

RESOLUTION NO. 5738

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAUSALITO
ESTABLISHING NOVEMBER 6, 2018 AS THE DATE FOR A MUNICIPAL ELECTION
ON A PROPOSED BALLOT MEASURE SEEKING VOTER AUTHORIZATION TO
AMEND THE CITY'S EXISTING BUSINESS LICENSE TAX FOR GENERAL FUND
PURPOSES, ESTABLISHING POLICIES AND PROCEDURES IN CONNECTION
WITH SUCH AN ELECTION, REQUESTING THAT THE MARIN COUNTY
REGISTRAR OF VOTERS CONDUCT SUCH AN ELECTION, AND REQUESTING
THAT THE CITY ATTORNEY PREPARE AND FILE AN IMPARTIAL ANALYSIS OF
THE PROPOSED BALLOT MEASURE

WHEREAS, in 1968 the City Council of the City of Sausalito ("the City Council") adopted Ordinance No. 716 codified as Title 5, Chapter 5.04 of the Municipal Code, which provides for the imposition and collection of a general excise tax on all businesses operating in the City (a "business license tax" or "BLT"); and

WHEREAS, Article XIII C, section 2(b) of the California Constitution requires that any general tax, such as the BLT, must be approved by a majority vote of the voters voting (50% +1) on the issue of the increase of the tax; and

WHEREAS, Article XIII C, section 2(b) of the California Constitution requires that an election by the voters to approve a general tax must be consolidated with a statewide general election at which members of the City Council will be elected; and

WHEREAS, November 6, 2018 is the date of the statewide general election at which members of the City Council will be elected; and

WHEREAS, the City of Sausalito is well-known for our quality city services and excellent quality of life; and

WHEREAS, the City's business license tax ordinance is over 5 decades old and is outdated, cumbersome, and difficult to administer; and

WHEREAS, this measure will streamline and simplify our local business license tax ordinance, making it more transparent, easy to understand, and fair for businesses of all sizes; and

WHEREAS, by doing so, businesses who are currently not paying the tax will pay their fair share, while other businesses will experience a decline in their rate; and

WHEREAS, Sausalito residents who are not business proprietors will not pay this tax; and

WHEREAS, years of state takeaways and changes to state law have impacted our ability to provide the quality of life services that make Sausalito a great place to live, work, and raise a family; and

WHEREAS, the City seeks to maintain 911 rapid response times for our City's police officers; and

WHEREAS, funding generated by this measure continues to protect Sausalito's environment by providing continued funding to repair the City's aging storm-drain system that prevents pollutants, garbage, and sediment from entering the Bay; and

WHEREAS, this measure will protect the excellent quality of life services that keep Sausalito's property values strong; and

WHEREAS, the City of Sausalito needs locally-controlled funds to continue providing public safety and other quality of life services over the long term while re-investing in programs that support our local business community; and

WHEREAS, all funds for these measures are subject to public, annual independent audits, and all funds must be used locally for Sausalito city services; and

WHEREAS, as a local, voter-approved measure, funds generated by this mechanism are not subject to seizure by Sacramento; and

WHEREAS, after considering the foregoing information, the City Council believes that it is in the best interest of the City to submit the proposed changes to the BLT to the voters of the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAUSALITO DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. Call for Election. The City Council hereby calls an election at which it shall submit to the qualified voters of the City of Sausalito, a measure that, if approved, would amend the City's general business license tax, as authorized by California Government Code section 37101 and California Business and Professions Code section 16000 et seq. This measure shall be designated by letter by the Marin County Registrar of Voters. Pursuant to Elections Code Section 10400 et seq., the election for this measure shall be consolidated with the election to be conducted on November 6, 2018.

SECTION 2. Ballot Language. The ballot language for the proposed measure shall be as follows:

“City of Sausalito Business Tax Equity Measure. To maintain city services, including police protection; fixing streets, sidewalks, and storm drains; supporting local businesses; and other general services, shall an ordinance simplifying Sausalito’s business license ordinance for fairness to businesses of all sizes, be adopted until ended by voters, updating business license rates to \$125 per business and between \$1 - \$3 per \$1,000 of gross receipts, generating approximately \$896,750 annually, requiring audits and all funds used locally?”

YES NO

SECTION 3. Proposed Ordinance. The ordinance authorizing the general tax to be approved by the voters pursuant to Section 2 is as set forth in Attachment 1 attached hereto. The type of tax proposed by the ordinance is an amendment to the City’s existing business license tax, which is a general tax. The ordinance specifies that the existing tax rate would be adjusted to a rate of \$125 per business and up to \$3.00 per \$1,000 of gross receipts. The full text of the ordinance shall be printed in the voter information guide.

SECTION 4. Publication of Measure. The City Clerk is hereby directed to cause notice of the measure to be published once in a newspaper of general circulation in the City in accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code.

