

ORDINANCE NO. 10-2007

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA; PROVIDING FOR THE LEVY OF A LOCAL BUSINESS TAX PURSUANT TO STATE LAW FOR THE PRIVILEGE OF ENGAGING IN OR MANAGING ANY BUSINESS, PROFESSION OR OCCUPATION WITHIN THE CITY OF DELTONA, FLORIDA; AMENDING CHAPTER 22, ARTICLE I; PROVIDING FOR A SHORT TITLE; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE REQUIREMENT OF A LOCAL BUSINESS RECEIPT; PROVIDING FOR DUTIES OF THE CITY CLERK; PROVIDING FOR THE DUTY TO DISPLAY THE LOCAL BUSINESS RECEIPT; PROVIDING FOR APPLICATION PROCEDURES; PROVIDING FOR TRANSFERABILITY; PROVIDING FOR LIMITS; PROVIDING FOR UNCLASSIFIED CATEGORIES; PROVIDING FOR DUPLICATE FEES; PROVIDING FOR TERM AND EXPIRATION DATE; PROVIDING FOR DELINQUENCY AND ENFORCEMENT PROVISIONS; PROVIDING FOR ENFORCEMENT BEGINNING OCTOBER 1, 2007; PROVIDING FOR SUSPENSION AND REVOCATION; PROVIDING FOR INSPECTIONS BY CITY EMPLOYEES AND CITY FIRE DEPARTMENT; PROVIDING PREREQUISITES FOR ISSUANCE OF RECEIPT OR DENIAL; PROVIDING FOR APPEALS; PROVIDING FOR EXEMPTIONS FROM THE PAYMENT OF LOCAL BUSINESS TAX; PROVIDING FOR EXEMPTIONS FROM LOCAL BUSINESS TAX REQUIREMENTS; REQUIRING EXHIBITION OF STATE CERTIFICATE, REGISTRATION, LICENSE OR PERMIT FOR CERTAIN PROFESSIONS; PROVIDING FOR CLASSIFICATION, RATES AND SCHEDULE OF LOCAL BUSINESS TAX; PROVIDING FOR COMPLIANCE WITH ZONING LAWS; PROVING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statutes, Chapter 205, the Local Business Tax Act, grants municipalities the power to levy a local business tax; and

WHEREAS, the City Commission of the City of Deltona has determined that it is in the best interests of the health, safety and welfare of its citizens to levy a local business tax upon each and every business, profession and occupation having an effective place of business or engaging in or managing any business within the City limits of the City of Deltona ("**City**"); and

WHEREAS, the local business tax rate structure and classifications provided for in this ordinance have been determined to be reasonable and are based upon the rate structure and

classifications as prescribed in ordinances adopted by adjacent local governments that have implemented Florida Statutes, Section 205.0535; and

WHEREAS, the City has provided at least fourteen (14) days public notice between the first and last reading of this Ordinance by publishing such notice in the local newspaper and such public notice contained the proposed classifications and rates applicable to the local business tax.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA, this local business tax ordinance which shall read as follows:

SECTION ONE. Chapter 22, Article I

Sec. 22-1. Short Title

This ordinance shall be known as the "Deltona Local Business Tax Ordinance" which shall be designated Chapter 22, Sections 1 thru 19.

Sec. 22-2. Definitions

When used in this chapter, the terms and phrases shall have the meanings ascribed to them in FL Stat. §205.022 or in this section:

(a) "*Applicant*" means any person desiring to obtain a license under the provisions of this Ordinance.

(b) "*City Manager*" means the City Manager of the City of Deltona, Florida, or the City Manager's designee.

(c) "*Local business receipt*" means the method by which the City grants the privilege of having an effective place of business, or engaging in or managing any business, profession, or occupation within the City limits. It does not mean any fee or license paid to the City for permits, registration, examination, or inspection.



