

## **ORDINANCE 23-02**

**AN ORDINANCE OF THE CITY OF DUNEDIN, FLORIDA, DELETING AND REVISING CHAPTER 70, TAXATION, ARTICLE III, BUSINESS TAX RECEIPT, OF THE CODE OF ORDINANCES OF THE CITY OF DUNEDIN, FLORIDA IN ITS ENTIRETY; PROVIDING FOR PUBLICATION IN ACCORDANCE WITH THE REQUIREMENTS OF LAW; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, on July 24, 2018 the Dunedin City Commission adopted Resolution 18-11 to establish an Ordinance Review Committee; and

**WHEREAS**, the Ordinance Review Committee held ten (10) meetings between October 1, 2018 and December 11, 2019 to review and discuss twenty-three (23) Chapters of the Code of Ordinances; and

**WHEREAS**, the City Commission has received input from the public through two public hearings on the Ordinance Review Committee's suggested changes to the City's Code of Ordinances; and

**WHEREAS**, the Equity Study Commission appointed by the City Commission has recommended a revised classification and rate structure for its local business taxes; and

**WHEREAS**, the City Commission desires to amend the Code of Ordinances, Chapter 70, Taxation, Article III, Business Tax Receipt, to enact the Equity Study Commission's recommendations.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED THAT:**

**SECTION 1.** The above recitals are true, correct, and incorporated by reference as the findings of the City.

**SECTION 2.** Chapter 70, Taxation, Article III, Business Tax Receipts, of the City of Dunedin Code of Ordinances, is hereby deleted in its entirety and replaced with the following:

### **ARTICLE III. - LOCAL BUSINESS TAXES**

#### **Sec. 70-71. - Title.**

This article shall be known and may be cited as the Local Business Tax Ordinance of the City of Dunedin, hereinafter referred to as "this article."

**Sec. 70-72. - Definitions.**

For the purpose of this article the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*Business, occupation or profession.* Any activity, enterprise, profession, joint venture, or occupation, whether or not for profit, conducted within the city of such a nature that it provides either a product or service to patrons, clients, or customers.

*Local business tax receipt or receipt.* The method by which the city grants the privilege of engaging in or managing any business, profession or occupation within its jurisdiction. It does not mean any fees or local business tax paid to any board, commission or officer for permits, registration, examination or inspection.

*Person.* Any individual, firm, partnership, joint adventure, syndicate, or other group or combination acting as a unit, association, corporation, estate, trust, business trust, trustee, executor, administrator, receiver, or other fiduciary, and includes the plural as well as the singular.

*Square feet and square footage.* The enclosed area a business occupies. In those instances where the business activity is of a mobile nature or where there is no enclosed area, the minimum square footage charge shall be assessed.

**Sec. 70-73. - Business Tax Receipt Required.**

No person shall engage in or manage any business, occupation, or profession for which there is a local business tax required by this article unless that person first procures a local business tax receipt from the city to conduct the business, occupation or profession.

**Sec. 70-74. - Applicability.**

A local business tax is hereby levied in the amounts set out in this article for the privilege of engaging in or managing any business, profession, or occupation within the city limits on the following persons:

- (1) Any person who maintains a permanent business location or branch office in the city, for the privilege of engaging in or managing any business in the city.
- (2) Any person who maintains a permanent business location or branch office in the city, for the privilege of engaging in or managing any profession or occupation in the city.
- (3) Any person who does not qualify under subsection (1) or subsection (2) and who transacts any business or engages in any occupation or profession in interstate commerce, if the local business tax is not prohibited by § 8, Article I of the United States Constitution.

**Sec. 70-75. - Exemptions.**

Local business tax receipts issued under this article shall be subject to the exemptions provided in chapter 205, Florida Statutes, as may be amended.

**Sec. 70-76. - Prerequisite to Doing Business; Penalty for Failure to Obtain.**

Any person who engages in or manages any business, occupation, or profession without first obtaining a local business tax receipt, if required, is subject to a penalty of 25 percent of the tax due, in addition to any other penalty provided by law or ordinance.

**Sec. 70-77. – Business Tax Receipts; Dates Due and Delinquent; Penalties.**

- (a) All local business tax receipts shall be sold beginning July 1 of each year, are due and payable on or before September 30 of each year, and 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. Receipts that are not renewed when due and payable are delinquent and subject to a delinquency penalty of 10 percent for the month of October, plus an additional 5 percent penalty for each subsequent month of delinquency until paid. However, the total delinquency penalty may not exceed 25 percent of the business tax for the delinquent establishment.
- (b) Any person who engages in any business, occupation, or profession covered by this article, 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 prior to March 1, is subject to an additional penalty of \$250 and civil actions and penalties, including court costs, reasonable attorneys' fees, and additional administrative costs incurred as a result of collection efforts.

