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## Chapter 2-2 BUSINESS LICENSE

### 2-2-100 Definitions.

The following words and phrases, whenever used in this chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

"Business" means and includes full-time or part-time professional services and retail, wholesale, manufacturing, or other occupations, trades, or callings of any kind, whether or not carried on for profit or livelihood.

"Business tax" means the business activity tax.

"City" means the City of San Leandro, a charter city of the State of California in its present incorporated form or in any later reorganized, consolidated, enlarged or reinforced form.

"Code" means the San Leandro Municipal Code, as amended from time to time.

"Collector" means the Finance Director of the City or other City officer or employee charged with administration of this chapter.

"County" means the County of Alameda.

"Constitution" means the United States Constitution or the California Constitution, as the case may be.

"Employee charge" means a fee, based upon the total number of full time and part time employees, including owners and any others who may work without charge. The number of employees shall not be less than one.

"Evidence of Doing Business". When any person, by the use of advertising mediums, including but not limited to radio, television, signs, circulars, cards, social media, Internet, email, facsimile, or newspapers, shall 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, or when any person makes a sale, takes an order, renders a commercial service, or performs any other similar act within the City, whether operating from a fixed location in the City or coming into the City from an outside location to engage in such activity, then such facts shall be considered prima facie evidence that he or she is conducting a business in the City.

"Fixed place of business" means premises in the City where a business is conducted from day to day and regularly kept open for the purposes of such business, also referred to as "regular place of business."

"Gross receipts" means the total amount of the sale price of all sales, and/or the total amount charged or received for the performance of any act or service or employment, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act, service or employment is done as a part of or in connection with the sale of materials, goods, wares or merchandise, and when such act, service or employment occurs as a result of any activity within the City. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, except as excluded in this subsection, without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever as shown by either the Federal or State income tax return required to be filed by such person. Where the

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gross receipts are less than the cost of maintaining the operations of the licensee, then the licensee shall be deemed to produce gross receipts in an amount at least equal to the cost of maintaining such operations. Such cost of operations includes, but is not limited to, rent, depreciation, salaries, wages, fixed charges, and other expenses.

Excluded from "gross receipts" shall be:

- (a) Cash discounts allowed and taken on sales;
- (b) Credit allowed on property accepted as part of the purchase price and which property may later be sold;
- (c) Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- (d) 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;
- (e) Amounts collected for others where the Business is acting as an agent or trustee to the extent that such amounts are paid to those whom collected;
- (f) As to a real estate agent or broker, the sales price of real estate sold for the account of others, except that portion which represents commission or other income to the agent or broker;
- (g) As to a gasoline dealer, a portion of their receipts from the sale of motor vehicle fuels equal to the motor vehicle fuel tax imposed by and previously paid under the provisions of Part 2 of Division 2 of the Revenue and Taxation Code of the state; and
- (h) As to a retail gasoline dealer, the special motor fuel license 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.

"Hearing officer" means an impartial person designated by the City Manager.

"Manufacturing" means making materials, raw or partly finished, into wares suitable for use by persons other than the manufacturer, including, but not limited to, fabrication, processing, packing, bottling, assembling, canning, compounding, and forging.

"Not-for-profit entities" means any organization that qualifies under Section 501, subsection (c)(3) of the United States Internal Revenue Code or equivalent federal statute.

"Number of employees" mean and include the total number of full time and part time employees engaged or to be engaged within this City in the applicant's business during the license period, whether as owner, partner, spouse or employee and any others who may work without charge. The Finance Director may require the applicant to submit information concerning the number of employees engaged in applicant's business including but not limited to a copy of the relevant sections of the State Employment Development Department Quarterly Report (DE-3) form(s) as verification of the number of employees.

"Person" means any individual, firm, company, partnership, limited liability partnership, joint venture, association, proprietorship, social club, fraternal organization, joint stock company, domestic or foreign corporation, limited liability corporation, estate, trust, business trust, receiver, trustee, trustee in bankruptcy, administrator, executor, assignee, syndicate, or any other group or combination acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise, excepting: the United States of America, the State of California, and any political

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subdivision of either thereof upon which the City is without power to impose the tax herein provided.

"Space" means each location in a mobile home park that is rented or intended to be rented.

"Square feet" means, for persons or firms within the nonresidential property rental classification, all of the space within the exterior walls of the building regardless of use that is rented or intended to be rented. For persons or firms within the warehousing/storage or wholesaling/distribution classifications, square feet shall mean all of the space within the exterior walls of the building leased or owned by the business regardless of use as substantiated by a lease document, floor plan/blueprint, or other form of documentation approved by the Director of Finance. No business shall be deemed to be less than one unit fee.

"State" means the State of California.

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

"Tax certificate" means the business tax certificate and any other identifying decal or marker as may be required by the collector for purposes of this chapter.