SECTION 5. Request to Consolidate and Conduct Election and Canvass Returns.

- a. The City Council hereby requests that the Marin County Board of Supervisors consolidate the election called by this resolution with the statewide election to be conducted on November 6, 2018 and order the election to be conducted by the Registrar of Voters. The City Clerk is directed to file a certified copy of this resolution with the Board of Supervisors of Marin County and the Registrar of Voters of Marin County on or before August 10, 2018
- b. The election on the measure set forth in Section 2 shall be held and conducted, the voters canvassed and the returns made, and the results ascertained and determined as provided for herein. In all particulars, the election shall be held in accordance with the Elections Code of the State of California.
- c. The election on the measure set forth in Section 2 shall be held in Marin County in the City of Sausalito on November 6, 2018, as required by law, and the Board of Supervisors of Marin County is authorized to canvass the returns of the election with respect to the votes cast in the City of Sausalito and certify the results to the City Council of the City of Sausalito

- d. At the next regular meeting of the City Council of the City of Sausalito occurring after the returns of the election for the measure set forth in Section 2 have been canvassed and the certification of the results to the City Council, the City Council shall cause to be entered in its minutes a statement of the results of the election.
- e. The City Council acknowledges that the consolidated election will be held and conducted in the manner prescribed in Elections Code Section 10418.

SECTION 6. Submission of Ballot Arguments and Impartial Analysis.

Arguments for and against said measure may be filed in accordance with applicable provisions of the law. The Council does not authorize the Council as a body or any individual member of the Council to file a written argument or any rebuttal argument for or against the measure. The City Clerk shall consider other arguments and rebuttal arguments filed by bona fide associations or individual residents who are eligible to vote in accordance with Elections Code Sections 9282, 9285 and 9287.

Pursuant to Section 9285 of the California Elections Code, (the provisions of which are hereby adopted), when the City Clerk has selected the arguments for and against the measure which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. The rebuttal arguments shall be filed with the City Clerk not more than ten (10) days after the final date for filing direct arguments. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument, which it seeks to rebut. The text of the measure shall be printed on the ballot in the voter information portion of the sample ballot.

Pursuant to California Elections Code section 9280, the City Clerk shall transmit a copy of the measure to the City Attorney who shall prepare an impartial analysis of the measure in accordance with said Section 9280.

SECTION 7. Appropriation of Necessary Funds. The City Manager is hereby authorized and directed to appropriate the necessary funds to pay for the City's costs of placing the measure on the election ballot.

SECTION 8. Services of City Clerk. The City Clerk is hereby authorized and directed to take all steps necessary to place the measure on the ballot and to cause the ordinance or measure to be printed. A copy of the ordinance or measure shall be made available to any voters upon request.

SECTION 9. Compliance with California Environmental Quality Act. The approval of this resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). The tax proposed by this resolution is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any

particular action. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the City would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analysis is not required.

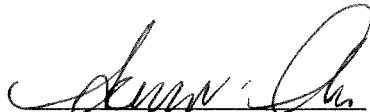
PASSED AND ADOPTED at a regular meeting of the City Council of the City of Sausalito on this 31st day of July, 2018 by the following vote:

| | | |
|----------|-----------------|---|
| AYES: | Councilmembers: | Withy, Cleveland-Knowles, Hoffman, Burns, Mayor Cox |
| NOES: | Councilmembers: | None |
| ABSTAIN: | Councilmembers: | None |
| ABSENT: | Councilmembers: | None |



JOAN COX
MAYOR OF THE CITY OF SAUSALITO

ATTEST:



SERGE AVILA
DEPUTY CITY CLERK

ATTACHMENT NO. 1
BLT Ordinance Amendment

**AN ORDINANCE OF THE CITY OF SAUSALITO AMENDING CHAPTER 5.04
(BUSINESS LICENSES) OF THE SAUSALITO MUNICIPAL CODE TO
STREAMLINE, SIMPLIFY AND UPDATE THE BUSINESS LICENSE TAX
ORDINANCE OF THE CITY OF SAUSALITO**

Now, therefore, the people of the City of Sausalito do ordain as follows:

SECTION 1. Amendments. Chapter 5.04 is here by amended to read as follows, with deletions in strikethrough and additions in underlined text:

“Chapter 5.04

BUSINESS LICENSES GENERALLY

5.04.010 Purpose.

Except as provided in SMC 5.04.280, this chapter is enacted solely to raise revenue for municipal purposes, and is not intended for regulation.

5.04.020 Definitions.

As used in this chapter:

A. “Business” includes professions, trades, and occupations and all and every kind of calling whether or not carried on for profit. This includes companies and individuals with a fictitious business name and/or a Sales Tax resale permit issued for a business location in the City of Sausalito.

