

**PUBLIC HEARING NOTICE
CITY OF RIVIERA BEACH, FLORIDA**

The City Council of the City of Riviera Beach, Palm Beach County, Florida will conduct a Public Hearing on Wednesday, March 3, 2010 at 6:30 PM in the Council Chambers at the Municipal Complex, 600 W. Blue Heron Blvd., Riviera Beach, Florida, to consider enactment of the below proposed Ordinance. Interested persons may appear and be heard with respect to the proposed Ordinance; and it may be examined in its entirety in the Office of the City Clerk between the hours of 8:30 AM and 5:00 PM, except holidays.

ORDINANCE NO. 3078

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 10 OF THE CITY'S CODE OF ORDINANCES ENTITLED, "LICENSES AND BUSINESS REGULATIONS", BY CREATING A NEW ARTICLE VII ENTITLED, "CERTIFICATE OF USE"; PROVIDING FOR SEVERABILITY, CONFLICTS, AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

PLEASE BE ADVISED, persons who wish to appeal any decision made by the City Council with respect to any matter considered at this hearing will need a record of the proceedings, and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Said person shall have the responsibility at own expense.

In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodations to participate in the proceedings should contact the Legislative Office at 561-845-4095 no later than 96 hours prior to the proceedings. If hearing impaired, telephone the Florida Relay Services 1-800-955-8771 (TDD) or 1-800-955-8770 (Voice) for assistance.

Carrie E. Ward, Master Municipal Clerk
City Clerk

Publish: March 28, 2010
Palm Beach Post
RBTv 18

Item No. 10

ORDINANCE NO. 3078

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 10 OF THE CITY'S CODE OF ORDINANCES ENTITLED "LICENSES AND BUSINESS REGULATIONS," BY CREATING A NEW ARTICLE VII, ENTITLED "CERTIFICATE OF USE"; PROVIDING FOR SEVERABILITY, CONFLICTS, AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Riviera Beach, Florida, recognizes the need for a certificate of use ordinance to make it unlawful for any person, either directly or indirectly, to conduct any business in the City of Riviera Beach without first making application for and obtaining a "Certificate of Use" and renewing same on an annual basis; and

WHEREAS, the Certificate of Use will supplement the Business tax receipt license and provide an additional layer of regulation and accountability; and

WHEREAS, the City Council believes that this addition to the Code of Ordinances will be in the best interests of the health, safety and welfare of the citizens of the City of Riviera Beach.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. That Chapter 10 entitled "Licenses and Business Regulations" of the City of Riviera Beach Code of Ordinances is hereby amended by creating Article VII, entitled "Certificate of Use" as follows:

CERTIFICATE OF USE

(1) Purpose.

The Certificate of Use assures that the particular business is allowed in the zoning district where it is located. It also verifies that the structure was built for the proposed type of business.

(2) Definitions.

When used in this article, the following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) *Certificate of use* means the method by which the city grants approval for a business to exist at a given location.

- (b) *Owner/applicant* means the owner and/or operator of a business who applies for a certificate of use for premises within the city, pursuant to the terms, provisions and conditions of this article.
- (c) *Person* means, but is not limited to, an individual, firm, association, joint venture, partnership, estate, trust, business, syndicate, fiduciary, corporation, and any other business entity.
- (d) *Premises* means all lands, structures, places, and also the equipment and appurtenances connected, or used therewith, and also any personal property which is either affixed to, or otherwise used in connection with, any such business conducted on such premises.
- (e) *Special magistrate* means a special master or special magistrate who is appointed by the City pursuant to Section 162.03(2), Florida Statutes, or otherwise, who has the authority to hold hearings and assess fines against violators of the municipal codes and ordinances.

(3) Certificate of use required.

- (a) *Certificate of use required.* It shall be unlawful for any person, either directly or indirectly, to conduct any business, including home occupations, in the City of Riviera Beach, without first making application for and obtaining a certificate of use and renewing same on an annual basis. In conjunction with the certificate of use application and any renewal thereof, rental property owners shall make and file with the city an affidavit, duly authenticated, setting forth the total number of occupants that will be permitted to reside on site and in each separate rental unit.
- (b) *Existing businesses; effective date.* As of the effective date of the ordinance from which this article is derived, all existing businesses, including home occupations, holding a valid business tax receipt shall be considered to have an active certificate of use and shall not be subject to an initial fee. However, all existing business locations requiring a certificate of use as of the effective date of the ordinance shall make an application within the first six months after the date of adoption of this article and shall be subject to the annual renewal fee, commencing on October 1, 2010. Said applications shall be processed by city staff and shall be available in the city's Finance/Utility billing department. All businesses shall renew the certificate of use on an annual basis when their business tax receipt is renewed or prior to October 1 of each year. Nothing contained in this article shall prohibit the revocation of a certificate of use for existing businesses which fail to make application within the six (6)

months time period as required hereinabove or which otherwise fail to comply with this article.

- (c) *Fees.* In order to obtain a certificate of use, an initial fee shall be paid for the purpose of defraying the costs of all new business inspections and processing of the required documents; except for valid businesses existing as of the date of the adoption of this article. An annual renewal fee shall be paid to defray the administrative costs associated with the annual renewal of the certificate of use. The initial fee and the renewal fee shall be set by a resolution of the City of Riviera Beach City Council and added to the city's regular schedule of fees and charges.