"Tax certificate holder" means the person to whom a tax certificate has been issued.

"Transient business" means every business not conducted at a "fixed place of business" or at a regular place of business, whether the person conducting such transient business is or is not a resident of the City.

"Unit" means each residential dwelling that is rented or intended to be rented. No business shall be deemed to be less than one unit fee.

"Warehousing business" means every business conducted solely for the purpose of maintaining or renting space for the storage of any kind of property.

"Wholesale business" means every business conducted solely for the purpose of selling goods, wares, or merchandise in wholesale lots for resale.

## **2-2-105 Business Classification.**

Business classification shall mean the following general business categories:

(a) Automobile Wrecking. Any person engaged in the business of buying or trading used or wrecked motor vehicles and reselling the parts thereof or the building of motor vehicles from the salvaged parts of such motor vehicles.

(b) Bingo shall mean a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random.

(c) Cannabis business shall have the same meaning as San Leandro Municipal Code Section 2-21-300.

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(d) Carnival. Any person engaged in the business of operating a carnival, circus or other itinerant amusement concession, excluding an activity for which a permit has been obtained pursuant to the Zoning Code of the City of San Leandro and which is:

(1) An incidental part of an overall business promotional activity conducted by an organized group of merchants licensed to do business within the City.

(2) Carried on, by, or on behalf of a civic, religious, cultural, benevolent or similar nonprofit organization with a minimum of 40% of the gross receipts of such activity to be received by such organization.

(3) A neighborhood carnival, exhibit, celebration or festival sponsored by an organized group of residents in the vicinity, provided that no mechanical rides are a part of such activity.

(4) A booth for charitable, welfare or patriotic purposes.

(e) Christmas Tree and Pumpkin Sales. Christmas tree and pumpkin sales shall mean the selling of Christmas trees and pumpkins at retail, excluding such sales by a licensee from a permanently established licensed place of business within the City.

(f) Coin-Operated Device. Coin-operated device shall mean laundry machine, video game machine, pinball machine, juke box, vending machine or other similar coin-operated electrical or mechanical device.

(g) Commercial Advertising. Commercial advertising shall mean the distribution of commercial advertising material, excluding distribution of such material advertising a permanently established licensed business within the City by the owner or employees of such business.

(h) Contractors. Any person who is licensed as a contractor by the State of California and who undertakes or offers to undertake or submits a bid to construct, alter, repair, improve, move, wreck or demolish any building, highway, excavation or other structure, project, development or improvement, or to do any part thereof. The term contractor includes subcontractor and specialty contractor.

(i) Dance Hall shall mean any establishment where dancing is permitted with or without charge, whether or not in conjunction with any other business.

(j) Firearms Dealer shall mean a person whose business substantially consists of the selling, transferring, or leasing, or advertising for sale, transfer, or lease, or offering or exposing for sale, transfer, or lease, any firearm capable of being concealed upon the person as defined by the Penal Code of the State of California.

(k) Fortunetelling. Any person engaged in the business of telling fortunes, forecasting futures or furnishing any information not otherwise obtainable by the ordinary process of knowledge.

(l) Itinerant Merchant. Any person engaged in the temporary business of exhibiting, selling and delivering goods, wares or merchandise and who for the purpose of carrying on such business hires, leases, uses or occupies any building, room, motor vehicle, tent or other place within the City.

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(m) Second Hand Dealer. Any person engaged in the business of buying, selling, exchanging, trading, accepting for sale or consignment, secondhand personal property of whatever kind or description.

(n) Manufacturing. Any person conducting, managing or carrying on a business consisting mainly of manufacturing any goods, wares, merchandise or produce.

(o) Miscellaneous. Any person engaged in a business not specifically defined by other provisions of this Chapter and not otherwise exempt.

(p) Parking Lot means and includes, but is not limited to:

(1) Any outdoor space or uncovered plot, place, lot, parcel, yard or enclosure, or any portion thereof, where motor vehicles may be parked, stored, housed, or kept, for which any charge is made;

(2) Any building or structure, or any portion thereof, in which motor vehicles may be parked, stored, housed or kept, for which any charge is made.

(q) Pawnbroker. Any person engaged in the business of receiving goods in pledge as security for a loan.

(r) Peddler. Any person conveying or transporting goods, wares, merchandise, or provisions from place to place, from house to house or from street to street, offering and exposing the same for sale or making sales and delivering articles to purchasers.

(s) Public Utilities. Any person engaged in the business of providing utility services (whether or not regulated by the Public Utilities Commission) to the general public including, but not limited to, electricity, telephone, gas, cable television services, cellular phone service, and data transmission.