**Sec. 70-78. - Duration.**

No local business tax receipt shall be issued for more than one (1) year and all local business tax receipts shall expire on September 30 of each year, except as otherwise provided by law.

**Sec. 70-79. - Half-Year Receipts.**

Any person who was not liable for a local business tax receipt before April 1 during any business tax year may be issued a local business tax receipt for the second half of the business tax year, commencing from April 1, upon payment of one-half (1/2) of the amount fixed as the price of an annual local business tax receipt.

**Sec. 70-80. - Multiple Businesses.**

- (a) Each applicant shall be required to procure a separate receipt for each classification which applies to his/her activities.
- (b) Where more than one local business tax is paid at the same location under the same business name, a single receipt may be issued describing the various business taxes represented by such local business tax receipt. In such cases, the amount paid for each business tax represented will be the same as though they were on separate business tax receipts. This clause serves only to permit the city to consolidate separate business taxes into one business tax receipt.
- (c) A business engaging in more than one classification at the same location shall pay a separate business tax for each classification which applies to its activities as if each were a separate business.
- (d) If any person operates any of the businesses provided for in this article at more than one location, each location shall be considered a separate business and

a separate business tax therefore is required to be paid, unless otherwise herein provided.

**Sec. 70-81. - Determination of Classifications.**

In the event of a disagreement between the applicant for a local business tax receipt hereunder and the city on the question of proper classification for any business, occupation or profession for local business tax purposes, the city shall decide the proper classification. The applicant may appeal such decision to the city commission, whose decision upon the point shall be final.

**Sec. 70-82. - How Tax Construed as to Professions.**

The local business tax category provided in this article for "Professional Services" shall be construed to mean that each individual shall pay the tax herein provided whether practicing by himself/herself or in partnership or employed by another.

**Sec. 70-83. - Zoning Compliance.**

No local business tax receipt shall be issued, renewed or transferred unless the business, occupation or profession complies with the appropriate zoning laws of the city.

**Sec. 70-84. - Requirement to Report Status of Fictitious Name Registration.**

As a prerequisite to receiving or transferring a local business tax receipt, the applicant or new owner must present to the city either:

- (1) A copy of the applicant's or new owner's current fictitious name registration issued by the division of corporations of the department of state; or
- (2) 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. 70-85. - Prohibition of Local Business Tax Receipt without Exhibition of State License or Registration.**

Any person applying for or renewing a local business tax receipt to practice any profession or engage in or manage any business or occupation regulated by the

Department of Business and Professional Regulation, the Florida Supreme Court, or any other state regulatory agency, including any board or commission thereof, must exhibit an active state certificate, registration, or license, or proof of copy of the same, before such receipt may be issued.

#### **Sec. 70-86. - Transfers.**

Local business tax receipts issued by the city may be transferred with the approval of the city, subject to the following conditions:

- (1) Any local business tax receipt may be transferred to a new owner when there is a bona fide sale of the business upon payment of a transfer fee of up to 10 percent of the annual business tax, but not less than \$3 nor more than \$25, and presentation of the original receipt and evidence of the sale.
- (2) Upon written request and presentation of the original local business tax receipt, any receipt may be transferred from one location to another location in the same municipality upon payment of a transfer fee of up to 10 percent of the annual business tax, but not less than \$3 nor more than \$25.
- (3) Where the business has been exempted from payment of all or any part of the local business tax receipt therefore, any such receipt shall not be transferable under this section.

#### **Sec. 70-87. - False or Fraudulent Application.**

It shall be unlawful for any person to file a false or fraudulent application for a local business tax receipt or amended application for a tax receipt.

#### **Sec. 70-88. - Violations.**

It shall be unlawful for any person to exercise any of the privileges or to carry on or engage in or conduct any of the businesses, occupations or professions specifically enumerated herein without paying a business tax at the time and in the manner herein provided. Any person violating any of the provisions of this article shall be guilty of a misdemeanor.

