

ORDINANCE #2008 - 06

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, CREATING AND ADOPTING A CODE SECTION ENTITLED "LOCAL BUSINESS TAX ENFORCEMENT PROCEDURES"; PROVIDING FOR INTENT AND PURPOSE; PROVIDING FOR DEFINITIONS; PROVIDING FOR APPLICABILITY; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR CONFLICTS; PROVIDING FOR INCLUSION; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Doral currently does not have City-Council approved procedures for the enforcement of Local Business Tax violations; and

WHEREAS, City of Doral believe that codified procedures are necessary to enforce violations of a Local Business Tax; and

WHEREAS, City of Doral has found that locations within the City are operating not in accordance with their Local Business Tax; and

WHEREAS, the Mayor and City Council, through the adoption of this ordinance, seek to establish procedures for the enforcement of violations concerning the Local Business Tax.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DORAL:

Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirm as being true and correct and hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. That a new ordinance of the City of Doral, entitled, "Local Business Tax Enforcement Procedures," shall be and it is hereby created to read as follows:

Sec. 101 Grounds for Suspension, Revocation and Denial of Local Business Tax.

(a) The city manager or his or her designee is authorized to revoke, or temporarily suspend the local business tax of any person or entity where it is determined by the city manager or his or her designee that:

(1) The business owner has misrepresented or failed to disclose material information required by this article to be included in the business tax application form.

(2) The business owner, as part of the owner's business activity within the city, is engaged in conduct that is contrary to the public health, welfare or safety of the city.

(3) The business owner is conducting business from premises that do not possess a valid and current certificate of occupancy and/or certificate of use as may be required by city, county and state laws.

(4) Habitual conduct has occurred at the business owner's premise that violates city, county or state law.

(5) The tax receipt issued by the city depended upon the business owner's compliance with specific provisions of federal, state, city or county law and the business owner has violated such specific provisions of law.

(6) The business owner has violated any provision of this article and has failed or refused to cease or correct the violation after notification thereof.

(7) The business owner, as part of the licensee's business activity within the city, knowingly lets, leases or gives space for unlawful gambling purposes at the business owner's premises.

(8) The business owner, within the preceding five (5) years in this state or any other state or in the United States, has been adjudicated guilty of or forfeited a bond when charged with soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, or illegally dealing in narcotics.

(9) The premises have been condemned by the local health authority for failure to meet sanitation standards or the premises have been condemned by the local authority because the premises are unsafe or unfit for human occupancy.

(10) The business owner's premises have been found to constitute a public nuisance by the Code Compliance Special Magistrate.

(11) The business owner has failed to satisfy any fines or administrative fees imposed by the Code Compliance Special Magistrate.

(12) The business owner has failed to correct building violations in which a notice of violation has been issued by the Code Compliance Department during the previous licensing period.

(13) The business owner has failed to pay for Police Off-Duty work.

(14) The business owner has failed to pay outstanding alarm bills in which notices have been sent to the business owner by the Doral Police Department.

(15) The business owner has failed to pay for any outstanding City of Doral bill as evidence by a invoice delivered from the Finance Department.

(b) The suspension or revocation shall be of the business tax receipt in effect at the date of such suspension or revocation; even though it may have been

issued to a business owner other than the person who held the tax receipt at the time the cause for such suspension or revocation arose.

(c) No tax receipt shall be suspended under this section for a period of more than 12 months.

(d) No new tax receipt shall be issued during the period of suspension/revocation to the business owner, or to any other firm in which the business owner or any of its general partners, limited partners, officers or stockholders owning 20 percent or more of its stock or agents, employees or other persons who were actively involved in the business under suspension/revocation. At the end of such period of suspension or revocation, the business owner and/or agents, general or limited partners, officers or stockholders may apply for a new business tax receipt.

Sec. 102. Standards; rule-making authority.

A suspension not exceeding six months shall be imposed in cases where the business owner's violation is shown to be inadvertent and can be promptly corrected by the business owner; a revocation of the tax receipt shall be imposed in all other cases. The city manager shall have the authority to adopt written administrative rules to enforce the provisions of this article, which rules shall have the force and effect of city law, provided the rules are approved by the city attorney and ratified by the city council.

