

# **Attachment 6**



**CITY OF BEVERLY HILLS**  
**POLICY AND MANAGEMENT**

**MEMORANDUM**

**TO:** Honorable Mayor & City Council

**FROM:** Mahdi Aluzri, Assistant City Manager *MA*

**DATE:** October 18, 2012

**SUBJECT:** Business Taxes Background Information and Response To City Council Questions

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This memo provides background information on the City's adoption of its business tax regulations and business classifications. Also included are responses to general questions raised by Council members in relation to the appeal hearing for the assessment of business taxes to Specialty Surgical Center scheduled for October 23, 2012.

**BACKGROUND**

Research of historic records related to the establishment of business taxes in the City indicated that the earliest reference dates back to 1958 as part of the Municipal Code reprint records in the City Clerk's Office. Section 9-415 established two classifications, the "professionals and services" included as Classification A, and the "retail, wholesale manufacturing" category included as Classification B. Classification A for services and professions were taxed based on a flat rate per employee similar to the current methodology for Classifications A and C. Classification B was taxed based on gross receipts. Additional research shows that the same two categories remain through 1965.

The earliest changes we were able to verify to the two classifications were in a 1974 ordinance (74-O-1540) which included six different categories for business licenses. The "services and professionals" earlier classified as A were split into A and C with both rates being based on number of employees. Classification C was limited to "Professional Businesses". The four other classifications in the 1974 ordinance were Used Car Sales, Apartment Rental, Commercial Rental, and Vehicular Plates. These categories remained the same although the rates were increased in 1976. Based on our research and the information we have gathered so far it appears that the "residential and commercial rental" categories were introduced sometime between 1965 and 1974 but unfortunately we have not been able to verify specifically which year they were adopted by the City.

In 1978, ordinance 78-O-1717 was adopted just before proposition 13 became effective in January 1979. That ordinance included the same classifications as the 1974 ordinance except it removed the Vehicular Plates classification and added two new classifications, Classification G (for agencies, lenders and brokerage services) and Classification H for financial institutions. Also a section was added for oil production taxes.

These categories essentially remain the same but there were some administrative changes to the code enacted by ordinance 96-O-2255 that became effective March of 1996.

Councilmembers Questions:

Several questions were raised relating to the application of the business taxes to the Surgical Center business:

Q. When were the two businesses that are the subject of the October 23 hearing established?

A. Specialty Surgical Center LLC. first registered with the City on August 1, 2003 and Specialty Surgical Center of Beverly Hills LP on September 1, 1998

Q. How are the professional taxes applied in the City of Los Angeles and how does that compare with the Beverly Hills?

A. Beverly Hills classifies businesses that employ professional/semi-professionals as Class C and the taxes are based on the number of employees. Los Angeles charges their professional businesses based on gross receipts at the rate of \$5 per \$1000. If we assume a hypothetical professional business that employs 40 full time employees with 20 professional/semi-professionals and 20 non-professionals and grosses \$20m annually then the business taxes in Los Angeles and Beverly Hills would approximately be \$100,000 and \$33,000, respectively.

Q. In a hypothetical scenario where a professional business leases an entire floor of a building from a landlord and then subleases a portion of it to another professional business what kind of business taxes are applicable and who is responsible for paying them.

A. In this case;

1. The landlord would be responsible for paying business taxes on the commercial lease (Classification F) of the entire space based on gross receipts.
2. The primary professional business would be responsible for paying professional business taxes (Classification C) based on the number of employees.
3. The primary business would also be responsible for the commercial lease tax (Classification F) based on gross receipts of the subleased space.
4. The secondary professional business would be responsible for paying professional business taxes (Classification C) based on their number of employees.

In the above scenario each of the transactions are separate business activities, would be reported separately on each business owner's state and federal tax filings, and are considered separate business activities by the City's business tax codes.

Attachments

**SEC. 9-415 LICENSE TAX: RATES AND CLASSIFICATIONS**

(a) Every person who engages in business whether or not at a fixed place of business within the City of Beverly Hills shall pay a license tax based upon annual gross receipts or average number of employees for the preceding calendar year at the following rates and in the following classifications:

**(1) CLASSIFICATION "A" PROFESSIONS AND SERVICES**

Accountant - CPA - PA  
Actors Agency  
Advertising Agency  
Architect  
Attorney  
Auditor  
Auto Rentals

Barber Shop  
Beauty Shop  
Brokers & Agents  
Burglar Alarms  
Business Management

Car Wash  
Chiroprapist  
Chiropractor  
Cleaning Buildings  
Collection Agency  
Coin Operated Music  
boxes or phonographs  
Cosmetologist

Dentist  
Designer  
Detective  
Dressmaker  
Driving School

Engineer (all types)  
Employment agency

Factoring  
Finance Company  
Funeral Director

Gardeners  
General Offices

Laboratories-All types  
Landscape Architect  
Lapidary  
Laundry & Cleaning  
Locksmith

Masseur & Masseuse  
Motion Picture Theaters

Newspapers

Oculist  
Optician  
Optometrist  
Osteopath

Parking Lot  
Patrol Service  
Physician  
Physiologist  
Physiotherapist  
Professional Schools - All types  
Public Stenographer  
Public Utilities  
Repair Services  
Sign Painter  
Storage Warehouse  
Surveyor

Travel Agency  
Tree Trimmer

Vending Machines  
Veterinarian

Watch Repairing  
Window Cleaning

These and other businesses or persons not listed above which are considered to be of a professional or service nature will be considered as being in the above classification, and all such persons in the above Classification "A" shall pay an annual license tax based upon the average number of persons employed in such business according to the following schedule:

Twenty-five Dollars (\$25.00) for the first person employed plus  
Six Dollars (\$6.00) for each employee in excess of one

Reprint 11-25-58(Ord. 1050)

**(2) CLASSIFICATION "B": RETAIL, WHOLESALE, MANUFACTURING**

Automobile Dealers New and Used,  
Auto Parts

Jewelry Stores

Bakery

Lunch Wagons

Clothing Stores

Manufacturing

Clubs

Oil and Gas Production

Combination Food Stores (Meat, Food  
Markets, Delicatessen)

Paint

Contractors (All types)

Printers

Department Stores

Restaurants

Drug Stores

Retailing

Florists

Service Stations

Fruit and Vegetable Peddlers

Second Hand Dealers

Furniture & Appliances

Shoe Stores

Garages

Tailor

Gift & Novelty Shops

Tobacco Store

Glass

Glass and China Stores

Variety Stores

Grocery

Wallpaper

Hardware

Wholesaling

Hotels, Rooming Houses and Apartment  
Houses

House Movers

All persons and businesses whether listed above or not which are considered to be of a retail, wholesale or manufacturing nature and other businesses not otherwise classified under the provisions of this Chapter will be in the above classification and pay at the rate of Fifty Cents (\$0.50) per One Thousand Dollars (\$1,000) of gross receipts, but in no event less than Twenty-five Dollars (\$25.00).

(b) Any person or firm paying a license under this section who uses vehicles in the conduct of business will be issued City of Beverly Hills Delivery License Tags for each vehicle.

**SEC. 9-416 PENALTIES FOR FAILURE TO PAY TAX WHEN DUE**

For failure to pay a license tax when due, the Director of Finance shall add a penalty of 10% of said license tax on the last day of each month after the date thereof, providing that the amount of such penalty to be added shall in no event exceed 50% of the amount of the license tax due.

**SEC. 9-417 REVOCATION**

Any license issued under the provisions of this article may be revoked by the Director of Finance upon the failure on the part of the licensee to pay the charges imposed by this article or to file reports as required by this article within sixty (60) days after such charges or reports become delinquent.

Reprint 11-25-58(Ord. 1050)

ORDINANCE NO. 74-0- 1540

AN ORDINANCE OF THE CITY OF BEVERLY HILLS  
AMENDING ARTICLE 2 OF CHAPTER 1 OF TITLE 6  
OF THE BEVERLY HILLS MUNICIPAL CODE RELATING  
TO BUSINESS LICENSES.

The Council of the City of Beverly Hills does hereby ordain as follows:

Section 1. Section 6-1.201 of Article 2 of Chapter 1 of Title 6 of the Beverly Hills Municipal Code is amended to add a new subsection (d), redesignate the existing subsection (d) as (e) and redesignate each succeeding subsection accordingly as follows:

Sec. 6-1.201. Definitions.

(d) "Commercial Real Property" shall mean all real property, including improvements there-to, of any kind or nature which is owned, held, used or operated for commercial or industrial purposes but shall not include the leasing or rental of real property for residential purposes.

Section 2. Section 6-1.214 of Article 2 of Chapter 1 of Title 6 of the Beverly Hills Municipal Code is amended to read as follows:

Sec. 6-1.214. License tax: Rates and classifications.

Every person who engages in business, whether or not at a fixed place of business, within the City shall pay a license tax based upon annual gross receipts or average number of employees for the preceding calendar year at the following rates and in the following classifications:

(a) Classification "A": Services.

- (1) Actors' agencies;
- (2) Advertising agencies;
- (3) Barber shops;
- (4) Beauty shops;
- (5) Brokers and agents;
- (6) Burglar alarms;
- (7) Business management;
- (8) Car washes;
- (9) Cleaning buildings;
- (10) Collection agencies;
- (11) (not used)
- (12) Cosmetologists;
- (13) Designers;
- (14) Detectives;
- (15) Dressmakers;
- (16) Driving schools;
- (17) Employment agencies;
- (18) Factoring;

AG:s 8-6-74  
AG:s 8-19-74 Revised  
AG:s 9-24-74 Revised  
AG:s 10-1-74 Revised

- (19) Finance companies;
- (20) Funeral directors;
- (21) Gardeners;
- (22) General offices;
- (23) Laboratories (all types);
- (24) Lapidaries;
- (25) Laundries and cleaning;
- (26) Locksmiths
- (27) Masseurs and masseuses;
- (28) Motion picture theaters;
- (29) Newspapers;
- (30) (Not Used)
- (31) Parking lots;
- (32) Patrol services;
- (33) Professional schools (all types);
- (34) Public stenographers;
- (35) Public utilities;
- (36) Repair services;
- (37) Sign painters;
- (38) Storage warehouses;
- (39) Surveyors;
- (40) Travel agencies;
- (41) Tree trimmers;
- (42) Vending machines;
- (43) Watch repairing; and
- (44) Window cleaning.

These, and other businesses or persons not listed, which are considered to be of a service nature shall be considered as being in Classification "A", and all such persons in Classification "A" shall pay an annual license tax of Fifty and no/100ths (\$50.00) Dollars for the first person employed, plus Twenty and no/100ths (\$20.00) Dollars for each employee in excess of one.

(b) Classification "B": Retail, wholesale, and manufacturing.

- (1) Automobile dealers, new only;
- (2) Auto parts;
- (3) Auto rentals and leasing;
- (4) Bakeries;
- (5) Clothing stores;
- (6) Clubs;
- (7) Combination food stores (meat, food markets, and delicatessens);
- (8) Contractors (all types);
- (9) Department stores;
- (10) Drugstores;
- (11) Florists;
- (12) Fruit and vegetable peddlers;
- (13) Furniture and appliances;
- (14) Garages;
- (15) Gift and novelty shops;
- (16) Glass;
- (17) Glass and china stores;
- (18) Groceries;
- (19) Hardware;
- (20) Hotels and rooming houses;
- (21) House movers;
- (22) Jewelry stores;
- (23) Lunch wagons;
- (24) Manufacturing;
- (25) Opticians;
- (26) Paint;
- (27) Printers;
- (28) Restaurants;

- (29) Retailing;
- (30) Service stations;
- (31) Secondhand dealers;
- (32) Shoe stores;
- (33) Tailors;
- (34) Tobacco stores;
- (35) Variety stores;
- (36) Wallpaper; and
- (37) Wholesaling.

