

ORDINANCE 392-2007

AN ORDINANCE OF CITY COMMISSION OF CITY OF KEY COLONY BEACH, FLORIDA, AMENDING CHAPTER 9 LICENSES, PERMITS AND BUSINESS REGULATIONS; REPEALING ANY CONFLICTING OR INCONSISTENT REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CITY CODE; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Florida State Legislature revised and amended State Statute Chapter 205 regarding business licensing and taxes, effective January 1, 2007; and

WHEREAS, the title of Chapter 205 changed from Local Occupational License Taxes to Local Business Tax Act; and

WHEREAS, the City Commission desires the city code of ordinances be in compliance with state statutes; and

WHEREAS, the City Commission desires to restate and reorganize all rules in City Code of Ordinances Chapter 9 related to Licenses, Permits and Business Regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF KEY COLONY BEACH, FLORIDA, as follows (Additions to the ordinance are underlined; deletions are ~~crossed out~~):

CHAPTER 9. ~~LICENSES~~ BUSINESS TAXES, PERMITS AND BUSINESS REGULATIONS

ARTICLE I. In General.

Section 9-1. Persons required to pay a ~~obtain~~ business tax ~~license~~.

Any person who maintains a permanent business location or branch offices within the city and who engages in or manages any business, profession or occupation within the city, and any person who transacts any business or engages in any occupation or profession in interstate commerce where such ~~license~~ tax is not prohibited by Section 8 of Article I of the United States Constitution, shall, prior to engaging in or managing said business, profession or occupation, procure from the city clerk a receipt for business tax ~~an occupational license~~.

Any person holding himself out to the public by sign, printed matter, internet website, telephone directory classified section or otherwise as being engaged in business within the City of Key Colony Beach or as offering services or property to the public for a consideration, regardless of whether such person actually transacts any business or practices a profession, shall be considered as engaging in business and shall be liable for a business tax ~~an occupational license fee~~ thereon.

Section 9-2. Duration, expiration; partial year ~~taxes~~ licenses.

~~No license shall be issued for more than~~ Business tax payment shall be for one (1) year and ~~all licenses shall expire~~ be due on September 30 of each year, except as otherwise provided by law. ~~New business licenses~~ Business tax from April 1 to the end of the fiscal year shall be at one-half the stated rate.

Section 9-3. When sold, due and payable, delinquency penalty.

~~All licenses sold by tax payments to the city clerk beginning August first of each year shall be due and payable in advance 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. Those licenses not renewed~~ taxes not paid when due and payable are delinquent and subject to a delinquency penalty of ten (10) per cent for the month of October, plus an additional five (5) per cent penalty for each subsequent month of delinquency until paid. However, the total delinquency penalty may not exceed twenty-five (25) per cent of the ~~occupational license~~ tax for the delinquent business, occupation or profession.

Any person who engages in any business, occupation, or profession covered by this chapter, who does not pay the required ~~occupational license~~ tax within one hundred fifty (150) days and the initial notice of tax due, and who does not obtain the required ~~occupational license~~ receipt is subject to code board actions, 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 two hundred fifty dollars (\$250.00).

Section 9-4. Doing business without a license.

Any person who engages in or manages any business, occupation or profession without first paying the tax ~~obtaining a local occupational license~~, if required, is subject to a penalty of twenty-five (25) per cent of the ~~license~~ tax due, in addition to any other penalty provided by section 1-9 and section 9-3.

Section 9-5. Application, compliance with state and county requirements required.

Before the city shall be required to issue a tax receipt ~~license for engaging in or carrying on any of the businesses, professions, or occupations specified and set forth herein~~, it shall be the duty of the applicant to file an application with the city. Such application shall be in the form required by the city. ~~Before issuance or renewal of said license, a~~ Applicant must furnish evidence satisfactory to the city clerk that the applicant has complied with all city, state and county requirements concerning the occupation for which the ~~license is sought~~ tax is paid and that any unpaid fees and fines for violations have been paid.

Section 9-6. Violations.

Violations of the provisions of this chapter shall be punishable by a fine of up to five hundred dollars (\$500) per day, and may result in a suspension or revocation of a business tax receipt ~~license~~. Alleged violations shall be referred to the code enforcement board.

Section 9-7. Inspection required before issuance.

The building official shall conduct an inspection of the premises where any business is to be conducted whenever an application is submitted in order to insure that the premises are in compliance with all applicable codes. The city may charge an administrative fee for the inspection referenced above; the amount of which shall be set by resolution of the city commission. No license tax receipt will be issued until the business entity is in compliance with all city codes.

Section 9-8. License Receipt issued on payment of tax; appeals.

The city clerk shall determine that all application requirements have been met, and upon payment of the tax, issue the license receipt. Appeals from decisions of the city clerk shall be made to the city commission.

Section 9-9. License Tax transfer.

