



CITY OF  
**BIG BEAR LAKE** *California*

ORDINANCE NO. 2021-497

**ORDINANCE AMENDING TITLE 1, CHAPTER 1.17 –  
ADMINISTRATIVE CITATIONS AND HEARINGS, TITLE 3,  
CHAPTER 3.20 – TRANSIENT OCCUPANCY TAX, AND TITLE 5,  
CHAPTER 5.02 – BUSINESS LICENSES - TO PROVIDE  
ADDITIONAL CLARIFICATION AND ENSURE CONSISTENCY  
WITH THE NEW VACATION RENTAL ORDINANCE**

**WHEREAS**, the City of Big Bear Lake (“City”) is a municipal corporation and Charter City, duly organized under the constitution and laws of the State of California; and

**WHEREAS**, the City adopted Ordinance No. 2021-495 relating to vacation rentals; and

**WHEREAS**, the City seeks to remove conflicts and inconsistencies from the Municipal Code created by the adoption of Ordinance No. 2021-495; and

**WHEREAS**, the City wants to provide additional amendments to clarify language and account for current business practices and technology; and

**WHEREAS**, the Municipal Code amendments are a ministerial act and not considered a project as defined by the California Environmental Quality Act (CEQA); and

**WHEREAS**, all legal prerequisites to the adoption of this ordinance have occurred.

**NOW, THEREFORE**, the City Council does ordain as follows:

**Section 1.** The recitals above are each incorporated by reference and adopted as findings by the City Council.

**Section 2.** The City Council hereby finds that, based on the public testimony and substantial evidence in the record, under Public Resources Code section 21065, adoption of this ordinance is not a project subject to the California Environmental Quality Act (CEQA), and, alternatively, the adoption of the ordinance is exempt from CEQA under CEQA Guidelines section 15061(b)(3), the “common sense” rule that states that CEQA applies only to projects that have the potential for causing a significant effect on the environment. This Municipal Code Amendment does not have potential to cause a significant effect on the environment.

**Section 3.** The Municipal Code amendment is consistent with all other related provisions thereof because the amendment does not conflict with other standards and provisions of the Municipal Code and removes conflicting requirements, clarifies language, and reflect current and best business practices.

**Section 4.** Based on the findings and conclusions set forth in Sections 1, 2 and 3, above, the City Council hereby adopts the amendments identified in Attachments A, B, C to this ordinance, which are attached hereto and incorporated herein by reference.

**Section 5.** Certification and Publication. The City Clerk shall certify the passage of this Ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days following the passage of this Ordinance, the Ordinance, or a summary thereof, along with the names of the City Council members voting for and against the Ordinance, shall be published in three places in the City in lieu of publication unless publication is requested by the City Council or otherwise required by law.

**Section 6.** If any section, sentence, clause or phrase of this ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The City Council hereby declares that they would have adopted this ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

PASSED, APPROVED AND ADOPTED THIS 4<sup>th</sup> day of October, 2021.

  
\_\_\_\_\_  
Rick Herrick, Mayor

ATTEST:

  
\_\_\_\_\_  
Erica Stephenson, City Clerk



EXHIBIT A

Chapter 1.17 - ADMINISTRATIVE CITATIONS AND HEARINGS

**Sections:**

1.17.010 - Legislative findings and purpose.

The city council hereby finds that the city needs another mechanism in addition to the traditional civil, criminal or administrative abatement actions to effect compliance with this Code. The city council further finds that an appropriate additional mechanism to affect such compliance is an administrative citation program authorized by Government Code Section 53069.4. The procedures established in this Chapter shall be in addition to criminal, civil or administrative abatement or any other legal remedy permitted by law. Use of this chapter shall be at the discretion of the city.

(Ord. No. 2009-395, § 1, 10-12-2009)

1.17.020 - Definitions.

"Administrative citation" shall mean the written notice provided to a responsible party to inform that party of a violation of this Code.

"Administrative fine" shall mean a monetary penalty imposed by a compliance officer pursuant to this chapter for violation of the Code.

"Big Bear Lake Municipal Code" and "Code" shall mean any ordinance adopted by the city regardless of whether it has been codified.

"City manager" shall mean the city manager of the City of Big Bear Lake, or his or her designee.

"Compliance officer" shall mean any officer or employee with the authority to enforce the Code.

"Hearing officer" shall mean the city manager or the person or entity designated by the city manager pursuant to this chapter to determine the validity of a Code violation.

"Non-emergency health or safety violation" shall mean a violation of any Code provision pertaining to building, plumbing, electrical or other similar structural or zoning issues, when such violation is deemed by the compliance officer to not create an immediate danger to health or safety.

"Responsible party" shall mean:

- (i) Any individual or legal entity who is the owner, tenant, co-tenant, lessee, sub-lessee, occupant or other person with any right to possession of the real property, owner or authorized agent of any business, company, or entity, or the parent or the legal guardian of any person under the age of 18 years, who causes, permits or maintains a Code violation; or
- (ii) Any individual, legal entity or the parent or the legal guardian of any person under the age of 18 years, who causes, permits or maintains a Code violation.

(Ord. No. 2009-395, § 1, 10-12-2009)

1.17.030 - Authority.

- A. A compliance officer may issue an administrative citation to any responsible party for a violation of the Code.
- B. Each and every day, or portion thereof, that a violation of the Code exists constitutes a separate and distinct offense.
- C. Any responsible party issued an administrative citation shall be responsible for payment of the administrative fine imposed, the amount of which shall be set forth below. The city council may amend the amount of fines from time to time by a separate resolution.
- D. When an administrative fine is imposed, it shall be imposed in the following amounts:

1. Infractions. For the violation of the Code specified by the Code as an infraction, the amount of the administrative fine shall be the amounts set forth in Government Code Section 36900 as follows: (a) a fine not exceeding \$100.00 for a first violation; (b) a fine not exceeding \$200.00 for a second violation of the same Code provision within one year; (c) a fine not exceeding \$500.00 for each additional violation of the same Code provision within one year. Notwithstanding the foregoing sentence, the administrative fine for a violation of a building and safety Code provision that is specified by the Code as an infraction shall be as follows: (a) a fine not exceeding \$100.00 for a first violation; (b) a fine not exceeding \$500.00 for a second violation of the same Code provision within one year; (c) a fine not exceeding \$1,000.00 for each additional violation of the same Code provision within one year of the first violation.
2. Misdemeanors. For the violation of the Code specified by the Code to be punishable as a misdemeanor or for which no fine is specifically provided, the amount of the administrative fine shall be \$1,000.00.
3. Vacation rentals. Violations relating to vacation rentals are subject to the fines and penalties set forth in Chapter 4.01

(Ord. No. 2009-395, § 1, 10-12-2009)

1.17.040 - Service procedures.