All persons and businesses, whether listed in this subsection or not, considered to be of a retail, wholesale, or manufacturing nature and other businesses not otherwise classified under the provisions of this article shall be in Classification "B" and shall pay at the annual rate of Fifty and no/100ths (\$50.00) Dollars per license, plus Seventy-Five (75¢) Cents per One Thousand and no/100ths (\$1,000.00) Dollars of gross receipts per year in excess of Sixty Thousand and no/100ths (\$60,000.00) Dollars.

(c) Classification "C": Professions.

- (1) Accountants, C.P.A. and P.A.;
- (2) Architects (including landscape);
- (3) Attorneys;
- (4) Chemists;
- (5) Chiropodists;
- (6) Chiropractors;
- (7) Dentists;
- (8) Engineers (all types);
- (9) Geologists;
- (10) Optometrists;
- (11) Osteopaths;
- (12) Physicians;
- (13) Physiologists;
- (14) Physiotherapists; and
- (15) Veterinarians.

These, and other businesses or persons not listed, which are considered to be of a professional nature shall be considered as being in Classification "C" and all such persons in Classification "C" shall pay an annual license tax of One Hundred and no/100ths (\$100.00) Dollars for each professional person employed, plus Twenty-Five and no/100ths (\$25.00) Dollars for each non-professional employee.

(d) Classification "D": Used car sales.

The sale of used automobiles, other than those accepted as a part of the purchase price (for a new automobile) for subsequent resale, shall be taxed at the rate of One and no/100ths (\$1.00) Dollar per One Thousand and no/100ths (\$1,000.00) Dollars of gross receipts, but in no event less than Sixty and no/100ths (\$60.00) Dollars per year.

(e) Apartment houses. The annual tax for all apartment houses shall be Thirty and no/100ths (\$30.00) Dollars, plus Five and no/100ths (\$5.00) Dollars for each unit in excess of four (4).

(f) Commercial real property. Every person who owns commercial real property within the City and who rents or leases such property, or any portion thereof, to another person shall pay an annual license tax, subject

to the provisions of this chapter, at the following rate: Fifty and no/100ths (\$50.00) Dollars per license plus One and no/100ths (\$1.00) Dollar per One Thousand and no/100ths (\$1,000.00) Dollars of gross receipts in excess of Sixty Thousand and no/100ths (\$60,000.00) Dollars; provided, however, that any gross receipts declared for the purposes of paying a license tax pursuant to the provisions of subsection (b) of this section shall be exempt from tax under the provisions of this section.

(g) Vehicular Plates. As part of the business license tax imposed under this section, there shall be added the sum of One and no/100ths (\$1.00) Dollar for each motor vehicle plate over three (3) issued to the licensee according to the provisions of Section 6-1.109 of Article 1 of this chapter.

Section 3. The City Clerk shall cause this ordinance to be posted in three (3) public places in the City of Beverly Hills within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code; shall certify to the adoption and posting of this ordinance and shall cause this ordinance and her certification together with proof of posting to be entered in the Book of Ordinances of this City.

Section 4. This ordinance shall become effective at 12:01 a.m. on the 31st day after its passage, but it shall not become operative until January 1, 1975.

Adopted OCT 15 , 1974.

Charles Ambrey  
Mayor of the City of  
Beverly Hills, California

ATTEST:

Jean M. Ushijima (SEAL)  
City Clerk

Approved as to form:

Allen Dennis  
City Attorney

Approved as to content:

George E. Morgan  
City Manager  
Mark F. Sundley  
City Controller

AFFIDAVIT OF POSTING

STATE OF CALIFORNIA     )  
                                  )  
COUNTY OF LOS ANGELES   )   ss  
                                  )  
CITY OF BEVERLY HILLS    )

TAMIKO TAKAGI

BEING DULY SWORN DEPOSES AND SAYS:

THAT ON OCTOBER 17, 1974, PERSONALLY  
CAUSED A TRUE COPY, IN ITS ENTIRETY, OF ORDINANCE NO. 74-0-1540,  
ADOPTED OCTOBER 15, 1974 TO BE POSTED PURSUANT TO  
RESOLUTION NO. 70-R-4186, AT EACH OF THE FOLLOWING PLACES WITHIN SAID  
CITY, COUNTY, AND STATE, TO WIT:

- 1) THE NOTICE BOARD AT THE AUTOMOBILE ENTRANCE  
ON THE EAST SIDE OF CITY HALL;
- 2) THE BULLETIN BOARD IN THE FOYER AT THE  
ENTRANCE TO THE POLICE DEPARTMENT IN THE  
CITY HALL; AND
- 3) THE MAIN LOBBY OF THE COURTHOUSE AT 9355  
BURTON WAY, BEVERLY HILLS, CALIFORNIA.

SIGNED

Tamiko Takagi

SUBSCRIBED AND SWORN TO

BEFORE ME THIS 17 DAY

OF OCTOBER 1974.

Frank M. Yoshizima  
CITY CLERK

STATE OF CALIFORNIA     )  
                                   )  
 COUNTY OF LOS ANGELES    )    ss.  
                                   )  
 CITY OF BEVERLY HILLS    )

I, JEAN M. USHIJIMA, City Clerk of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 74-0-1540 duly passed and adopted by the Council of said City at a regular meeting of said Council, duly held on October 15, 1974 and thereafter duly signed by the Mayor or Vice Mayor, as indicated; that said ordinance has been posted pursuant to law; and that the Council of said City consists of five (5) members and said ordinance was passed by the following vote of said Council, to wit:

AYES: Councilmen Ellman, Stone and Mayor Aronberg

NOES: None

ABSENT: Councilmen Slaff and Stuchen

*Jean M. Ushijima*  
 City Clerk of the City of  
 Beverly Hills, California

(SEAL)

ORDINANCE NO. 78-0- 1717

ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING CHAPTER 1 OF TITLE 6 OF THE BEVERLY HILLS MUNICIPAL CODE RELATING TO BUSINESS LICENSES, PERMITS AND FEES, AND REPEALING SECTION 4-13.01 OF CHAPTER 13 OF TITLE 4 OF THE BEVERLY HILLS MUNICIPAL CODE.

The Council of the City of Beverly Hills does hereby ordain as follows:

Section 1. Chapter 1 of Title 6 of the Beverly Hills Municipal Code relating to business licenses, permits and fees is amended to read as follows:

CHAPTER 1. GENERAL LICENSING PROVISIONS.

Article 1. Licenses and Permits

Sec. 6-1.101. Definitions.

For the purposes of this chapter, certain words and phrases used herein are defined as follows:

(a) "License" shall mean a sticker, card, receipt or document issued by the City upon the payment of the appropriate fee for the privilege of conducting business in the City.

(b) "Licensee" shall mean the person to whom a license has been issued.

(c) "Permit" shall mean a sticker, card, receipt or document signifying City approval or registration to engage in certain activities in which, by the terms of this Code, require City approval or registration in addition to that of any required license.

(d) "Permittee" shall mean the person to whom a permit has been issued.

(e) "Premises" shall include all lands, structures and places and the equipment and appurtenances connected or used therewith in any business. "Premises" shall also include any personal property which is either affixed to or otherwise used in connection with any such business conducted on such premises.

Sec. 6-1.102. License or permit required.

No person shall transact, engage in or carry on any business, trade, profession, occupation, calling or activity for which a license or permit is required by this Code without first having been issued a proper and current license or permit therefor by the City.

Sec. 6-1.103. Permits prerequisite to issuance of license.

No license shall be issued to engage in any business when the provisions of this Code or any other law of this City requires a permit to be obtained as a prerequisite to engaging in such business until such current permit is first obtained. Any license issued in violation of this section shall be void.

Sec. 6-1.104. Issuance of license or permit.

All licenses or permits shall be prepared and issued by the City Controller unless otherwise specifically provided. Each license and permit shall state upon its face the following information:

- (a) The person to whom issued;
- (b) The kind of business licensed or activity permitted thereby;
- (c) The location of such business or activity;
- (d) The expiration date of such license or permit; and
- (e) Such other information as shall be deemed necessary by the City Controller.

Sec. 6-1.105. Term of license or permit.

The term of any license or permit issued pursuant to the provisions of this Code shall be as follows:

(a) License expiration. If the license fee is an annual fee, the license shall expire at 11:59 p.m. on the 31st day of December following the issuance of the license.

(b) Permit expiration. Every permit issued pursuant to the provisions of this title shall expire at 11:59 p.m. of the last effective day of the permit. The permit fee for the entire period of the

permit shall be due and payable at time of issuance, in addition to the renewal of the business license, if required.

Sec. 6-1.106. Debtor licensee or permittee.

No license or permit for any ensuing, current or unexpired license or permit period shall be issued to any person who, at the time of making application for any license or permit, is indebted to the City for any unpaid license or permit fee required to be paid under the provisions of this Code.

Sec. 6-1.107. Transferability.

Licenses or permits issued pursuant to this title shall not be transferable by the licensee or permittee to any other person, nor shall any tax or fee paid by any person under the provisions of this title be applied in whole or in part to the payment of any tax or fee due, or to become due, from any other person.

Sec. 6-1.108. Change of address.

Every person who, under the provisions of this title, is subject to a tax or fee and who has a fixed place of business shall notify the City Controller in writing of any change in location of such fixed place of business or mailing address within thirty (30) days after such change takes place. In the event any licensee or permittee having a fixed place of business (and who, as a condition precedent to the conduct of such business or activity, is required to obtain a license or permit under the provisions of this title) fails to notify the City Controller of a change in location or mailing address within such thirty (30) day period, and thereby fails to receive renewal notice or other notifications from the City shall be liable for any penalties that may be charged for failure to comply with the provisions of this Code.

Sec. 6-1.109. Posting and keeping licenses and permits.

All licenses and permits shall be kept and posted in the following manner:

(a) Any licensee or permittee transacting and carrying on a business or activity at a fixed place in the City shall keep all City licenses and permits issued to such licensee or permittee posted in a conspicuous place upon the premises where such business or activity is carried on.

(b) Any licensee or permittee transacting and carrying on a business or activity, but not operating in a fixed place in the City, shall keep the license or permit upon his person at all times while transacting and carrying on such business or activity within the City.

(c) Any licensee or permittee using a motor vehicle in connection with his business shall affix to the rear of such motor vehicle, in a conspicuous place, a decal or other device issued by the City Controller that signifies a current license or permit has been issued. The first two (2) of any such decals or other devices shall be furnished by the City at no additional charge. An annual fee of One (\$1.00) Dollar shall be paid for each additional decal or other device issued over two (2).

Sec. 6-1.110. Duplicate licenses or permits.

A duplicate license or permit may be issued by the City Controller to replace any current license or permit previously issued pursuant to this title which has been lost or destroyed, upon the licensee or permittee filing an affidavit or declaration to such fact, and upon payment to the City Controller of a fee of Two and no/100ths (\$2.00) Dollars at the time of filing such affidavit or declaration.

Sec. 6-1.111. Exemptions.

(a) Licensees under State or Federal laws.  
Nothing in this article 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 prescribed by this chapter, including but not limited to banks and certain express corporations, freight forwarders, motor transportation brokers, or persons or corporations owning or operating motor vehicles in the transportation of persons or property for hire upon public highways operating under the jurisdiction and exclusive control of the Public Utilities Commission of this State.

(b) Interstate commerce.

(1) None of the license taxes provided for by this chapter shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license tax is believed by a licensee or applicant for a license to place an undue burden upon such commerce, he may apply to the City Controller

for an adjustment of the tax so that it shall not be discriminatory or unreasonable as to such commerce. Such application may be made before, at or within six (6) months after payment of the prescribed license tax. The applicant shall, by affidavit and supporting testimony, show his method of business, the gross volume, or estimated gross volume of business, an estimate of, or its actual allocation, as between interstate and intrastate business and such other information as the City Controller may deem necessary in order to determine the extent, if any, of such undue burden on such commerce.

(2) The City Controller shall then cause an investigation to be made and, after having first obtained the written opinion of the City Attorney, shall fix as the license tax for the applicant an amount that is reasonable and non-discriminatory 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 City Controller shall have the power to base the license tax upon a percentage of gross receipts or any 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 City Controller determine the gross receipts measure of license tax to be the proper basis, the City Controller may require the applicant to submit, either at the time of termination of the applicant's business in the City or at the end of each three (3) 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.

