.00
 - f. Machine vending cigarettes . . . 10.00
 - g. Machines, (coin-operated) games, devices, each . . . 25.00
 - Any person or firm who leases or rents or places under any kind of arrangement any coin-operated machine, except checking lockers, toilet locks and U.S. stamp machines, shall pay a fee for each machine.
 - h. Machines (coin-operated) one or two penny, each . . . 2.00
 - i. Miniature golf . . . 50.00
 - j. Motion picture theater, indoor, initial screen . . . 200.00
 - Each additional screen, per screen . . . 100.00
 - k. Motion picture theater, outdoor . . . 200.00
 - l. Park operator, amusement . . . 225.00
 - m. Public performance for profit:
 - 1. Animal show or ride (first day) . . . 31.00
 - Each additional day . . . 18.00
 - 2. Carnivals, each per week or fraction thereof . . . 1,250.00
 - 3. Circuses, each per day . . . 375.00
 - 4. Riding devices (other than coin-operated), each per day . . . 20.00
 - n. Rinks, skating, each per year . . . 50.00
 - o. Shooting galleries, each per year . . . 100.00
- Appliances, stoves, refrigerators, dishwashers, dryers, air conditioners, heating, etc., dealers or agents and service . . . 200.00
- Artist . . . 100.00
- Astronomers (where fee is charged) . . . 50.00
- Auction house or shop . . . 200.00
- Auctioneers:
 - a. Per year . . . 130.00
 - b. Per day (does not apply to holder of yearly license) . . . 37.50
- Auditors (see "Accounting").
- Automobiles:
 - a. New vehicle, agency/dealer, each location . . . 200.00
 - b. Used vehicles, agency/dealer, each location . . . 50.00
 - c. Service station, does not include mechanic, service or repair shop, per station . . . 50.00
 - d. Automobile storage:

- Per 1,000 square feet up to 2,000 square feet . . . 25.00
- Each additional 1,000 square feet or fraction thereof . . . 6.00
- e. Automobile parking lot (parking space rental):
 - 2,000 square feet or less . . . 20.00
 - Over 2,000 square feet . . . 40.00
- f. Vehicles for hire (rent-a-car, courtesy car, etc.) . . . 225.00
- g. Auto parts, used . . . 40.00
- h. Auto accessories . . . 100.00
- i. Auto-vehicle wrecker service . . . 80.00

B

- Bait, live . . . 40.00
- Bakeries, retail . . . 50.00
- Bakeries, wholesale . . . 70.00
- Banks . . . 150.00
- Barbershop:
 - a. First operator (chair) . . . 12.50
 - b. Each additional chair . . . 9.00
- Bath, public (Turkish, Swedish or mineral) or health center (see F.S. § 501.012) . . . 70.00
- Beauty parlor or salon:
 - a. First operator (chair) . . . 12.50
 - b. Each additional chair . . . 9.00
- Bicycles (repair only) . . . 20.00
- Bicycles, dealer/rent, repair and/or sales . . . 50.00
- Boats for hire . . . 30.00
- Boats, sales, service/marina . . . 80.00
- Bondsmen . . . 130.00
- Book agents or canvassers (taking orders or selling books or magazines) . . . 80.00
- Boot, shoe repair and shine shop . . . 40.00
- Bottled water sales, distributor . . . 20.00
- Bottling works . . . 200.00
- Broker:
 - a. Mercantile broker/agent . . . 100.00
 - b. Stocks and bonds, broker/firm or office . . . 100.00
- Stocks and bonds, per agent or salesman . . . 50.00
- c. Real estate broker . . . 75.00
- Each salesman/agent . . . 31.25
- d. Pawnbroker . . . 300.00
- Building materials or supply dealer . . . 50.00
- Bus company, private (local), each vehicle . . . 20.00
- Bus terminal . . . 200.00
- Business machines, cash registers, typewriters, etc. (Sales, rentals and service only. Not to include office supplies.) . . . 80.00

