

ORDINANCE NO. 06-2024

AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, ADDING SECTIONS ON BUSINESS TAX RECEIPTS FROM ORDINANCE 10-2007; SECTIONS 22-3 “LEVY”; SECTION 22-4 “REQUIRED LOCAL BUSINESS RECEIPT; SECTION 22-5 “VALID SIGNATURE; SECTION 22-6 “DUTY TO DISPLAY”; SECTIONS 22-11, “DUPLICATE SECTIONS”, SECTION 22-12, “TERM: EXPIRATION DATE”, SECTION 22-13 “DELINQUENCY: ENFORCEMENT”; SECTION 22-15, “PREREQUISITES FOR ISSUANCE OF LICENSE”, SECTION 22-16 “EXEMPTIONS FROM PAYMENT”; THE REMAINING RELEVANT PROVISIONS IN ORDINANCE NO. 10-2007 HAVE NOW BEEN ADDED TO THIS ORDINANCE OR PREVIOUSLY ADDED TO ORDINANCE 05-2009, OR HAVE BEEN PRE-EMPTED BY NEW FLORIDA REGULATIONS PASSED IN 2023, AS TO HOME BUSINESSES, FLORIDA STATUTUE 559.955; THE REMAINDER OF ORDINANCE 10-2007 IS NOW RESCINDED IN ITS ENTIREITY; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Florida Statutes, Chapter 166, confers upon a local government, the authority to adopt regulations designed to promote the public health, safety and general welfare of its citizens; and

WHEREAS, pursuant to its home rule powers, the City of Deltona may regulate Home-Based Businesses within the City limits through the adoption of CITY regulations; and

WHEREAS, Ordinance No. 10-2007 was the first City ordinance to address home businesses; and

WHEREAS, Ordinance No. 05-2009, also addressed Home Business regulations and replaced and/or amended most of the provisions found in Ordinance No. 10-2007; and

WHEREAS, Ordinance No. 05-2009 provided a definition for “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, examinations or inspection; and this definition is still current in 2024; and

WHEREAS, key provisions relating to “Local Business Receipt” found in Ordinance 10-2007 are added to this Ordinance; and

WHEREAS, in 2023 the State of Florida passed regulations at Florida Statutes Section 559.955, that pre-empted a City from applying any Rule or Regulation to a home business that was more stringent than what would apply to a residence where no business is conducted; and

WHEREAS, the City of Deltona has determined that based on the previous adoption of Ordinance No. 05-2009 and the recent State pre-emption as to Home Businesses, which specifically prohibits the City from inspecting a Home Business location as was provided for in Ordinance No.10-2007; and adding key provisions relating to “Local Business Receipt” to this Ordinance No. 06-2024; that Ordinance No. 10-2007 is rescinded in its entirety.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELTONA AS FOLLOWS:

SECTION 1 – Adding provision for sections on “Business Tax Receipt” from Ordinance 10-2007:

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. 22-11. 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.

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. 22-15. Prerequisites for issuance of license

(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 Planning and Development 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 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.

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.

- (b) 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.

SECTION 2 - Ordinance No. 10-2007 is hereby rescinded in its entirety.

SECTION 3 – Ordinance 05-2009; and Florida Statutes 559.955 (2023); govern Home-Based Businesses in the City of Deltona.

SECTION 4. It is the intention of the City Commission of the City of Deltona, Florida that the provisions of this ordinance shall become and be made a part of the City of Deltona Code of Ordinances. The sections of this ordinance may be re-numbered or re-lettered and the word “ordinance” may be changed to “section”, “article”, or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 5 All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict here within be, and the same are hereby repealed to the extent of such conflict.

SECTION 6. If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 7. In the event of a conflict or conflicts between this Ordinance and any other

ordinance or provision of law, this Ordinance controls to the extent of the conflict, as allowable under the law.

SECTION 8. This Ordinance shall become effective immediately upon adoption by the City Commission of the City of Deltona, Florida.

PASSED AND ADOPTED THIS _____ DAY OF _____ 2024.

FIRST READING: _____

SECOND READING: _____

SANTIAGO AVILA JR., MAYOR

ATTEST:

JOYCE RAFTERY, CITY CLERK

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

MARSHA SEGAL-GEORGE, CITY ATTORNEY