(c) Charitable organizations. 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 as a nonprofit institution pursuant to applicable state laws or wholly for the benefit of charitable purposes, either directly or indirectly, by any individual; nor shall any license tax be required for the conduct of any entertainment, concert, exhibition or lecture on scientific, historical, literary, religious 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 religious or benevolent purpose; nor shall any license tax be required for the conduct of any entertainment, dance, concert, exhibition or lecture by any religious, charitable, fraternal, educational, military, State, County or municipal organization or association whenever the receipts of any such entertainment, dance, concert, exhibition or lecture are to be appropriated for the purpose and objects for which such organization or association was formed and from which profit is not derived, either directly or indirectly, by any individual; provided, however, that nothing in this section shall be deemed to exempt any such organization or association from complying with any of the provisions of this Code requiring a permit to conduct, manage or carry on any profession, trade, calling or occupation.

(d) Filing of verified statement. Any person claiming an exemption pursuant to this section shall file, upon request, a verified statement with the City Controller stating the facts upon which the exemption is claimed.

(e) Issuance of exemption. Subject to the provisions of Section 6-1.204 of Article 2 of this chapter, the City Controller shall, upon a proper showing contained in the verified statement, maintain a file record of each person claiming an exemption and qualified to receive said exemption.

(f) Revocation of exemption. The City Controller, after giving notice and a reasonable opportunity for a hearing to a licensee or permittee, may revoke any exemption granted pursuant to the provisions of this section upon information that the licensee or permittee is not entitled to the exemption as provided in this section.

Sec. 6-1.112. Remedies cumulative.

The conviction and punishment of any person for engaging in any business without first obtaining a license to conduct such business shall not relieve such person from paying the license fee due and unpaid at the time of such conviction, nor shall the payment of any license fee prevent a criminal prosecution for the violation of any of the provisions of this title. All remedies shall be cumulative, and the use of any 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 title.

Sec. 6-1.113. License tax and permit fee a debt.

The amount of any license tax or permit fee and penalty imposed by the provisions of this title 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 the amount of any delinquent license tax, permit fee and penalty.

Sec. 6-1.114. Misrepresentation.

No person shall knowingly or intentionally misrepresent to any officer or employee of the City any material fact in procuring the licenses or permits provided for in this title.

Sec. 6-1.115. Grounds for revocation or suspension.

Any license or permit granted or issued pursuant to the provisions of this Code may be revoked or suspended at any time for the following reasons:

(a) A material false statement contained in the application;

(b) Failure to comply with any regulatory provision contained in the statutes of the State or in the laws of the City regulating such business;

(c) Failure to operate such business in an orderly and businesslike manner, in obedience to such orders, rules and regulations as may be applicable thereto under the provisions of this Code or statutes of this State; or

(d) Conduct of such business in an illegal, improper, or disorderly manner or in a manner which endangers the public welfare.

Sec. 6-1.116. Procedure for revocation or suspension of license or permit.

(a) Authority of City Controller.

(1) The City Controller shall give the licensee or permittee at least five (5) days, and not more than ten (10) days, prior notice in writing of the grounds for revocation or suspension of his license or permit and the time and place of a hearing and shall require him to show cause why his license or permit shall not be revoked. Service of such grounds and notice of the hearing shall be done by depositing the same in the United States mail, addressed to the applicant at his address given in the application. At any such

hearing the licensee or permittee shall be given an opportunity to be heard and defend himself, and he may call witnesses on his behalf. After conducting such hearing, the City Controller may revoke or suspend any license or permit held by such licensee or permittee. The City Controller shall notify the licensee or permittee thereof in writing within three (3) days after the decision.

(2) If the violation which forms the grounds for the proposed revocation or suspension continues after the original notification of such violation to the licensee or permittee, the City Controller may suspend the license or permit until the time of the hearing. Such suspension shall be effective immediately upon giving written notice thereof to the applicant or the person in charge at the business or activity. During such suspension, no person shall conduct any business or activity of a type covered by this title of the Code.

(b) Appeal to Council. Any person aggrieved by the decision of the City Controller may appeal therefrom to the Council in the manner provided in Section 6-1.117 of this article.

(c) Failure to appeal. In the event no appeal is taken by the licensee or permittee, the decision of the City Controller revoking or suspending such license or permit shall become final and conclusive on expiration of the time fixed for appeal in Section 6-1.117 of this article.

Sec. 6-1.117. Appeals.

(a) Any person aggrieved by any decision of the City Controller or of any other officer of the City made pursuant to the provisions of this title may appeal therefrom to the Council within fifteen (15) days after notice thereof by filing with the City Clerk a written notice of appeal, briefly stating in such notice the grounds relied upon for appeal. If such appeal is made within the time prescribed, the City Clerk shall cause the matter to be set for hearing before the Council within thirty (30) days from the date of receipt of such notice of appeal, giving the appellant not less than ten (10) days notice in writing of the time and place of hearing. The findings and determination of the Council at such hearing shall be final and conclusive, and within three (3) days after such findings and determination are made, the City Clerk shall give notice thereof to the appellant.

(b) For appeals relating to business license fees or exemptions, the Council's determination shall be

effective for the period of the license in dispute, whether or not retroactive in application.

(c) For appeals relating to suspension or revocation of licenses or permits issued pursuant to this title, the Council's determination shall become effective on the second day after the City Clerk gives notice thereof to the appellant unless otherwise stipulated by the Council.

Sec. 6-1.118. License or permit does not authorize business or activity otherwise prohibited.

The payment of a license tax or permit fee, as required by the provisions of this title, and its acceptance by the City and the issuance of such license or permit to any person shall not entitle the holder to carry on any business or activity unless he has complied with all the requirements of this Code and all other applicable laws; nor shall he carry on any business or activity in any building or on any premises designated in such license or permit in the event such building or premises are situated in a zone or locality in which the conduct of such business is in violation of any law.

Sec. 6-1.119. Conduct of commercial activity on public property.

Except as otherwise specifically provided for in this Code, it shall be unlawful for any person to engage in or conduct any commercial activity in or on any property owned, possessed, or under the control of the City including, but not necessarily limited to, streets, sidewalks, parks, buildings, rights-of-way or other property, without the approval of the Council and subject to such limitations and conditions, if any, the Council may consider necessary or advisable to impose upon such approval.

Sec. 6-1.120. Rules and Regulations.

The City Controller is hereby authorized and directed to promulgate rules and regulations, subject to approval by resolution of the Council, as necessary for the orderly administration of this chapter.

Article 2. Business Licenses

Sec. 6-1.201. Definitions.

For the purpose of this chapter, certain words and phrases used herein are defined as follows:

(a) "Agent" or "agency" shall mean a person or business, who by authority acts for, on behalf of or in the place of another person and receives compensation, either directly or indirectly for services rendered.

(b) "Apartment house" shall mean a building, or portion of a building, which is designed, built, rented, leased, let, or hired out to be occupied, or which is occupied, as the home or residence of three (3) or more families, living independently of each other and doing their cooking in such building.

(c) "Average number of persons employed" shall mean the average number of persons employed daily in the applicant's business for one calendar year and shall be determined by ascertaining the total number of hours of service performed by all employees in the City during the previous calendar year and dividing the total number of hours of service thus obtained by the number of hours of service constituting a year's work of one full-time employee according to the custom or laws governing such employment. If the computation of average number of persons employed daily for one year produces a number ending in a fraction less than two-thirds ( $2/3$ ), that fraction shall be dropped. However, if the fraction is two-thirds ( $2/3$ ) or higher, the average shall be raised to the next higher whole number.

(d) "Broker" shall mean a person or business, who by authority acts as an intermediary, representative or agent in the purchase or sale of, insurance, real or personal property, stocks, bonds, securities, notes, or other similar items of value.

(e) "Business" shall mean all professions, trades, and occupations and all and every kind of calling carried on for profit or livelihood.

(f) "Commercial real property" shall mean all real property, including improvements thereto, of any kind or nature which is owned, held, used, or operated for commercial or industrial purposes but shall not include the leasing or rental of real property for residential purposes.

(g) "Duplex" shall mean a structure that contains two family residential units.

(h) "Employee" shall mean any person engaged in the operation or conduct of any business, whether as owner, member of the owner's family, partner, agent, manager, or solicitor, and any and all other persons employed or working in such business.

(i) "Financial institution" shall mean the same as defined in Section 31041 of the California Financial Code.

(j) "Gross receipts" shall mean the gross receipts of the calendar year and is further defined as the total amount of the sales prices of all sales of materials, goods, wares, or merchandise and the total amount of commission or other remuneration charged or received 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 of, or in connection with, the sale of materials, goods, wares, or merchandise. Included in gross receipts shall be 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 the materials used, labor or service, costs, interest paid or payable, or losses or other expenses whatsoever; receipts of agents, brokers, or trustees received as commissions or fees earned; or charges of any nature made or compensation of any nature received for the performance of any service as agent, broker, or trustee or profits received when such agent, broker, or trustee participates as a principal in any transaction. Excluded from gross receipts shall be:

- (1) Cash discounts allowed and taken on sales;
- (2) The value of property accepted as part of the purchase price for subsequent resale;
- (3) Any taxes collected which are separately stated and collected for and paid to a governmental agency;
- (4) Such part of the sales price of property returned by the purchaser upon rescission of the contract of sale as is refunded either in cash or by credit.
- (5) Receipts of refundable deposits, except that refundable deposits forfeited and taken into income

of the business shall not be excluded;

(6) Collections for others when the business is acting as an agent or trustee to the extent that payments are made to those for whom collected;

(7) Cash value of sales, trades or transactions between departments or units of the same business;

(8) That portion of the receipts of a general contractor which represents payments to subcontractors provided such subcontractors are licensed under the provisions of this chapter, and further provided that the general contractor furnishes the City Controller with the names and addresses of the subcontractors and the amounts paid each subcontractor;

(9) The amount of gross receipts which has been the measure of a license tax paid to any other city;

(10) Lending institutions not receiving deposits from members, shareholders or investors may exclude from gross receipts payments received on the principal amount of outstanding loans;

(11) Receipts from a trade, calling, occupation, vocation, profession or other means of livelihood, which this City is prohibited from taxing under the Constitution or laws of either the United States or State of California;

(12) Receipts of non-profit organizations for religious, hospital or charitable purposes, where no part of the net earnings inures to the benefit of any private shareholder or individual; and

(13) Receipts of persons acting as agents or brokers, other than receipts received as commissions or fees earned and other than net interest income earned from margin account loans, or charges of any character made or compensation of any character received for the performance of any service as agent or broker; provided that any agent or broker dealing in stocks or other similar written instruments evidencing a right to participate in the assets of any business, or dealing in bonds or other evidences of indebtedness, who also deals in such property as a principal, shall include in the gross receipts by which the tax is measured the amount of his trading profits resulting from such dealings.

Notwithstanding the above, for financial institutions receiving deposits from members, shareholders or

investors, "gross receipts" shall mean the balance of such deposits outstanding for each branch or sole office location in the City determined as of June 30 of each year from which gross revenues are generated and can be estimated.

(k) "Hotel or rooming house" shall mean any lodging, hotel, rooming house, dormitory, or public or private club that is designed for occupancy by more than six (6) persons not related by blood or marriage, whether the rent is paid in money, goods, labor, or otherwise, and which is maintained, advertised, or held to the public as a place where sleeping or rooming accommodations are furnished to the whole or any part of the public, whether with or without meals.

(l) "New license" shall mean a license for a newly established business or one for which a license has not previously been issued.

(m) "Person" shall mean domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, Massachusetts business or common law trusts, societies, and individuals transacting and carrying on any business in the City other than as an employee.

(n) "Professional" shall mean any person who engages in an occupation of technical expertise which generally requires a higher education and certification by a governmental agency.

