

Chapters 63—65

RESERVED

Chapter 66

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***Cross references**—Any appropriation ordinance or ordinances providing for the levying of taxes or for adopting an annual budget saved from repeal, § 1-7(a)(7); administration, ch. 2; businesses, ch. 22; finance, ch. 42.

State law references—Municipal finance and taxation, F.S. § 166.201 et seq.; ad valorem taxes, F.S. § 166.211; public service tax, F.S. § 166.231 et seq.; taxation and finance generally, F.S. ch. 192 et seq.; tax appraisals and collections performed by county, F.S. § 193.116; two-percent excise tax on property insurance premiums authorized for use of municipal firefighters' pension fund, F.S. § 175.101; one-percent excise tax on casualty insurance premiums authorized for use of municipal police officers' retirement fund, F.S. § 185.08; local occupational license taxes, F.S. ch. 205.

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- Sec. 66-109. Investigations and examinations.
- Sec. 66-110. Compliance with other codes and regulations.
- Sec. 66-111. Ordinance enforcement.
- Sec. 66-112. Prohibition of local business tax receipt without exhibition of state license or registration.

ARTICLE I. IN GENERAL

Sec. 66-1. Homestead exemption for persons age 65 or older.

(a) *Authority.* This section is enacted in compliance with and pursuant to F.S. chs. 166 and 196, and Section 6(f), Article VII of the Constitution of the State of Florida.

(b) *Definitions.* For the purposes of this section, the following terms, phrases, words, and their derivations shall have the meaning given herein. Words not defined herein shall have those meanings ascribed in F.S. § 196.075, as the same may be amended from time to time. When not inconsistent with the context, words are to be gender neutral, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

City means the City of Winter Garden, Florida, a municipal corporation organized and existing under the laws of the State of Florida.

City limits means the corporate limits of the city.

(c) *Additional homestead exemption.* There is hereby granted an additional homestead exemption of \$50,000.00 for any person who has the legal or equitable title to real estate in the city limits and maintains thereon the permanent residence of the owner, who has attained age 65, and whose household income does not exceed \$24,214.00 in 2007. If title is held jointly with right of survivorship, the person residing on the property and otherwise qualifying may receive the entire amount of the additional homestead exemption.

(d) *Adjustment to household income limitation.* Beginning January 1, 2004, and for as long as permitted by Florida Statute, the \$21,599.00 household income limitation for 2003 shall be adjusted annually, on January 1, by the percentage change in the average cost-of-living index in the immediate prior calendar year compared with the calendar year prior to that. The index is the average of the monthly consumer-price-index fig-

ures for the stated 12-month period relative to the United States as a whole, issued by the United States Department of Labor.

(e) *Exemption applies only to city taxes.* The additional homestead exemption granted pursuant to subsection (c) above shall apply only to ad valorem tax levied by the city at the millage rate adopted by the city for the respective year.

(f) *Sworn statement of household income.* To be entitled to the additional homestead exemption, a taxpayer claiming the exemption must annually submit to the Orange County Property Appraiser, not later than March 1, a sworn statement of household income on a form prescribed or approved by the Florida Department of Revenue. The Florida Department of Revenue may require that the statement be supported by copies of any federal income tax returns for the prior year, any wage and earnings statements (W-2 forms), and any other documents the Orange County Property Appraiser finds necessary, for each member of the household, to be submitted by June 1, and that the taxpayer's statement attest to the accuracy of such copies. If the Florida Department of Revenue imposes such a requirement, then the Orange County Property Appraiser shall not allow the exemption without such supporting documentation. Failure to submit the sworn statement by March 1 or the other required documentation by June 1 of a given year shall constitute a waiver of the additional homestead exemption for that year.

(g) *Other statutory conditions.* Receipt of the additional homestead exemption provided for herein shall also be subject to the provisions of F.S. §§ 196.131 and 196.161, if applicable.

(h) *Delivery to property appraiser; event of repeal.* Once enacted, a copy of this section shall be delivered to the Orange County Property Appraiser no later than December 1, 2003, allowing the exemption to begin in the year 2004. In the event this section is ever repealed, the city shall notify the Orange County Property Appraiser no later than December 1 of the year prior to the year the exemption expires. (Ord. No. 03-27, §§ 1—9, 8-14-03; Ord. No. 03-33, 9-17-03; Ord. No. 07-62, § 2, 11-29-07)

Secs. 66-2—66-25. Reserved.

ARTICLE II. PUBLIC SERVICE TAX*

Sec. 66-26. Levied; rate.