Sec. 103. Notice of violation; emergency action.

If the city manager or his designee believes that a business owner has engaged or is engaged in conduct warranting the suspension or revocation of a business tax receipt, he shall serve the business owner by certified mail or hand delivery, at his business address as disclosed in his application for the business tax, a written administrative complaint which affords reasonable notice to the business owner of facts or conduct that warrant the intended action. The complaint shall state what is required to be done to eliminate the violation, if any. The business owner shall be given adequate opportunity to request a prior Special Magistrate Hearing unless the city manager finds that an emergency condition exists involving serious danger to public health, safety or welfare, in which case advance notice and hearing shall not be required. In the case of an emergency suspension or revocation, the business owner shall immediately be advised of the city manager's action and afforded a prompt post-suspension or revocation hearing before the Special Magistrate.

Sec. 104. Hearing when business owner fails to comply with notice.

If a business owner fails to comply with any notice issued as provided in this section, the city manager or his designee may issue an order in writing to the business owner, by certified mail or hand delivery, notifying him to appear at an administrative hearing before the Special Magistrate to be held at a time to be fixed in such order, which date shall be not less than five days after service thereof. A Special Magistrate hearing may also be requested by a business owner aggrieved by a decision of a Code Compliance Officer regarding denial of a Local Business Tax, determination of fees/penalties due and/or warning of potential suspension/revocation for violation of a provision of this article. The request must be in writing and filed with the Director of the Code Compliance Department within ten days of receipt of the decision of the Code Compliance Officer. The request must specify the decision complained of and the nature of the business owner's grievance.

Sec. 105. Hearing procedures; enforcement of orders.

- (1) The Director of the Code Compliance Department shall give written notice of the time and place of the hearing to the business owner by certified mail or hand delivery.
- (2) The proceedings shall be held by the Special Magistrate in accordance with the Code Compliance Ordinance adopted by the city.
- (3) The proceedings shall be recorded and minutes kept by the City Clerk's Office. Any business owner requiring verbatim minutes of the special magistrate hearing may arrange for the services of a court reporter at his own expense.
- (4) Within twenty days of the close of the hearing, the Special Magistrate shall render his decision in writing determining whether or not the tax receipt shall be revoked or suspended or denied, or other action taken or continued, as the case may be, and stating his reasons and findings of fact.
- (5) The clerk for the Special Magistrate shall file the order with the city clerk and shall send a true and correct copy of his order by certified mail, return receipt requested, or by hand delivery, to the business address listed on the Local Business Tax or to any such other address as the business owner shall designate in writing.

Section 3. Severability. That if any section, subsection, sentence, clause, phrase, word or amount of this ordinance shall be declared unconstitutional or invalid by competent authority, then the remainder of the ordinance shall not be affected thereby, and shall remain in full force and effect.

Section 4. Repeal of Conflicting Provisions. That all ordinances or parts of ordinances or resolutions of the County Code made inconsistent or in conflict herewith shall be and they are hereby repealed in their entirety as there is conflict or inconsistency.

Section 5. Inclusion in Code. It is the intention of the Mayor and City Council and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the City of Doral Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Effective Date. This Ordinance shall become upon adoption on second reading.

[Section left blank intentionally]

The foregoing Ordinance was offered by Vice Mayor Cabrera who moved its adoption. The motion was seconded by Councilman Van Name and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Peter Cabrera	Yes
Councilmember Michael DiPietro	Yes
Councilwoman Sandra Ruiz	Yes
Councilmember Robert Van Name	Yes

PASSED AND ADOPTED upon FIRST READING the 7th day of April, 2008.

PASSED AND ADOPTED upon SECOND READING the 14th day of May, 2008.



JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



BARBARA HERRERA, CITY CLERK

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY FOR THE SOLE USE OF
THE CITY OF DORAL:



JOHN J. HEARN, CITY ATTORNEY