A compliance officer may issue an administrative citation on a form approved by the city manager to the responsible party for a Code violation in any the following manner:

- A. Personal Service.
  1. The compliance officer shall first attempt to locate and personally serve the responsible party and, if possible, obtain the signature of the responsible party on the administrative citation.
  2. If the responsible party refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the administrative citation or of subsequent proceedings.
- B. Service by Mail.
  1. Service by mail shall be made by sending the administrative citation to the responsible party's address as shown on public records or as known to the city. The administrative citation shall be sent by certified mail and by first class U.S. mail. Service by mail under this subsection shall be deemed complete on the third day following its deposit into the U.S. postal service as first class mail (postage prepaid) or the date on which the certified return receipt is signed for as delivered, whichever date is earlier.
- C. Service by Posting.
  1. Service by posting shall be made by placing the administrative citation in a conspicuous location on the subject property or on any real property in which the city has knowledge that the responsible party has a legal or equitable interest.
- D. Service by Electronic Mail.
  1. Service relating to violations concerning vacation rentals and the provisions of Chapter 4.01 may be delivered by electronic mail to the email address provided by the responsible party during the licensing process.
  2. Service relating to other chapters may be delivered by electronic mail to the email address provided by the responsible party on city applications and forms used during the permitting or licensing process.

(Ord. No. 2009-395, § 1, 10-12-2009)

1.17.050 - Contents of notice.

Each administrative citation shall contain the following information:

- A. Date, approximate time and address or definite description of the location where the violation(s) of the Code was observed or occurred;
- B. The Code provision(s), section(s) or condition(s) violated and a brief description of the violation(s);
- C. A description of the action required to correct the violation(s);
- D. For non-emergency health and safety violations, an order to the responsible party to correct the violation(s) by a correction date and an explanation of the consequences of failure to correct the violation(s);
- E. The amount of the administrative fine imposed for the violation(s);
- F. An explanation of how the administrative fine shall be paid, the deadline by which it shall be paid, and the place to which the fine shall be paid;
- G. An order prohibiting the continuation or repeated occurrence of the Code violation(s) described in the administrative citation;
- H. Identification of rights of appeal, including the time within which the administrative citation may be contested and the place to obtain a notice of appeal and request for hearing form to contest the administrative citation; and
- I. The name and signature of the compliance officer and, if possible, the signature of the responsible party.

(Ord. No. 2009-395, § 1, 10-12-2009)

1.17.060 - Satisfaction of administrative citation.

- A. Non-emergency health and safety violations. When a compliance officer finds that a non-emergency health and safety violation has occurred, the compliance officer shall have the authority to issue an administrative citation that provides for a reasonable period of time, not to exceed 30 calendar days, to correct or otherwise remedy the non-emergency health and safety violation prior to the imposition of an administrative fine. The responsible party may request an extension of the correction period, provided that a written request is filed with the city manager before the correction period ends. The city manager may, in his or her discretion, grant a reasonable extension of the period of time to correct the violation if the responsible party has supplied substantial evidence showing that the correction cannot reasonably be made within the correction period. The decision to grant or deny an extension shall be in writing by the city manager and shall be final. If the responsible party provides proof to the compliance officer, or his/her designee, that the violation has been corrected within the period of time provided for correction, no administrative fines shall be assessed and the administrative citation shall be canceled. If the non-emergency health and safety violation has not been corrected or otherwise remedied within the correction period, the compliance officer shall have the authority to issue a second administrative citation notifying the responsible party of the violation and impose an administrative fine.
- B. Upon receipt of an administrative citation, the responsible party shall do all of the following:
  1. Correct the violation(s) within a reasonable period of time or, if possible, within any provided correction period; and

2. Pay any administrative fine(s) to the city within 30 calendar days from the correction date on the administrative citation. All administrative fines assessed shall be payable to the City of Big Bear Lake. Payment of an administrative fine shall not excuse or discharge the failure to correct the violation(s) nor shall it bar further enforcement action by the city.
- C. If the responsible party fails to correct all of the violation(s) set forth in the administrative citation, subsequent administrative citations may be issued for the continued violation(s). The amount of the fine for failure to correct the violation shall increase at the rate specified in section 1.17.030 or as specified by a separate resolution of the city council.

(Ord. No. 2009-395, § 1, 10-12-2009)

1.17.070 - Appeal of administrative citation.

- A. Any person or party in receipt of an administrative citation may contest that there was a violation of the Code or that he or she is the responsible party by completing a notice of appeal and request for hearing form and filing it with the city clerk within 30 calendar days following the date of service of the administrative citation, together with an advance deposit of twenty-five percent of the total amount of any administrative fine imposed, or the timely filing of a request for an advance deposit hardship waiver form pursuant to section 1.17.080. Any administrative fine that has been deposited shall be refunded if it is determined, after a hearing, that the person charged in the administrative citation was not responsible for the violation(s) or that there was no violation(s) as charged.
- B. In addition to the requirements listed in subsection 1.17.070 A., any appeal of the administrative citation shall include a detailed written explanation as to the grounds for the appeal. Appeals shall be limited to only these written grounds.
- C. Failure to timely and properly file an appeal from an administrative citation shall constitute a waiver of all rights to an administrative appeal hearing.
- D. Appeals of administrative citations shall be conducted pursuant to section 1.17.090.

(Ord. No. 2009-395, § 1, 10-12-2009)

1.17.080 - Advance deposit of hardship waiver.

- A. Any party that intends to request a hearing to contest an administrative citation and that is financially unable to make the advance deposit of the fine may file a request for an advance deposit hardship waiver form.
- B. The request shall be filed with the city within 15 days following the date of the issuance of the administrative citation.
- C. Upon the city's receipt of the request, the requirement of depositing the full amount of the administrative fine as described in subsection 1.17.070 A. shall be stayed unless or until the city manager makes a determination not to issue the advance deposit hardship waiver.
- D. The city may waive the requirement for advance deposit only if the cited party submits to the city a declaration under penalty of perjury supported by evidence that shows to the city's reasonable satisfaction that such party is financially unable to deposit the total amount of the administrative fine in advance of the hearing.
- E. If the city determines not to issue an advance deposit hardship waiver, the cited party shall remit the deposit to the city within five days of the date of that decision or 15 days from the date of service of the administrative citation, whichever is later.

- F. The city's decision to grant or deny the request shall be final and in writing with stated reasons for the grant or denial. The city shall cause the decision to be served on the cited party.

(Ord. No. 2009-395, § 1, 10-12-2009)

1.17.090 - Hearing procedure; fees.

- A. A request for a hearing shall be deemed filed upon the city's receipt of payment of any hearing fee, which may be established by city council resolution, and the notice of appeal and request for hearing form. Any hearing fee shall not exceed the reasonable cost to the city for conducting the hearing.
- B. The hearing shall be set for a date not less than 15 and not more than 60 calendar days following the date the hearing request is filed. The party requesting the hearing shall be notified of the time and place set for the hearing at least 15 calendar days prior to the date of the hearing.
- C. The hearing shall be before a hearing officer, who shall only consider evidence relevant to the hearing matter and grounds specified in the appeal.
- D. The party requesting the hearing shall be given a reasonable opportunity to testify and present witnesses and evidence concerning the hearing matter. Rebuttal shall also be permitted.
- E. Failure to appear at the hearing shall constitute a forfeiture of any administrative fine and a failure to exhaust administrative remedies.
- F. Any documents submitted by the city shall constitute prima facie evidence of the respective facts contained in those documents.
- G. If the city submits an additional written report concerning the hearing matter to the Hearing Officer for consideration at the hearing, then a copy of the report shall also be served on the party requesting the hearing in accordance with section 1.17.040 at least five days prior to the date of the hearing.
- H. At least ten days prior to the date of the hearing, the party requesting the hearing shall be provided with copies of the citations, reports and other documents submitted or relied upon by the city. No other discovery shall be permitted. Formal rules of evidence shall not apply.
- I. The hearing officer may continue the hearing and request additional information from the city or the party requesting the hearing prior to issuing a decision.
- J. After considering all of the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision within ten days following the date of the hearing and shall list in the decision the reasons for that decision. The decision of the hearing officer shall be the final administrative decision of the city.
- K. Service of such decision shall be made by U.S. first class mail, addressed to the party that requested the hearing at the address provided by that party on the notice of appeal and request for hearing form.
- L. The hearing officer shall not be required to provide transcriptions of hearings, but shall make available tapes of hearings for a fee that does not exceed the reasonable cost of providing such tapes. Such fee shall be established by the city council by a resolution.