Sec. 22-3. Levy

There is hereby levied a local business tax in the amounts set by resolution and printed in Appendix A [of this Code] for the privilege of having an effective place of business, or engaging in or managing any business, profession or occupation within the City on the following:

- (1) Any person who maintains a permanent business location or branch office within the City jurisdiction; and
- (2) Any person engaging in or managing any business within the City jurisdiction; and
- (3) Any person who does not qualify under the provisions of subsection (1) or (2) above and who transacts any business or engages in any occupation or profession in interstate commerce, where such local business tax is not prohibited by Section 8, Article I of the United States Constitution.

Sec. 22-4. Required local business receipt

No person shall engage in, manage, transact, or carry on any business, occupation or profession within the City for which there is a local business tax required by this ordinance or any other provisions of this Code unless such person shall first procure a local business receipt (“receipt”) to conduct the same from the City. It shall be no defense of nonpayment of any local business tax required by this ordinance that the licensee did not receive any bill or notice that the same was due from the City.

Sec. 22-5. Valid Signature

All receipts shall be signed by either the Finance Director or a Finance Department designee, or other employee designated by the City Manager, and shall be upon forms furnished by the City.

Sec. 22-6. Duty to display

Every person subject to the provisions of this ordinance, which business, occupation or profession is conducted at or from a fixed place within the City limits, shall have the receipt conspicuously displayed at their place of business, or if not operating from a fixed place of business, shall keep the receipt issued upon his person at all times when engaged in the business, occupation, or profession for which it is issued.

Sec. 22-7. Application; affidavit required

No receipt shall be issued except upon written application of the person applying for the same, and it shall be the duty of the Finance Director or other designated employee, before issuing a receipt based wholly or in part upon property valuation, capacity, number of persons employed, square footage of business location, or any other contingency, to require the person applying for such receipt to file an affidavit giving full and complete information. The applications and affidavit shall be retained as a part of the records of the office of the City Clerk.

Sec. 22-8. Transferability

All business receipts may be transferred to a new owner when there is a bona fide sale of the business upon payment of a transfer fee of ten (10%) percent of the annual local business tax, but not less than three dollars (\$3.00) nor more than twenty-five dollars (\$25.00) and upon presentation of evidence of the sale and the original receipt. Upon written request and presentation of the original receipt, any receipt may be transferred from one location to another location in the same municipality upon payment of a transfer fee of ten (10%) percent of the annual local business tax, but not less than three dollars (\$3.00) nor more than twenty-five dollars (\$25.00).

Sec. 22-9. Limit on term

Local business tax receipts shall be issued to cover only one occupation or business classification unless otherwise permitted. The amounts assessed as local business tax against the various trades, businesses and professions are hereby fixed per annum unless otherwise specified. No credit or reduction in the amount to be paid for any part of a year shall be granted unless otherwise permitted.

Sec. 22-10. Unclassified categories

The Finance Director may create a new classification when needed so long as the rate does not exceed the rate provided herein for unclassified categories.

Sec. 22-11. Duplicate license

Duplicate receipts may be issued by the Finance Director. A fee of ten dollars (\$10.00) will be assessed for each duplicate receipt issued which shall be clearly noted as a duplicate on the receipt.

Sec. 22-12. Term; expiration date

No receipt shall be issued for longer than one (1) year. Local business receipts shall be issued by the City beginning October 1, 2007 and each year thereafter to all persons, even if they have a Volusia County occupational license, which shall be due and payable on or before September 30 of each year, and shall expire on September 30 of the succeeding year. If September 30 falls on a weekend or holiday, the tax is due and payable on or before the first working day following September 30. Half-year licenses may be issued by the Finance Director or the City Manager's designee for the period April 1 to September 30, upon payment of no less than one-half of the tax fixed as the amount of such receipt for one (1) year; a receipt for any period prior to April 1 of each year shall be one hundred (100) percent of the yearly tax unless otherwise provided.