(o) "Public utility" shall mean any person furnishing the public with communications, water, light, gas, heat, power, or other public utilities or services subject to regulation by the Public Utilities Commission of the State.

(p) "Renewal license" shall mean a license for a business which has previously been issued a license.

(q) "Semi-professional" shall mean a person who assists or studies under a professional either as an apprentice or employee, or one who participates in the operation of a professional occupation as a technically trained employee.

Sec. 6-1.202. Revenue measure.

The provisions of this article are enacted solely to raise revenue for municipal purposes and are not intended for regulation. All other ordinances and Code sections shall remain in full force and effect so far as their regulatory provisions are concerned, except as

to those business, occupations, and professions licensed to do business by the State or by the United States of America or regulated by the State or by the United States of America so as to completely occupy the field or regulation.

Sec. 6-1.203. Substitute for other revenue or regulatory requirements.

Persons required to pay a license tax for transacting and carrying on any business or profession under the provisions of this article shall not be relieved from the payment of any license tax or permit fee for the privilege of doing business legally required under any other provision of this Code and shall remain subject to the regulatory provisions of this Code, except as specifically exempt in this chapter.

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Sec. 6-1.204. License required.

(a) License taxes in the amounts prescribed by this article are hereby imposed upon the businesses, trades, professions, callings, and occupations specified in this article.

(b) The provisions of 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.

(1) Persons not required to obtain a license prior to doing business within the City because of such conflict shall be liable for payment of the tax imposed by the provisions of this article.

(2) Persons not liable for payment of the tax imposed by the provisions of this article as a result of being declared by the City as exempt, shall

be required to obtain a license at no charge unless such requirement conflicts with applicable statutes of the United States or of the State.

Sec. 6-1.205. Branch establishments.

A separate license shall 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. 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 licenses; provided, however, that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this article shall not be deemed to be separate places of business or branch establishments.

Sec. 6-1.206. Affidavit: New license.

(a) Application. Persons making application for a license to be issued pursuant to the provisions of this article for a newly established business shall furnish to the City Controller a signed written statement upon a form provided by the City Controller, written under penalty of perjury, or sworn to before a person authorized to administer oaths, setting forth such information as is appropriate to determine the amount of the license tax to be paid by the applicant.

(b) Estimate of tax. If the amount of the license tax is measured by gross receipts, the applicant shall estimate the annual gross receipts. If the amount of the license tax is measured by the average number of employees, the applicant shall estimate the annual average number of persons employed. Such estimates, if accepted by the City Controller as reasonable, shall be used in determining the amount of license tax to be paid by the applicant; provided, however, the amount of the license tax so determined shall be tentative only, and such person, within thirty (30) days after the expiration of the period for which such license was issued, shall furnish the City Controller information showing the actual gross receipts or average number of persons employed for the term of the license, projected on an annual basis. If on the original estimate the applicant had underestimated the tax due, the applicant shall pay the difference with his renewal. The renewal license shall be computed on the recomputed annual data and if the original estimate was overestimated the amount overpaid shall be credited to the renewal tax. The actual annualized gross receipts or average number of persons employed shall not be subject to adjustment or refund on the next license renewal. License taxes for initial period of less than one year shall be

prorated in accordance with the provisions of Section 6-1.218 of this article.

Sec. 6-1.207. Affidavit: Renewal license.

In all cases the applicant for the renewal of a license shall submit to the City Controller a written statement upon a form to be provided by the City Controller, written under penalty of perjury, or sworn to before a person authorized to administer oaths, setting forth the amount of gross receipts from the operation of his business during the preceding calendar year. In the case of those businesses paying according to the number of employees, the average number of persons employed during the preceding calendar year shall be stated.

Sec. 6-1.208. Information confidential.

The information concerning gross receipts furnished or secured pursuant to the provisions of this article shall be confidential in character and shall not be subject to public inspection and shall be kept so that the contents thereof shall not be known except to the persons charged with the administration of this article. Any unauthorized disclosure or use of such information by any officer or employee of the City shall constitute a misdemeanor, and such officer or employee shall be subject to the penalty provisions of this article in addition to any other penalties provided by law.

Sec. 6-1.209. Failure to file statement.

If any person shall fail to file any required statement within the time prescribed or, if after demand therefor made by the City Controller, fails to file a corrected statement, the City Controller may determine the amount of license tax due from such person by means of such information as the City Controller may be able to obtain. If such a determination is made, the City Controller shall issue a notice of the amount so assessed by serving it personally or by depositing it in the United States Post Office at Beverly Hills, California, postage prepaid, addressed to the person so assessed at his last known address. Such person may, within fifteen (15) days after the mailing or serving of such notice, appeal such determination to the Council in the manner provided in Article 1 of this chapter.

Sec. 6-1.210. Determination of type or class of business: Change of classification.

(a) Determination. The determination of which business or type or class of business a licensee or applicant

for a license is engaged in, or is about to engage in, or the determination of the average number of persons employed for computation of the tax to be paid by businesses or persons in Classification "A" shall be an administrative function of the City Controller.

(b) Application for reclassification. In any case when a licensee or an applicant for a license believes that his individual business is not assigned to the proper classification under this article because of circumstances peculiar to it, as distinguished from other businesses of the same kind, he may apply to the City Controller for reclassification. Such application shall contain such information as the City Controller may deem necessary and require in order to determine whether the applicant's individual business is properly classified. The City Controller shall conduct an investigation following which the City Controller shall assign the applicant's individual business to the classification shown to be proper on the basis of such investigation.

(c) Notice of action taken. The City Controller 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 Beverly Hills, California, postage prepaid, addressed to the applicant at his last known address. The applicant may, within fifteen (15) days after the mailing or serving of such notice, appeal such action to the Council in the manner provided in Article 1 of this chapter.

Sec. 6-1.211. Extension of time: Compromise of claims.

In addition to all other powers conferred hereby, the City Controller shall have the power, for good cause shown, to extend the time for filing any required sworn statements for a period not exceeding thirty (30) days, and in such case to waive any penalty that would otherwise have accrued. The City Controller shall have the further power, with the consent of the Council, to compromise any claim as to the amount of license tax due. Negligence of the applicant shall not be sufficient cause.

Sec. 6-1.212. Change of classification.

Whenever any business or person is changed from one classification to another during the term of an unexpired license, the amount of license tax previously paid shall be credited against whatever additional sum, if any, may be due and owing to the change in classification.

Sec. 6-1.213. License tax: Rates and classifications.

Every person who engages in business, whether or not at a fixed place of business, within the City, shall pay a license tax based upon annual gross receipts or average number of employees for the preceding calendar year at the following rates and in the following classifications:

(a) Classification "A": Business and personal services.

All persons engaged in a business listed below:

- (1) Barber shops;
- (2) Beauty shops;
- (3) Burglar alarms;
- (4) Car washes;
- (5) Cleaning buildings;
- (6) Cleaning and laundries;
- (7) Cosmetologists;
- (8) Designers;
- (9) Detectives and investigators;
- (10) Dressmakers;
- (11) Driving schools;
- (12) Gardeners;
- (13) General offices, including parent companies or corporations, holding companies or corporations, and savings and loan associations' head office functions;
- (14) Laboratories (all types)
- (15) Lapidaries;
- (16) Locksmiths;
- (17) Masseurs and masseuses;
- (18) Motion picture theaters;
- (19) Newspapers;
- (20) Parking lots;
- (21) Patrol services;
- (22) Professional, business and trade schools and colleges;
- (23) Public stenographers;
- (24) Public utilities;
- (25) Repair services;
- (26) Sign painters;
- (27) Storage warehouses;
- (28) Tree trimmers;
- (29) Vending machines;
- (30) Watch repairing; and
- (31) Window cleaning.

All persons in Classification "A" shall pay an annual license tax at the rate of Seventy and no/100ths

(\$70.00) Dollars per license, plus Thirty and no/100ths  
(\$30.00) for each employee.

(b) Classification "B": Retail, wholesale and manufacturing.

All persons engaged in a retail, wholesale or manufacturing business listed below and all other persons engaged in a retail, wholesale, or manufacturing business shall be in Classification "B".

- (1) Automobile dealers, new only;
- (2) Auto parts;
- (3) Auto rentals and leasing;
- (4) Clubs;
- (5) Construction Contractors, (all classes);
- (6) Drugs;
- (7) Dry goods;
- (8) Florists;
- (9) Foodstuffs;
- (10) Furniture and appliances;
- (11) Garages, parking or repair;
- (12) Goods, wares, merchandise;
- (13) House movers;
- (14) Jewelry;
- (15) Liquors;
- (16) Opticians;
- (17) Paint;
- (18) Peddlers;
- (19) Printers;
- (20) Service stations;
- (21) Second hand dealers;
- (22) Tailors; and
- (23) Wallpaper.

All persons in Classification "B" shall pay an annual license tax at the rate of Seventy-Five and no/100ths (\$75.00) Dollars per license, plus One and 25/100ths (\$1.25) Dollars per One Thousand and no/100ths (\$1,000.00) Dollars of gross receipts of such business per year in excess of Sixty Thousand and no/100ths (\$60,000.00) Dollars.

(c) Classification "C": Professional and semi-professional.

All persons engaged in a business listed below and all other persons engaged in a business considered to be of a professional or semi-professional nature shall be considered as being in Classification "C".

- (1) Accountants, C.P.A.s and P.A.s;
- (2) Architects (including landscape);
- (3) Attorneys;

- (4) Chemists;
- (5) Chiropodists;
- (6) Chiropractors;
- (7) Dentists;
- (8) Engineers (all types);
- (9) Geologists;
- (10) Optometrists;
- (11) Osteopaths;
- (12) Physicians;
- (13) Physiologists;
- (14) Physiotherapists;
- (15) Surveyors;
- (16) Veterinarians; and
- (17) All other licenses of the State not included for tax purposes elsewhere in this article.

All persons in Classification "C" shall pay an annual license tax at the rate of Three Hundred and no/100ths (\$300.00) Dollars per license for each professional and semi-professional, plus Sixty and no/100ths (\$60.00) Dollars for each non-professional.

(d) Classification "D": Used car sales.

All persons engaged in the business of selling used automobiles, other than automobiles accepted as part of the purchase price for a new automobile for subsequent resale, shall pay an annual license fee at the rate of Three and no/100ths (\$3.00) Dollars per One Thousand and no/100ths (\$1,000.00) Dollars for gross receipts of such business, but in no event less than Two Hundred Fifty and no/100ths (\$250.00) Dollars per year. No license shall be issued until the provisions of Section 10-3.2401 of this Code have been complied with and all fees have been paid.

(e) Classification "E": Residential property renting and leasing.

(1) Every person engaged in the business of conducting or operating a hotel, apartment house, and every person engaged in the business of renting or letting dwelling unit or rooms for dwelling, sleeping, or lodging, and every person engaged in the business of renting a single family residence shall pay an annual license tax at the rate of Twelve and no/100ths (\$12.00) Dollars for each One Thousand and no/100ths (\$1,000.00) Dollars of gross receipts of such business.

(2) If any person engaged in one or more of the businesses described in this subsection (e) has total gross receipts derived from being engaged in such business which produces an average rental fee per

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calendar year per unit rented equal to or less than Three Thousand Six Hundred and no/100ths (\$3,600.00) Dollars, no business license tax shall be imposed. The City Controller shall require that the receipts of all such businesses be used to verify exemptions from the taxes imposed by this subsection (e).

(3) For those units wherein rental or lease rates are fixed and frozen as of May 31, 1978, pursuant to an ordinance of this City, owners or lessors of such units may file for and receive a refund of the fees paid pursuant to this subsection for the period such rental or lease fees are so fixed and frozen.

(f) Classification "F": Rental of commercial property.

Every person who owns commercial real property not otherwise set forth in subsection (e) of this section within the City and who rents or leases such property, or any portion thereof, to another person shall pay an annual license tax, subject to the provisions of this chapter, at the following rate: Twenty-Three and 50/100ths (\$23.50) Dollars per One Thousand and no/100ths (\$1,000.00) Dollars of gross receipts of such rentals and leases.

