

ORDINANCE NO. 2015-22

**AN ORDINANCE TO REPEAL
BREVARD CODE OF ORDINANCES
CHAPTER 22 BUSINESSES
ARTICLE II PRIVILEGE LICENSE TAX AND
ARTICLE IV MASSAGE AND BODYWORK THERAPISTS**

WHEREAS, North Carolina General Statute §160-194 authorizes the governing body of any county or municipality by ordinance, subject to the general law of the State, regulate and license occupations, businesses, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience. In licensing trades, occupations, and professions, the city may, consistent with the general law of the State, require applicants for licenses to be examined and charge a reasonable fee therefor. Nothing in this section shall impair the city's power to levy privilege license taxes on occupations, businesses, trades, professions, and other activities pursuant to G.S. §160A-211; and

WHEREAS, North Carolina General Statute §160-211(a) Authority – Except as otherwise provided by law, a city shall have power to levy privilege license taxes on all trades, occupations, professions, businesses, and franchise carried on within the city. A city may levy privilege license taxes on the businesses that were formally taxed by the State under certain sections of Article 2 of Chapter 105 of the General Statutes only to the extent the sections authorized cities to tax the businesses before the sections were repealed; and

WHEREAS, Brevard City Code, Chapter 22 Businesses, Article II. Privilege License Tax, §22-23 Levy of tax and §22-27 License period. An annual privilege license tax is hereby levied on each business conducted within the city, in the amounts set forth in this article. Any person engaged in business shall be responsible for ensuring that the applicable license tax is paid. Unless otherwise specified, the license issued pursuant to this article is valid for the 12-month period beginning October 1 and ending September 30; and

WHEREAS, On May 28, 2014 Governor Pat McCrory signed HB 1050 into law eliminating the City's authority to levy privilege license taxes effective July 01, 2015; and

WHEREAS, in an effort to comply with HB 1050, the Brevard City Council desires to repeal Chapter 22 Businesses, Article II. Privilege License Tax, §22-20 – §22-31; Division 1 Duties, Enforcement and Collections, §22-40 – §22-47; Division II Privilege License Tax and Fee Schedules, §22-50 - §22-52; and, Article III. Massage and Bodywork Therapists §22-111.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREVARD, NORTH CAROLINA THAT:

Section I. Effective Date. Effective July 01, 2015, Chapter 22 Businesses, Article II. Privilege License Tax, §22-20 – §22-31; Division 1 Duties, Enforcement and Collections, §22-40 – §22-47; Division II Privilege License Tax and Fee Schedules, §22-50 - §22-52; and, Article III. Massage and Bodywork Therapists §22-111 of the City of Brevard Code of Ordinances are repealed in its entirety.

Section 2. Amend Text. Replace existing §22-53 text with the following:

Chapter 22 Businesses, **Article II. ABC LICENSE AND FEE SCHEDULE**

ABC License. Each person who receives a State of North Carolina ABC Commission permit shall obtain the corresponding local license. All licenses issued under this section are annual licenses for the period from May 1 to April 30. A license may not be transferred from one person to another or from one location to another. License is not to be pro-rated. Must provide copy of valid NC State ABC Commission permit before issuance of local license. (NCGS §105-113.70)

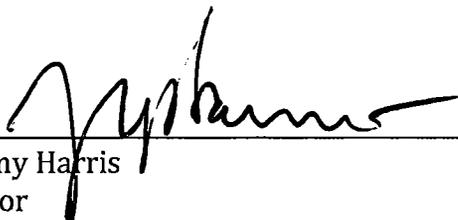
Fee Schedule: See adopted City of Brevard Budget, Schedule of Taxes, Fees and Charges. (NCGS §105-113.77)

Section 3. Codification. The provisions of Section 1 and 2 of this Ordinance shall be published as appropriate in the City of Brevard Code of Ordinances as soon as practicable.

Section 4. Severability Clause. If any section, subsection, paragraph, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

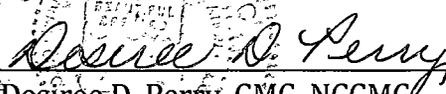
Section 5. Publication and Effective Date. This Ordinance shall take effect July 01, 2015, according to law and for subsequent years unless rescinded or modified in accordance with law.

Adopted and approved this the 21st day of September, 2015.



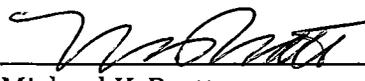
Jimmy Harris
Mayor

ATTEST



Desiree D. Perry, CMC, NCCMC
City Clerk

APPROVED AS TO FORM:



Michael K. Pratt
City Attorney