Sec. 22-13. Delinquency; Enforcement

- (a) Local business tax receipts that are not renewed when due and payable are delinquent and subject to a delinquency penalty of ten percent (10%) for the month of October, plus an additional five (5%) percent penalty for each subsequent month or portion thereof that the delinquency tax remains paid. However, the total delinquency penalty may not exceed twenty-five percent (25%) of the local business tax for the delinquent establishment.
- (b) Any person engaging in or managing any business, occupation or profession without first obtaining a local business tax receipt, if required in accordance with this ordinance, shall be subject to a penalty of twenty-five percent (25%) of the license plus a surcharge of two hundred fifty dollars (\$250.00).
- (c) Any person who engages in any business, occupation, or profession covered by this ordinance, who does not pay the required local business tax within 150 days after the initial notice of tax due, and who does not obtain the required receipt is subject to civil actions and penalties, including court costs, reasonable attorneys' fees, additional administrative costs incurred as a result of collection efforts, and a penalty of up to \$250.00.
- (d) All costs of collection and enforcement of the terms of this ordinance, to include attorneys' fees whether or not litigation is commenced, shall be the responsibility of the person or corporation for which a receipt is or was required.
- (e) As an additional means of ensuring compliance with the provisions of this ordinance, the City of Deltona Special Magistrate shall have jurisdiction and authority to hear and decide alleged violations occurring in the corporate limits of the City and to impose administrative fines and liens for violations. Proceedings

before the Special Magistrate shall be governed by its rules and procedures, and Chapter 162, Florida Statutes.

Sec. 22-14. Suspension and Revocation

Any local business tax receipt granted pursuant to this ordinance may be temporarily suspended or absolutely revoked or cancelled by a majority vote of the City Commission when, after public hearing upon the proposed suspension or revocation, the Commission shall have ascertained and determined, in the exercise of its sound discretion, that such action will promote the public peace, health, safety, or welfare of its citizens in which the receipt owner's place of business is located and, further, that the failure to suspend or revoke the receipt will have a harmful or detrimental effect upon the public peace, health, safety, or welfare of the citizens in which the receipt owner's place of business is located. In the case of revocation or cancellation of a local business tax receipt the City shall refund to such receipt holder the pro rata unearned or unused portion of the receipt. No refund shall be made due to person terminating applicable business activity requiring the need for a local business tax receipt.

Sec. 22-15. Prerequisites for issuance of license, denial; appeal

(a) *Application.* No local business tax receipt will be issued to any person, business, profession or occupation in the City until an application has been filed with the Finance Department. The application shall contain the following information:

- (1) Name, type of business, address, phone number.
- (2) Owner's name, address, phone number.
- (3) Persons to be contacted in case of emergency.
- (4) Alarm system provider information, if applicable.
- (5) Description of business/profession at the specified location or home.

- (6) Copy of certificate, registration or license issued by the State Department of Professional Regulation, if applicable.
- (7) Copy of certificate of competency issued by Building Division, if applicable.
- (8) As a prerequisite to receiving a City local business tax receipt under this ordinance or transferring a local business tax receipt, the applicant or new owner must present to the City either:
 - (a) A copy of the applicant's or new owner's fictitious name registration, issued by the Division of Corporations of the Department of State; or
 - (b) A written statement, signed by the applicant or new owner, which sets forth the reason that the applicant or new owner need not comply with the Fictitious Name Act.

(b) *Inspections.* No local business tax receipt shall be issued to any person until the person's business location has been inspected by a City inspector and the City Fire Department, and such business location has been found to be in compliance with all applicable ordinances, codes and regulations. Inspections by a City inspector shall also be required for any transfer of the local business tax receipt, home based business and/or renewals.

(c) *Denial of license.* If a City inspector or the City Fire Department determines that the applicant's business location does not comply with the requirements of the applicable building code or fire code, such local business tax application shall be denied and the applicant shall not be permitted to engage in the business at such location.