(t) Professional. Any person engaged in a profession or vocation requiring a period of specialized training such as, but not limited to the following:

- Architect
- Attorney-at-Law
- Certified Public Accountant
- Chiropractor
- Dentist
- Engineer (Chemical, Civil, Electrical, etc.)
- Environmental Consultant
- Geologist
- Optician
- Optometrist
- Osteopath
- Physician
- Podiatrist
- Psychologist
- Public Accountant
- Veterinarian

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(u) Recreation and Entertainment. Any person engaged in the business of providing entertainment, recreation or amusement services.

(v) Nonresidential Property Rental. Any person engaged in the business of renting or letting a building or structure of any kind, including warehouses, mini-storage, industrial, commercial, and office buildings to a tenant for purposes other than dwelling, sleeping or lodging. For the purposes of calculating fees, when combining nonresidential and residential property rentals, all property must be under the same ownership.

(w) Residential Property Rental. Any person engaged in the business of conducting or operating an apartment house, single-family house rental, duplex, condominium, townhouse, hotel/motel, mobile home park, rooming or boarding house having one or more residential units, excluding for purposes hereof the unit, if any, occupied by the taxpayer. For the purposes of calculating fees, when combining nonresidential and residential property rentals, all property must be under the same ownership.

(x) Retailing. Any person providing or carrying on a business consisting mainly of selling at retail any goods, including restaurants and establishments where meals or refreshments may be procured.

(y) Services. Any person providing services, repairs, or improvements to or on real and personal property; renting or leasing personal property to businesses or persons; providing services to persons such as, but not limited to:

- Ambulance
- Appraiser
- Assayer
- Bail Bond Broker
- Barber and Beauty Shops
- Bookkeeping Service
- Claims Adjuster
- Cleaning and Dyeing
- Collection Agency
- Commercial Artist
- Consultant
- Delivery of Goods
- Designer or Decorator
- Detective or Detective Agency
- Draftsman
- Employment Agency
- Escrow Company
- Finance/Loan Company
- Gardener
- Health Studio
- Instruction (Dance, etc.)
- Insurance Adjuster/Broker
- Investment Advisor
- Landscape Designer
- Laundries

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Locksmith  
Manufacturer's Representative  
Messenger  
Mortician  
Notary Public  
Outdoor Advertising  
Photographer  
Photographic Processing  
Photographic Studios  
Physio-Therapist  
Public Stenographer  
Real Estate Broker/Agent  
Repair Shops (Automobile, Machine, Tools, etc.)  
Shoe Repair  
Stock/Bond Broker  
Surveyor  
Tax Counselor  
Taxicabs  
Taxidermist  
Travel Agency  
X-Ray Laboratory

(z) Solicitor. Any person taking or attempting to take orders from place to place, from house to house or from street to street, for sale of goods, wares and merchandise, personal property or services of any nature whatsoever for future delivery.

(aa) Towing. Any person engaged in the business of towing or transporting any motorized or non-motorized vehicle.

(ab) Warehousing/Storage. Any person or firm engaged in providing and/or operating warehousing facilities primarily used for the storage and/or consolidating of items such as raw materials, private goods, and the intermediary storage of bulk goods intended for further distribution. This classification includes moving and furniture storage companies.

(ac) Waste Disposal Site. Any person engaged in the business of conducting or operating a landfill, transfer station or collection center for the receipt and processing of household, commercial and industrial solid waste materials.

(ad) Wholesaling/Distribution—General. Any person or firm primarily engaged in selling merchandise to retailers; to other wholesalers for resale to individual consumers; or to industrial users for their own consumption or resale to individual consumers. This classification includes order-processing fulfillment centers, logistics businesses, and other facilities that provide for the repackaging and/or shipment of an on-site inventory of goods and products directly to retail/wholesale customers or retail stores. This classification also includes truck terminals, whose purpose is to provide for the consolidation, division and/or distribution of bulk goods through the use of large trucks and trailers, including cross-dock trucking uses.

(ae) Wholesaling/Distribution—Large Local Seller. Any person or firm which meets the parameters of Wholesaling/Distribution—General and contributes more than Fifty thousand

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dollars in sales tax payable to the City of San Leandro during the prior July 1 through June 30 time period.

**2-2-200 Revenue measure.**

This chapter is enacted for the sole purpose of raising revenue for municipal purposes and is not intended for regulation. The issuance of any tax certificate shall not be construed as authorizing any business to operate without first complying with all other applicable laws and regulations.

**2-2-205 Effect on other laws.**

- (a) Persons required to pay a business tax for transacting and carrying on any business under this chapter shall not be relieved from the payment of any similar tax for the privilege of doing such business required by any other law of the City, the County or the State and shall remain subject to the regulatory provisions of those other laws.
- (b) Any person required to pay a business tax for transacting and carrying on any business under this chapter shall not be relieved from the payment of such business tax, notwithstanding that such business is not in compliance with zoning, health, safety, or other regulatory provisions of the Code or other State or federal law. Compliance with the provisions of this chapter shall not constitute evidence that such business is in compliance with any other such regulations or provisions of law.