(Ord. No. 2009-395, § 1, 10-12-2009)

1.17.100 - Hearing officer's decision.

- A. If the hearing officer determines that the administrative citation should be upheld, and no timely appeal therefrom is taken, then the city shall retain the administrative fine amount on deposit with the city.

- B. If the hearing officer determines that the administrative citation should be upheld, no timely appeal therefrom has been taken, and the administrative fine has not been deposited pursuant to an advance deposit hardship waiver, the hearing officer shall set an administrative fine payment schedule.
- C. If the hearing officer determines that the administrative citation should be canceled and the administrative fine has been deposited with the city, then the city shall refund the entire amount within seven business days following the date of the decision.
- D. An appeal from the hearing officer's decision to superior court shall be made pursuant to Government Code Section 53069.4(b).

(Ord. No. 2009-395, § 1, 10-12-2009)

1.17.110 - Failure to pay administrative fines.

- A. Administrative fines shall be a debt to the city and subject to all remedies for debt collection permitted by law. The failure of any party to pay administrative fines within the time specified on the administrative citation may result in the matter being referred to the city attorney to file a case in court. Alternatively, the city may pursue any other legal remedy to collect the administrative fines.
- B. Any party who fails to pay to the city any administrative fine imposed pursuant to this chapter on or before the time specified on the administrative citation shall also be assessed late payment charges in the amount of \$25.00 per citation. The city shall notify the responsible party of late payment charges pursuant to section 1.17.040. The notice shall contain a statement that administrative fines and late payment charges may be collected as a lien or special assessment against any real property owned by the responsible party in connection with the violation(s).
- C. If the responsible party has failed to pay all administrative fines within a specified period following the issuance of the third administrative citation for the same violation in connection with the same real property or has failed to pay any late payment charges, the city may collect such debts as a lien or special assessment against the subject real property. Prior to taking either action, the compliance office shall serve notice on the record property owner, as identified on the last equalized county assessment roll, of the planned lien or special assessment. Such notice shall be made pursuant to section 1.17.040 and shall specify that property subject to a special assessment may be sold after three years by the tax collector for unpaid delinquent assessments. Any party issued an administrative citation with an administrative fine, or any other party with a legal or equitable interest in the property that is the subject of the administrative fine, may contest the imposition of a lien or special assessment for such only by seeking a hearing pursuant to section 1.17.070. Failure to seek such a hearing shall constitute a waiver of that party's right to contest the imposition of a lien or special assessment.
- D. In order to pursue a lien or special assessment against real property pursuant to this chapter, the following must occur:
  - 1. Annually or more often as determined by the city council, the city council shall, by ordinance or resolution, confirm the amounts of the liens and special assessment sought to be collected from each respective property; and
  - 2. The city council's confirmation shall include the amounts of the administrative fines, any late payment charges associated therewith and any applicable interest. Upon such confirmation, the city council shall authorize the city staff to take any further steps necessary to enforce collection of the liens and special assessments, including but not limited to the following:
    - a. Requesting the county recorder to record a notice of any lien confirmed by the city council against the respective property; and

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- b. Requesting the county tax collector on behalf of the city to collect any special assessment confirmed by the city council.

(Ord. No. 2009-395, § 1, 10-12-2009)

1.17.120 - Notices.

- A. Any administrative citation and notice given under this chapter shall be served on the responsible party, or when required, to other persons or entities pursuant to subsection 1.17.110 C. and section 1.17.040.
- B. Failure to receive actual notice specified in this chapter does not affect the validity of proceedings conducted hereunder.

(Ord. No. 2009-395, § 1, 10-12-2009)

1.17.130 - Right to judicial review.

- A. Any party aggrieved by a decision of a hearing officer pursuant to this chapter may obtain review of the decision by filing a petition for review with the San Bernardino County Superior Court in accordance with the timelines and provisions as set forth in the Government Code and/or the Code of Civil Procedure, as applicable.
- B. Nothing contained in this Section shall be construed to prohibit any party from seeking prompt judicial review of a decision of a city official regarding the issuance, denial, suspension or revocation of a permit or license for an activity protected by the First Amendment of the United States Constitution as provided by Code of Civil Procedure Section 1094.8. The city shall comply with all requirements described therein for prompt judicial review.

(Ord. No. 2009-395, § 1, 10-12-2009)

1.17.140 - Contracting with the office of administrative hearings.

Pursuant to Government Code Section 27727, the city manager is authorized to enter into a contract with the office of administrative hearings of the state of for services for an administrative law judge or a hearing officer to conduct proceedings pursuant to this chapter. The duties and responsibilities of the hearing officer shall be set forth in the contract. Reimbursement to the office of administrative hearings for the services of hearing officers shall be made as provided in the contract. If no provision for reimbursement is contained in the contract, reimbursement shall be made on a pro rata basis of actual cost to the office of administrative hearings in providing the service including salaries, benefits, overhead and any travel expenses.

(Ord. No. 2009-395, § 1, 10-12-2009)

EXHIBIT B

Chapter 3.20 - TRANSIENT OCCUPANCY TAX

3.20.010 - Short title.

The short title of this chapter shall be known as the "Transient Occupancy Tax Ordinance."

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 1, 1981)

3.20.020 - Definitions.

Except where the context otherwise requires, the definitions given in this section shall govern the construction of this chapter:

- A. "Hotel" means any structure, or any portion of any structure, which is occupied, intended or designed for use or occupancy by transients, including but not limited to dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house, or portion thereof, duplex, triplex, single-family dwelling units, and vacation rentals.
- B. "Occupancy" means the use or possession, or the right to the use or possession, of any room, rooms or any portion thereof offered for rent for dwelling, lodging or sleeping purposes, regardless of the purpose for which such rooms are rented.
- C. "Operator" means the person who is proprietor of the hotel whether in the capacity of owner, lessee, sublessee, mortgage in possession, licensee or any other capacity. Where the operator performs his/her functions through a managing agent of any type or character, the managing agent shall also be deemed an operator for the purpose of this chapter, and shall have jointly and severally the same duties and liabilities as his/her principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.
- D. "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.
- E. "Rent" means the amount of the consideration charged or chargeable to the tenant for the occupancy of space, valued in money whether received in money, goods, labor or otherwise, including in full value of receipts, cash, credits, property or services of any kind or nature, without any deduction whatsoever. It is not the intent of this subsection to make the operator liable for the tax on uncollected rent. However, uncollected rent must be reported.
- F. "Tax administrator" means the city manager or his/her designated agent.
- G. "Transient" means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of twenty-eight consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient if his actual total period of occupancy does not exceed twenty-eight days.
- H. "Vacation rental" means a residential dwelling unit subject to licensing as a vacation rental pursuant to Chapter 4.01.
- I. "Lodging business" means hotel and vacation rental as defined above.
- J. "Agent" means a person designated by the operator to perform the duties required by this Chapter.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 2, 1981)

3.20.030 - Tax imposed.