B. “City” means the City of Sausalito, a municipal corporation of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.

C. “Collector” means the City Manager, Finance Director, Administrative Services Director or their designee.

D. “Gross receipts” includes the total of amounts actually received or receivable from sales and the total amounts actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part or in connection with the sale of materials, goods, wares or merchandise. Included in “gross receipts” shall be all receipts, cash, credits, and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever. Excluded from “gross receipts” shall be the following:

1. Cash discounts allowed and taken on sales;

2. Credit allowed on property accepted as part of the purchase price and which property may later be sold;
3. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
4. Such part of the sale price of property returned by purchasers upon rescission of the contract of sale as is refunded either in cash or by credit;
5. Amounts collected for others where the business is acting as an agent or trustee to the extent that such amounts are paid to those for whom collected, provided the agent or trustee has furnished the Collector with the names and addresses of the others and the amounts paid to them;
6. Receipts of refundable deposits, except that refundable deposits forfeited and taken into income of the business shall not be excluded;
7. As to a real estate agent or broker, business opportunity broker, yacht broker or other types of brokers, the sales price of real estate, business, yachts or other commodities sold for the account of others except that portion which represents commission or other income to the agent or broker;
8. As to a retail gasoline dealer, a portion of his receipts from the sale of motor vehicle fuels equal to the motor vehicle fuel license tax imposed by and previously paid under the provisions of Part 2 of Division 2 of the Revenue and Taxation Code of the State;
9. As to a retail gasoline dealer, the special motor fuel tax imposed by Section 4041 of Title 26 of the United States Code if paid by the dealer or collected by him from the consumer or purchaser.

E. "Person" includes all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, merchandise, business, or common law trusts, societies, and individuals transacting and carrying on any business in the City, other than as an employee.

F. "Sale" includes the transfer, in any manner or by any means whatsoever, of title to property for a consideration; the serving, supplying, or furnishing for a consideration of any property; and a transaction whereby the possession of property is transferred and the seller retains the title as security for the payment of the price shall likewise be deemed a sale. The foregoing definitions shall not be deemed to exclude any transaction which is or which, in effect, results in a sale within the contemplation of law.

G. "Sworn statement" means an affidavit sworn to before a person authorized to take oaths, or a declaration or certification made under penalty of perjury.

5.04.030 License and tax payment required.

There are imposed upon all businesses, trades, professions, callings and occupations carried on, conducted or transacted in the City the license taxes in the amounts hereinafter prescribed. It is unlawful for any person to conduct, transact or carry on any business, trade, profession, calling or occupation in the City without first having

procured a license from the City to do so and paying the tax hereinafter prescribed or without complying with any and all applicable provisions of this chapter.

This section shall not be construed to require any person to obtain a license prior to doing business within the City if such requirement conflicts with applicable statutes of the United States or of the State. Persons not so required to obtain a license prior to doing business within the City nevertheless shall be liable for payment of the tax imposed by this chapter.

5.04.035 Payment Not A License

No license or payment of tax required by this article shall be construed as authorizing any person to conduct an illegal business or a legal business in an illegal manner. The business license issued pursuant to the provisions of this title constitutes a receipt for the license tax paid and shall have no other legal effect. A business license is a requirement, not a permit, to conduct, manage or carry on any business activity within the city

5.04.040 Effect of chapter on other ordinances.

Persons required to pay a license tax for transacting and carrying on any business under this chapter shall not be relieved from the payment of any license tax for the privilege of doing such business required under any other ordinance of the City and shall remain subject to the regulatory provisions of other ordinances.

5.04.050 Branch establishments or separate locations.

A separate license must be obtained for each branch establishment or location of the business transacted and carried on and for each separate type of business at the same location, and each license shall authorize the licensee to transact and carry on only the business licensed thereby at the location or in the manner designated in such license; provided, that warehouses and distributing plants 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 **5.04.060 Evidence of doing business described.**

When any person shall by use of signs, circulars, cards, telephone book, or newspapers advertise, hold out, or represent that he or she is in business in the City, or when any person holds an active license or permit issued by a governmental agency indicating that he or she is in business in the City, and such person fails to deny by a sworn statement given to the Collector that he or she is conducting a business in the City, after being requested to do so by the Collector, then these facts shall be considered prima facie evidence that he or she is conducting a business in the City.

5.04.070 Constitutional apportionment.

None of the license taxes provided for by this chapter shall be so applied as to occasion an undue burden upon interstate commerce or be violative of the equal protection and due process clauses of the Constitutions of the United States and the State of California.

