

ORDINANCE NO. 210-07-122

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF LAUDERHILL, CHAPTER 12, BUSINESS REGULATIONS, ARTICLE II, CERTIFICATE OF USE AND LOCAL BUSINESS TAX RECEIPT, AMENDING SECTION 12-45, SAME-SUSPENSION OR REVOCATION OF CERTIFICATE OF USE AND/OR LOCAL BUSINESS TAX RECEIPT, HEARING AND APPEAL TO ADD SPECIFIC APPEAL PROCEDURES; AMENDING SECTION 12-33(d), DUE DATES, PENALTIES FOR DELINQUENT PAYMENT TO REFERENCE THE NEW APPEAL SECTION; AMENDING SECTION 12-32, MAKING FALSE AFFIDAVITS TO PROCURE CERTIFICATE OF USE OR LOCAL BUSINESS TAX RECEIPT PROHIBITED; PROVIDING FOR AN EFFECTIVE DATE (REQUESTED BY COMMISSIONER LAWRENCE "JABBOW" MARTIN)

BE IT ORDAINED, BY THE COMMISSION OF THE CITY OF LAUDERHILL, FLORIDA, THAT:

SECTION 1. Chapter 12, Business Regulations, Article II, Certificate of Use and Business Tax Receipt, Section 12-45, Revocation of certificate of use, is hereby amended as follows:

Sec. 12-45. Same—Suspension or Revocation of certificate of use and/or local business tax receipt; hearing and appeal.

- (a) Suspension or revocation. The City Commission of the City of Lauderhill shall have the power to revoke any certificate of use and/or local business tax receipt issued to any business in the City of Lauderhill upon a good cause showing that the issuance of the certificate of use and/or local business tax receipt is not in the best interest and general welfare of the residents of the City of Lauderhill, or was obtained by fraud or deceit. "Good Cause" shall include the violation of any city ordinance or state statute, or the habitual operation of a business in a manner that jeopardizes the health, safety, and welfare of the residents of the City of Lauderhill. "Fraud or deceit" shall include the knowing, signing, or presentation of any document or verbal communication with city staff that is untrue or that is intended to deceive city staff and cause city staff to issue a certificate of use and/or local business tax receipt based upon false representations.

~~Any time during the period for which such certificate of use and local business tax receipt is issued, it is discovered and determined by the city manager or the chief of police, that any statement contained in the application upon which the certificate of use and/or local business tax receipt is issued is untrue, or in the event the person to whom such certificate of use and local business tax receipt is issued has violated the ordinance or laws of the state in the practice of the profession or business for which such certificate of use and local business tax receipt are issued, the city manager may revoke such certificate of use so issued, in which event no portion of the business tax shall be refunded to the person for whom it is issued.~~

- (b) Hearing and appeal.

- (1) When the city issues a written notice of intent to suspend or revoke a certificate of use and/or local business tax receipt, the city shall immediately send such notice, which shall include the specific grounds for such action, to the applicant or business tax receipt (respondent) by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the city for the respondent. The notice shall also set forth the following: that the respondent shall have ten (10) days after the delivery of the written notice to submit, at the office of the city clerk, a written request for a hearing. If the respondent does not request a hearing within said ten (10)

days, the city`s written notice shall become a final suspension or revocation, as the case may be, on the thirtieth (30th) day after it is issued.

- (2) If the respondent does make a written request for a hearing within said ten (10) days, then the city shall, within ten (10) days after the submission of the request, send a notice to the respondent indicating the date, time, and place of the hearing before the special magistrate. The hearing shall be conducted at the next regularly scheduled meeting after the date that the hearing notice is issued. The city shall record the proceeding.
- (3) At the hearing, the respondent shall have the opportunity to present all relevant arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the city`s witnesses. The city shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending, or revoking the certificate of use or local business tax receipt. The special magistrate shall issue a final written decision, including specific reasons for the decision pursuant to this article, to the respondent within five (5) days after the hearing.
- (4) If the decision is to suspend or revoke the certificate of use and/or local business tax receipt, the decision shall advise the respondent of the right to appeal such decision to a court of competent jurisdiction, and the decision shall not become effective until the thirtieth (30th) day after it is rendered. If the special magistrate`s decision finds that no grounds exist for suspension, or revocation of the certificate of use and/or local business tax receipt, the special magistrate shall, contemporaneously with the issuance of the decision, order the city to immediately withdraw the intent to suspend or revoke the certificate of use and/or local business tax receipt and to notify the respondent in writing via either personal delivery or by certified mail of such action.