(g) Classification "G": Agencies, lenders, brokerage and other miscellaneous services.

Every person engaged in a business listed below and all other persons engaged in a business of an agency, lender, brokerage and other miscellaneous service shall be in Classification "G".

- (1) Actors' agency;
- (2) Advertising agency;
- (3) Brokers;
- (4) Business management agency;
- (5) Collection agency;
- (6) Employment agency;
- (7) Factoring company;
- (8) Finance company;
- (9) Financial institutions, <sup>\*</sup> non-depository;
- (10) Funeral directors;
- (11) Real estate sales or leasing; and
- (12) Travel agency.

All persons in Classification "G" shall pay an annual license tax at the rate of Three and 50/100ths (\$3.50) Dollars per One Thousand and no/100ths (\$1,000.00) Dollars of gross receipts of such business.

(h) Classification "H": Depository financial institutions; branch and sole office locations.

Every person engaged in the business of a financial institution which receives deposits from members, shareholders or investors, shall be in Classification "H".

All persons in Classification "H" shall pay an annual license tax at the rate of Twelve Cents (\$.12) per One Thousand and no/100ths (\$1,000.00) Dollars of gross receipts, but in no case shall such tax be less than One Thousand and no/100ths (\$1,000.00) Dollars for each license.

(i) All taxes imposed in this section shall be adjusted at the beginning of each fiscal year in accord-

\*"Non-Depository" - clerical error added at the request of Asst. City Attorney with approval of Mayor Tilem 12/21/78

ance with the provisions of Section 8-9.10 of this Code.

(j) Any person having more than one business, profession or trade subject to this Code shall apply for the appropriate business license and pay the tax for each such endeavor that is separate and distinct. The separate business license shall not be required if the endeavor is considered by the City Controller to be a part of the single or main business operation.

Sec. 6-1.214. License tax: Oil production.

On and after January 1, 1977, every person who engages in the business of extracting oil from a well where the well, or any portion of the well, is located in, passes through, or is bottomed under real property in the City, shall pay a license tax based on production per well as follows:

(a) Production from zero to and including 10,000 barrels per year: One Thousand Two Hundred Fifty and no/100ths (\$1,250.00) Dollars per year, payable on or before February 1 of the year for which the license tax is due for each well in production on or before January 1 of such year, or payable within thirty (30) days after the first day of the ability to produce for each well drilled after January 1 of such year;

(b) Production in excess of 10,000 barrels per year: twelve and one-half (12-1/2) cents per barrel in excess of 10,000 barrels per year per well, payable for each well within sixty (60) days after the close of each license year;

Provided, however, in the event portions of a well are located in one or more other cities or in the unincorporated territory of the County, the business license tax shall be the sum of Six Hundred Twenty-Five and no/100ths (\$625.00) Dollars per well per year for the first 10,000 or less barrels and six and one-fourth (6-1/4) cents per year for each barrel in excess of the first 10,000 barrels from each well.

Sec. 6-1.215. License tax: Condominium conversion.

(a) Condominium conversion: definition. "Condominium conversion" shall mean the conversion of any existing building into units for sale, lease, or financing, whether immediate or future, as a condominium project as defined in Section 1350 of the Civil Code of the State or as a stock cooperative as defined in Sections 11003.2 and 11004.5(d) of the Business and

Professions Code of the State, or as a community apartment project as defined in Sections 11004 and 11004.5(b) of the Business and Professions Code, or townhouses.

(b) Rate. Every person who is the owner of a building located in the City having two or more dwelling units and is engaged in the business of condominium conversion shall pay a license tax of Two Thousand and no/100ths (\$2,000.00) Dollars for each unit in any such building being converted to condominiums.

Sec. 6-1.216. Penalties.

(a) For failure to pay the entire license tax when due, the City Controller shall add a penalty of ten (10%) percent of the license tax or unpaid portion thereof on the first day of each month after the date due, provided the amount of such penalty to be added shall in no event exceed fifty (50%) percent of the amount of the license tax due.

(b) When the last day of the month in which the license tax is due falls on a Saturday, Sunday, or State or national holiday, payment of the license tax due may be made without penalty on the first working day of the succeeding month. Penalties in such cases shall attach on the second working day of the succeeding month.

(c) For the purposes of this chapter, postmarks shall be accepted as the date of payment made, provided the transmitting envelope contains a postage cancellation stamp showing cancellation not later than 11:59 p.m. on the due date.

(d) Every new business shall apply and pay all required license taxes within thirty (30) days from the first day of operation or penalties shall be charged in accordance with the provisions of this Code. In addition, if application is not received within thirty (30) days the full annual license tax shall be charged and not prorated.

Sec. 6-1.217. Revocation of license.

Any license issued pursuant to the provisions of this article may be revoked by the City Controller upon the failure of the licensee to pay the charges imposed by this article or to file reports as required by this article within sixty (60) days after such charges or reports become delinquent.

Sec. 6-1.218. Prorations and refunds.

(a) License taxes for initial issue (new license) on a business that has not been open in excess of thirty (30) days shall not be prorated for periods of less than

one year except as follows:

(1) For periods of nine (9) months or more, one hundred (100%) percent of the annual tax;

(2) For periods of more than four (4) months but less than nine (9) months, seventy-five (75%) percent of the annual tax;

(3) For periods from two (2) months up to and including four (4) months, fifty (50%) percent of the annual tax;

(4) For a period of one month or less the annual tax shall be collected and the license issued for the next calendar year or other annual year as prescribed by this Code.

(b) License taxes due for a renewal shall not be prorated except as follows:

(1) At renewal time, if the licensee advises that the business will be operating four (4) months or less, the license tax shall be fifty (50%) percent of the annual tax.

(2) Should the business remain open any time beyond four (4) months, but less than one year, an additional tax shall be required. This tax shall be equal to seventy-five (75%) percent of the annual tax for the period beyond the fourth month.

(3) This short term license proration shall not be applicable to an initial or new license but only on renewals.

(4) All other business license renewals shall be one hundred (100%) percent of the annual tax.

(c) There shall be no refund of license taxes after a business closes during the term of the annual license.

(d) Refund shall be allowed, upon request, when it has been determined by the City Controller that a license tax has been paid in error, computed incorrectly, overpaid or collected illegally.

Sec. 6-1.219. Enforcement: Right of entry.

(a) Enforcement. It shall be the duty of the City Controller to enforce each and all of the provisions of this article, and the Chief of Police shall render such assistance in its enforcement as may from time to time be requested by the City Controller.

(b) Right of entry. The City Controller and each and all authorized assistants, and any police officer, shall have the power and authority to enter, free of charge, and at any reasonable time, any place of business required to be licensed and demand an exhibition of its license. Any person to whom such license was issued or who has custody or control of such license who wilfully 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 City Controller and each assistant to cause a complaint to be filed against any and all persons found to be violating any of such provisions.

Sec. 6-1.220. Audits and adjustments.

(a) Audits. Any person required to have a license pursuant to this chapter shall, upon the proper notification of the City Controller or any deputy or assistant, provide the necessary records to substantiate the basis upon which his tax was computed. Failure to provide such records shall cause the permit holder to be guilty of a misdemeanor. The City Controller and any deputy or assistant shall have the duty to cause a complaint to be filed against any and all persons found to be violating any of the provisions of this chapter.

(b) Incorrect amounts.

(1) When an audit determines an insufficient amount of business license tax has been paid, the City Controller shall advise the licensee of the balance due, which shall include accrued penalties on the amount owed. This amount shall be paid within thirty (30) days of notification. Notice shall be deemed given when served personally or when deposited in the United States Post Office at Beverly Hills, California, postage prepaid, addressed to the permittee at his last known address.

(2) When an audit determines an overpayment of the business license tax has been paid, the City Controller shall advise the licensee of the amount overpaid. Unless the licensee requests the return of this overpayment within thirty (30) days it will be held, without interest, as a credit to be applied on the next renewal. Notice of the overpayment and the options of repayment or use as a credit shall be given when served personally or when deposited in the United States Post Office at Beverly Hills, California, postage prepaid, addressed to the permittee at his last known address.

(3) If the tax that was paid incorrectly is within Twenty-Five (\$25.00) Dollars of the correct amount,

the City Controller shall not take any action to collect if owed to the City, but shall make refunds, if appropriate, upon request of the licensee.

Section 2. Section 4-13.01 of Chapter 13 of Title 4 of the Beverly Hills Municipal Code is hereby repealed.

Section 3. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held invalid or unconstitutional as provided for above, the corresponding section or portion thereof as it existed on June 30, 1978, if worded or applied in a different manner or form, shall again apply, nunc pro tunc.

Section 4. The City Council hereby declares that the taxes required to be paid by this ordinance are imposed pursuant to Government Code Section 37101 and are solely for the purpose of raising revenue.

Section 5. The City Clerk shall cause this ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage, in accordance with Section 36933 of the

Government Code; shall certify to the adoption of this ordinance and shall cause this ordinance and her certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 6. This ordinance is declared an urgency matter in that the taxes and fees adopted on June 29, 1978 shall, unless amended hereby, be in effect on and after January 1, 1979. This amendment is urgently required to eliminate duplications and vague language and to reduce certain taxes prior to that date.

Adopted December 12, 1978

*Charles Aronberg*

CHARLES ARONBERG, M.D.  
Acting Mayor of the City of  
Beverly Hills, California

ATTEST:

*Jean M. Ushijima* (SEAL)  
JEAN M. USHIJIMA, City Clerk

Approved as to form for the  
Acting City Attorney:

*Mitchell B. Kahn*  
Assistant City Attorney

Approved as to content:

*James J. Matzer*  
City Manager  
*Cadyn K. Denny*  
City Controller

ORDINANCE NO. 96-0-2254

**AN URGENCY ORDINANCE OF THE CITY OF BEVERLY HILLS RELATING TO BUSINESS TAX AND AMENDING THE BEVERLY HILLS MUNICIPAL CODE AND DECLARING THE URGENCY THEREOF**

The City Council of the City of Beverly Hills does hereby ordain as follows:

Section 1. Article 2 of Chapter 1 of Title 3 of the Beverly Hills Municipal Code is hereby amended to read as follows:

**Article 2. Business Tax**

**Sec. 3-1.201. Registration required; Imposition of tax.**

(a) **Registration required.** No person shall transact, engage in, carry on or permit the operation of any business in the City without first registering and obtaining a current and valid registration certificate from the Department of Finance Administration. A violation of this section or of any other provision of this Article is unlawful and constitutes a misdemeanor as provided in Article 1, Chapter 3, Title 1 of this Code.

(b) **Term of registration.** Each registration, unless otherwise specified in this Article, shall expire annually on the 31st day of December.

(c) **Revenue measure: Tax imposed.** A business tax is hereby imposed in the amount prescribed in the applicable section. The required business tax is imposed pursuant to the taxing power of the City of Beverly Hills solely for the purpose of obtaining revenue. A business tax must be paid by every person engaged in any business or occupation conducted within the City of Beverly Hills.

(d) **Regulatory permit may also be required.** Where this Code requires a regulatory permit to engage in a specific type of business or activity, approval and issuance of a regulatory permit for such business or activity shall be a prerequisite to commencement of the business or activity.

(e) **Registration Certificate.** A Registration Certificate shall be prepared and issued by the Department of Finance Administration when the following conditions have been met:

(1) The registration form has been completely filled out and signed by the owner, agent, corporate officer or other duly appointed and authorized person.

(2) All taxes, penalties and interest owing have been received by the Department of Finance Administration.

(3) All required regulatory permits have been approved and issued.

(f) **Non-transferability of Registration Certificate.** Registration Certificates issued pursuant to this Article shall not be transferable by the registrant to any other person or registrant, nor shall any tax paid by any registrant under the provisions of this Article be applied in whole or in part to the payment of tax due, or to become due, from any other person or registrant. This subsection shall not apply to a change in ownership of the registrant where the same business continues to be conducted thereafter.