In any case where a license tax is believed by a licensee or applicant for a license to place an undue burden upon interstate commerce or be violative of such constitutional clauses, he or she may apply to the Collector for an adjustment of the tax. Such application may be made before, at, or within six months after payment of the prescribed license tax. The applicant shall, by sworn statement and supporting testimony, show his or her method of business and the gross volume or estimated gross volume of business and such other information as the Collector may deem necessary in order to determine the extent, if any, of such undue burden or violation. The Collector shall then conduct an investigation, and, after having first obtained the written approval of the City Attorney, shall fix as the license tax for the applicant an amount that is reasonable and nondiscriminatory, or if the license tax has already been paid, shall order a refund of the amount over and above the license tax so fixed. In fixing the license tax to be charged, the Collector shall have the power to base the license tax upon a percentage of gross receipts or any other measure which will assure that the license tax assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the license tax as prescribed by this chapter. Should the Collector determine the gross receipts measure of license tax to be the proper basis, he or she may require the applicant to submit, either at the time of termination of applicant's business in the City or at the end of each three-month period, a sworn statement of the gross receipts and pay the amount of license tax therefor; provided, that no additional license tax during any one calendar year shall be required after the licensee shall have paid an amount equal to the annual license tax as prescribed in this chapter.

5.04.080 Exemptions.

A. 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 from the payment of such taxes as are herein prescribed.

B. The provisions of this chapter shall not be deemed or construed to apply to any public utility which pays to the City any tax or fee under a franchise granted by the City.

C. The provisions of this chapter shall not be deemed or construed to require the payment of a license tax to conduct, manage, or carry on any business occupation or activity from any institution or organization which is conducted, managed or carried on wholly for the benefit of charitable purposes from which profit is not derived, either directly or indirectly, by an individual, firm, or corporation. Nor shall any license tax be required for the conducting of any entertainment, dance, concert, exhibition, or lecture on scientific, historical, literary, religious or moral subjects whenever the receipts are to be appropriated for the purpose for which such organization was formed and from which profit is not derived, either directly or indirectly, by an individual, firm, or corporation.

D. Any person claiming an exemption pursuant to this section shall file a sworn statement with the Collector stating the facts upon which exemption is claimed, and in the absence of such statement substantiating the claim, such person shall be liable for the payment of the taxes imposed by this chapter.

E. The Collector shall, upon a proper showing contained in the sworn statement, issue a license to such person claiming exemption under this section without payment to the City of the license tax required by this chapter.

F. The Collector, after giving notice and a reasonable opportunity for hearing to a licensee, may revoke any license granted pursuant to the provisions of this section upon information that the licensee is not entitled to the exemption as provided herein.

G. The provisions of this chapter shall not be deemed or construed to require the payment of a business license tax to any business created under the provisions of Division 2, Nonprofit Corporation Law, of Title 1, Corporations, of the Corporations Code of the State of California or which constitutes an "educational institution" as that term is defined at Section 10251 of the California Corporations Code.

5.04.090 License – Contents.

A. Every person required to have a license under the provisions of this chapter shall make application as hereinafter prescribed for the same to the Collector of the City, and upon the payment of the prescribed license tax, the Collector shall issue to such person a license which shall contain the following information:

1. The name of the person to whom the license is issued;
2. The business licensed;
3. The place where such business is to be transacted and carried on;
4. The date of the expiration of such license; and
5. Such other information as may be necessary for the enforcement of the provisions of this chapter.

B. Whenever the tax imposed under the provisions of this chapter is measured by the number of vehicles, devices, machines, or other pieces of equipment used, or whenever the license tax is measured by the gross receipts from the operation of such items, the Collector shall issue only one license; provided, that he may issue for each tax period for which the license tax has been paid one identification sticker, tag, plate, or symbol for each item included in the measure of the tax or used in a business where the tax is measured by the gross receipts from such items.

5.04.100 License – Application requirements for first license or new business.

A. Upon a person making application for the first license to be issued hereunder or for a newly established business, such person shall furnish to the Collector a sworn statement, upon a form provided by the Collector; setting forth the following information:

1. The exact nature or kind of business for which a license is requested;
2. The place where such business is to be carried on, and, if the same is not to be carried on at any permanent place of business, the places of residence of the owners of the same;

3. In the event that application is made for the issuance of a license to a person doing business under a fictitious name, the application shall set forth the names and places of residence of those owning such business;

4. In the event that application is made for the issuance of a license to a corporation or a partnership, the application shall set forth the names and places of residence of the officers or partners thereof;

5. In all cases where the amount of license tax to be paid is measured by gross receipts, the application shall set forth such information as may be therein required and as may be necessary to determine the amount of the license tax to be paid by the applicant;

6. Any further information which the Collector may require to enable him to issue the type of license applied for.

B. If the amount of the license tax to be paid by the applicant is measured by gross receipts and the license is for an established business, the license tax shall be based on gross receipts for the previous calendar year if such business was in operation for the entire previous calendar year. If the license is for an established business which was in operation for only a portion of the previous calendar year, the license tax shall be based on a projection of the receipts for the previous year over a full year's operation. If the license is for a business operating in the City for the first time, the license tax shall be based on the applicant's estimate of the gross receipts for the first year of operation; provided, however, the amount of the license tax so determined shall be tentative only, and such person shall, within 30 days after the expiration of the period for which such license was issued, furnish the Collector with a sworn statement, upon a form furnished by the Collector, showing the gross receipts during the period of such license, and the license tax for such period shall be finally ascertained and paid in the manner provided by this chapter for the ascertaining and paying of renewal license taxes for other businesses, after deducting from the payment found to be due the amount paid at the time such first license was issued.