(4) Administration

The provisions of this article shall be administered by the Community Development Department and enforced by Code Enforcement. Community Development shall:

- (a) Promulgate and enforce all reasonable rules and regulations necessary to the operation and enforcement of this article.
- (b) Prepare all forms, certificates and decals and prescribe the information to be given therein.
- (c) Require applicants to submit a completed and signed application with all affidavits and oaths necessary for the administration of this article. Each application will be submitted with payment of a nonrefundable application fee.
- (d) Investigate and determine the eligibility of any applicant for a certificate of use, as prescribed by this article or other governing laws and ordinances. Obtain endorsements, when necessary, of other agencies which may have a regulatory interest in a particular business tax receipt.
- (e) Notify any application of the acceptance or rejection of their application in writing, with reasons for the denial of the certificate of use.

(5) Denial of a certificate of use by the city; suspension or revocation of certificate of use or imposition of additional conditions of approval by the special magistrate.

- (a) *Specific violations which may result in the denial of certificate of use by the city; or the suspension or revocation by the special magistrate; or by the imposition of additional conditions by the special magistrate. A certificate of use may be denied by the city*

upon application; or denied, suspended, revoked or conditioned by the special magistrate as provided herein pursuant to section 2-334 when it is determined that:

- (1) An owner/applicant has misrepresented or failed to disclose material facts or information which is required to be included in the certificate of use application or any other application required by the city, the county or the state;
- (2) An owner/applicant, as part of the business activity, has violated the city's code which regulates the use and/or operation of the premises and/or one of the following determinations is made: such conduct has become a public nuisance as set forth in the city's code or state statute; such activity violates the city's regulations as set forth in chapter 3, alcoholic beverages; such activity is manifestly injurious to the public morals; or the owner/applicant is operating the business in such a manner as to injure the health, safety, or welfare or to disturb the quiet enjoyment of the citizens in the nearby vicinity;
- (3) The issuance of the certificate of use was contingent upon the owner/applicant's compliance with specific provisions of the city's, the county's or the state's laws and the owner/applicant has not satisfied or has violated such conditions, to include but not limited to, specific conditions of approval imposed upon the owner/applicant by development orders issued by the city;
- (4) An owner/applicant has violated any provision of this article and has failed or refused to cease or correct the violation at the premises after having been notified to do so by the city or by an order of the special magistrate;
- (5) The premises have been condemned by the local health authority or by the city's building official for failure to meet state and local standards;
- (6) An owner/applicant is conducting a business from a premise but does not possess a valid and current business tax receipt as required by state and local law;
- (7) The premises are being operated as a group home without proper licensure by all state and local licensing agencies and/or in violation of the city's zoning ordinances; or

(8) The premises are being operated in violation of the city's minimum housing regulations.

(b) *Enforcement procedures.* Upon determination by the city that an owner/applicant is in violation of the provisions of this article, the city shall notify, in writing, the owner/applicant of the premises of the nature of the violation and provide notice of a hearing before the special magistrate pursuant to section 2-335, enforcement procedures. The conduct for such hearing shall be in conformance with section 2-336, conduct of hearing. The special magistrate's findings and order shall constitute the final administrative action of the city for purposes of judicial review under state law.

(1) *Issuance or denial by the city.* The city must either issue or deny issuance of a certificate of use within forty (40) days after application is made for such certificate or for the renewal of the current certificate. An owner/applicant may also request a hearing as set forth herein before the special magistrate regarding the denial of the issuance of a certificate of use for that business by the city. The request for hearing must be in writing and filed with the city within ten (10) days of the receipt of the written decision by the city.

(2) *Review; closures; liens.* If the owner/operator fails to seek timely appellate review of an order of the special magistrate and fails to comply timely with such order, the city may pursue enforcement procedures including the closure of all or a portion of such business. Business closings pursuant to orders of the special magistrate shall be enforced by the city's police department and the costs of such enforcement shall be placed as a lien against the owner/applicant's real and personal property by recording an order assessing such costs in the public records of Palm Beach County. No fees shall be refunded if a certificate of use is suspended or revoked or if a business is closed pursuant to this subsection.

(3) *Orders; relevant factors.* The special magistrate shall fashion an order when enforcing this article which is narrowly tailored to abate the objectionable conduct without necessarily infringing upon the conduct of the lawful enterprise, whenever possible.

SECTION 2. All sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

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SECTION 3. If any word, phrase, clause, subsection, or sections of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

SECTION 4. Specific authority is hereby granted to codify this ordinance.

SECTION 5. This ordinance shall be in full force and effect immediately upon its final passage and adoption.

PASSED AND APPROVED on the first reading this _____ day of _____, 2010.

PASSED AND ADOPTED on second and final reading this _____ day of _____, 2010.

[SIGNATURES ON FOLLOWING PAGE]

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APPROVED:

THOMAS A. MASTERS, MAYOR

DAWN S. PARDO
CHAIRPERSON

(MUNICIPAL SEAL)

ATTEST:

JUDY L. DAVIS
CHAIR PRO TEM

CARRIE E. WARD,
MASTER MUNICIPAL CLERK
CITY CLERK

BILLIE E. BROOKS
COUNCILPERSON

TONYA DAVIS JOHNSON
COUNCILPERSON

SHELBY L. LOWE
COUNCILPERSON

ORDINANCE NO. _____
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1ST READING

MOTIONED BY: _____

SECONDED BY: _____

D. PARDO _____

J. DAVIS _____

B. BROOKS _____

T. JOHNSON _____

S. LOWE _____

2ND & FINAL READING

MOTIONED BY: _____

SECONDED BY: _____

D. PARDO _____

J. DAVIS _____

B. BROOKS _____

T. JOHNSON _____

S. LOWE _____

REVIEWED AS TO LEGAL SUFFICIENCY


PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 2/23/14