SECTION 2. Chapter 12, Business Regulations, Article II, Certificate of Use and Business Tax Receipt, SECTION 12-33, Due Dates; penalties for delinquent payment, is hereby amended as follows:

ARTICLE II. CERTIFICATE OF USE AND LOCAL BUSINESS TAX RECEIPT

Sec. 12-33. Due dates; penalties for delinquent payment.

- (d) Any person engaging in or managing any business, occupation or profession, without first obtaining a certificate of use prior to obtaining a local business tax receipt, or without the timely renewal of said certificate of use, if required hereunder, shall be subject to any and all of the following penalties: the issuance of a notice of violation, notice to appear or uniform code citation imposing fines or liens, or revocation of the certificate of use, or the closure of the business, profession or occupation after notice and the opportunity to request a hearing. If a business is closed pursuant to this article, it shall not be permitted to again operate until all required documents have been submitted, fees have been paid and a certificate of use has been issued in addition to a local business tax receipt. After the issuance of a citation and at least ten (10) days notice, if no request for appeal in accordance with section ~~42-7-12-45~~ has been filed, the city may, on the thirtieth (30th) day after the date of issuance of the citation, remove the officers and employees of the business, profession or occupation from the location thereof, change all locks at the location thereof, and perform any other acts which may be required to close the business, profession or occupation and prohibit it from operating. The city shall be permitted to utilize the assistance of the police department to enforcement the requirements of this article. The city shall not be responsible for the inventory, furniture or fixtures, but rather the business, profession or occupation shall remain responsible for its inventory, furniture and fixtures. It shall be permitted to take those acts which the city deems reasonable to protect same, but shall not be permitted to operate. The business, profession or occupation shall be required to pay all costs incurred in connection with the closing of said business

including, but not limited to, the cost of locksmiths, police services, costs incurred by the city, and any other associated fees and costs.

SECTION 3. Chapter 12, Business Regulations, Article II, Certificate of Use and Business Tax Receipt, Section 12-32, Making false affidavits to procure certificate of use or local business tax receipt prohibited, is hereby amended as follows:

ARTICLE II. CERTIFICATE OF USE AND LOCAL BUSINESS TAX RECEIPT

Sec. 12-32. Making false affidavits to procure certificate of use or local business tax receipt prohibited.

It shall be unlawful for any person to willfully make any false written affidavit, omission or misrepresentation as to the amount of the capital invested, or of the value of stock, goods, or other property invested in the business, and file such affidavit with the city code enforcement officer, or any other city official for the purpose of procuring a certificate of use or a local business tax receipt for a less sum than is lawfully payable by the affiant, or his principle, and any such certificate of use and local business tax receipt so obtained shall be ~~void~~. subject to revocation or suspension pursuant to Section 12-45.

Any certificate of use or local business tax receipt obtained under the provisions of this article upon a false statement, an omission, or a misrepresentation of any material fact, or due to the failure to candidly and definitively state and set out the exact nature of the business to be operated at the specified location shall be ~~deemed null and void~~, subject to revocation or suspension and the applicant who has thereafter engaged in any business under such certificate of use and local business tax receipt shall be subject to prosecution for doing business without a certificate of use or local business tax receipt, to the same effect and degree as though no such certificate of use and local business tax receipt had ever been issued. The business is obligated to continuously disclose to the city any change in the operation of the business and to comply with all rules and regulations of the city, state and federal government. Failure to do so will result in the denial, suspension, or revocation of the certificate of use.

SECTION 4. That all Ordinances and parts of Ordinances, all Resolutions or parts of Resolutions, in conflict herewith be and the same are hereby repealed as to the extent of such conflict.

SECTION 5. This Ordinance shall take effect immediately upon its passage and adoption.

Dated this _____ day of _____, 2021.

Passed on first reading this _____ day of _____, 2021.

Passed and adopted on second reading this _____ day of _____, 2021.

PRESIDING OFFICER

ATTEST:

CITY CLERK

FIRST READING

SECOND READING

MOTION
SECOND

M. DUNN
D. GRANT
L. MARTIN
S. MARTIN
K. THURSTON