C. The Collector shall not issue to any such person another license for the same or any other business, until such person shall have furnished to him the sworn statement and paid the license tax as herein required.

5.04.110 License – Renewal procedure.

In all cases, the applicant for the renewal of a license shall submit to the Collector for his guidance in ascertaining the amount of the license tax to be paid by the applicant a sworn statement, upon a form to be provided by the Collector, setting forth such information concerning the applicant's business during the preceding year as may be required by the Collector to enable him to ascertain the amount of the license tax to be paid by such applicant pursuant to the provisions of this chapter.

5.04.120 Statement filing and recordkeeping requirements.

No statements submitted by the applicant shall be conclusive as to the matters set forth therein, nor shall the filing of the same preclude the City from collecting by appropriate

action such sum as is actually due and payable under this chapter. Such statement and each of the several items therein contained shall be subject to audit and verification by the Collector, his deputies, or authorized employees or representatives of the City, who are authorized to examine, audit, and inspect such books and records of any licensee or applicant for license, as may be necessary in their judgment to verify or ascertain the amount of license fee due.

All persons subject to the provisions of this chapter shall keep complete records of business transactions, including sales, receipts, purchases, and other expenditures, and shall retain all such records for examination by the Collector. Such records shall be maintained for a period of at least three years. No person required to keep records under this section shall refuse to allow authorized representatives of the Collector to examine such records at reasonable times and places.

5.04.130 Information to be confidential.

It is unlawful for the Collector or any person having an administrative duty under the provisions of this chapter to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any 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 in any statement or application, or to permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person; provided, that nothing in this section shall be construed to prevent:

- A. The disclosure to, or the examination of records and equipment by, another City official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this chapter, or collecting taxes imposed under this chapter;
- B. The disclosure of information to, or the examination of records by, Federal or State officials, or the tax officials of another city or county, or city and county, if a reciprocal arrangement exists, or to a grand jury or court of law, upon subpoena;
- C. The disclosure of information and results of examination of records of particular taxpayers, or relating to particular taxpayers, to a court of law in a proceeding brought to determine the existence or amount of any license tax liability of the particular taxpayers to the City;
- D. The disclosure, after the filing of a written request to that effect, to the taxpayer himself, or to his successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, of information as to the items included in the measure of any paid tax, any unpaid tax or amounts of tax required to be collected, interest and penalties; further provided, however, that the City Attorney approves each such disclosure and that the Collector may refuse to make any disclosure referred to in this paragraph when in his opinion the public interest would suffer thereby;
- E. The disclosure of the names and addresses of persons to whom licenses have been issued, and the general type or nature of their business;

F. The disclosure by way of public meeting or otherwise of such information as may be necessary to the City Council in order to permit it to be fully advised as to the facts when a taxpayer files a claim for refund of license taxes, or submits an offer of compromise with regard to a claim asserted against him by the City for license taxes, or when acting upon any other matter;

G. The disclosure of general statistics regarding taxes collected or business done in the City.

5.04.140 Failure to file statement or corrected statement.

A. If any person fails to file any required statement within the time prescribed, or if after demand therefor made by the Collector he fails to file a corrected statement, or if any person subject to the tax imposed by this chapter fails to apply for a license, the Collector may determine the amount of license tax due from such person by means of such information as he may be able to obtain.

B. If the Collector is not satisfied with the information supplied in statements or applications filed, he may determine the amount of any license tax due by means of any information he may be able to obtain.

C. If such a determination is made the Collector shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States Post Office at Sausalito, California, postage prepaid, addressed to the person so assessed at his last known address. Such person may, within 15 days after the mailing or serving of such notice, make application in writing to the Collector for a hearing on the amount of the license tax. If such application is made, the Collector shall give such person reasonable notice of the time and place the Collector will hear and examine any additional evidence such person may wish to present relating to such assessment of taxes. The Collector shall notify such person of the Collector's findings with regard to such evidence and the assessment of taxes.

5.04.150 Appeal procedure.

Any person aggrieved by any decision of the Collector with respect to the issuance or refusal to issue such license may appeal to the Council by filing a notice of appeal with the Clerk of the Council. The Council shall thereupon fix a time and place for hearing such appeal. The Clerk of the Council shall give notice to such person of the time and place of hearing by serving it personally or by depositing it in the United States Post Office at Sausalito, California, postage prepaid, addressed to such person at his last known address. The Council shall have authority to determine all questions raised on such appeal. No such determination shall conflict with any substantive provision of this chapter.