For the privilege of occupancy in any hotel, each transient is subject to, and shall pay a tax on the rent charged by an operator, as follows: (a) as of January 1, 2009, a tax in the amount of seven percent;

and (b) as of January 1, 2010, a tax in the amount of eight percent. Insofar as the transient is concerned, the tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city.

(Ord. 2008-382 § 2, 2008: Ord. 94-243 § 1(part), 1994: Ord. 89-181 § 1(part), 1989: Ord. 81-30 § 3, 1981)

3.20.035 – Tourism Business Improvement District Assessment.

- A. The City Council renewed by resolution the Big Bear Lake Tourism Business Improvement District (BBLTBID) for a period of ten years effective April 1, 2021.
- B. The assessment is levied upon ski resort businesses and lodging businesses as defined by this Chapter.
- C. Payment of assessments shall be made by operators along with their tax obligations pursuant to the same provisions for tax collection contained in this Chapter.

3.20.040 - Exemptions.

- A. No tax shall be imposed upon:
  - 1. Any person as to whom, or any occupancy as to which it is beyond the power of the city to impose the tax herein provided;
  - 2. Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.
- B. No exemptions shall be granted except upon a claim therefor made at the time the rent is collected and under penalty of perjury upon a form prescribed by the tax administrator.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 4, 1981)

3.20.050 - Operator's duties.

Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of the tax and BBLTBID assessment shall be separately stated from the amount of the rent charged. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator; or that it will not be added to the rent; or that, if added, any part will be refunded, except in the manner hereinafter provided. Operators may designate and assign these obligations to an agent. Such an action does not relieve the operator of all responsibilities contained in this Chapter.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 5, 1981)

3.20.060 - Permit required—Application.

- A. Every person desiring to engage in or conduct business as operator of a hotel renting to transients within the city shall file with the tax administrator an application for a transient occupancy registration permit for each place of business. Every application for such a permit shall be made upon a form prescribed by the tax administrator and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place of business and such other information as the tax administrator may require. The application shall be signed by the owner if a natural person, by a member or partner if an association or partnership, or by an executive officer or some person specifically authorized by the corporation to sign the application in the case of a corporation. The transient occupancy registration permit must be in effect at all times while the business is in operation

and shall be at all times posted in a conspicuous place on the premises. The permit shall, among other things, state the following:

1. Name of hotel ;
  2. Name of operator;
  3. Hotel address;
  4. The date upon which the permit was issued;
  5. "This Transient Occupancy Registration Permit signifies that the person named on the face hereof has fulfilled the requirements of the Transient Occupancy Tax Chapter by registering with the Tax Administrator for the purpose of collecting from transients the Transient Occupancy Tax and remitting the tax to the Tax Administrator. This Permit does not authorize any person to conduct any lawful business in any unlawful manner, nor operate a hotel without strictly complying with all applicable laws, including but not limited to those requiring a permit or license from any board, commission, department or office of this City. This Permit does not apply in lieu of such other permits which are otherwise required."
- B. The lack of a registration permit shall not void the requirement of non-registered operators or non-licensed vacation rental operators from collecting and remitting Transient Occupancy Tax and BBLTBID assessment.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 6, 1981)

3.20.070 - Returns and remittances.

The tax imposed under Section 3.20.030 is:

- A. Due to the tax administrator at the time it is collected by the operator; and
- B. Becomes delinquent and subject to penalties if not received by the tax administrator on or before the last working day of the month following the close of each calendar month.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 7, 1981)

3.20.080 - Reporting and remitting.

Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the tax administrator, make a return to the tax administrator, on forms provided by the city, of the total rents charged and received and the amount of tax collected for transient occupancies and the average number of rental units available during the quarterly period and number of unit nights that were rented. Effective January 1, 2022, the due date shall be on or before the last day of the month following the close of each calendar month. Each such return shall contain a declaration under penalty of perjury, executed by the operator or his authorized agent, that to the best of the signatory's knowledge, the statements in the return are true, correct and complete. Amounts claimed on the return as exempt from the tax pursuant to Section 3.20.040 shall be fully itemized and explained on the return or supporting schedule. In determining the amount of taxable receipts on the tax return, rent as defined in Section 3.20.020E, may not be reduced by any business expenses, including, but not limited to, the amount of service charges deducted by credit card companies or commissions paid to travel agencies. At the time the return is filed, the tax fixed at the prevailing transient occupancy tax rate for the amount of rentals charged or chargeable, which are not exempt from tax under Section 3.20.040, and BBLTBID assessments shall be remitted to the tax administrator. The tax administrator may establish other reporting periods and may require a cash deposit or bond, or a separate trust fund bank account for any permit holder if deemed necessary in order to insure

collection of the tax, and may require further information in the return. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the city until remittance thereof is made to the tax administrator.

(Ord. 94-243 § 1(part), 1994: Ord. 89-181 § 1(part), 1989: Ord. 81-30 § 8, 1981)

3.20.090 - Cessation of business.

Each operator shall notify the tax administrator, ten days prior to the sale or cessation of business for any reason, and returns and remittances are due immediately upon the sale or cessation of business.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 9, 1981)

3.20.100 - Delinquency—Interest and penalties.

Any operator who fails to remit any tax and BBLTBID assessment to the city or any amount of tax and BBLTBID assessment required to be collected and remitted to the city, including amounts based on determination made by the tax administrator under Section 3.20.120, within the time required, shall pay a penalty of ten percent of the tax or amount of the tax and BBLTBID assessment in addition to the tax and BBLTBID assessment or amount of tax and BBLTBID assessment plus interest at the rate of one percent per month, or fraction thereof, from the date on which the tax and BBLTBID assessment or the amount of tax and BBLTBID assessment required to be collected becomes delinquent until the date of remittance or payment. Any operator who fails to pay any penalty imposed under this section within ten days after receipt of notice thereof shall pay interest thereon at the rate of one percent per month, or fraction thereof, from the date on which the penalty becomes due and payable to the city until the date of payment.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 10, 1981)

3.20.110 - Fraud—Penalty.

If the tax administrator determines that the failure to make any remittance or payment due under this chapter is due to fraud, a penalty of one hundred percent of the amount of the tax, BBLTBID assessment and penalties shall be added thereto in addition to the penalties stated in Section 3.20.100.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 11, 1981)

3.20.120 - Failure to collect and report tax—Estimation of taxes due—Notification—Hearing.