C

- Cabinet or carpenter shop . . . 40.00
- Cake decorating . . . 30.00
- Carpet and upholstery cleaners . . . 80.00
- Catering services . . . 70.00
- Child care nurseries, preschool . . . 70.00
- Claim and collection agencies . . . 100.00
- Clairvoyant, fortuneteller, mind reader, etc. . . . 110.00
- Cold storage, bulk storage . . . 50.00

Concrete plant or block plant . . . 250.00
Consulting service . . . 50.00
Contractor :
a. General (Class 1) . . . 175.00
b. Building (Class 2) . . . 150.00
c. Residential (Class 3) . . . 125.00
d. Street paving . . . 175.00
e. House moving and wrecking . . . 175.00
f. Subcontractors (see "Subcontractors") . . . 50.00
Credit association/unit (firm or corporation) . . . 100.00
Credit card company . . . 200.00

D

Day care centers (see "Child care nurseries") . . . 70.00
Dairy, milk distributors or producers . . . 70.00
Dance hall or ballroom . . . 300.00
Dance area in lounge restaurant . . . 200.00
Decorator, interior . . . 70.00
Delicatessen . . . 30.00
Delicatessen as part of another business such as a grocery store, etc. . . . 40.00
Detective agency:
a. Fee for agency . . . 100.00
b. Each investigator . . . 70.00
Directory, city (to engage in compiling city directory. Required to furnish all copies required by the city.) . . . 200.00
Dog training and/or grooming . . . 50.00
Dressmaking shops . . . 30.00
Drycleaners:
a. Plant in city . . . 70.00
b. Pickup station with plant in city . . . 20.00
c. Pickup station with plant out of city . . . 60.00
Dynamite or high explosive dealer (in addition to all other licenses) . . . 50.00

E

Electric light and power companies, each substation . . . 70.00
Employment agency . . . 70.00
Equestrian related activities . . . 75.00
Equipment rental . . . 100.00
Express companies . . . 80.00
Exterminator, termite and pest . . . 130.00

F

Factories (see "Manufacturer").
Fertilizer, agent or dealership . . . 100.00
Fireworks, wholesale or retail . . . Prohibited
Fish market . . . 40.00
Flea market . . . 175.00
Florist . . . 50.00
Fortuneteller (see "Clairvoyant").
Fruit and vegetable stand, each (see section 14-30(c)) . . . 50.00
Funeral homes (including undertaking and embalming), state license required . . . 150.00
Furniture dealer . . . 100.00

G

Garage, vehicle repair and maintenance:

- a. Operating separately . . . 50.00
- b. In connection with another business for which annual license tax has been paid . . . 25.00
- Gas company, natural . . . 180.00
- Gas company, natural and bottled gas . . . 180.00
- Gas distributors, bottled . . . 180.00
- Gasoline, kerosene and oil:
 - a. Delivered in containers or by tank truck . . . 200.00
 - b. Wholesale with storage facilities in city . . . 200.00
 - c. Retail distributors retaining from tank wagon under 300-gallon capacity . . . 70.00
 - d. Gasoline sales by pump, not in connection with garage or filling station, per pump, per year . . . 30.00
- Glass, plate installation . . . 100.00
- Glass, plate (see "Merchants, storekeepers, etc.")
- Gunsmith, sales and repair when in connection with another business . . . 40.00

H

- Handyman . . . 100.00
- Hauling contractor:
 - a. Per vehicle . . . 30.00
 - b. Per vehicle with tandem axles . . . 50.00
- Health center (must possess approval and license from state) . . . 70.00
- Hospital, sanitarium or nursing home, operated for profit (must possess approval and license from state):
 - a. Ten rooms or less . . . 62.00
 - b. Each additional room over 10 rooms . . . 6.00
- Hotels, motels, apartments, boardinghouses and lodging homes, per unit (must provide license from the state division of hotels and restaurants, department of business regulations) . . . 5.00
- Hypnotist . . . 50.00