5.04.160 Power of Collector to extend time for filing statement or application.

In addition to all other power conferred upon him, the Collector shall have the power, for good cause shown, to extend the time for filing any required sworn statement or application for a period not exceeding 30 days, and in such case to waive any penalty

that would otherwise have accrued, except that seven percent simple interest shall be added to any tax determined to be payable.

5.04.170 License – Transferability.

No license issued pursuant to this chapter shall be transferable; provided, that where a license is issued authorizing a person to transact and carry on a business at a particular place, such licensee may, upon application therefor, and paying a fee set by resolution of the City Council from time to time, have the license amended to authorize the transacting and carrying on of such business under such license at some other location to which the business is to be moved; provided further, that transfer, whether by sale or otherwise, to another person under such circumstances so that the real or ultimate ownership after the transfer is substantially similar to the ownership existing before the transfer shall not be prohibited by this section. For the purpose of this section, stockholders, bondholders, partnerships, or other persons holding an interest in a corporation or other entity herein defined to be a person are regarded as having the real or ultimate ownership of such corporation or other entity.

5.04.180 Duplicate license issuance.

A duplicate license may be issued by the Collector to replace any license previously issued under this chapter which has been lost or destroyed upon the licensee's filing a statement of such fact, and at the time of filing such statement, paying to the Collector a duplicate license fee as set by resolution of the City Council from time to time.

5.04.190 Posting and keeping licenses, stickers, tags, plates or symbols.

A. Any licensee transacting and carrying on business at a fixed place of business in the City shall keep the license posted in a conspicuous place upon the premises where such business is carried on.

B. Any licensee transacting and carrying on business but not operating at a fixed place of business in the City shall keep the license upon his person at all times while transacting and carrying on the business for which it is issued.

C. Whenever identifying stickers, tags, plates, or symbols have been issued for each vehicle, device, machine, or other piece of equipment included in the measure of a license tax, the person to whom such stickers, tags, plates, or symbols have been issued shall keep firmly affixed upon each vehicle, device, machine, or piece of equipment the identifying sticker, tag, plate, or symbol which has been issued therefor at such locations as are designated by the Collector. Such sticker, tag, plate, or symbol shall not be removed from any vehicle, device, machine, or piece of equipment kept in use during the period for which the sticker, tag, plate, or symbol is issued.

D. No person shall fail to affix as required herein any identifying sticker, tag, plate, or symbol to the vehicle, device, machine, or piece of equipment for which it has been issued at the location designated by the Collector, or to give away, sell, or transfer such identifying sticker, tag, plate, or symbol to another person, or to permit its use by another person.

5.04.200 Tax payment due dates.

A. Unless otherwise specifically provided, all annual license taxes, under the provisions of this chapter, shall be due and payable in advance on the first day of January of each year. There shall be no prorating of license taxes covering new operations commencing after the first day of January of any year.

B. Except as otherwise provided herein, license taxes, other than annual, required under this chapter shall be due and payable upon initiating any transactions or activity covered by this ordinance.

5.04.210 Penalty for delinquent taxes – Installment payment.

A. For failure to pay a license tax when due, the Collector shall add a penalty of 10 percent of such license tax on the last day of each month after the due date thereof, providing that the amount of such penalty to be added shall in no event exceed 60 percent of the amount of the license tax due. In the event legal action is brought by the City to enforce collection of a license tax and/or the penalty thereon, the person owing such tax and/or penalty shall pay all costs of suit incurred by the City, including a reasonable attorneys' fee.

B. No license or sticker, tag, plate, or symbol shall be issued, nor one which has been suspended or revoked shall be reinstated or reissued, to any person who, at the time of applying therefor, is indebted to the City for any delinquent license taxes or penalties, unless such person, with the consent of the Collector, enters into a written agreement with the City, through the Collector, to pay such delinquent taxes, plus seven percent simple annual interest upon the unpaid balance, in monthly installments, or more often, extending over a period of not to exceed one year.

C. In any agreement so entered into, such person shall acknowledge the obligation owed to the City and agree that, in the event of failure to make timely payment of any installment, the whole amount unpaid shall become immediately due and payable and that his or her current license shall be revocable by the Collector upon 30 days' notice. In the event legal action is brought by the City to enforce collection of any amount included in the agreement, such person shall pay all costs of suit incurred by the City or its assignee, including a reasonable attorneys' fee. The execution of such an agreement shall not prevent the prior accrual of penalties on unpaid balances at the rate provided herein above, but no penalties shall accrue on account of taxes included in the agreement, after the execution of the agreement, and the payment of the first installment and during such time as such person shall not be in breach of the agreement.