If any operator fails or refuses to collect the tax and BBLTBID assessment and to make, within the time provided in this chapter, any report and remittance of the tax and BBLTBID assessment or any portion thereof required by this chapter, the tax administrator shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of tax and BBLTBID assessment due. As soon as the tax administrator procures such facts and information as he is able to obtain upon which to base the assessment of any tax and BBLTBID assessment imposed by this chapter payable by any operator who has failed or refused to collect the same to make such report and remittance, he shall proceed to determine and assess against such operator the tax, BBLTBID assessment, interest and penalties provided for by this chapter. In case such determination is made, the tax administrator shall give a notice of the amount so assessed by serving it personally, via email with evidence of receipt, or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his last known address. Such operator may within ten days after the serving or mailing of such notice make application in writing to the tax administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, BBLTBID assessment, interest and penalties, if any, determined by the tax administrator shall become final and conclusive and immediately due and payable. If such application is made, the tax administrator shall give not less than five days'

written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in the notice why the amount specified therein should not be fixed for such tax, BBLTBID assessment, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, BBLTBID assessment, interest and penalties should not be so fixed. After such hearing the tax administrator shall determine the proper tax and BBLTBID assessment to be remitted and shall thereafter give written or electronic notice to the person in the manner prescribed herein of the determination and the amount of such tax, BBLTBID assessment, interest and penalties. The amount determined to be due shall be payable after fifteen days unless an appeal is taken as provided in Section 3.20.130.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 12, 1981)

### 3.20.130 - Appeal.

Any operator aggrieved by any decision of the tax administrator with respect to the amount of any tax, interest and penalties, if any, may appeal to the city manager by filing a notice of appeal with the city clerk within fifteen days of the serving of the assessment or determination of tax and penalties, if any, due. The city manager shall fix a time and place for hearing the appeal, and the city clerk shall give notice in writing to the operator at his last known address. The findings of the city manager shall be final and conclusive and shall be served upon the appellant in the manner prescribed above of service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 13, 1981)

### 3.20.140 - Records to be kept—Inspection—Subpoena.

It shall be the duty of every operator liable for the collection and remittance to the city of any tax and BBLTBID assessment imposed by this chapter to keep and preserve, for a period of three years, records in such form as the tax administrator may require to determine the amount of such tax. The tax administrator shall have the right to inspect such records at all reasonable times and may subpoena the records of any operator who refuses to make them available for examination.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 14, 1981)

### 3.20.150 - Refunds.

- A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously or illegally collected or received by the city under this chapter, it may be refunded as provided in subsections B and C of this section, provided a claim in writing therefore, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the tax administrator within three years of the date of payment. The claims shall be on forms furnished by the tax administrator.
- B. An operator may claim a refund for the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the tax administrator that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the person or credited to rent subsequently payable by the person to the operator.
- C. A transient may obtain a refund of taxes overpaid or paid more than once erroneously, or illegally collected or received by the city, by filing a claim in the manner provided in subsection A of this section, but only when the transient, having paid the tax to the operator, establishes to the satisfaction of the tax administrator that the transient has been unable to obtain a refund from the operator who collected the tax.

- D. No refund shall be paid under the provisions of this section unless the claimant establishes his right thereto by written records.
- E. Overpayments of taxes and assessments caused by mathematical error of the operator will be refunded only upon request of the operator and such requests must be made within 45 days of overpayment.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 15, 1981)

3.20.160 - Revocation of permit.

Whenever any operator fails to comply with any provision of this chapter relating to occupancy tax, or any rule or regulation of the tax administrator relating to occupancy tax prescribed and adopted under this chapter, the tax administrator upon hearing, after giving the operator ten days notice in writing specifying the time and place of hearing and requiring him to show cause why his permit or permits should not be revoked, may suspend or revoke any one or more of the permits. The notices herein required may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination. The tax administrator shall not issue a new permit after the revocation of a permit unless he is satisfied that the former holder of the permit will comply with the provisions of this chapter relating to the occupancy tax and regulations of the tax administrator. Vacation Rental License holders are also subject to the revocation of the vacation rental license associated with the property if found to be in violation of this chapter and are subject to administrative citations pursuant to Chapter 4.01.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 16, 1981)

3.20.170 - Closure of hotel without permit.

During any period of time during which a permit has not been issued, or is suspended, revoked or otherwise not validly in effect, the tax administrator may require that the hotel be closed.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 17, 1981)

3.20.180 - Recording certificate—Lien.

If any amount required to be remitted or paid to the city under this chapter is not remitted or paid when due, the tax administrator may, within three years after the amount is due, file for record in the office of the county recorder a certificate specifying the amount of tax, penalties and interest due, the name and address as it appears on the records of the tax administrator of the operator liable for the same, and the fact that the tax administrator has complied with all provisions of this chapter in the determination of the amount required to be remitted and paid. From the time of the filing for record, the amount required to be remitted, together with penalties and interest, constitutes a lien upon all real property in the county owned by the operator or afterward and before the lien expires acquired by him. The lien has the force, effect and priority of a judgment lien and shall continue for ten years from the time of filing of the certificate unless sooner released or otherwise discharged.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 18, 1981)

3.20.190 - Priority and lien of tax.

- A. The amounts required to be remitted and/or paid by any operator under this chapter, with penalties and interest, shall be satisfied first in any of the following cases:
  - 1. Whenever the person is insolvent;
  - 2. Whenever the person makes a voluntary assignment of his assets;

3. Whenever the estate of the person in the hands of executors, administrators or heirs is insufficient to pay all the debts due from the deceased;
  4. Whenever the estate and effects of an absconding, concealed or absent person required to pay any amount under this chapter are levied upon by process law. This chapter does not give the city a preference over any recorded lien which attached prior to the date when the amounts required to be paid became a lien.
- B. The preference given to the city by this section shall be subordinate to the preferences given to claims for personal services by Sections 1204 and 1205 of the Code of Civil Procedure.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 19, 1981)

3.20.200 - Warrant for collection of tax.

At any time within three years after any operator is delinquent in the remittance or payment of any amount herein required to be remitted or paid, or within three years after the last recording of a certificate under Section 3.20.180, the tax administrator may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the city under this chapter. The warrant shall be directed to any sheriff, marshal or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner with the same effect as a levy of and a sale pursuant to a writ of execution. The tax administrator may pay or advance to the sheriff, marshal or constable the same fees, commissions and expenses for his services as are provided by law for similar services pursuant to a writ of execution. The tax administrator, and not the court, shall approve the fees for publication in a newspaper.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 20, 1981)

3.20.210 - Seizure and sale.

At any time within three years after any operator is delinquent in the remittance or payment of any amount, the tax administrator may collect the amount in the following manner: The tax administrator shall seize any property, real or personal, of the operator and sell the property, or a sufficient part of it, at public auction to pay the amount due, together with any penalties and interest imposed for the delinquency and any costs incurred on account of the seizure and sale. Any seizure made to collect occupancy taxes due shall be only of property of the operator not exempt from execution under the provisions of the Code of Civil Procedure.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 21, 1981)

3.20.220 - Successor's liability—Withholding by purchaser.

If any operator liable for any amount under this chapter sells out his business or quits the business, his successor or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the tax administrator showing that it has been paid or a certificate stating that no amount is due.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 22, 1981)

3.20.230 - Liability of purchaser—Release.