(a) All business licenses taxes may be transferred to a new owner when there is a bona fide sale of the business upon payment of a current administrative fee and a transfer fee of three dollars (\$3.00) and presentation of the original license tax receipt and evidence of the sale.

(b) Upon written request and presentation of the original license tax receipt and compliance with all requirements for the new location including all applicable inspections and fees, any license business taxes may be transferred from one (1) location in the city upon payment of a transfer fee of three dollars (\$3.00).

Section 9-10. Exemptions.

Exemptions from ~~occupational license~~ business taxes shall be as provided by general law.

Section 9-11. Schedule of license taxes.**SCHEDULE OF BUSINESS TAXES FOR OCCUPATIONAL LICENSES**

TABLE INSET:

\$25.00 Accountants, auditors, CPA services, tax consultants

25.00 Attorneys

25.00 Banking services

25.00 Bait stores

25.00 Beauty shops

25.00 Boat launching ramp

25.00 Bottled gas sales outlet

25.00 Charter boats and party boats

25.00 Clairvoyant

25.00 Clothing store

25.00 Club, private

25.00 Convenience retail stores

25.00 Deli

25.00 Gasoline/diesel automotive filling stations

25.00 Gasoline/diesel marine filling stations

25.00 Golf shop

25.00 Home occupational license

25.00 Laundromats, commercial

25.00 Liquor store

31.50 Marina

25.00 Miscellaneous business: every business, occupation, profession or exhibition, substantial or fixed, engaged in by any person in a building or upon a vacant lot not specifically designated in this schedule as permitted by Article 3 and Article 4 Section 101-34 Land Development Regulations, shall pay a ~~license fee~~ business tax for each place or location

25.00 Real estate offices

25.00 Rental equipment (bicycles, boats, etc.)

25.00 per Rental unit including hotel, time-share, single-family, duplex, condo, and all other rental units.

10.00 per Room, motel/hotel

Restaurants and cafes:

25.00 Seating less than 51 persons

52.50 Seating more than 50 persons

Section 9-12. Home occupational ~~license~~ tax.

The orderly use of dwelling units for certain customary home occupations is authorized and shall be ~~taxed licensed~~. The performance standards for these are as provided in Key Colony Beach Land Development Code Section 101-34. Compliance may be established through affidavit or by inspection by the building official.

Section 9-13 through 9-19 Reserved.

ARTICLE II. Residential rentals.

Section 9-20. Rental property owner tax ~~license~~ for rentals other than vacation rentals.

Every person who owns a rental unit utilized for residential living purposes in the city must ~~license register~~ each unit. The term rental unit shall include multifamily dwelling units such as apartments, hotels, and motels, duplexes, and single-family houses when rented. In order to apply for a local ~~occupational license~~ business tax receipt and registration to rent real property within the city, the following requirements must be met.

All rental property owners shall file a completed rental information form with the city clerk and make application, following which an inspection of the premises shall be made by the building official in order to insure that the premises are in compliance with all applicable codes.

Permitted occupancy shall be two (2) persons for each bedroom, plus two (2) per living room, provided that occupancy shall not exceed one (1) person per 200 square feet of interior area. The maximum occupancy of any rental unit shall be ten (10) persons.

Section 9-21. Definitions.

The words and phrases used in this ordinance shall have the meanings defined below:

Local Contact Person means a person having a certificate of qualification from the City of Key Colony Beach and who resides within ten (10) miles of the City of Key Colony Beach who is designated by a vacation rental property Owner as available to handle problems, complaints or other issues involving a vacation rental property

Occupant means any lessee, tenant or other person who, for consideration, occupies a residential dwelling unit.

Owner means the Owner of any residential dwelling unit as reflected by the public records of Monroe County, Florida and tax rolls as maintained by the Monroe County Tax Assessor, and the ownership records kept by the City of Key Colony Beach.

Property Manager means an Owner or any person or entity other than an Owner who has a certificate of qualification from the City of Key Colony Beach and who is responsible for the leasing or day-to-day maintenance and operation of a residential dwelling unit for rental use.

Vacation Rental Unit is a single family or multi-family residential dwelling unit operating as a rental where the premises are rented for a duration of under one hundred eighty-one (181) days.

Section 9-22. Vacation rental ~~license~~ regulations.

Every Owner operating a vacation rental within the City must register the property and pay the business tax ~~obtain an Occupational License~~ according to the requirements as outlined in Chapter 9, ~~Licenses~~, of the City Code of Ordinances.

Application. The application for vacation rental ~~license~~ registration shall be in the form required by the City and shall include at a minimum:

(a) An acknowledgment that the Property Owner has received the City's vacation rental use regulations.

1. Copies of necessary County ~~occupational license~~ business tax payment.
2. A copy of any necessary State licenses.
3. The appropriate application fee, as may be established by separate Resolution.
4. The name, address and telephone number of the Owner and the Property Manager. A designated Local Contact Person shall be included on each application. This contact person shall be available 24 hours a day, 7 days a week. In the event of temporary unavailability of the Local Contact Person, a substitute shall be designated by the Local Contact Person. The Owner or Property Manager may serve as the Local Contact Person, if the requirements are met.
5. A City inspection report prepared by the City Building Official or his/her designee. The inspection fee shall be set by resolution.