(g) **Identification sticker.** Whenever the business tax for a business imposed under the provisions of this Article is measured by the number of vehicles, devices, machines, or other pieces of equipment used, or whenever the business tax is measured by the gross receipts from the operation of coin-operated devices, the Department of Finance Administration shall issue, in addition to and concurrent with the Registration Certificate, for each tax period for which the business tax has been paid, one identifying sticker or symbol for each vehicle, device, machine or for each coin-operated device used in a business where the tax is measured by the gross receipts from such coin-operated devices.

**Sec. 3-1.202. Exemptions.**

(a) Nothing in this Article shall be construed as requiring the payment of any tax for engaging in a business or the doing of an act when such payment would constitute an unlawful burden upon or an unlawful interference with interstate or foreign commerce, or which payment would be in violation of the Constitution of the United States or the Constitution of the State of California.

(b) Subject to first applying for and obtaining a business tax registration certificate with the classification of exempt from the City, the following persons and activities are exempt from taxation:

(1) Nonprofit or charitable organizations including, without limitation, fraternal, educational, civic, state, military, county and municipal organizations or associations (hereafter collectively "nonprofit entities"), which have the appropriate tax designation or classification from federal and state taxing authorities.

(2) Religious institutions which have the appropriate tax designation or classification from federal and state taxing authorities.

(3) Credit unions which have the appropriate tax designation or classification from federal and state taxing authorities.

(c) Notwithstanding the provisions of subsection (b) above, exempt entities shall not be exempt from the payment of a tax in their sponsorship or participation in events involving the theater or arts, dances, concerts, lectures, sports or similar activities unless all of the net proceeds, defined for these purposes as the net amount derived from revenues of the event less the direct costs of the event, derived from the event are used for the operation of these entities or institutions, or for some other nonprofit, charitable or benevolent purpose.

(d) No person engaged in business in the City shall be entitled to a tax exemption by virtue of the sponsorship or participation of any nonprofit entity or religious institution (regardless of any revenue sharing or other form of compensation)

in an otherwise taxable activity or event, including without limitation, those described in subsection (b) of this section.

(e) An exemption granted for any activity set forth in subsection (b) is void and payment of the entire business tax is required if said activity was conducted in such a manner that the City would not have granted an exemption had same been accurately described or fully disclosed in the application for an exemption. Furthermore, the failure to use net proceeds in the manner required by subsection (c) shall result in any exemption being void and the entire business tax being immediately due. All tax obligations arising by reason of this section shall be immediately due and payable along with any penalties and interest.

(f) For the purposes of this section, City purchases shall be exempt from the calculation of the required business tax as follows:

(1) Whenever the measure of the business tax is based on gross receipts, the person subject to the business tax may exclude from the business tax calculation the dollar value of purchases made directly by the City of Beverly Hills from the person subject to the tax.

(2) Whenever the measure of the business tax is based on gross payroll, number of persons employed, number of vehicles, devices, or articles of equipment used, the person subject to the business tax may exclude from the business tax calculation the dollar value of the payroll, hours related to the persons employed, hours related to the number of vehicles, devices, or articles of equipment used in providing goods or services related to purchases made directly by the City of Beverly Hills from the person subject to the tax.

**Sec. 3-1.203. Filing of exemption required.**

(a) Any person claiming an exemption from these tax requirements, including exemptions claimed under Section 3-1.202(f), shall register in the manner proscribed in Section 3-1.201(a), Registration Required, and within the time requirements of Section 3-1.206, Due Dates, as classification "Z," Exempt Business or Exempt Business Transactions.

(b) A request for exempt registration from these tax requirements shall be granted by the Director of Finance Administration only when the requesting person fully and completely meets the requirements of Section 3-1.202.

(c) A request for exempt registration from these tax requirements shall be denied by the Director of Finance Administration if the registration form is incomplete or proper documentation of tax designation or classification from federal or state taxing authorities is not included or if the person fails to fully and completely meet the requirements of Section 3-1.202.

**Sec. 3-1.204. Unlawful business not authorized.**

No registration 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.

**Sec. 3-1.205. Definitions.**

The following words and phrases whenever used in this Article shall be construed as defined in this section, unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

(a) **"Agent, agency or broker"** shall mean a person or business, who by authority acts as an intermediary, representative, or agent, on behalf of, or in the place of another person in the purchase or sale of insurance, real or personal property, stocks, bonds, securities, notes, negotiation of contracts for personal or professional services or appearances or other similar items of value and receives compensation, either directly or indirectly, in the form of commission or otherwise for services rendered.

(b) **"Apartment house"** shall mean a building, or portion of a building, which is designed, built, rented, leased, let, or hired out to be occupied, or which is occupied, as the home or residence of three (3) or more families, as defined in Section 10-3.1201(c).

(c) **"Business"** shall mean any occupation, activity, enterprise, profession, trade, or undertaking of any nature conducted or engaged in, or ordinarily conducted or engaged in, with the object of gain, benefit or advantage, whether direct or indirect, to the taxpayer or to another person. The term shall include operations of subsidiary or independent entities conducted for the benefit of others and at no profit to themselves, including nonprofit businesses and trade associations. A person shall not be deemed to be engaged in business solely by reason of receipt of dividend or interest income from passive investments.

(d) **"Business classification"** shall mean the class or type of business activity conducted within the City of Beverly Hills as determined by the Director of Finance Administration or the Directors designates.

(e) **"Business tax"** shall mean the tax imposed upon a person engaged in business within the City of Beverly Hills and is calculated by multiplying the measurement focus of the businesses classification by the tax rate for the businesses classification.

(f) **"Commercial real property"** shall mean all real property, including improvements thereto, of any kind or nature which is owned, held, used, or operated for commercial or industrial purposes but shall not include the leasing or rental of real property for residential purposes.

(g) **"Employee"** shall mean and include any individual who qualifies as an employee within the meaning of Division 4, Part 1, Chapter 2, Article 2 of the California Labor Code and any individual in the service of an employer, under an appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and includes but is not limited to, all of the enumerated categories in subsection (a) through (f) of California Labor Code Section 3351, regardless of whether Workers' Compensation Benefits pursuant to Division 4, Part 1, Section 3200, et seq. of the California Labor Code are required to be paid. Nothing herein shall be deemed to incorporate any provisions from said Labor Code relating to scope of employment. The Labor Code provisions in effect at the time this ordinance is effective shall apply.

(h) **"Engaged in business"** shall mean the conducting, operating, managing, participating in or carrying on, of a business by a person whether in the capacity of an owner, principal, partner, officer, agent, representative, broker, employee, servant, independent contractor, lessee or other person.

(i) **"Financial institution"** shall mean an institution as defined by the California Finance Code, Section 31041.

(j) **"Gross receipts."** Except as otherwise specifically provided, the term "gross receipts" as used in this Article shall mean the gross receipts of the calendar year and is defined as follows:

The total amount of the sales price of all sales, the total amount charged or received for the performance of any act, service or employment of whatever nature it may be, whether such service, act or employment is done as a part of or in connection with the sale of goods, wares, merchandise or not, for which a charge is made or credit allowed, including, without limitation, all receipts, cash, credits, forfeited or retained deposits of any kind and property of any kind or nature, in any amount for which credit is allowed by the seller to the purchasers without any deductions therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, losses or any other expense whatsoever. Gross receipts shall also include the amount of any federal manufacturers' or importers' excise tax included in the price of the property sold, even though the manufacturer or importer is also the retailer thereof and whether or not the amount of such tax is stated as a separate charge.

Excluded from gross receipts shall be:

- (1) Cash discounts allowed and taken on sales;
- (2) The value of property accepted as part of the purchase price for subsequent resale;
- (3) Any California state, city or city and county sales or use tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- (4) Any City of Beverly Hills Transient Occupancy Tax required to be included in or added to the price of a room and collected from a transient;
- (5) Such part of the sales price of property returned by the purchaser upon the rescission of the contract or sale as is refunded either in cash or by credit;
- (6) Deposits which by law or contract must be refunded and are actually refunded;
- (7) Collections for others when the business is acting as an agent or trustee to the extent that payments are made to those for whom collected;
- (8) The cash value of sales, trades, or transactions between departments or units of the same business; and
- (9) The amount of gross receipts which has been the measure of a business tax paid to any other city.

(k) **"Hotel, motel or rooming house"** shall mean any lodging, hotel, motel, rooming house, dormitory, or public or private club that is designed for occupancy by more than six (6) persons not related by blood or marriage, whether the rent is paid in money, goods, labor, or otherwise, and which is maintained, advertised, or held out to

the public as a place where sleeping or rooming accommodations are furnished to the whole or any part of the public, whether with or without meals.

(l) **"Measurement focus"** shall mean the measurement of a businesses activities within the City through the use of a standard designated by this Article for each business classification. Measurement focus includes such measures of business activity as gross receipts, gross payroll, gross operating expenses, number of vehicles, machines, devices, or articles of equipment used, or the number of persons employed.

(m) **"Number of payroll hours - non-professional business classifications"** shall mean the total number of payroll hours recorded, including, but not limited to, regular, overtime, part-time, vacation, compensated absences, and all other hours for which compensation of any form is provided, of persons employed in the registrants business within the City of Beverly Hills in the previous calendar year.

(n) **"Number of professional and semi-professional payroll hours - professional business classifications"** shall mean one of the following:

(1) Where the professional business being registered bills its clientele based on total professional and/or semi-professional hours of service provided, the total number of professional and semi-professional hours charged to client accounts, whether compensation of any form whatsoever has been received, in the previous calendar year.

(2) Where the professional business being registered does not bill its clientele based on total professional and/or semi-professional hours of service provided, the total number of professional and semi-professional payroll hours recorded, including, but not limited to, regular, overtime, part-time, vacation, compensated absences, and all other hours for which compensation of any form is provided, of professional and semi-professional persons employed in the registrants business within the City of Beverly Hills, in the previous calendar year.

(o) **"Number of nonprofessional payroll hours - professional business classifications"** shall mean the total number of nonprofessional payroll hours recorded, including, but not limited to, regular, overtime, part-time, vacation, compensated absences, and all other hours for which compensation of any form is provided, of nonprofessional persons employed in the registrants business within the City of Beverly Hills in the previous calendar year.

(p) **"Person"** shall mean any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, domestic or foreign corporations, associations, syndicates, partnerships of every kind, Massachusetts business or common law trusts, societies, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise transacting and carrying on any business in the City other than as an employee.

(q) **"Professional"** shall mean any person who engages in an occupation of technical expertise which generally requires a higher education and certification by a governmental agency.

(r) **"Public utility"** shall mean any person furnishing the public with communications, water, light, gas, heat, power, or other public utilities or services subject to regulation by the Public Utilities Commission of the State.

(s) **"Register"** shall mean to complete, execute and file a City approved application with the Department of Finance Administration by each person prior to the commencement of business operation and the payment of all required taxes and any penalties and interest. This definition shall include any reference to "registering" and "registration".

(t) **"Registration Certificate"** shall mean a document issued by the Department of Finance Administration to evidence the satisfactory completion of registration for a specified period of time.

(u) **"Registrant"** shall mean a person to whom a registration certificate has been issued by the Department of Finance Administration.

(v) **"Semiprofessional"** shall mean a person who assists or studies under a professional, either as an apprentice or employee, or one who participates in the operation of a professional occupation as a technical employee.

(w) **"Tax rate"** shall mean the rate of taxation established for each business classification.

**Sec. 3-1.206. Due dates.**

All business taxes shall be paid to the Department of Finance Administration in lawful money of the United States and taxes required hereunder shall be received in advance by the Department of Finance Administration except where otherwise specifically provided, and shall be due and payable at the following times:

(a) **Annual business taxes** - on the first day of January of each calendar year.

(b) **Newly established business** - on or before the first day of operation in the City.

(c) **Construction project taxes** - on or before the first day work commences on the project.

(d) **Taxes arising from assessment** - on the date established by Section 3-1.213(b) of this Article.