I

- Ice cream and cold drink stands:
 - When operated separately . . . 70.00
 - Ice cream carts and wagons, each annually . . . 30.00
 - Ice cream manufacturers . . . 80.00
 - Ice manufacturers . . . 80.00
 - Ice peddling vehicle or machine, each . . . 20.00
- Insurance or bonding agency . . . 80.00
 - a. Insurance adjuster (each) . . . 100.00
 - b. Insurance salesman (each) . . . 50.00
- Insurance or bonding company . . . 80.00

J

- Janitor and commercial cleaning service . . . 80.00
- Jewelry, watch and clock repair, when operated separately . . . 50.00

K

- Kennels, animal . . . 70.00
- Knife and scissors sharpener . . . 20.00

L

- Laboratories, dental, chemical, etc. (per F.S. ch. 483) . . . 70.00
- Land development . . . 150.00
- Landscaping (except contractors, architects, engineers or florists with a city license as such) . . . 80.00
- Laundries:
 - a. With plant in city . . . 70.00

- b. Pickup station with plant in city . . . 20.00
- c. Pickup station with plant out of city . . . 60.00
- d. Pickup service with plant out of city . . . 20.00
- Laundromat, self-service . . . 100.00
- Loan company, broker, firm, person, corporation . . . 150.00
- Locksmith and keysmith, each . . . 40.00
- Lumberyard (see "Building materials or supply dealer").

M

- Machine shop and/or welder . . . 70.00
- Maid service . . . 80.00
- Mail order business (each person, company or firm, etc.) . . . 80.00
- Manicurist, each . . . 20.00
- Manufacturer (manufacturing, producing, processing, assembly of apparel and accessories, chemical and allied products, metals, nonferrous metals, glass, plastics, electronics, shell novelties and other manufacturing):
 - a. Up to 25 people . . . 60.00
 - b. Up to 150 persons . . . 125.00
 - c. More than 150 persons . . . 250.00
- Masseur (see F.S. § 501.012 for certain requirements) . . . 40.00
- Merchants, itinerant . . . 200.00
- Merchants, storekeepers, pharmacies, etc. . . . 50.00
- Midwives (state certificate issued within the past year is required) . . . Exempt
- Mobile home manufacturers and dealers . . . 100.00
- Mobile truck:
 - a. Food vendor . . . 80.00
 - b. Auto repair . . . 80.00
 - c. Car/mobile home washing . . . 80.00
- Monument and tombstone (dealer in and/or agent for) . . . 50.00
- Mower, dealer, rental, repair and/or sales . . . 50.00
- Mower, repair only . . . 20.00
- Mowing lawns . . . 40.00
- Muffler shop (sale and installation of mufflers only) . . . 40.00

N

- News bureau (representing newspapers published outside of the Town) . . . 200.00
- Newspaper, daily (4 newspapers or more published per week) . . . 200.00
- Newspaper, weekly, biweekly or monthly . . . 100.00
- Newsstand . . . 30.00
- Nursery (trees, plants, shrubbery, etc.) . . . 50.00

O

- Office supplies and/or office furniture with business supplies sold as adjunct to . . . 70.00

P

- Packing house (doing private order business) . . . 50.00
- Paint and body shop . . . 50.00
- Patrols, security (does not include detective agency) . . . 100.00
- Photocopy service . . . 50.00
- Photofinishing, pickup station (when operated not in connection with another business) . . . 50.00
- Photographers:
 - a. Resident . . . 50.00
 - b. Itinerant or transient . . . 150.00

Itinerant or transient photographer defined: For the purpose of this subsection, an itinerant or transient photographer is defined as one who does not regularly maintain his studio or place of business in the Town where the work of photographing, enlarging, copying or coloring is conducted. Each agent or canvasser or solicitor representing an itinerant photographer shall pay the license fee for solicitors under this article.

Piano tuner:

- a. Resident . . . 20.00
- b. Itinerant . . . 30.00
- Popcorn or peanut stand . . . 10.00
- Printing, job printing . . . 50.00
- Professionals . . . 110.00

- a. Architects*
- b. Attorneys
- c. Chiropractors
- d. Chiropractors
- e. Computer programmers
- f. Dentist
- g. Electrologist
- h. Electrolysis
- i. Electrotherapist
- j. Engineers*
- k. Homeopathic physicians
- l. Naturopaths
- m. Oculists
- n. Opticians
- o. Optometrists
- p. Osteopaths
- q. Physicians
- r. Psychiatrists
- s. Surgeons
- t. Veterinarians*
- u. And other such professions

*Must provide valid state certificate of registration.