#### **Sec. 70-89. - Revocation.**

- (a) Any local business tax receipt issued by the city may be revoked by the city manager, or his designee, for cause, including but not limited to the following:
- (1) The tax receipt holder maintains or allows a nuisance to be maintained at the licensed premises. The term nuisance is defined as any activity or condition declared to constitute a public nuisance by the Florida Statutes or this Code.
  - (2) The tax receipt holder has violated any county or city ordinance, state or federal statute, or rule or regulation pertaining to the activity which has been receipted pursuant to this article.
  - (3) The tax receipt holder fails to comply with the fire prevention ordinances of the city after reasonable notice shall have been given to the tax receipt holder to eliminate or correct any condition in violation of such ordinances on the receipted premises.
  - (4) The tax receipt holder repeatedly violates the Code.
  - (5) The tax receipt holder knowingly made a false, misleading or fraudulent statement of fact in his/her application.
- (b) Notice. The notice shall be sent to the tax receipt holder by certified mail, return receipt requested or when mail would not be effective, by hand-delivery. In the event attempts at hand-delivery or mail notice prove unsuccessful, the city shall post the notice in a conspicuous place on the premises of the tax receipt holder at least ten (10) days prior to the hearing.
- (c) Hearing. At the hearing before the city manager, or his/her designee, the tax receipt holder shall have the opportunity to offer, examine and cross-examine witnesses and to present evidence in support of his/her or its case and in rebuttal of the evidence offered against him/her. At the conclusion of the hearing the city manager, or his/her designee, shall make a determination. The determination shall be reduced to writing and signed by the city manager, or

his/her designee, and filed in the office of the city clerk within ten (10) days of the hearing and a copy shall be sent to the tax receipt holder by regular mail. The decision of the city manager, or its designee, shall be final and conclusive, unless the tax receipt holder takes an appeal to the city commission, as provided in subsection (e) below.

(d) *Stay.* In the event an appeal is taken, the city manager's, or the designee's decision shall be stayed pending final disposition of the appeal.

(e) *Appeal.* A tax receipt holder may appeal the determination by the city manager, or his/her designee, to the city commission. The appeal must be in writing setting forth the grounds therefore and must be filed in the office of the city clerk within ten (10) days after the mailing date of the determination, or its filing, whichever is later. A public hearing shall then be held before the city commission no more than thirty (30) days after receipt of the letter of appeal. The tax receipt holder shall be given at least seven (7) days' notice of the time and place of the public hearing. The tax receipt holder shall be given an opportunity to be heard at the public hearing and to present evidence and witnesses in support of its case. A majority vote of the city commission is required to revoke the business tax receipt.

(f) *Refund.* In the case of revocation of a tax receipt, no refund shall be made.

#### **Sec. 70-90. - Initial Application Fee.**

There shall be a nonrefundable fee of \$20.00 for the initial application for a local business tax receipt.

#### **Sec. 70-91. - Schedule of Local Business Taxes.**

Each applicant shall be required to procure a separate local business tax receipt for each classification which applies to his/her activities. Except as otherwise provided, the following local business taxes shall be assessed and collected each business tax year based on square footage as shown below:



Less than 10,000 square feet: \$ 50.00

At least 10,000 square feet but no more than 50,000 square feet: \$100.00

More than 50,000 square feet: \$200.00

**LISTING OF CATEGORIES AND CLASSIFICATIONS**

<u>Category</u>		<u>Classifications</u>
<u>1</u>	<u>Automotive</u>	<u>Auto dealership, paint and body shop, parking, rental or leasing, repair, transportation, washing and polishing, wrecking and hauling, gas service station, or similar businesses</u>
<u>2</u>	<u>Services/Business and Personal</u>	<u>Advertising, alteration services, animal services, artist, automobile detailing, barbershop, business consultant, business office, child care, cleaning service, computer service, dry-cleaning/laundry, employment agency, florist, funeral home, hair/nail salon, inspection service, import/export business, leasing, locksmith, moving company, newspaper, pest control, photographer, property management, psychic/palm reader, repair shop, storage warehouse, talent agency, tanning salon, tree service, vending machines, window tinting, or similar businesses</u>
<u>3</u>	<u>Contractors</u>	<u>All contractors including general, building, residential, electrical, gas, irrigation, mechanical, plumbing, roofing, solar, swimming pool, underground utility, or similar businesses</u>
<u>4</u>	<u>Education</u>	<u>Colleges, childcare, private school, tutoring, or similar businesses</u>
<u>5</u>	<u>Entertainment/ Recreation/Fitness</u>	<u>Amusement center/arcade, athletic club/fitness center, bowling alley, carnival, coin operated amusement, dancing school, golf course/driving range, karate/martial arts studio, movie theater, music school/teacher, nightclub, riding academy, rinks (bicycle, skating, other), tennis/racquetball club, travel agency, or similar businesses</u>
<u>6</u>	<u>Financial Services</u>	<u>ATM, bank, bondsmen, brokers (mortgage, boat, ship, yacht, stocks, bonds, etc.), collection/claims</u>