**2-2-210 Required business tax payment.**

- (a) It shall be unlawful for any person to transact and carry on any business, trade, profession, calling, or occupation in the City without first having paid the business tax, as prescribed in this chapter or without complying with any and all applicable requirements of this chapter.
- (b) This section shall not be construed to require any person to pay a business tax or to comply with any other requirement of this chapter prior to doing business within the City if such requirements conflict with applicable statutes of the United States or of the State.

**2-2-215 Evidence of doing business.**

When any person, by the use of signs, circulars, cards, social media, Internet, email, or newspapers, shall advertise, hold out, or represent that the person is in business in the City, or when any person holds an active license or permit issued by a governmental agency indicating that the person is in business in the City, or when any person makes a sale, takes an order, renders a commercial service, or performs any other similar act within the City, and such person fails to deny by a sworn statement given to the Collector that the person is not conducting a business in the City after being requested to do so by the Collector, then such facts shall be considered prima facie evidence that the person is conducting a business in the City.

**2-2-220 Constitutional apportionment.**

- (a) None of the business 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 Constitution.

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- (b) In any case where a business tax is believed by a person transacting or carrying on any business in the City to place an undue burden upon interstate commerce or be violative of such constitutional clauses, such person may apply to the Collector for an adjustment of the tax. Such application may be made before or at the time the tax is required to be paid or within six (6) months after the payment of the prescribed business tax. The applicant, by sworn statement and supporting testimony, shall show the applicant's method of business, the gross volume or estimated gross volume of such business, and such other information as the Collector may deem necessary 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 business tax for the applicant an amount that is reasonable and nondiscriminatory or, if the business tax has already been paid, shall order a refund of the amount over and above the business tax so fixed. Such investigation, fixing of the business tax, and order of refund shall be accomplished within a reasonable time upon receiving the requisite information by the City. In fixing the business tax, the Collector shall have the power to fix the business tax on any basis which will assure that the business tax assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the business tax prescribed by this chapter. If it is determined that no business tax is due, the applicant exempt from the business tax shall obtain, and the Collector shall issue, a tax certificate indicating such exemption from the tax.

## **2-2-225 Exemptions.**

- (a) Nothing contained in this chapter shall be deemed or construed as applying to any person transacting, engaging in, and carrying on any business exempt by virtue of the Constitution or applicable statutes of the United States or of the State from payment of taxes prescribed herein.
- (b) Exemptions requiring tax-exempt tax certificates. The following persons shall be exempted from the provisions of this chapter, except that any such person shall be required to obtain a tax-exempt tax certificate:
1. Not-for-profit entities, as defined in this Code;
  2. Banks, including national banking associations as provided by subsection 1(a) of Section 16 of Article XIII of the State Constitution;
  3. Insurance companies and associations as provided by Section 14 of Article XIII of the State Constitution provided however that insurance brokers shall not be excluded under this section;
  4. The business of agriculture except for the retail activities conducted in connection therewith; and
  5. The conducting of any entertainment, concert, exhibition or lecture on scientific, historical, literary, benevolent or moral subjects within the City whenever the receipts of any such entertainment, concert, exhibition or lecture are to be appropriated to any church or school or to any benevolent purpose within the City.
- (c) Exemptions not requiring tax-exempt tax certificates. The following persons shall be exempted from the provisions of this chapter, and shall not be required to obtain a tax-exempt tax certificate:

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1. Any delivery by a firm lacking a fixed place of business in the City, which delivery is occasional and incidental to a business carried on outside the City provided, however, that four (4) or more deliveries within any twelve (12) month period shall be considered proof that any further delivery is not occasional and incidental to such business;
  2. Any public utility or other organization which is wholly owned and operated by a political subdivision of the State and any public district organized under the laws of the State; and
  3. Any vehicle which is subject to the Motor Carriers of Property Permit Fee Act (California Revenue and Taxation Code section 7231 *et. al*); provided, however, this exemption shall only apply to the transportation business.
- (d) Claims for exemption. Any person desiring to claim an exemption from the payment of a business tax and to have a free tax-exempt tax certificate issued shall make an application therefor upon a form prescribed by the City and shall furnish such information and make such affidavits as may be required, on an annual basis. Upon the determination being made that the applicant is entitled to an exemption from the payment of the business tax for any reason set forth in this chapter, the City, upon the applicant complying with the provisions of this chapter or any other law of the City which may require a permit for the doing of the particular act proposed to be done, shall issue a free tax-exempt tax certificate to such person, which certificate shall show upon its face that the business is exempt from the business tax.
- (e) Revocation of exemptions. The City may revoke any tax-exempt tax certificate granted pursuant to the provisions of this chapter upon information that the business is not entitled to the exemption as provided therein. In such revocation, the procedure to be followed and the right of appeal shall be as provided in this chapter for the determination of a disputed tax.
- (f) Sworn statements. The City may require the filing of a sworn statement from any person claiming to be excluded by the provisions of the section, which statement shall set forth all the facts upon which the exclusion is claimed.