(a) There is imposed and levied by the city a tax upon each and every purchase of electricity, metered or bottled gas (natural, liquefied petroleum or manufactured), telephone service and telegraph service, in the amount of ten percent of the payments received by the seller of the taxable item from the purchaser for the purchase of such service.

(b) There is imposed and levied a ten-percent tax on each and every purchase of water within the city limits. This tax shall be paid by the purchaser to the seller for the use of the city at the time of paying the charge therefor, but not less than monthly.

(c) There is imposed and levied a tax upon the purchase of cable television service in the amount of ten percent of the payments received by the seller of the cable television service from the purchaser for the purchase of such service. This tax is levied to the extent necessary to meet all obligations to or for the benefit of holders or certificates which were issued prior to May 4, 1977.

(d) There is imposed and levied a tax upon each and every purchase of fuel oil within the city in the amount of \$0.04 per gallon.

(Code 1988, § 20-16)

State law reference—Exemptions, F.S. § 166.231.

Sec. 66-27. Fuel adjustment.

The tax imposed by section 66-26 shall not be applied against any fuel adjustment charge, and such charge shall be separately stated on each bill. The term "fuel adjustment charge" shall mean all increases in the cost of utility services to the ultimate consumer, resulting from an increase in the cost of fuel to the utilities subsequent to October 1, 1973.

(Code 1988, § 20-17)

State law reference—Fuel adjustment charges, F.S. § 166.231.

***Cross reference**—Utilities, ch. 78.

State law reference—Public service tax, F.S. § 166.231.

Sec. 66-28. Electricity exemption.

(a) The tax on electricity authorized under section 66-26 shall not be levied and collected on the first 50 kilowatt hours per month purchased for residential use. Such exemption shall apply to each separate residential unit, regardless of whether such unit is on a separate or central meter, and shall be passed on to each individual tenant.

(b) The electric utilities shall compute the amount of the tax loss resulting from such exemption for each month and shall:

- (1) Deduct this amount from the tax due the state for sales and use tax under F.S. ch. 212; and
- (2) Remit this amount to the city in accordance with section 66-29.

(Code 1988, § 20-18)

State law reference—Authority to exempt, F.S. § 166.231(3).

Sec. 66-29. Seller of utility to collect tax; procedure; penalties for noncompliance.

The taxes imposed and levied under this article shall be collected by the seller of the taxable item from the purchaser at the time of the payment for such service. The seller shall report and pay over, on or before the 15th day of each calendar month, unto the city all such taxes levied and collected during the preceding month. It shall be unlawful for any seller to collect for any such service, unless such seller shall elect to assume and pay such tax without collecting the tax from the purchaser. Any seller failing to collect such tax at the time of collecting for any such service, where the seller has not elected to assume and pay such tax, shall be liable to the city for the amount of such tax, provided that the seller shall not be liable for the payment of such tax upon uncollected bills. If the purchaser shall fail, neglect or refuse to pay for any such service, including the tax imposed by this article, the seller is authorized and empowered to immediately discontinue further service to such purchaser until the tax is paid in full, subject to federal and state law notice requirements prior to discontinuance.

(Code 1988, § 20-19)

State law reference—Similar provisions, F.S. § 166.231(7).

Sec. 66-30. Seller to maintain records; inspection.

Every seller of electricity, telephone service, telegraph service, cable television service, metered or bottled gas (natural, liquefied petroleum or manufactured), water and fuel oil shall keep complete records showing all sales in the city of such commodities or service, which records shall show the price charged upon each sale, the date thereof and the date of payment. Such records shall be kept open for inspection by the duly authorized agents of the city during the business hours of all business days as provided in F.S. § 166.234.

(Code 1988, § 20-20)

State law reference—Monthly returns filed with city by sellers, F.S. § 166.231(f).

Sec. 66-31. Exemptions.

(a) The purchase of natural gas or fuel by a public or private utility, either for sale or for use as fuel in the generation of electricity, or the purchase of fuel oil or kerosene for use as an aircraft engine fuel or propellant or for use in internal combustion engines, is exempt from taxation under this article.

(b) The purchase of taxable items under this article by the United States government, the state, county and municipal governments and their commissions and agencies and all public schools and purchases by a recognized church in this state for use exclusively for church purposes shall be exempt from the payment of a tax imposed and levied in this article.

(Code 1988, § 20-21)

State law references—Exemptions, F.S. § 166.231(3)—(5); purchases of telecommunications services by religious institutions possessing a consumer certificate of exemption, F.S. § 166.231(5).

Sec. 66-32. Notification.