(e) **Taxes arising from amendments to this Article** - When a person first becomes subject to business tax by reason of an amendment of this Article, or because of such an amendment, becomes subject to business tax under a section not previously applicable to such person or on a basis not previously applicable to such person, any new or additional tax required to be paid by reason of this Article, as so amended, shall be due and payable upon the effective date of the amending ordinance unless an operative date different from the effective date of the amendment is specified therein.

**Sec. 3-1.207. Delinquent dates - penalties -overpayments interest.**

(a) **Delinquent dates.** Unless otherwise specifically provided for in other provisions of this Article, all business taxes required to be paid thereby shall be deemed delinquent if not received on or before the close of business thirty (30) calendar days after the date the tax first became due.

(b) **Penalties.**

(1) **Initial delinquency.** Any person who fails to pay the required tax by the date stated in Section 3-1.207(a) shall pay a penalty on the first calendar day of

the first day that the tax is delinquent and on each subsequent calendar day, equal to one percent (1%) of the tax due, or unpaid portion thereof; provided, however, the amount of such penalty to be added for the first thirty (30) calendar days of delinquency shall in no event exceed ten percent (10%) of the amount of the tax due.

(2) **Continuing delinquency.** Any person who fails to pay any delinquent tax, penalties and interest due on or before the first calendar day of the second thirty (30) calendar day period that the tax is due shall pay a penalty of ten percent (10%) of the tax due, or unpaid portion thereof and on the first calendar day of each subsequent thirty (30) calendar day period shall pay a penalty of ten percent (10%) of the tax due, or unpaid portion thereof; provided, however, the amount of all initial delinquency and continuing delinquency penalties to be added shall in no event exceed fifty percent (50%) of the amount of the total tax due.

(c) **Overpayment.** For the purpose of allowing overpayments as credit against underpayments of the aforementioned taxes, whenever such overpayment has been received by the City within the three years preceding the current tax year, or during any year for which the taxpayer, at the request of the Director of Finance Administration, has executed a waiver of the defense of the statute of limitations with regard to any claim the City may have for business, sales or use taxes, the Director of Finance Administration, when making determinations of the amount of taxes due the City, shall make an allowance of credit for any such overpayments. Whenever an overpayment has been made prior to an underpayment, no penalty or interest shall apply upon the amount of the underpayment satisfied by the prior overpayment.

(d) **Interest.** In addition to the penalties imposed, any person who fails to pay any tax required to be paid by this Article shall pay interest at the rate of one and one-half percent (1.50%) per month, or fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the tax first became delinquent until paid. Interest shall run during any period of time for which an extension of time has been granted by the Director of Finance Administration. Interest required by any of the provisions of this section shall not be subject to waiver or compromise other than as the Council may direct.

(e) **Penalties and interest merged with tax.** Except for the purpose of calculation of interest and penalties, every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax herein required to be paid.

**Sec. 3-1.208. Separate registration required for each location and each business tax classification.**

(a) Unless otherwise provided in this Article, every person who engages in any business within the City must register with the Department of Finance Administration and pay a separate business tax for:

- (1) each establishment or location within the City at which registrant conducts business; and
- (2) each type of business as set forth in Sections 3-1.219 of this Article which a registrant conducts at every primary and branch establishment within the City.

Where business is engaged in from one or more locations outside the City, only one registration for each classification of business is required for engaging in that business in the City from all such outside locations.

**Sec. 3-1.209. Refunds of overpayments.**

No refund of an overpayment of taxes imposed by this Code shall be made except under the following procedure:

(a) No claim for refund shall be accepted nor shall any refund be made by the Director of Finance Administration unless the Director receives a complete and executed claim form with all required supporting documentation or records within one calendar year from the date the claimed overpayment was tendered to the Department of Finance Administration. Claim forms shall be furnished upon request by the Department of Finance Administration to any person who seeks a refund.

(b) There shall be no refund of taxes paid where a business vacates its premises or otherwise ceases business operations during the term of the business tax calendar year.

(c) The Director of Finance Administration shall refund taxes paid when it has been determined by the Director of Finance Administration that the tax was paid in error, computed incorrectly, overpaid, or collected illegally.

(d) Nothing contained in this section shall modify, extend or suspend the one calendar year deadline to make a claim in the manner stated in Section 3-1.209(a) nor shall the timely filing of a claim extend any state statute of limitations which constitutes a bar to the recovery of a tax refund.

**Sec. 3-1.210. Computation of business tax.**

The business tax is computed by multiplying the measurement focus for the classification of the business being registered by the tax rate for the classification of the business being registered as defined in Section 3-1.219. Where the measurement focus is based on an estimation, the registrant shall estimate the tax due by multiplying the estimated measurement focus for the classification of the business being registered by the tax rate for the classification of the business being registered as defined in Section 3-1.219. The business tax shall be based on the estimate, if such estimate is reasonable as compared to criteria established by the Director of Finance Administration; otherwise the tax shall be based on the criteria established by the Director of Finance Administration. The registrant shall pay the business tax as determined; provided however, the amount of the tax so determined shall be tentative only, and the registrant, within thirty (30) calendar days after the expiration of the period for which such tax was deposited, shall furnish the Department of Finance Administration information showing the actual tax calculation for the period along with any taxes due as a result of an underestimation by the registrant. Any taxes due and not paid within thirty (30) calendar days after the expiration of the period for which such tax was deposited shall be considered delinquent and subject to penalties and interest as required by Section 3-1.207 of this Article. If the registrant over estimated the tax due, any excess shall first be credited to the renewal of the business registration. After fulfillment of any renewal requirement, or other amounts owing the City of Beverly Hills, any remaining overpayment shall be refunded to the registrant.

**Sec. 3-1.211. Change of address.**

Every person who, under the provisions of this Article, is subject to a business tax and who has a fixed place of business shall notify the Department of Finance Administration in writing of any change in location of such fixed place of business or mailing address within thirty (30) days thereafter.

**Sec. 3-1.212. Director of Finance Administration - Duty to enforce - Powers - rules and regulations.**

(a) **Duty to enforce.** It shall be the duty of the Director of Finance Administration and the Director's deputies, designates or any other person deemed appropriate by the Director, and the Director and other such designated individuals are hereby directed to enforce each and all of the provisions of this Article, and the Chief of Police shall render such assistance in the enforcement of this Article as may from time to time be required by the Director of Finance Administration. The Director of Finance Administration may make such rules and regulations as are not inconsistent with the provisions of this Article as may be necessary or desirable to aid in the enforcement of the provisions of this Article.

The determination of the classification of business a registrant is engaged in, or is about to engage in, or the determination of the number of vehicles, machines, devices, or articles of equipment used, or the number of persons employed or the gross receipts, gross operating expense or gross payroll, for the computation of tax to be paid shall be an administrative function of the Director of Finance Administration or the Directors designated representative.

(b) **Inspection and examination of places of business.** The Director of Finance Administration, and the Director's deputies, designates or any other person deemed appropriate by the Director, shall have the authority to inspect and examine all places of business in the City to ascertain whether or not the provisions of this Article have been complied with.

(c) **Audit and examination of records and equipment.** The Director of Finance Administration and the Director's deputies, designates or any other person deemed appropriate by the Director, shall have the power to audit and examine all books, and records, and, where necessary, all equipment, of any person engaged in business in the City for the purpose of ascertaining the amount of business tax, sales or use tax, if any, required to be paid by the provisions hereof, and for the purpose of verifying the statements, or any item thereof, when filed by any taxpayer pursuant to this Article. If such person, after written demand by the Director of Finance Administration or the Director's deputies, designates or any other person deemed appropriate by the Director, refuses to make available for audit, examination or verification such books, records or equipment as the Director of Finance Administration or the Director's deputies, designates or any other person deemed appropriate by the Director, requests, the Director of Finance Administration may make an assessment in the manner provided in Sec. 3-1.213 of any taxes estimated to be due.

(d) **Extension of time for filing.** The Director of Finance Administration may extend the time for filing any statement required under the provisions of this Article for a period not to exceed forty-five (45) calendar days under the following circumstances:

(1) The City Council of the City of Beverly Hills has declared a state of emergency within thirty (30) calendar days of the annual renewal date and as a result of conditions that caused the declaration of emergency the timely filing of annual renewals by local businesses would be effected. The Director of Finance Administration shall notify the City Manager of the Director's intent to extend the time for filing prior to issuing notification of the extension. If the City Manager concurs with the Director of Finance Administrations decision to extend the time for filing, all registrants will be notified of the extension of the time for filing by publication in a newspaper of general circulation.

(2) Upon receipt of a written request from a registrant who is a sole proprietor or the only person with the information necessary to complete the registration form and who provides proof that the timely filing of registration was not possible as a result of the death or severe illness of the registrant or an immediate family member, herein defined as a spouse, parent, brother, sister, child, grandparent or in-law of the registrant. The decision of the Director of Finance Administration to either grant or deny an extension shall be served upon the registrant by deposit of the notice in the United States mail, postage prepaid thereon, addressed to the registrant at the address of the location of the business registered with the Department of Finance Administration within fifteen (15) calendar days from the date of the receipt of the request for extension.

If an extension is granted, no penalty for delinquent payment shall accrue by reason of such extension. Interest shall accrue during said extension in the manner provided by in this Article. Taxes become delinquent on the first day after the last day of the extension.

(e) **Rules and regulations - apportionment.** When, by reason of the Constitution of the United States or the Constitution of the State of California, the business tax imposed by this Article cannot be enforced without there being apportionment according to the amount of business done in the City of Beverly Hills, or in the State of California, as the case may be, the Director of Finance Administration may make such rules and regulations for the apportionment of the tax as necessary or desirable to overcome the constitutional objections. Such rules and regulations shall be approved by the City Attorney prior to becoming effective.

(f) **Payments and requests, made by mail.** Whenever any payment, statement, report, request or other communication is received by the Department of Finance Administration after the time prescribed by this Article for the receipt thereof, but is in an envelope bearing a postmark showing that it was mailed prior to the time prescribed in this Article for the receipt thereof, or whenever the Director of Finance Administration is furnished substantial proof that the payment, statement, report, or request for communication was in fact deposited in the United States mail prior to the time prescribed for receipt thereof, the Director of Finance Administration may regard such payment, statement, report, request or other communication as having been timely received.

**Sec. 3-1.213. Assessment - administrative remedy.**

(a) **Assessment of taxes.** If the Director of Finance Administration is not satisfied that any statement filed as required under the provisions of this Article is correct, or that the amount of tax is correctly computed, or that the business classification has been correctly determined, or that any tax is due or may be due to the City of Beverly Hills under the provisions of this Article, the Director of Finance Administration, or the Directors designate, may compute and determine the amount to be paid and make an assessment upon the basis of the facts contained in the statement or upon the basis of any information in the City's possession or that may come into the City's possession. One or more assessments of the amount of tax due for a given period or periods may be made. When a person discontinues engaging in a business, an assessment may be made at any time within three (3) years thereafter as to any tax liability arising from engaging in such business.

(b) **Application of penalties to assessment - due date of tax.** The due date of the assessed taxes for the purpose of application of penalties shall be one of the following:

(1) The due date of the original tax obligation; or  
 (2) The date the assessment becomes final if the Director of Finance Administration makes the following findings as a part of the assessment:

(i) That the business was properly registered and a current registration certificate was issued or the registrant was eligible for issuance of a current registration certificate prior to the findings of the assessment; and

(ii) that the assessment is the result of a tax underpayment; and

(iii) that the underpayment of the tax was the result of incorrect information provided, in writing, by fax or documented telephone conversation or other verifiable means of communication, to the registrant by Finance Administration staff; and

(iv) that the incorrect information provided by Finance Administration staff was not the result of incorrect or incomplete information provided by the registrant but rather by an administrative error by Finance Administration staff.

(c) **Notice of Assessment.** A Notice of Assessment shall be prepared and shall separately set forth the amount of any tax known or estimated to be due by the Director of Finance Administration and any penalties or interest due as of the date of its preparation.