#### **2-2-230 Posting and keeping tax certificates—Record keeping.**

- (a) Any person carrying on business at a fixed place of business in the City shall keep the tax certificate posted in a conspicuous place on the premises where such business is carried on.
- (b) Every tax certificate holder not having a fixed place of business in the City shall keep the tax certificate upon his or her person, or if required by the Collector affixed in plain view upon any cart, vehicle, van, or other movable structure or device, at all times while transacting or carrying on the business for which it is issued.
- (c) 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 (3) years. No person required to keep records under this section shall refuse to allow authorized representatives of the Collector to examine said records at reasonable times and places.
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**2-2-235 Information confidentiality.**

No statement shall be conclusive as to the matters set forth in any application filed under the provisions of this chapter and neither the filing thereof, the assessment or payment of any tax, nor the issuance of any tax certificate shall preclude the City from collecting by appropriate action such sum as is actually due and payable. Such statement, and each of the several items therein contained, shall be subject to audit and verification by the Collector, who is hereby authorized to examine, audit, and inspect such books and records of any tax certificate holder or applicant for a tax certificate as may be necessary for the judgment of the Collector to verify or ascertain the amount of business tax due.

- (a) 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 required to have a tax certificate, or pay a business tax, 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 in any statement or application, or copy of either, or any book containing any abstract particulars thereof to be seen or examined by any person. Provided that nothing in this section shall be construed to prevent:
1. 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 hereunder;
  2. 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;
  3. The disclosure of information and results of the examination of records of particular taxpayers, or relating to particular payers, to a court of law in a proceeding brought to determine the existence or amount of any business tax liability of the particular taxpayers to the City;
  4. 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 to 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;
  5. The disclosure of the names and addresses of persons to whom business tax receipts have been issued, and the general type or nature of their business;
  6. 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 the facts when a taxpayer files a claim for refund of business taxes or submits an offer of compromise with regard to a claim asserted against him by the City for business taxes, or when acting upon any other matter;

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

**2-2-240 Failure to file statements or corrected statements.**

- (a) If any person fails to file any required statement within the time prescribed, or if, after demand therefor made by the Collector, such person fails to file a corrected statement, or if any person subject to the tax imposed by this chapter fails to submit the information required by the Collector necessary to determine the business tax due and payable, or if the Collector is not satisfied with the information supplied and the statement filed, the Collector may determine the amount of the business tax due from such person by means of such information as he may be able to obtain.
- (b) If such a determination is made, the Collector shall give notice of the amount so assessed by serving such notice electronically, personally, or by depositing it in the United States Post Office, postage prepaid, addressed to the person so assessed at their last known address.
- (c) Assessments so established shall be paid within fifteen (15) days after the mailing of such notice.

**2-2-245 Amount of business tax debt to city.**

The amount of any business tax imposed by this chapter shall be deemed a debt to the City, and any person carrying on any trade, calling, profession or occupation mentioned in this chapter without having a tax certificate from the City shall be liable to an action in the name of the City in any court of competent jurisdiction for the amount of the business tax by this chapter imposed on such trade, calling, profession, or occupation.

**2-2-250 Effect of convictions.**

The conviction and punishment of any person for transacting any trade, calling, profession, or occupation without a tax shall not excuse or exempt such person from the payment of any business tax due or unpaid at the time of such conviction, and nothing in this chapter shall prevent a criminal prosecution for any violation of the provisions of this chapter.

**2-2-255 Duty of City to issue business tax certificates.**

- (a) It shall be the duty of the City to prepare and issue a tax certificate pursuant to the provisions of this chapter for every person liable to pay a business tax and to state in each tax certificate the period of time covered thereby; the name of the person or business to whom issued; the business classification to which the tax certificate is issued; the trade, calling, profession, or occupation to which the license certificate is issued and the location or place of business where such trade, calling, profession, or occupation is to be performed.
- (b) No tax certificate granted or issued under any provision of this chapter shall be in any manner transferred or assigned, nor shall such tax certificate authorize any person, other than is therein mentioned or named, to not pay a business tax.
- (c) The City may make a charge in an amount specified in the City's fee schedule for each duplicate tax certificate issued to replace any tax certificate issued under the provisions of this chapter that has been lost or destroyed. In no case shall any mistake made by the City

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in stating the amount of a business tax prevent or prejudice the collection by the City of what shall be due from any person carrying on a trade, calling, profession, or occupation subject to business tax under this chapter.