If the purchaser of a hotel fails to withhold purchase price as required, he shall become personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price, valued in money. Within sixty days after receiving a written request from the purchaser for a certificate, or within sixty days from the date the former owner's records are made available for audit, whichever

period expires the later, but in any event not later than ninety days after receiving the request, the tax administrator shall either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the tax administrator of the amount that must be paid as a condition of issuing the certificate. Failure of the tax administrator to mail the notice will release the purchaser from any further obligation to withhold purchase price as provided above. The time within which the obligation of the successor may be enforced shall start to run at the time the operator sells his business or at the time that the determination against the operator becomes final, whichever occurs the later.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 23, 1981)

### 3.20.240 - Responsibility for payment.

Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owed by the transient to the city. Any such tax collected by an operator which has not been remitted to the city is a fiduciary obligation of the operator to the city and collectible in the same manner as a debt. Any person owing money to the city under the provisions of this chapter shall be liable to an action brought in the name of the city for the recovery of such amount. The city shall have the right to examine or audit the books and records of any taxpayer hereunder and any deficiency found by such audit shall be assessed against such taxpayer in the same manner as a debt. Any such deficiency which is in excess of one hundred dollars shall be increased by an amount equal to the cost to the city causing the audit to be made.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 24, 1981)

### 3.20.250 - Withhold notice.

If any person or operator is delinquent in the remittance or payment of the amount required to be remitted or paid by him, or in the event a determination has been made against him for the remittance of tax and payment of the penalty, the city may, within three years after the tax obligation became due, give notice thereof personally or by registered mail to all persons, including the state or any political subdivision thereof, having in their possession or under their control any credit or other personal property belonging to the taxpayer. After receiving the withholding notice, the person so notified shall make no disposition of the taxpayer's credits, other personal property or debts until the city consents to a transfer or disposition, or until sixty days elapse after the receipt of the notice, whichever expires earlier. All persons, upon receipt of the notice, shall advise the city immediately of all such credits, other personal property or debts in their possession, under their control or owing by them. If such notice seeks to prevent the transfer or other disposition of a deposit in a bank, or other credits or personal property in the possession or under the control of the bank, to be effective the notice shall be delivered or mailed to the branch or office of such bank at which such deposit is carried or at which such credits or personal property is held. If any person so notified makes transfer or disposition of the property or debts required to be held hereunder during the effective period of the notice to withhold, he shall be liable to the city to the extent of the value of the release up to the amount of the indebtedness owed by the taxpayer of the city.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 25, 1981)

### 3.20.260 - Extension of time.

The tax administrator, for good cause, may extend for not to exceed one year the time for making any return or paying any amount required to be paid under this chapter. The extension may be granted at any time, provided a request therefore is filed with the tax administrator within or prior to the period for which the extension may be granted. Any person to whom an extension is granted shall pay, in addition to the tax, interest at the rate of one percent per month or fraction thereof, from the date on which the tax would have been due without the extension until the date of payment.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 27, 1981)

3.20.270 - Divulging of information forbidden.

It is unlawful for any person having an administrative duty under this chapter to make known in any manner whatever the business affairs, operations or information obtained by an investigation of the records of any operator or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to knowingly permit any return or copy thereof, any abstract or particulars thereof to be seen or examined by any person. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the amount of unpaid tax or amounts of tax, penalties and interest required to be collected.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 28, 1981)

3.20.280 - Agreement with county.

The city is empowered to enter into a joint powers agreement with other cities and the county, and if such agreement or agreements can be made wherein central collection for the county is provided, then it shall be done upon approval of the city council.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 29, 1981)

3.20.290 - Expenses paid from gross receipts.

The expense for staff and collection of the tax herein provided shall be paid from the gross receipts.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 30, 1981)

3.20.300 - Use of proceeds.

The net proceeds from the tax imposed herein shall be used for any lawful purpose of the city.

(Ord. 94-243 § 1(part), 1994: Ord. 81-30 § 31, 1981)

3.20.310 - Violations—Misdemeanor.

- A. Any operator or other person who knowingly or willfully fails or refuses to remit room tax collections to the tax administrator prior to the time of delinquency as specified in Section 3.20.070 through 3.20.090 is guilty of a misdemeanor.
- B. Any person knowingly violating any of the provisions of this chapter is guilty of a misdemeanor.
- C. Any operator or other person who willfully fails or refuses to register as required herein, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the tax administrator, or who renders a false or fraudulent return or claim is guilty of a misdemeanor. Any person required to make, render, sign or verify any report or claim with intent to defeat or evade the determination of any amount due required by this chapter to be made, is guilty of a misdemeanor.

(Ord. 94-243 § 1(part), 1994; Ord. 81-30 § 26, 1981)

EXHIBIT C

Chapter 5.02 - BUSINESS LICENSES

**Sections:**

ARTICLE I. - LICENSE REQUIREMENTS AND PROCEDURES

5.02.010 - Purpose of provisions.

This chapter is enacted solely for the purpose of regulation.

(Ord. 88-156 § 101, 1988)

5.02.020 - Definitions.

"Business" means professions, trades and occupations and all and every kind of calling whether or not carried on for profit or livelihood.

(Ord. 88-156 § 103, 1988)

5.02.030 - License required.

- A. There are imposed upon all businesses in the city, license fees in the amounts hereinafter set forth in this chapter. It is unlawful for any person, either for himself or for any other person, to commence, transact or carry on any business in the city not excluded by this chapter, without first having procured a license from the city to do so, or without complying with any and all regulations contained in this chapter.
- B. The carrying on of any business without first having procured a license from the city to do so, or without complying with any and all regulations of this chapter, constitutes a separate violation of this chapter for each and every day that such business is so carried on. See also Section 5.02.410 of this chapter.

(Ord. 88-156 § 102, 1988)

5.02.040 - Scope of license.

- A. No license issued under the provisions of this chapter shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any ordinance of the city, or regulations of the state or federal court.
- B. The payment of a license fee and the issuance of a license to any person by the city shall not entitle the licensee to carry on any business unless he/she has complied with all the requirements of the code and all other applicable laws, nor to engage in or to carry on any business in any building or in any premises designated in such license in the event such building or premises are situated in any area or locality in which the conduct of such business is in violation of the code, or any ordinance of the city, or any other law.

(Ord. 88-156 §§ 104, 301, 1988)

5.02.050 - Evidence of doing business.

When any person shall by use of signs, circulars, cards, telephone book, or newspapers, advertise, hand out, or represent that he/she is in business in the city, for one transaction or more, or when any person holds an active license or permit issued by a governmental agency indicating that he/she is in business in the city, then these facts shall be considered prima facie evidence that he/she is conducting a business in the city.

(Ord. 88-156 § 105, 1988)

5.02.060 - Exclusions.

- A. Except as may be otherwise specifically provided in this chapter, the terms hereof shall not be deemed or construed to apply to any of the following persons:
  - 1. Any public utility which pays to the city a tax under a franchise or similar agreement;
  - 2. Banks, savings and loan companies, including national banking associations, to the extent that a city may not levy a license fee upon them under provisions of Article XIII, Section 16, Subdivision 1(a) of the State Constitution;
  - 3. Insurance companies and associations to the extent that a city may not levy a license tax upon them under the provisions of Article XIII, Section 14 4/5 of the State Constitution;
  - 4. Any person whom the city is not authorized to license under any law or Constitution of the state.
- B. The tax and license collector shall require the filing of a verified statement from any person claiming to be excluded by the provisions of this section, which statement shall set forth all facts upon which the exclusion is claimed.

(Ord. 88-156 § 106, 1988)

5.02.070 - Exemptions.