D. The Collector shall have the power to waive all or a portion of the penalty(ies) imposed pursuant to this section for good cause shown up to an amount not to exceed \$1,000; provided, that such waiver shall not result in any cost to the City. Any request for a waiver of penalty(ies) in excess of \$1,000 must be submitted to the City Council. The person requesting the waiver shall submit a sworn statement to the Collector setting forth the reason(s) they believe a waiver is justified.

5.04.220 Refunds of overpayments.

No refund of an overpayment of taxes imposed by this chapter shall be allowed in whole or in part unless a claim for refund is filed with the Collector within a period of three years from the last day of the calendar month following the period for which the overpayment must be filed with the Collector on forms furnished by him or her and in the manner prescribed by him or her. Upon the filing of such a claim and when he or she determines that an overpayment has been made, the Collector may refund the amount overpaid.

5.04.230 Determination of tax due based on gross receipts plus annual registration tax.

A. Every person who engages in business at a fixed place of business within the City shall pay a license tax based upon gross receipts at the following rates and in the following classifications:

CLASSIFICATIONS:

Category 1 - General Retail, Wholesale, Restaurant, Hotels, Tour Operators and Manufacturing (\$1 per thousand of gross receipts, \$125 minimum annual tax):

Any establishment or business that conducts retail (the sale of goods to ultimate consumers, usually in small quantities), or wholesale (the sale of goods in quantity, as to retailers or jobbers, for resale), or restaurant (an establishment where meals, prepared food, and/or beverages are served to customers).

"Manufacturing" includes every person conducting or carrying on a business consisting of manufacturing, packing, or processing any goods, wares, merchandise or commodities at a fixed place of business within the city or conducting or carrying on a business of cold storage or refrigeration.

"Tour Operator" means a business that provides tours in Sausalito for compensation.

Category 2 - Rental Units (Commercial and Residential) (\$2 per thousand of gross receipts, \$125 minimum annual tax):

Any business, individual, or entity who leases, rents, or otherwise provides property to another individual or entity for compensation.

Category 3 – Service and Professionals (\$3 per thousand of gross receipts, \$125 minimum annual tax):

Services: means any professional services, as that term is ordinarily and commonly used and understood, wherein individuals are engaged in the business of offering to the public professional or semiprofessional services for compensation, and not specifically covered under any other part, chapter or section of this chapter, and shall include those professions may require governmental certification or licensure, but not be limited to, the services rendered by a person engaged in the practice or profession such as hairstylist, beautician or cosmetologist, aesthetician, or arts instructor.

Professional services: means any professional services, as that term is ordinarily and commonly used and understood, wherein individuals are engaged in the business of offering to the public professional or semiprofessional services for compensation, and not specifically covered under any other part, chapter or section of this chapter, and shall include those professions generally requiring governmental certification or a professional degree, but not be limited to, the services rendered by a person engaged in the practice or profession of law, medicine, surgery, dentistry, ophthalmologist, optometry, chiropractics, osteopathy, chiropody, dental technician, laboratory technician, physical therapist, mortician, undertaker, psychologist, psychotherapy, radiologist, speech therapist, veterinary, licensed financial planner, licensed investment counselor, real estate agent, real estate broker, stock/bond or security agent or broker, civil, mechanical, electrical, industrial, or other class of engineer, surveyor, geologist, appraiser, architect, accountant, real estate management, property management, income tax preparers, bookkeepers, income tax consultants, developer, or marriage counselors.

Category 4 – Contractors (\$2 per thousand of gross receipts, \$125 minimum annual tax):

Contractors: every person, firm or corporation conducting, managing or carrying on the business of contractor, subcontractor or builder; or engaging in the construction or repair of any buildings; or engaged in any engineering, construction, or operating whatever, or advertising as such, or representing himself as such, and regularly employing help for building construction, sewer construction, plumbing construction or general construction.

B. In any case where a license or an applicant for a license believes that his or her individual business is not assigned to the proper classification under this section because of circumstances peculiar to it, as distinguished from other businesses of the same kind, he or she may apply to the Collector for reclassification. Such application shall contain such information as the Collector may deem necessary and require in order to determine whether the applicant's individual business is properly classified. The Collector shall then conduct an investigation following which he or she shall assign the applicant's individual business to the classification shown to be proper on the basis of such investigation. The proper classification is that classification which, in the opinion of the Collector, most nearly fits the applicant's individual business. The reclassification shall not be retroactive, but shall apply at the time of the next regularly ensuing calculation of the applicant's tax. No business shall be classified more than once in one year.