#### **2-2-260 Business taxes payable in specified manner**

All business taxes shall be paid in advance in lawful money of the United States to the City of San Leandro, in a manner prescribed by the Collector.

#### **2-2-265 Separate business tax certificate required.**

A separate tax certificate shall be obtained for each branch establishment or location. Warehouses and distributing establishments used in connection with and incidental to a business taxed under the provisions of this chapter shall not be deemed to be separate places of business or branch establishments.

#### **2-2-270 Business tax certificate period.**

No tax certificate shall be issued for a period of more than twelve (12) months from the initial date of issuance or renewal.

#### **2-2-275 Business taxes—Payment, delinquencies, and penalties.**

- (a) All business taxes shall be due on the first day of business license issuance and annually thereafter and will be considered delinquent at 30 days after business taxes are due.
- (b) For failure to pay a business tax when due, the Collector shall add a penalty of ten (10%) percent of such business tax on the first day of delinquency and shall add a further penalty of ten (10%) percent of such business tax on the first day of every subsequent calendar month following such first day of delinquency provided the amount of such penalties to be added shall in no event exceed fifty (50%) percent of the business tax due. The penalties provided in this subsection shall be assessed from the date when such deficiency was required to be paid pursuant to the provisions of this chapter.
- C. No penalties shall be issued until after October 1, 2027.

#### **2-2-300 Application—Initial.**

- (a) Upon a person making an application for the first business tax certificate for a newly established or acquired business, such person shall furnish to the Collector a statement, upon a form provided by the Collector; setting forth the following information:
  - 1. The exact nature or kind of business;
  - 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 same;
  - 3. In all cases where the amount of 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 tax to be paid by the applicant;
  - 4. Any further information which the Collector may require.

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- (b) If the amount of the tax to be paid by the applicant is measured by gross receipts, he or she shall estimate the gross receipts for the period covered. Such estimate, if accepted by the Collector as reasonable, shall be used in determining the amount of tax to be paid by the applicant; provided, however, the amount of the tax so determined shall be tentative only, and such person shall, within 30 days after the expiration of the period covered, furnish the Collector with a statement, upon a form prescribed by the Collector, showing the applicant's actual gross receipts during the period covered, and the tax for such period shall be finally ascertained and paid in the manner provided by this chapter for the ascertaining and paying of such taxes, after deducting from the payment found to be due the amounts initially paid.
  - (c) In all cases, the applicant shall, upon filing his or her application, pay no less than the prescribed minimum tax in advance, without being prorated, to cover the remaining portion of the current reporting period.
  - (d) The Collector shall not issue to any such person another business tax certificate for the same or any other business until such person shall have furnished to them a statement and paid the tax as herein required.

#### **2-2-305 Application—Renewal.**

In all cases, the applicant for the renewal of a business tax certificate shall submit to the Collector for their guidance in ascertaining the amount of the tax to be paid by the applicant, a statement, upon a form prescribed 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 them to ascertain the amount of the tax to be paid by said applicant pursuant to the provisions of this chapter.

#### **2-2-310 Extensions of filing dates—Interest charges.**

The Collector shall have the power, for good cause, to extend the time for filing any required sworn statement for a period not exceeding sixty (60) days and in such case to waive any penalty that would have otherwise accrued.

#### **2-2-315 Refunds.**

No refund of an overpayment of a business tax imposed by this chapter shall be allowed in whole or in part unless a claim for a refund is filed with the Collector within a period of one (1) year after the last day that payment was made, and all such claims for refunds shall be filed with the Collector on forms the Collector furnishes in the manner prescribed by the Collector. Upon the filing of such a claim and when the Collector determines, in a reasonable time, that an overpayment has been made, the Collector may refund the amount overpaid.

#### **2-2-320 Determinations of business classifications an administrative function.**

The final determination of which business or class of business a tax certificate holder or applicant for a tax certificate is engaged in, or about to engage in, shall be an administrative function of the City, and determined by the Collector.

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### **2-2-325 Applications for changes of business classifications.**

- (a) In any case, where a tax certificate holder or an applicant for a tax certificate believes that their business is not assigned to the proper classification under this chapter because of circumstances peculiar to it, as distinguished from other businesses of the same kind, they may apply to the Collector for reclassification. Such application shall contain such information as the Collector may deem necessary and required to determine whether the applicant's individual business is properly classified. The Collector shall then conduct an investigation following which they 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 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 a year.
- (b) 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 postage prepaid, addressed to the applicant at their last known address. Such applicant may, within ten (10) working days after the mailing or serving of such notices, make a written request to the Collector for an appeal hearing on the application's reclassification. If such a request is made within the time prescribed, the Collector shall cause the matter to be set for hearing before the City Manager or their designee within fifteen (15) days. The Collector shall give the applicant at least ten (10) days' notice of the time and place of the hearing. The City Manager shall consider all evidence adduced and shall make an order reflecting their decision. The decision of the City Manager shall be final.