- A. Constitutional or Statutory Exemptions.
  - 1. Nothing in this chapter shall be deemed or construed to apply to any person transacting and carrying on any business exempt by virtue of the Constitution or applicable statutes of the United States or of the state for the payment of such taxes as are herein prescribed.
  - 2. Any person claiming an exemption pursuant to this section shall file a sworn statement with the tax collector stating the facts upon which exemption is claimed, or present official documents from the California Secretary of State stating that the organization is a nonprofit, tax-exempt charitable organization, and in the absence of such proof substantiating the claim, such person shall be liable for the payment of the taxes imposed by this chapter.
- B. General. The following are exempted from the payment of a license fee under this chapter:
  - 1. Any recognized tax-exempt charitable institution, organization or association organized and conducted for charitable purposes only. This exemption shall not apply to promoters;
  - 2. Any person, religious, fraternal, educational, military, state, county, or municipal organization or association conducting or staging any amusement, concert, exhibition, lecture, dance, athletic event or entertainment where the receipts, if any derived there from, are to be used totally and solely for recognized tax-exempt charitable or benevolent purposes and not for private gain, or other purposes of the conducting person, or for the private gain of any person in whole or in part;
  - 3. Any recognized tax-exempt religious, fraternal, educational, military, state, county, or municipal organization or association conducting any business which is open to members thereof only and not open to the public;
  - 4. Any solicitor engaged in interstate commerce when a license tax casts a burden upon such interstate commerce;
  - 5. Any honorably discharged or relieved veteran of any of the armed forces of this country who provides a certificate of disability from the Veteran's Administration, who is physically unable to earn a livelihood by manual labor and who is a voter or resident, respectively, of this state, and who desires to hawk, peddle or vend goods, wares and merchandise owned by him or to distribute circulars;

6. Any individual person of the age of sixteen years and under whose annual gross receipts from any and all business are three hundred dollars or less;
7. Any public transportation system in the city operating under the jurisdiction of the Public Utilities Commission of the state and operating buses of the capacity of twenty or more passengers upon a fixed route with definite permanent points of origin and termination.
8. Any property owner holding a vacation rental license for the self-management of their residence as a vacation rental.

(Ord. 88-156 §§ 107, 108, 1988)

5.02.080 - Revocation of exemption.

The tax collector may revoke any exempt license granted pursuant to the provisions of this chapter upon information that the licensee is not entitled to the exemption as provided therein. In such revocation the procedure to be followed and right of appeal shall be as provided in Section 5.02.190 of this chapter.

(Ord. 88-156 § 1003, 1988)

5.02.090 - Content of license.

All licenses shall be prepared and issued by the tax collector of the city, upon payment of the required fee and each license shall state the following:

- A. The name of the business to which the license is issued;
- B. The kind or kinds of business licensed thereby;
- C. The location of such business;
- D. The date of the expiration of such license;
- E. Such other information as the tax collector shall determine.

(Ord. 88-156 § 501, 1988)

5.02.100 - Branch establishments.

Separate licenses must be obtained for each branch establishment or location of the business engaged in, as if each such branch establishment or location were a separate business, and each license shall authorize the licensee to engage only in the business licensed thereby at the location or in the manner designated in such license; provided, that warehouses, distributing plants and other locations which generate no additional gross receipts but are used in connection with and incidental to a business licensed under the provisions of this chapter shall not be deemed to be separate places of business or branch establishments.

(Ord. 88-156 § 502, 1988)

5.02.110 - Separate license for each establishment.

Any person managing, carrying on or conducting two or more separate businesses subject to the payment of a license fee under more than one classification in the chapter whether or not at the same location or under the same management shall pay a separate license fee for each of said businesses.

(Ord. 88-156 § 503, 1988)

5.02.120 - Duration of license.

No license shall be issued for a period of more than twelve months. No license shall be issued for any period extending beyond the thirtieth day of September of each calendar year.

(Ord. 88-156 § 504, 1988)

5.02.130 - Transferability.

No license issued pursuant to this chapter shall be transferred to a different licensee, owner, entity, or operator, including any name change. When a licensee transfers the business from one location to another in the city, the license previously issued may be amended to authorize the conduct of the business at the new location. The license transfers and amendments herein authorized may be obtained upon application to the tax collector and payment of the license fee. The license fee shall be established, from time to time, by resolution of the city council, after the city council conducts a public hearing.

(Ord. 2002-329 § 1(a), 2002; Ord. 88-156 § 604, 1988)

5.02.140 - Renewal.

On or before the end of each license year, all licensees shall remit the annual license renewal fee to the city's tax collector along with a completed license application form provided by the tax collector and completed by the licensee. Any change in information from that set forth on an original license application shall also be noted on such form. The license year shall end on September 30th of each calendar year.

(Ord. 98-288 § 1, 1998; Ord. 88-156 § 701, 1988)

5.02.150 - Display of license.

- A. Every person having a license under the provisions of this chapter and carrying on a business at a fixed place of business shall keep such license posted and exhibited while in force, in some conspicuous part of the place of business.
- B. The tax collector and each and all of his assistants and any police officer shall have the power and authority to enter, free of charge, and at any reasonable time, any place of business required to be licensed herein and demand an exhibition of its license certificate. Any person having such license certificate theretofore issued, in his possession or under his control, who willfully fails to exhibit the same on demand, is guilty of an infraction and subject to the penalties provided in this chapter. It shall be the duty of the tax collector and each of his assistants to cause a complaint to be filed against any and all persons found to be violating any of said provisions.
- C. Every person having such a license and not having a fixed place of business shall carry such license with him at all times while carrying on the business for which the same was granted, or have attached to the vehicle used in such business the windshield sticker as provided in Article IV of this chapter.

(Ord. 88-156 § 902, 1988)

5.02.160 - Cancellation of license on request.

- A. The tax collector may cancel an unexpired license at the request of the owner provided:
  - 1. The owner surrenders the certificate and any applicable stickers; and
  - 2. All business activity has ceased.
- B. Liability for any further business taxes will cease only if the owner's account is cleared.

Ordinance No. 2021-497

(Ord. 88-156 § 1001, 1988)

5.02.170 - Revocation upon bond cancellation.

The tax collector shall revoke any license for which a bond is required if the city receives notice from the bonding company to the effect that it has cancelled the bond.

(Ord. 88-156 § 1002, 1988)

5.02.180 - Revocation—Grounds.

- A. Any business license issued under the authority of this code may be revoked by the tax collector upon the holder of the license losing necessary licentiate from any agency controlling that business, profession or occupation. The revocation shall remain in effect as long as the licentiate remains suspended or revoked, and a business license may be reapplied for upon reinstatement.
- B. Further, a business license may be suspended by the tax collector upon the conviction of the holder of:
  - 1. Any felony;
  - 2. Any misdemeanor involving moral turpitude; or
  - 3. Any conviction of any offense arising out of the conduct of the business so licensed.

(Ord. 88-156 § 1004, 1988)

5.02.190 - Revocation—Hearing.

- A. Upon service of notice of revocation under Section 5.02.180 of this chapter, the holder of the license shall have ten (10) days following service of such revocation by either personal service or deposit of the notice in the U.S. Post Office, registered mail, to request a hearing for consideration of the revocation by the city council. Such requests shall be to the tax collector's office, by personal delivery, at the city office. The tax collector shall set a hearing before the city council at either an open or closed session of the council of the licensee's choosing, no sooner than thirty days nor more than sixty (60) days after service.
- B. The licensee shall have the right to legal counsel at his/her sole expense and may have a court reporter present at the licensee's expense. The council may direct that the proceedings be tape recorded and a copy thereof may be purchased by the licensee. During such appeal, the revocation shall be abated.
- C. The council shall rule upon the revocation no later than seven days after the close of such hearings.
- D. The rules of evidence shall be those of administrative hearings and an affirmative three votes of the council shall be necessary to sustain the revocation.