		<u>agents, finance (loans, mortgage, personal), insurance agency/adjuster/agent, or similar businesses</u>
<u>7</u>	<u>Food/Beverage Services</u>	<u>Bar, lounge, restaurant, café, lunch stand, caterer, or similar businesses</u>
<u>8</u>	<u>Health Care</u>	<u>Ambulance service, ambulatory care facility, blood bank, convalescent home, dental laboratory, hospital, medical laboratory, sanitarium, surgical center, urgent care facility, or similar businesses</u>
<u>9</u>	<u>Manufacturing/Industrial</u>	<u>Cabinet makers, carpentry, industrial, machine shop, manufacturer, or similar businesses</u>
<u>10</u>	<u>Professional Services</u>	<u>Accountant, auditor and bookkeeper, acupuncture, analytical chemists, architects, attorneys, chiropractors, counseling, dentists, dentist associates, detectives or investigators, dietician, physicians, pediatricians, surgeons and specialists, engineers, funeral directors and embalmers, hearing aid specialist, homeopathic physician, hypnotist, interior designers, laboratory technician, testing and research, includes dental and medical, landscape architects, land surveyors, massage therapist, medical examiners, naturopaths, nursing home administrators, opticians, optometrists or oculists, optical dispensary, orthopedics, osteopathic medical examiners, phrenologists, podiatrists, psychologist, veterinarian, or similar professions</u>
<u>11</u>	<u>Residential/Hotels and Motels</u>	<u>Hotel, motel, apartments/rooming house, adult congregate living facility, assisted living facility, or similar businesses</u>
<u>12</u>	<u>Retail/Wholesale</u>	<u>Merchant, consignment shop, pawnshop, rental service, or similar businesses</u>
<u>13</u>	<u>Utilities</u>	<u>Cable service, electric/power company, gas company, or similar businesses</u>
<u>14</u>	<u>Non-Classified</u>	<u>Not otherwise classified</u>

**Sec. 70-92. - Refunds.**

- (a) No portion of any local business tax shall be refunded, unless it clearly appears that such tax was collected by mistake or error; and before making a refund, all amounts payable under a proper local business tax receipt shall be paid by such business.
- (b) A written request for a refund must be received within ten (10) days of filing for a local business tax receipt stating reasons for no longer needing a tax receipt within the city.

**Sec. 70-93. - City Commission to Retain Power to Modify Local Business Taxes.**

The adoption of this article shall not abridge the right of the city commission to change, alter, increase, decrease, or reject any of the local business taxes provided for herein at any time and business taxes imposed and collected by this article shall not be construed to exempt from other forms of taxation of the property used in the business, occupation or profession.

**SECTION 3.** This Ordinance shall be published in accordance with the requirements of the law.

**SECTION 4.** Each provision of this Ordinance shall be deemed separate and severable and if any section or part thereof is held to be invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected.

**SECTION 5.** This Ordinance shall be codified and made part of the Code of Ordinances, City of Dunedin, Florida, and all existing sections numbers in Subpart A of the Dunedin City Code, together with any cross-references thereto, may be renumbered to accomplish such codification.

**SECTION 6.** This Ordinance shall become effective immediately upon its passage and enactment.

**PASSED AND ENACTED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2023.**

\_\_\_\_\_  
Julie Ward Bujalski  
Mayor

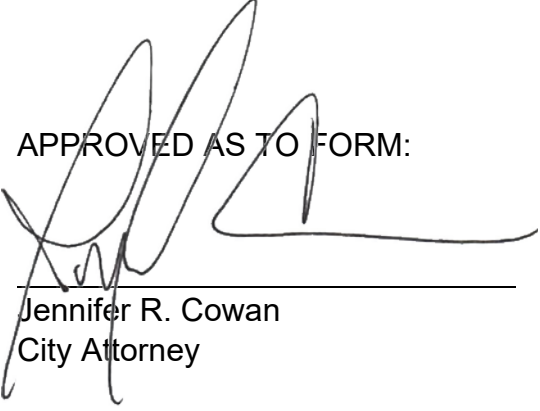
ATTEST:

\_\_\_\_\_  
Rebecca C. Schlichter  
City Clerk

READ FIRST TIME AND PASSED: \_\_\_\_\_

READ SECOND TIME AND ADOPTED: \_\_\_\_\_

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Jennifer R. Cowan  
City Attorney