### **2-2-330 Appeals on decisions of business classifications.**

Any applicant or tax certificate holder aggrieved by the business classification decision of the City shall have the right of appeal to a Hearing Officer designated by the City Manager or their designee. Such appeal shall be taken by filing with the City Clerk, within fifteen (15) days after the notice of the decision of the City, a written statement setting forth the grounds for the appeal. The City Clerk shall set a time and place for a hearing on such appeal within thirty (30) days after the receipt of the appeal. The decisions and orders of the Hearing Officer shall be final and conclusive.

### **2-2-400 Rules and regulations.**

The City Manager may promulgate such 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.

### **2-2-405 Referrals to other agencies—Prepayment of taxes.**

- (a) Referrals to other agencies. The Collector may refer to any governmental agency any statement and all other information submitted by persons subject to the provisions of this chapter in connection with the conduct of a Business regulated or supervised or otherwise the concern of any such agency, including agencies concerned with health regulations,

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zoning conformance, fire safety, police considerations, or any other safeguard of the public interest.

- (b) Prepayment of taxes. The Collector may advise any person filing a statement in connection with the payment of a business tax for a new or other business not actually in operation that such person may desire to defer the payment of the business tax until the person has obtained whatever approval may be required in order to transact and carry on the business until such business is actually in operation. If any person does, however, pay the business tax in advance of the commencement of the operation of the business, but does not operate the business because City or other governmental agency did not grant an approval which is required by regulation or law in order for such Business to be transacted and carried on, then the business tax shall be refunded in full, after the person has informed the Collector in a timely manner, to the person having paid such tax minus the application fee as set by resolution of the City Council and revised from time to time.

#### **2-2-500 Enforcement.**

- (a) It shall be the duty of the Collector to enforce each and all of the provisions of this chapter, and the various City departments shall render such assistance in the enforcement as may from time to time be required by the Collector, City Manager, or City Council.
- (b) The Collector, in the exercise of the duties imposed upon the Collector 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.
- (c) The Collector, and each designee, and any police officer or duly authorized inspector, shall have the power and authority to enter free of charge at any reasonable time any place of business or to question any person, which business or person is, or there is reasonable cause to believe such business or person may be, subject to the provision of this chapter, and demand an exhibition of proof of business tax payment.

#### **2-2-505 Remedies cumulative.**

All remedies prescribed in 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.

#### **2-2-510 Violations—Penalties.**

Any person violating any of the provisions of this chapter or knowingly or intentionally misrepresenting to any officer or employee of the City any material fact in procuring, or attempting to procure, the business tax certificate provided for in this chapter shall be deemed guilty of an infraction.

#### **2-2-515 Determination of tax due based on gross receipts plus annual registration tax.**

- (a) Every person who engages in business within the City shall pay a business tax based upon gross receipts at the specified category rates listed in this section.

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- (b) The first \$25,000 in annual gross receipts shall not be subject to the business tax. This amount shall be adjusted annually each fiscal year to reflect any increase in the Consumer Price Index for the preceding February to February, all urban consumers index, San Francisco/Oakland/Hayward.
- (c) The minimum annual tax amounts and the business tax identified in Category 7 in subsection (d) below shall be adjusted annually each fiscal year to reflect any increase in the Consumer Price Index for the preceding February to February, all urban consumers index, San Francisco/Oakland/Hayward.
- (d) Categories of businesses:
1. CATEGORY 1: General retail and restaurants ( $0.00043 \times$  gross receipts, \$132 minimum annual tax):
    - A. Any establishment or business that conducts retail (the sale of goods to ultimate consumers, usually in small quantities), or restaurant (an establishment where meals, prepared food, and / or beverages are served to customers).
  2. CATEGORY 2: Professional services ( $0.0025 \times$  gross receipts, \$264 minimum annual tax):
    - A. "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, chiropractic, osteopathy, chiropody, dental technician, hairstylist, beautician or cosmetologist, aesthetician, laboratory technician, physical therapist, massage establishments and technicians, mortician, undertaker, psychologist, psychotherapy, radiologist, speech therapist, veterinary, licensed financial planner, licensed investment counselor, land developer, 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.
  3. CATEGORY 3: Contractors and Services ( $0.002 \times$  gross receipts, \$150 minimum annual tax (Contractors) and \$264 minimum annual tax (Services)):
    - A. "Contractors" means every person, firm, or corporation conducting, managing, or carrying on the business of a contractor, subcontractor, or builder; or engaging in the construction or repair of any buildings; or engaged in any engineering, construction, operating, or advertising as such, or representing himself as such, and regularly employing help for building construction, sewer construction, plumbing construction or general construction.
    - B. "Services" means any services, as that term is ordinarily and commonly used and understood, wherein individuals are engaged in the business of offering to the public services for compensation, and not specifically covered under any other section of this chapter, shall include but not be limited to the services rendered by
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a person engaged in the practice such as gardeners, personal shoppers/assistants, event planners, pet sitters, tutoring, arts instructor, delivery services, administrative/general office, towing, and transportation (public).