- Public relations . . . 100.00
- Public scales, coin-operated (see "amusements," item g.)
- Public scales, truck weighing . . . 20.00
- Pulpwood dealers . . . 50.00

R

- Radio and TV repair (for sales, see merchant) . . . 80.00
- Radio and television stations . . . 200.00
- Railroad companies . . . 375.00
- Real estate appraiser . . . 100.00
- Real estate broker (see "broker").
- Reducing salon (see F.S. ch. 501.012) . . . 50.00
- Repair of small appliances . . . 40.00

Restaurants:

- a. First 50 chairs . . . 40.00
- b. Each additional chair or seating space over 50 . . .
- Private boarding houses, 5 chairs or less are exempt. Must provide license from the division of hotels and restaurants, state department of business regulation.
- Restaurants, snack bars, fast food services, which maintain no seats . . . 70.00

Rod and reel repair . . . 50.00

S

Sanding and finishing of floors . . . 80.00

Savings and loan associations . . . 150.00

Schools (such as dancing, business or commercial, beauty or barber, music, physical education, riding, driving, telegraph, etc.) . . . 50.00

Secondhand dealer (to buy or sell secondhand merchandise, clothing, furniture, etc.) . . . 70.00

Selling, when not specifically covered herein. Persons selling magazines, bibles, encyclopedias, cosmetics, kitchenware, etc., and other door-to-door salespersons shall pay a fee; except those representing charitable organizations which are recognized as such by the Internal Revenue Service.

a. Per day . . . 25.00

b. Per year, maximum of . . . 130.00

Septic tank cleaners . . . 60.00

Service station (see "Automobiles," item c.).

Sewing machine/vacuum cleaners, dealers, and/or agents and service . . . 80.00

Shoe shine parlor . . . 20.00

Sign painters:

a. Resident . . . 50.00

b. Itinerant . . . 100.00

Solicitors and canvassers, per year . . . 130.00

Sports places and arenas . . . 500.00

Sprinkler system, selling and/or installing . . . 150.00

Stenographer, public and court reporter . . . 30.00

Storage and warehouse, public, with no business conducted on premises . . . 100.00

Per unit, additional . . . 10.00

Subcontractors, including, but not limited to: carpentry, painting, roofing, sheet metal, electrical, concrete construction, masonry and plastering, lathing, clearing grading, etc. . . . 50.00

Surveyor (must have valid certificate of registration issued by the state) . . . 70.00

T

Tailors . . . 30.00

Taxi or limo service . . . 200.00

Each vehicle . . . 30.00

Taxidermists . . . 80.00

Telegraph systems and companies . . . 200.00

Telephone systems and companies . . . 500.00

Television cable systems and companies . . . 225.00

Theater, movie (see "amusements," items j. and k.).

Tire and recapping service:

a. Resident . . . 50.00

b. Itinerant . . . 100.00

Tourist camps or courts, each guest room . . . 5.00

Towel and linen supply . . . 100.00

Trading stamps . . . 200.00

To engage in the business of selling or furnishing to merchants or others, checks, tickets or stamps, commonly known as trading stamps, on the terms of agreement to redeem them by exchange of goods, wares or merchandise for them or otherwise.

