

ORDINANCE NO. 05-2009

AN ORDINANCE OF THE CITY OF DELTONA, VOLUSIA COUNTY, FLORIDA, AMENDING SECTION 22-2 "DEFINITIONS", SECTION 22-13 "DELINQUENCY; ENFORCEMENT", SECTION 22-16 "EXEMPTIONS FROM PAYMENT OF TAX", AND SECTION 22-17 "EXEMPTIONS FROM LOCAL BUSINESS TAX REQUIREMENT" OF ARTICLE I "LOCAL BUSINESS TAX", OF CHAPTER 22 "BUSINESSES", OF THE DELTONA CODE OF ORDINANCE; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND PROVIDING 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 adopted the Deltona Local Business Tax via Ordinance 10-2007 on June 4, 2007; and

WHEREAS, City staff has determined that revisions to Ordinance 10-2007 are warranted to clarify provisions for the levying of the Local Business Tax; and

WHEREAS, the City Commission of the City of Deltona finds that the revisions to the Deltona Local Business Tax Ordinance will enhance and clarify provisions for the continued protection of the public health, safety and welfare.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA, as follows:

SECTION ONE. Chapter 22, "Businesses", of Article I, "Local Business Tax", of the Code of Ordinances of the City of Deltona, is hereby amended to read as follows:

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.

(d) "*Business, profession, and occupation*" does not include the primary activity of nonprofit religious, nonprofit charitable and nonprofit educational institutions in this state, which institutions are more particularly defined and limited as follows:

(1) "*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 also means church cemeteries.

(2) "*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 Schools, the 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.

(3) "*Charitable institutions*" means only nonprofit corporations possessing an exemption compliant with Internal Revenue Code 501(c)(3) operating physical facilities in this state at which are provided charitable services, a reasonable percentage of which are without cost to those unable to pay.

(e) "*Classification*" means the method by which a business or group of businesses is identified by size or type, or both.

(f) "*Local business tax*" means the fees charged and the method by which a local governing authority 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 are deemed to be regulatory and in addition to, but not in lieu of, any other local business tax imposed under Florida Statutes.

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, in addition to any other penalty provided by law or ordinance.

(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) Notification of Violation to the business owner or property owner when applicable will be mailed certified mail or hand delivered when possible and serve as the initial notice of tax due in compliance with Section 22-13(c).

(f) 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. 22-16. 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 approved by Internal Revenue Code exemption 501(c)(3).

(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.

(d) This chapter does not require a business tax receipt for practicing the religious tenets of any church;

(e) 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;

(f) 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;

(g) 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.

(h) 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.

(i) 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.

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

(k) 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.

(l) In no event under this section or any other section shall any person, veteran or otherwise, be allowed any exemption 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.

(m) The City Manager or designated appointee shall have the authority to grant a request to waive any fee, penalty, or portion thereof. Such request must be in writing stating reasons and conditions for granting such a waiver and submitted at time of application for local business tax receipt.

Sec. 22-17. Exemption for City events

Participants of City sponsored and co-sponsored events are exempt from the requirements under this Chapter.

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. Codification.

The provisions of this Ordinance shall be codified as and made a part of the Code of Ordinances of the City of Deltona. The sections of this Ordinance may be renumbered or relettered to accomplish such intention and the word "Ordinance" or similar words, may be changed to "Section", "Article", or other appropriate word.


SECTION FOUR. 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 April 1, 2009.

ADOPTED BY the City Commission of the City of Deltona, Florida, this 16th
day of March, 2009.


DENNIS MULDER, MAYOR

ATTEST:


FAITH G. MILLER, CITY-MANAGER

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


GEORGE TROVATO, CITY ATTORNEY

NAME	YES	NO
CARMOLINGO	✓	
DEYETTE	✓	
DENIZAC		✓
MCFALL-CONTE		✓
MULDER	✓	
TREUSCH	✓	
ZISCHKAU		✓