(d) *Right of appeal.*

(1) If any person is denied a receipt, the applicant shall have the right to appeal such denial to the City Manager by filing a notice of appeal within 10 days after such denial. An informal hearing shall be held to determine if the business location complies with the requirements of all applicable ordinances, codes and regulations. Written notice of the hearing shall be provided by the City Clerk to the applicant, which notice shall set

a date for the hearing giving the applicant an opportunity to be heard on the denial of the receipt. The City Manager, after hearing from all interested parties, shall either sustain the position of the City and deny the local business tax receipt, or direct the City to issue the receipt. The City shall issue a written decision based on whether the business location complies with the requirements of all applicable ordinances, codes and regulations.

(2) If the City Manager sustains the position of the City and denies a local business tax receipt, the applicant shall have the right to appeal such denial to the City Commission by filing a notice of appeal with the City Clerk within 10 days after such denial. The City Commission, within 30 days of such request for an appeal, shall hold a public hearing to determine if the business location complies with the requirements of all applicable ordinances, codes and regulations. Written notice of the hearing shall be provided by the City Clerk to the applicant, which notice shall set a date for the hearing giving the applicant an opportunity to be heard on the denial of the local business tax receipt. The City Commission, after hearing from all interested parties, by majority vote, shall either sustain the position of the City and deny the license, or order the City to issue the receipt.

Sec. 22-16. Exemptions from payment of tax

(a) All disabled persons physically incapable of manual labor, widows with minor dependents, and persons 65 years of age or older, with not more than one employee or helper, and who use their own capital only, not in excess of \$1,000, shall be allowed to engage in any business or occupation in the City without being required to pay for a receipt. The exemption provided by this section shall be allowed only upon the certificate of any physician licensed to do business in the county or any city in the county, that the applicant claiming the exemption is

disabled, the nature and extent of the disability being specified therein, and in case the exemption is claimed by a widow with minor dependents, or a person over 65 years of age, proof of the right to the exemption shall be made. Any person entitled to the exemption provided by this section shall, upon application and furnishing of the necessary proof as aforesaid, be issued a receipt which shall have plainly stamped or written across the face thereof the fact that it is issued under this section, and the reasons for the exemption shall be written thereon.

(b) The following shall also be exempt from payment of a local business tax receipt:

(1) State tax-supported or parochial, church and nonprofit private schools, colleges or universities conducting regular classes and courses of study required for accreditation by a membership in the Southern Association of Colleges and Secondary Schools, 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.

(2) Charitable nonprofit corporations at which there are provided charitable services, a reasonable percentage of which shall be without cost to those unable to pay.

(c) Any person or organization exempt from the payment of such local business tax receipt provided by this ordinance must comply with all applicable laws, ordinances and codes relating to the business, profession or occupation in which such person or organization is engaged.

Sec. 22-17. Exemptions from local business tax requirement

Nothing in this ordinance shall be construed to require a local business tax receipt for:

- (a) Practicing the religious tenets of any church;
- (b) Any charitable, religious, fraternal, youth, civic, service or other such

organization when the organization makes occasional sales or engages in fundraising projects when the projects are performed exclusively by the members thereof and when the proceeds derived from the activities are used exclusively in the charitable, religious, fraternal, youth, civic and service activities of the organization;

(c) A duly licensed mobile home dealer or a duly licensed mobile home manufacturer, or an employee of such dealer or manufacturer, who performs setup operations as defined in F.S. § 320.822 shall not be required to obtain a receipt to engage in such operations. However, such dealer or manufacturer shall be required to obtain a receipt for his permanent business location or branch office if such location or office is within the City;

(d) Any natural person for the privilege of engaging in the selling of farm, aquaculture, grove, horticultural, floricultural, tropical piscicultural, or tropical fish farm products, or products manufactured there from, except intoxicating liquors, wine, or beer, when such products were grown or produced by such natural person in the state.

(e) A wholesale farmers' produce market has the right to pay a local business tax of not more than \$200 for a receipt that will entitle the market's stall tenants to engage in the selling of agricultural and horticultural products therein, in lieu of such tenants being required to obtain individual local business tax receipt to so engage.