4. CATEGORY 4: Rental (Commercial and Residential), self-storage, hotels, motels and short-term rentals Property rental & mobile homes:

Residential:

\$176.13 base fee + \$16.27/unit

Commercial:

\$176.13 base fee + \$27.09/1,000 square feet

- A. Any business, individual, or entity that leases, rents, or otherwise provides property to another individual or entity for compensation.
5. CATEGORY 5: Manufacturing, wholesaling and importing/exporting of goods (0.00045, \$132 minimum annual tax):
- A. "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. This type of industrial business involves the production of goods on a large scale, using labor and machines, and then selling the goods in bulk to retailers, other manufacturers, or wholesalers. It encompasses a wide range of sectors, from public utilities, to food production, to electronics and automotive manufacturing. Examples include, but are not limited to, food production companies, electronics manufacturers, pharmaceutical manufacturing, and automotive parts wholesalers.
- B. "Wholesaling" means every business conducted solely for the purpose of selling goods, wares, or merchandise in wholesale lots for resale.
6. CATEGORY 6: Warehousing (0.0045, \$132 minimum annual tax):
- A. "Warehousing" means every business conducted solely for the purpose of maintaining or renting space for the storage of any kind of property. These operations include distribution centers, fulfillment centers, and storage facilities.
7. CATEGORY 7: Mobile Home Park (\$176.13 annual tax plus \$16.27 annual tax per space):
- A. "Mobile Home Park" includes an area of land where two or more mobile home sites are rented, or held out for rent, to accommodate mobile homes used for habitation.
8. CATEGORY 8: Cannabis (As provided in San Leandro Municipal Code Chapter 2-21 at Section 2-21-400.).
9. CATEGORY 9: Parking Lots (\$176.13 base fee, \$121.54 unit fee, unit fee basis of per \$1,000.00 of gross receipts).
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## **2-2-520 Collection of Delinquent Charges and Fees**

During July of each year commencing with July 2028, the Finance Director shall submit to the City Council a report of delinquent charges and fees. A time, date and place for hearing of the report and any objections or protests thereto shall be fixed by the City Clerk. Not less than 10 days prior to the date of such hearing, the Collector shall mail written notice thereof to the owner of each of the premises affected thereby, using for this purpose the names and addresses which appear on the last equalized tax assessment roll.

- (a) At said hearing the City Council shall hear any objections or protests of owners of premises liable to be assessed for delinquent charges or fees. The City Council may make such revisions or corrections to the report as it deems just, after which the report shall be confirmed by resolution. The delinquent charges and fees set forth in the report as confirmed shall constitute special assessments against the respective premises and are a lien on the premises for the amounts of such delinquent charges and fees.
- (b) Prior to August 10, a certified copy of the confirmed report shall be filed with the County Auditor, who shall enter each assessment on the tax roll against the respective premises. Said assessment shall be collected at the same time in the same manner as ordinary municipal ad valorem taxes and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes. All laws applicable to the levy, collection and enforcement of municipal ad valorem property taxes shall be applicable to such assessments.
- (c) The lien created attaches upon recordation of a certified copy of the confirmed report in the office of the County Recorder and shall continue until the charges and fees are fully paid.
- (d) The Collector shall set an administrative fee to reimburse the City for the administrative costs of placing a lien on a property to collect delinquent charges, fees, and penalties. This administrative fee shall be added to the delinquent fees and penalties, and shall be included in the lien.
- (e) Any successor business on a premises, whether related to the previous business or an entirely new business, shall be responsible for all delinquent charges, fees, and penalties associated with that premises. The successor business has the obligation to determine the delinquency status of the prior business.

## **§ 2-2-525 AMNESTY PROGRAM.**

The Finance Director may, from time to time, establish an amnesty program whereby the City will not impose the penalties set forth in Section 2-2-535 on an existing business where that business has never previously applied for a business license, and has never previously received notice from the City that the business is required to comply with the provisions of this Chapter. No business will be eligible to participate in an amnesty program more than once. No business will be eligible to participate in an amnesty program if it has previously paid a business license tax, or has previously been notified by the City that the business is obligated to comply with this Chapter. The Finance Director is authorized to set the beginning and end dates for a particular amnesty program. No business may participate in an amnesty program outside the term established by the Finance Director.