(Ord. 88-156 § 1005, 1988)

## ARTICLE II. - REGISTRATION

5.02.200 - Form.

Every person required to have a business fee certificate under the provisions of this chapter shall register for the same with the tax collector of the city. Such registration shall be a written statement upon a form provided by the tax collector and shall be sworn to by the registrant under penalty of perjury. The registration form should include the name of the business and any fictitious name that is used, the tax identification number (social security or federal tax identification number), the business mailing and physical address, business phone number, business activities, owner's or officer's names, addresses (mailing and physical), and phones, type of ownership, state license numbers and expiration dates,

property owner's name and proof of authority to use the property as a business location. This will not preclude requests for other pertinent information as needed to administer this ordinance and other ordinances of the city.

(Ord. 88-156 § 201, 1988)

ARTICLE III. - FEES

5.02.220 - Designated.

The amount of the business license fee shall be established, from time to time, by resolution of the city council, after the city council conducts a public hearing.

(Ord. 2002-329 § 1(c), 2002; Ord. 88-156 § 400, 1988)

5.02.230 - Limitations.

- A. No greater or less amount of money shall be charged or received for any license fee other than provided for in this chapter.
- B. In no case shall any mistake made by the city in stating the amount of a license fee prevent or prejudice the collection by the city of what shall be actually due from anyone carrying on a business subject to a license fee under this chapter.
- C. No statement shall be conclusive as to the matters set forth herein, nor shall the filing of the same preclude the city from collecting by appropriate action such sum as is actually due and payable hereunder.

(Ord. 88-156 § 401, 1988)

5.02.240 - Payable when.

All license fees due under this chapter shall be paid in advance, in lawful money of the United States, at the office of the tax collector.

(Ord. 88-156 § 402, 1988)

5.02.250 - Proration.

No proration of any license due under this chapter shall be made unless hereinafter set forth.

(Ord. 88-156 § 403, 1988)

5.02.260 - Delinquency.

- A. Annual license renewal fees are due and shall be paid in accordance with Section 5.02.240 and shall be paid at or before five p.m., on September 30th of each calendar year, or if September 30th of that year falls on a weekend, then renewal fees are due and shall be paid on the Monday following September 30th.
- B. For each delinquent renewal, separate and apart from, and in addition to the license renewal fee, the licensee shall pay to the city a penalty in the amount provided in the following schedule:

Payment Received or Postmarked by:	Penalty Due:
October 5th	\$ 0.00

October 15th	10.00
After October 15th	25.00 plus actual expenses incurred by the city in collection of the fee

(Ord. 98-288 § 2, 1998; Ord. 88-156 § 800, 1988)

5.02.270 - Fees deemed debt to city.

The amount of any license fee and penalty imposed by the provisions of this chapter shall be deemed a debt to the city, and any person carrying on any business without first having procured a license from the city to do so shall be liable to an action in the name of the city in any court of competent jurisdiction for the amount of the license tax and penalties imposed on such business.

(Ord. 88-156 § 905, 1988)

5.02.280 - License replacement fee.

Duplicate licenses may be issued by the tax collector to replace any license previously issued, which has been lost or destroyed. The city shall not charge a fee for the issuance of a duplicate license.

(Ord. 2003-329 § 1(d), 2002; Ord. 2002-326 § 1(part), 2002; Ord. 88-156 § 603, 1988)

5.02.290 - Contractors and subcontractors.

A. General Contractors.

1. Any person commencing or engaging in the business of acting in the capacity of a general building or engineering contractor (B-1 or A, as licensed by the state), within the city shall pay to the city an annual license fee, the amount of which shall be established, from time to time, by resolution of the city council, after the city council conducts a public hearing.
2. Each contractor, including owner-builders, shall furnish the tax collector with a list of each subcontractor under his/her control or direction before the final inspection on any building or structure shall be given by the building and safety department under penalty of perjury.

B. Specialty Contractors. Every person engaged in a business or acting as a subcontractor established by the State Contractors Board, shall pay to the city an annual license fee, the amount of which shall be established, from time to time, by resolution of the city council, after the city council conducts a public hearing.

C. Owner-builders. A business license shall be required of every person acting as an owner-builder who builds any building, structure, shop, store, or apartment for rent or lease, and they shall pay the license fee as herein provided. The provisions of this section shall not apply to an owner of property building or improving structures thereon for the exclusive occupancy of such owner-builder and not offered for sale, lease, or rent.

D. For purposes of this section, the term "contractor" is defined by Chapter 9, Division 3 of the Business and Professions Code of the state.

E. A contractor making application for a business license for the city shall present evidence of having a valid state contractor's license.

(Ord. 2002-329 § 1(e), 2002; Ord. 2002-326 § 1(part), 2002; Ord. 88-156 § 202, 1988)

ARTICLE V. - ENFORCEMENT AND PENALTIES

5.02.380 - Enforcement authority.

- A. It shall be the duty of the city tax collector, his/her deputy agents and/or employees, and they and each of them are directed to enforce each and all of the provisions of this chapter. Each department of the city which issues permits for work to be done shall require the production of a valid unexpired license prior to the issuance of such a permit.
- B. The tax collector in the exercise of the duties imposed upon him/her hereunder and acting through his/her deputies or duly authorized assistants, shall examine or cause to be examined all places of business in the city to ascertain whether the provisions of this chapter have been complied with.

(Ord. 88-156 § 901, 1988)

5.02.390 - Remedies cumulative.

The conviction and punishment of any person for transacting any business without first obtaining a license shall not excuse or exempt such person from the payment of any license fee due or unpaid at the time of such conviction and nothing herein shall prevent a criminal prosecution of any violation of the provisions of this chapter. All remedies prescribed hereunder shall be cumulative and the use of one or more remedies by the city shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.

(Ord. 88-156 § 906, 1988)

5.02.400 - Effect on past actions and obligations.

Neither the adoption of the ordinance codified in this chapter, nor its superseding of any portion of any other ordinance of the city shall in any manner be construed to affect prosecution for violation of any other ordinance committed prior to February 24, 1988, nor be construed as a waiver of any license or any penal provisions applicable to any such violation, nor be construed to affect the validity of any bond or cash deposit required by any ordinance to be posted, filed, or deposited, and all rights and obligations thereunto appertaining shall continue in full force and effect.

(Ord. 88-156 § 907, 1988)

5.02.410 - Violation—Penalty.

- A. Any person violating any of the provisions of this chapter is guilty of an infraction and, upon conviction, shall be punishable by:
  - 1. A fine not exceeding two hundred fifty dollars (\$250.00) for the first violation;
  - 2. A fine not exceeding three hundred fifty dollars (\$350.00) for a second violation of the same ordinance within one year; and
  - 3. A fine of not exceeding five hundred dollars (\$500.00) for each additional violation of the same ordinance within one year.
- B. Each such person is guilty of a separate offense for each and every day during any portion of which any violation of this chapter or any of its provisions is committed.

(Ord. 88-156 § 908, 1988)