(b) Name. Each vacation rental unit requires a separate ~~occupational license~~ registration and business tax payment in the name of the Owner.

(c) Term of license. Each vacation rental ~~license~~ tax payment shall have a term of one year, and must be renewed by the Owner or Property Manager or the Owner's authorized agent prior to expiration in order to avoid interruption of permitted vacation rental activity. After expiration of a ~~license~~ tax payment and registration, no rental activity may occur.

(d) Transfer of license tax payment. Vacation rental ~~licenses~~ taxes paid may be transferred from one Owner to another, but not from one vacation rental unit to another. In the event ownership of a permitted unit is changed, the new Owner or Owner's authorized agent shall apply for a transfer and pay the City a ~~license~~ transfer fee. In the event that a Local Contact Person or Property Manager is permanently replaced during a ~~license~~ tax period, the City shall be immediately notified and the transfer fee shall be paid, if applicable.

Section 9-23. City Certification of Property Managers and Local Contact Persons.

Any Property Manager, Owner managing his or her own property, or Local Contact Person must successfully take the Key Colony Beach training session and receive a Certificate of Completion issued by the City after satisfactorily completing the session. Certification renewal will be required every two (2) years upon completion of course work.

Section 9-24. Length of Rental Tenancies.

No rental contract or use shall be for less than seven (7) days in Zoning Districts R-1 and R-2.

Section 9-25. Occupancy.

Permitted occupancy shall be two (2) persons for each bedroom, plus two (2) per living room, provided that occupancy shall not exceed one (1) person per 200 square feet of interior area. The maximum occupancy of any vacation rental unit shall be ten (10) persons. For vacation rental units in Zoning Districts R-H and R-3, the National Fire Protection Life Safety Code 101 occupancy regulations will be followed.

Section 9-26. Miscellaneous Requirements.

(a) Each vacation rental unit shall be equipped with at least two (2) trash containers. Schedules of garbage pickup and recycling pickup shall be posted in the rental property.

(b) Prior to occupancy of a vacation rental unit, the occupants of each unit shall be provided with a written copy of the Key Colony Beach Vacation Rental Ordinance and a written rental agreement specifying the names of all of the tenants and the tag numbers of the tenant's vehicles.

(c) A copy of this ordinance shall be readily available in each vacation rental unit in no less than 12 point type.

(d) A copy of the rental agreement must be maintained by the occupants on the property at all times and made available for review at the request of the municipal police officer or code enforcement officer.

Section 9-27. Mandatory Evacuation.

All vacation rental units shall be evacuated upon posting of a non-resident evacuation order issued for Key Colony Beach.

Section 9-28. Violations.

(a) Violations of the provisions of this ordinance shall be punishable by a fine of up to five hundred dollars (\$500.00) per day, and may result in a suspension or revocation of a vacation rental license.

(b) A rental ~~license~~ registration shall be automatically suspended for non-payment of a fine after due. Upon payment of the fine, the ~~license~~ registration shall be reinstated.

(c) A certificate of qualification of a Property Manager or Local Contact Person may be suspended or revoked upon violation of this ordinance by the actions of the Property Manager or Local Contact Person.

Section 9-29 through 9-39 Reserved.

ARTICLE III. Miscellaneous Business Regulations.**Section 9-40. Peddlers.**

All peddlers operating within the city shall register with the city clerk during normal business hours. Said registration shall take place before any commercial activity shall be permitted in the city. The word peddler shall include the terms canvasser, solicitor, transient or itinerant merchant or vendor.

Section. 9-41. Levy of excise tax on property insurers.

There is hereby assessed, imposed and levied on every insurance company, corporation or other insurer now engaging in or carrying on, or which shall hereafter engage in or carry on the business of insuring with respect to property insurance, as shown by the records of the Department of Insurance, an excise or license tax in addition to any license tax or excise now levied by the City of Key Colony Beach, which said tax shall be in the amount of 1.85% of the gross amount of receipts of premiums from policy holders on all premiums collected on property insurance policies, covering property within the corporate limits of the City.

That the license or excise tax herein levied shall be due and payable annually on the first day of July of each year hereafter.

Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Inclusion in the Code. It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Key Colony Beach; that the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intentions; and that the word "Ordinance" may be changed to "Section" or other appropriate word.

Effective Date. This Ordinance shall be effective immediately after final passage as provided by law.

Clyde Burnett, Mayor

Attest: Vickie L. Bollinger, City Clerk

Approved as to form and legal sufficiency:

Thomas D. Wright, City Attorney

April 26, 2007 First Reading
April 28, 2007 Date of Notice, Florida Keys Keynoter
May 10, 2007 Second Reading