Trailer, U-haul and similar operations . . . 70.00

Trailer camps, RV parks, per space . . . 5.00

Tree surgery . . . 50.00

Truck lines (receiving and/or delivery) freight or express . . . 150.00

Trucks (temporarily conducting business in the Town and whose activity is not otherwise enumerated herein) . . .	80.00
Typing service . . .	30.00
	U
Upholsterers or furniture menders . . .	50.00
	V
Vacuum cleaners/sewing machines, dealer or agents and service . . .	80.00
	W
Warehouse, with a business conducted on the premises . . .	80.00
Watch repairing (see "Jewelry, watch and clock repair"), in addition to other license . . .	20.00
Water, bottled:	
a. Resident sales, distribution . . .	50.00
b. Nonresident sales, distribution . . .	100.00
Welder . . .	40.00
Well drillers . . .	30.00
Wholesale distribution center:	
First 10 employees . . .	80.00
Each additional employee over 10 employees . . .	5.00
Wrestling or boxing (to promote or hold wrestling or boxing matches) . . .	2,100.00

Sec. 14-47. Alteration of Business Tax Receipt fee schedule.

The adoption of the schedule contained in this article shall not abridge the right of the Town Council to change, alter, increase or decrease any of the fees provided for herein at any time, or to pass other ordinances providing for the excise or license taxes of other license assessments whether pertaining to any of the subjects contained or provided for in this article or not, and the same shall not affect any of the matters or provisions of this article unless specifically so stated.

Sec. 14-48. Business Tax Receipt fee schedule listing not prima facie evidence of permitted use within Town.

The listing of a use in the fee schedule does not constitute any evidence that such use is allowed under any zoning district in the Town. Any question regarding the appropriateness of any use shall be determined by interpreting the provisions of the zoning code of the Town only.

Sec. 14-49. Violations; penalties generally.

Any person violating any of the provisions of this article shall, upon conviction thereof, be subject to the penalty in section 1-13.

Sec. 14-50. Penalty for operation of business without Business Tax Receipt.

Any person engaging in or managing any business, occupation or profession without first obtaining a Business Tax Receipt, if required under this article, shall be subject to a penalty of twenty-five (25) percent of the license determined to be due, in addition to any other penalty provided by law or ordinance. The business must cease operation in the Town until this Business Tax Receipt is obtained.

Sec. 14-51. Attorney's fees.

If the Town is required to initiate legal proceedings against any persons to enforce the provisions of this article, including appellate proceedings, the Town shall be entitled to recover reasonable attorney's fees, court costs and such additional costs the court shall deem appropriate.

Sec. 14-52. Certain individuals issued occupational Business Tax Receipt in residential areas--Generally.

The individuals on a list which is on file in the Town clerk's office and made a part hereof by reference are issued Business Tax Receipts after a factual presentation in which it was determined by the Town Council that the issuance of Business Tax Receipts in residential areas to these individuals in times past had created a situation of economic estoppel.

Sec. 14-53. Same--Revocation of Business Tax Receipt

Should any of the individuals issued Business Tax Receipts pursuant to section 14-52 ever sell their business or cease using the premises for the business for which the Business Tax Receipt is issued, the Business Tax Receipt will be immediately revoked. Section 14-35 referencing transferability does not apply to these individuals.

Sec. 14-54. Compliance with regulations.

Individuals issued a Business Tax Receipt pursuant to section 14-37 must comply with all regulations and ordinances of the Town referable to such occupation, including but not limited to setbacks and other zoning requirements.”

Section 3: Article V, Section 1-5.25 is amended in full to read as follows:

“Section 1-5.25. Home occupations.

Within the RR-65, RS-21, RS-15, RS-10, RM-4, RM-6, and R-MH districts, a home occupation shall be regulated through the issuance of a home occupation Business Tax Receipt. A home occupation shall be subject to all applicable Town Business Tax Receipts and other business taxes. Each applicant shall submit to the Town Clerk a sworn application on a standard form furnished by the Town Clerk with a fee determined by resolution of the Town Council. The applicant shall also submit with the application a recent photograph of the residence showing the entire front yard and all driveways and carports, if any. The application form shall include but not be limited to the following information:

- Name of applicant;
- Location of residence wherein the home occupation, if approved, will be conducted;
- Total floor area of the first floor of the residence;
- Area of room or rooms to be utilized in the conduct of the home occupation;
- A sketch showing the floor plan and the area thereof to be utilized for the conduct of the home occupation;
- The nature of the home occupation sought to be approved;
- The days and hours of operation;
- A recent photo of the dwelling showing the entire front yard, all driveways, and carports.