(f) Any disabled veteran of any war or their unmarried spouses shall be entitled to the exemptions provided by Section 205.171, Florida Statutes, upon meeting the requirements of said section.

(g) Any other person entitled to an exemption by state law.

(h) Any person or organization exempt from the requirement of a local business tax receipt provided by this ordinance shall comply with all applicable laws, ordinances and

codes relating to the business, activity or operation in which such person or organization is engaged.

(i) In no event under this section or any other section shall any person, veteran or otherwise, be allowed any exception whatsoever from the payment of any amount required by law for the issuance of a receipt to sell intoxicating liquors or malt and vinous beverages.

Sec. 22-18. Exhibition of state certificate, registration, license or permit

(a) Any person applying for a local business tax receipt to practice any profession regulated by the State Department of Professional Regulation, or any board or commission thereof, must exhibit an active state certificate, registration, or license, or proof of copy of the same, before such local business tax receipt may be issued.

(b) Any applicant for a local business tax receipt to operate a pharmacy shall first exhibit a current permit from the State Board of Pharmacy; however, no such local business tax receipt shall be required in order to practice the profession of pharmacy.

(c) Any applicant for a local business tax receipt to operate an adult congregate living facility pursuant to F. S., Chapter 400, Part II, shall first exhibit a current license issued by the State Department of Health and Rehabilitative Services to operate such facility at the specified location or locations.

(d) No local business tax receipt may be issued to any business or establishment regulated under Sections 585.70 - 585.96, Florida Statutes, until a grant of inspection or a custom slaughtering or processing establishment permit has been issued to the applicant by the Department of Agriculture and Consumer Services. The business or establishment must present its grant of inspection or permit before the local business tax receipt may be issued.

(e) No local business tax receipt may be issued to any pest control business coming

under Chapter 482, Florida Statutes, unless a current license has been procured from the Department of Agriculture and Consumer Services for each of its business locations in the City. Presentation of the requisite licenses from the department and the required fee is required before a local business tax receipt may be issued.

(f) No local business tax receipt may be issued for the operation of a health studio pursuant to Sections 501.012 - 501.019, Florida Statutes, or ballroom dance studio pursuant to Section 501.143, Florida Statutes, unless such business exhibits a current license, registration, or letter of exemption from the Department of Agriculture and Consumer Services.

(g) No local business tax receipt may be issued to a seller of travel pursuant to part XI of Chapter 559, Florida Statutes, unless such business exhibits a current registration or letter of exemption from the Department of Agriculture and Consumer Services.

(h) No local business tax receipt may be issued for the operation of a telemarketing business under Sections 501.604 and 501.608, Florida Statutes, unless such business first exhibits a current license or registration from the Department of Agriculture and Consumer Services or a current affidavit or exemption.

Sec. 22-19. Zoning prohibition

No local business tax receipt shall be issued to any applicant giving an address that does not comply with the appropriate zoning laws of the City.

SECTION TWO. Conflicts.

All ordinances, resolutions or parts thereof in conflict with the provisions of this Ordinance, to the extent of such conflict, are hereby repealed.

SECTION THREE. Severability.

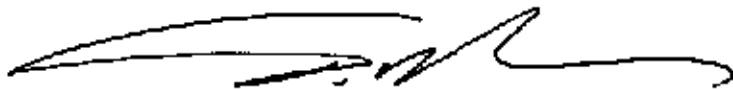
If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of

the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

SECTION FOUR. Effective Date.

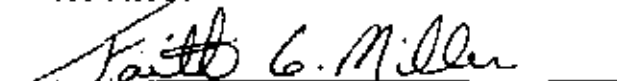
This Ordinance shall become effective as of August 1, 2007.

ADOPTED BY the City Commission of the City of Deltona, Florida, this 4th
day of June, 2007.




Dennis Mulder, Mayor

ATTEST:


Faith G. Miller, City Clerk

Approved as to form & legality for
use & reliance by the City of Deltona


L. Roland Blossom, City Attorney