C. The Collector shall notify the applicant of the action taken on the application for reclassification. Such notice shall be given by serving it personally or by depositing it in the United States Post Office at Sausalito, California, postage prepaid, addressed to the applicant at his or her last known address. Such applicant may, within 15 days after the mailing or serving of such notice, make written request to the Collector for a hearing on his application for reclassification. If such request is made within the time prescribed, the Collector shall cause the matter to be set for hearing before the City Council within

15 days. The Collector shall give the applicant at least 10 days' notice of the time and place of the hearing in the manner prescribed above for serving notice of the action taken on the application for reclassification. The Council shall consider all evidence adduced and its findings thereon shall be final. Written notice of such findings shall be served upon the applicant in the manner prescribed above for serving notice of the action taken on the application for reclassification.

5.04.250 Tax on vehicles used in business operation.

A. In addition to the gross receipts tax provided, per unit license tax in an amount fixed by resolution of the City Council shall be paid for the use of each of the following vehicles in the operation or conduct in the City of a business which maintains a fixed place of business within the City or creates a significant presence within the City:

1. Taxicabs, buses and other passenger vehicles for hire;
2. Transportation units such as bicycles, motorized cycles, or other methods of transportation for hire which shall be charged at the same rate as vehicles in subsection 3 below;
3. Vehicles used in the delivery of goods, wares or merchandise of any kind in the City; provided, however, that every person having a fixed place of business within the City and any person transacting the business of a contractor licensed pursuant to Chapter 9 of Division 3 of the Business and Professions Code (whether or not such contractor has a fixed place of business within the City) shall be entitled to operate one delivery vehicle not exceeding one-ton capacity without payment of such flat rate license tax.

B. Subject to the provisions of subsection A of this section, every person not having a fixed place of business in the City who uses any of the vehicles mentioned in subsection A of this section in the operation or conduct of a business in the City shall pay a per unit license tax in an amount fixed by the City Council, or, in the alternative, shall pay a gross receipts tax in an amount fixed by the City Council. Such gross receipts tax shall be paid on the apportioned gross receipts attributable to the mileage operated by such vehicle within the City. Any such person choosing to pay the alternate gross receipts tax shall maintain detailed records of the origination, destination, route, total mileage, mileage outside the City, and gross receipts for each trip of such vehicle where the mileage is not wholly within the City. In the event any person chooses to pay the alternate gross receipts tax and does not maintain such records, then it shall be presumed that all of the mileage occurred within the City.

5.04.260 Tax determination when no fixed place of business.

Except as otherwise provided in this chapter, every person not having a fixed place of business within the City who engages in business within the City shall pay a license tax at the same rate prescribed herein for persons engaged in the same type of business from and having a fixed place of business within the City.

5.04.270 Intentionally Omitted.

5.04.280 Intentionally Omitted.

5.04.290 Additional rules and regulations may be made.

The Collector may make rules and regulations not inconsistent with the provisions of this chapter as may be necessary or desirable to aid in the enforcement of the provisions of this chapter.

5.04.300 Enforcement.

It shall be the duty of the Collector, and he is directed, to enforce each and all the provisions of this chapter, and the Chief of Police shall render such assistance in the enforcement of this chapter as may from time to time be required by the Collector or the City Council.

The Collector in the exercise of the duties imposed upon him under this chapter, and acting through his 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.

The Collector and each and all of his assistants and any police officer shall have the power and authority (upon obtaining an inspection warrant therefor) to enter, free of charge, and at any reasonable time, any place of business required to be licensed under this chapter, and demand an exhibition of its license. Any person having such license theretofore issued, in his possession or under his control, who willfully fails to exhibit the same on demand shall be guilty of a misdemeanor and subject to the penalties provided for by the provisions of this chapter. It shall be the duty of the Collector and each of his assistants to cause a complaint to be filed against any and all persons found to be violating any of such provisions.

5.04.310 License tax is debt to City.

The amount of any license tax and penalty imposed by the provisions of this chapter shall be deemed a debt to the City. An action may be commenced in the name of the City in any court of competent jurisdiction for any delinquent license tax and penalties.

5.04.320 Remedies cumulative.

All remedies prescribed under this chapter 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.

5.04.330 Effect of chapter on prior ordinances and unexpired licenses.

Neither the adoption of 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 the effective date of the ordinance codified in this chapter, nor be construed as a waiver of any license or any penal provision 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.

Where a license for revenue purposes has been issued to any person by the City and the tax paid for the business for which the license has been issued under the provisions of any ordinance heretofore enacted and the term of such license has not expired, then the license tax prescribed for the business by this chapter shall not be payable until the expiration of the term of such unexpired license.

5.04.340 Penalty for violation.

Any person violating any of the provisions of this chapter or knowingly or intentionally misrepresenting to any officer or employee of this City any material fact in procuring the license or permit herein provided for shall be deemed guilty of an infraction.”

SECTION 2: Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of Sausalito hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

SECTION 3: Publication and Effective Date. This Ordinance shall take effect after approval of the ballot measure related hereto and on July 1, 2019.