The city clerk shall notify in writing any known seller of items taxable under this article of any change as provided in F.S. § 166.233.

(Code 1988, § 20-22)

State law reference—List of addresses for tax collection purposes, F.S. § 166.233(3).

Secs. 66-33—66-60. Reserved.

ARTICLE III. INSURANCE PREMIUM TAX*

Sec. 66-61. Casualty insurers.

(a) There is assessed, imposed and levied on every insurance company, corporation or other insurer engaging in or carrying on or which shall engage in or carry on the business of insuring with respect to casualty risks, as shown by the records of the state insurance commissioner, an excise or license tax in addition to any license tax or excise tax levied by the city, which tax shall be in the amount of 0.85 percent of the gross amount of receipts of premiums from policyholders on all premiums collected on casualty insurance policies covering property within the city.

(b) The license or excise tax levied in subsection (a) of this section shall be due and payable annually on March 1.

(c) F.S. ch. 185 and all parts therein that shall be applicable to the city is incorporated by reference in this section and made a part of this Code. All other provisions thereof shall remain the same.

(Code 1988, § 20-39)

Sec. 66-62. Property insurers.

(a) There is assessed, imposed and levied on every insurance company, corporation or other insurer engaging in or carrying on or which shall engage in or carry on the business of property insurance, as shown by the records of the state insurance commissioner, an excise or license tax in addition to any license tax or excise tax levied by the city, which tax shall be in the amount of 1.85 percent of the gross amount of receipts of premiums from policyholders on all premiums collected on property insurance policies covering property within the corporate limits of the city.

(b) The license or excise tax levied in subsection (a) of this section shall be due and payable annually on March 1.

(Code 1988, § 20-40)

***State law references**—Casualty insurance premium tax authorized, F.S. § 185.08; property insurance premium tax authorized, F.S. § 175.101.

Secs. 66-63—66-90. Reserved.**ARTICLE IV. LOCAL BUSINESS TAX
RECEIPTS*****Sec. 66-91. 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:

Agent means a person engaged in a house-to-house canvass, demonstrating or taking orders for any goods, wares, or merchandise or taking orders from samples where goods are to be delivered later in the same manner, not in interstate commerce.

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 state, which institutions are more particularly defined and limited as follows:

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

Educational institutions means 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, department of education or the Florida Council of Independent Schools; nonprofit libraries, art gal-

leries and museums open to the public are defined as educational institutions and are eligible for exemptions.

Charitable institutions means only nonprofit corporations operating physical facilities in this state at which are provided charitable services, a reasonable percentage of which shall be without cost to those unable to pay.

Employee means all full-time or part-time personnel, including nonprofessionals, principals and partners, contract workers, subcontractors and consultants who worked for the business, occupation or profession during the prior 12-month period beginning on May 1 of the previous calendar year and ending on April 30 of the current calendar year. Issuance of a paycheck shall be conclusive evidence that an individual is an employee.

Goods, wares and merchandise includes a photograph and coupons or tickets good in whole or in part for a photograph or other merchandise.

Local business tax means the fees charged and the method by which the city grants the privilege of engaging in or managing any business, profession, or occupation within its jurisdiction. It does not mean any fees or licenses paid to any board, commission, or officer for permits, registration, examination or inspection. Unless otherwise provided by law, these latter fees and licenses are deemed to be regulatory and in addition to, but not in lieu of, any local business tax imposed under this article, article III of chapter 10 and articles II, III and IV of chapter 22.

Local business tax receipt, business tax receipt, receipt each mean the document issued by the city which bears the words "local business tax receipt" and evidences that the merchant in whose name the document is issued has complied with the provisions of this article relating to the local business tax. The local business tax receipt is not evidence, verification or a statement by the city that the merchant and its business location comply with building, zoning and other codes and regulations not set forth in this article.

Merchant means any person engaged in the business of selling merchandise at retail or wholesale. For the purpose of this article, the term "merchant" shall not include the operators of bulk

***Editor's note**—Ord. No. 06-54, § I, adopted January 11, 2007, amended article IV in its entirety to read as herein set out. Former article IV, §§ 66-91—66-110, pertained to occupational license tax, and derived from § 13-27—13-45 of the 1988 Code; Ord. No. 99-37, § 2, 5-27-99; Ord. No. 01-07, § I, 1-11-01; Ord. No. 01-15, § 2, 4-26-01; Ord. No. 03-04, § 2, 4-24-03; Ord. No. 05-64, § 1, 12-22-05.

State law references—Local business tax, F.S. ch. 205; regulatory license authority, F.S. § 166.221.