If the information contained therein is in compliance with the provisions or the intent of this Section, the Town may, in its discretion, issue a Business Tax Receipt for such home occupation. Any home occupation Business Tax Receipt may be revoked by the Council at any time it has been determined that the home occupation has become a public nuisance or no longer is in compliance with this Section.

All home occupations shall comply with the following regulations:

1. Place of Operation and Participants: A home occupation shall be carried on entirely within a dwelling. Only members of the family permanently living therein shall participate in the home occupation.
2. No Product to be Offered for Sale. No commodities or products shall be offered for sale from the premises.
3. Restriction on Commercial Vehicles. No more than one commercial vehicle, having a maximum weight of one ton may be kept on the premises or parked overnight on the premises.

4. Restriction on Use. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall under no circumstances change the residential character thereof.

5. Appearance of Structure and Signage. Within a rural residential or residential zoning district, there shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation and there shall be no signage, other than signage required by Florida Statute. There shall be no display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling.

6. No Home Occupation Activity Within Accessory Building. No home occupation shall be conducted in any accessory building.

7. Restriction on Home Occupation Square Footage. No home occupation shall occupy more than twenty-five (25) percent of the first floor area of the residence, exclusive of the area of any open porch or attached garage or similar space not suited or intended for occupancy as living quarters.

No duly permitted residential structural additions to the dwelling nor any attached enclosed residential conversions shall be considered as floor area until two (2) years after the completion date thereof.

8. Traffic Generation and Off-Street Parking. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood. Parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

9. Use of Equipment, Including Power Motors. No motor power other than electric motors shall be used in conjunction with such home occupations. The total horsepower of such motors shall not exceed three (3) horsepower, or one (1) horsepower for any single motor.

10. Nuisance Impacts Regulated. In addition, no equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuation in line voltage off the premises.

11. Restriction on Number of Customers Serviced At Any One Time. Services shall be performed for no more than four (4) persons on the premises at any one time.

12. Prohibited Uses. Occupations which generate greater volumes of traffic than would normally be generated in a residential district are prohibited. The following shall not be interpreted to be home occupations:

- Beauty shops and barber shops.
- Public dining or tea room facilities.
- Child care facilities accommodating five (5) or more children.
- Funeral homes.
- Gift shops.
- Massage parlors.
- Nursing homes, group homes and adult congregate living facilities.
- Medical laboratories.
- Outdoor repair or storage.
- Rental of any equipment or items.
- Veterinary hospitals.
- Similar uses not strictly in compliance with the provisions of this section.
- Any commercial, industrial, or commercial agricultural use as defined in Section 1-2.6, excepting specific office activities duly approved by the Town Council.

13. Failure to continuously comply with all provisions of this subsection shall be grounds for revocation of the home occupation Business Tax Receipt by the Town Council.”

Section 4: All ordinances, or parts of ordinances in conflict herein are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

Section 5: It is the intention of the Town Council that the provisions of this ordinance shall be made a part of the Code of Ordinances of the Town and the sections may be renumbered to accomplish such intention.

Section 6: This ordinance shall become effective immediately upon its adoption.

This Ordinance was moved for adoption by Council Member McClelland. This motion was seconded by Council Member Borton and, upon being put to vote, the vote was as follows:

Council Member Nancy Borton	<u>Aye</u>
Council Member Brian Vail	<u>Aye</u>
Council Member Charles (Chuck) McClelland	<u>Aye</u>
Council Member Jeffrey (Jeff) McKnight	<u>Aye</u>
Council Member Patricia D. Dezman	<u>Aye</u>

This Ordinance was then declared to be duly passed and adopted this 3rd day of March, 2008.

By: TOWN OF MALABAR

Thomas M. Eschenberg
Mayor Thomas M. Eschenberg

1st Reading 1/28/08

2nd Reading 3/03/08

ATTEST:

Debby Franklin
Debby K. Franklin
Town Clerk/Treasurer

(seal)

Approved as to form and content:

Karl Bohne
Karl W. Bohne, Jr., Town Attorney