(d) **Service of assessment.** The Notice of Assessment shall be served upon the registrant or person by deposit of the notice in the United States mail, postage prepaid thereon, addressed to the registrant at the address of the location of the business registered with the Department of Finance Administration. Should the person not have previously registered the business, then the notice of assessment shall be served to the person's last known address. For the purpose of this section, a service by mail is complete at the time of deposit in the United States mail.

(e) **Right to hearing.** Within fifteen (15) calendar days after the date of service, the registrant or person assessed may apply in writing to the Director of Finance Administration for a hearing on the assessment.

(f) **No timely request for hearing.** If the registrant or person does not request a hearing upon the assessment within the prescribed time, the amount of the assessment shall be final and the amount thereof shall immediately be due and owing to the City of Beverly Hills, but penalties and interest as provided by this Article shall continue to accrue until paid.

(g) **Time of hearing; Notice.** If the registrant or person requests a hearing, the Director of Finance Administration shall cause the matter to be set for hearing not later than ninety (90) calendar days after the date of the request. Notice of the time and place of the hearing shall be mailed to the registrant or person assessed as prescribed in Section 3-1.213(b) not later than fifteen (15) calendar days before the date set for hearing and, if the Director of Finance Administration desires said registrant or person to produce specific records at such hearing, such notice shall designate the records required to be produced.

(h) **Administrative hearing.** The hearing prescribed by this section shall be before the Director of Finance Administration or the duly appointed representative of the Director of Finance Administration. At the hearing, the registrant or person assessed may submit evidence why the assessed tax, interest and penalties should not be fixed. The registrant or person may be represented by counsel.

(i) **Decision of the Director of Finance Administration.** Upon completion of the hearing the Director of Finance Administration, or the Directors Designate, shall determine the proper tax, interest and penalties to be remitted and shall give written notice to the registrant or person assessed in the same form and in the same manner as the notice of assessment and within thirty (30) calendar days from the conclusion of the hearing at which time the assessment shall become final.

(j) **Effect of delay in administrative proceedings.** Failure of the Director of Finance Administration to set any hearing within the time prescribed in this section and failure of the Director of Finance Administration to complete any procedure prescribed in this section within the period stated shall not affect the validity of any proceedings taken hereunder.

(k) **Effect of payment of an assessment.** Acceptance of any payment upon an assessment shall not preclude the Director of Finance Administration from subsequently levying another assessment in any case where the original assessment does not correctly reflect the actual tax liability.

(l) **Appeal from the decisions of the Director of Finance Administration.** Any registrant or person assessed not in agreement with the decision of the Director of Finance Administration with respect to the amount of such tax, interest and penalties, if any, may appeal to the City Council as provided in Article 1, Chapter 4, Title 1 of this Code.

**Sec. 3-1.214. Confidential character of information obtained - disclosure unlawful.**

It shall be unlawful for the Department of Finance Administration, or for any City official, to release information in its possession (hereafter "confidential information") regarding a registrant to any other person without the prior written authorization of registrant, except in the following instances:

(a). For use in the enforcement of any provision of the Beverly Hills Municipal Code. This exception shall include the use of confidential information by the City Council or other City officials or representatives in connection with the resolution, compromise or adjustment of any claim relating to a tax liability;

(b). For examination of any governmental taxing authority if reciprocal arrangements with said agency exists, or to a grand jury;

(c). To a court of law in an action involving a registrant's tax liability;

(d). To the registrant's successor, receiver, trustee, executor, administrator, assignee, guarantor or a duly appointed agent or representative. The release of confidential information by the Director of Finance Administration to any such person upon the Director's receipt of a request in writing shall not be made without prior written approval of the City Attorney who shall review the legal standing of the person requesting disclosure;

(e). The name and address of the registrant may be released to any person requesting this information for any reason.

(f) If otherwise required by law.

**Sec. 3-1.215 Delinquent taxes - installment payment.**

(a) Registrants indebted to the City of Beverly Hills for unpaid taxes, penalties or interest (hereafter "the delinquency") may, upon a determination by the Director of Finance Administration that (i) the registrant lacks the present ability to pay the entire sum due and (ii) a reasonable basis exists to believe that registrant can successfully make monthly payments on a timely basis, enter into a written agreement with the City for a period not to exceed three (3) years for the installment payment of the delinquency on such terms as the Director may approve.

(b) Any installment or other partial payment received by the Department of Finance Administration, whether or not as a result of a written agreement pursuant to this section, shall be applied to that portion of the delinquency which first arose in time.

(c) Any agreement executed pursuant to this section, shall include, without limitation, provisions reciting the registrant's admission that the delinquency is presently due, the continued accrual of interest, an acceleration clause, the recovery of attorney's fees and costs in any litigation to enforce the agreement, the reservation of all of the City's rights and remedies to enforce its laws, as well as a recital that no penalties shall be applied to the unpaid portion of the delinquency for the period covered by the agreement so long as all installment payments are timely made..

**Sec. 3-1.216 Delinquent taxes - suit for recovery.**

Any person who fails to register a business and pay a business tax according to the provisions of this Article shall be liable to the City in any action brought in a court of competent jurisdiction.

**Sec. 3-1.217 Delinquent taxes - debt not discharged by penal conviction.**

The conviction of any registrant or person for a failure to pay a tax liability or for a violation of any other provision of this Article shall not excuse the obligation to pay a tax, penalty or interest charge, nor shall the total or partial payment of a tax, penalty or

interest charge bar a prosecution. The remedies provided in this Code are cumulative and the exercise of one remedy shall not preclude the exercise of any other remedies.

**Sec. 3-1.218 Effect of repeals and amendments.**

Except where a repealing or amendatory ordinance specifically provides otherwise, the amendment or repeal of any provision of this Article shall not be construed to operate as a release or waiver of any liability or sum of money which may be due or owing to the City of Beverly Hills by any person pursuant to provisions of said Article as they existed prior to such amendment or repeal. The rule of construction required by this section is declared to be in clarification and confirmation of the existing intent of said Article, and is not to be construed as applying solely to the effect of repealing or amending ordinances adopted subsequent to the effective date of this section.

**Sec. 3-1.219 Business classifications.**

Every person who engages in business, whether or not at a fixed place in the City, shall first pay a business tax to the Department of Finance Administration as computed for the following activities:

(a) **Classification "A": Corporate Headquarters and Business and personal services.** All registrants engaged in businesses classified by Finance Administration as Classification "A", Corporate Headquarters or Business and personal services, shall pay an annual basic tax plus a per employee tax for each employee, based on the annualized average number of persons employed in the prior calendar year or in the case of a new business an estimate by the registrant of the average number of persons to be employed during the current calendar year, as established in the City of Beverly Hills "Schedule of Taxes, Fees and Charges" for Classification A.

(b) **Classification "B": Retail, wholesale, manufacturing, and contractors.** All registrants engaged in businesses classified by Finance Administration as Classification "B", Retail, wholesale, manufacturing and contractors, shall pay an annual basic tax plus a gross receipts tax for each One Thousand Dollars (\$1,000) of gross receipts in excess of Sixty Thousand Dollars (\$60,000), based on the annualized actual gross receipts of the prior calendar year or in the case of a new business an estimate by the registrant of the gross receipts during the current calendar year, as established in the City of Beverly Hills "Schedule of Taxes, Fees and Charges" for Classification B.

(c) **Classification "C": Professions and semiprofessions.** All registrants engaged in businesses classified by Finance Administration as Classification "C", Professions and semiprofessions, shall pay an annual tax for each professional and semiprofessional employee, based on the annualized average number of professional and semiprofessional persons employed in the prior calendar year or in the case of a new business an estimate by the registrant of the average number of professional and semiprofessional persons to be employed during the current calendar year, plus a per employee tax for each non-professional employee, based on the annualized average number of non-professional persons employed in the prior calendar year or in the case of a new business an estimate by the registrant of the average number of non-

professional persons to be employed during the current calendar year, as established in the City of Beverly Hills "Schedule of Taxes, Fees and Charges" for Classification C.

(d) **Classification "D": Used Car Dealers.** All registrants engaged in the business of selling used automobiles, other than vehicles accepted as a part of the purchase price for a new automobile and classified by Finance Administration as Classification "D", Used Car Dealers, shall pay an annual basic tax plus a gross receipts tax for each One Thousand Dollars (\$1,000) of gross receipts in excess of Sixty Thousand Dollars (\$60,000), based on the annualized actual gross receipts of the prior calendar year or in the case of a new business an estimate by the registrant of the gross receipts during the current calendar year, as established in the City of Beverly Hills "Schedule of Taxes, Fees and Charges" for Classification D.

(e) **Classification "E": Residential property renting and leasing.** All registrants engaged in the business of conducting or operating a hotel or apartment house or leasing or renting of any residential property, dwelling unit, or room for dwelling, sleeping, or lodging and classified by Finance Administration as Classification "E", Residential property renting and leasing, shall pay an annual gross receipts tax for each One Thousand Dollars (\$1,000) of gross receipts, provided, however, the total gross receipts average greater than Three Thousand Six hundred Dollars (\$3,600) per unit, based on the annualized actual gross receipts of the prior calendar year or in the case of a new business an estimate by the registrant of the gross receipts during the current calendar year, as established in the City of Beverly Hills "Schedule of Taxes, Fees and Charges" for Classification E.

(f) **Classification "F": Commercial property renting and leasing.** All registrants engaged in the business of leasing or renting any commercial property, and which is not subject to the provisions of subsection (e), and classified by Finance Administration as Classification "F", Commercial property renting and leasing, shall pay an annual gross receipts tax for each One Thousand Dollars (\$1,000) of gross receipts, provided, based on the annualized actual gross receipts of the prior calendar year or in the case of a new business an estimate by the registrant of the gross receipts during the current calendar year, as established in the City of Beverly Hills "Schedule of Taxes, Fees and Charges" for Classification F.

(g) **Classification "G": Agencies, lenders, brokerages, and other similar services.** All registrants engaged in the business of an agency, lender, brokerage, or other service, and classified by Finance Administration as Classification "G", Agencies, lenders, brokerages and other similar services, shall pay an annual gross receipts tax for each One Thousand Dollars (\$1,000) of gross receipts, provided, based on the annualized actual gross receipts of the prior calendar year or in the case of a new business an estimate by the registrant of the gross receipts during the current calendar year, as established in the City of Beverly Hills "Schedule of Taxes, Fees and Charges" for Classification G.

(h) **Classification "H": Depository financial institutions; branch and sale office locations.**

(i) **Classification "I": Oil production.** All registrants engaged in the business of extracting oil from a well where the well, or any portion of the well, is located in, passes through, or is bottomed under real property in the City, and classified

by Finance Administration as Classification "I", Oil production, shall pay an annual tax within sixty (60) calendar days after December 31 of each calendar year as follows:

(1) Wells located entirely inside the City. A basic minimum tax plus a subsequent additional tax, based on each barrel which is produced during the calendar year in excess of ten thousand (10,000) barrels, as established in the City of Beverly Hills "Schedule of Taxes, Fees and Charges" for Classification I wells inside City.

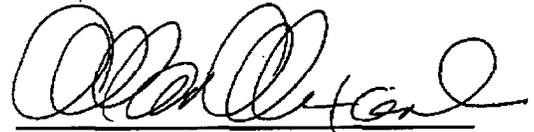
(2) Wells located outside the City. A basic minimum tax plus a subsequent additional tax, based on each barrel which is produced during the calendar year in excess of ten thousand (10,000) barrels, as established in the City of Beverly Hills "Schedule of Taxes, Fees and Charges" for Classification I outside City.

Section 2. The adoption of this ordinance is for the immediate preservation of the public peace, health and safety. Business license taxes are due to the City on January 31st of each year. The proposed ordinance revises the administrative provisions of the City's business license regulations, including clarifying and eliminating ambiguities and uncertainties that exist in the current regulations. The City must adopt an ordinance prior to February 1, 1996 in order to implement these revisions and changes to business license regulations for the 1996 tax year. Such an ordinance must be adopted and must become effective immediately in order to allow the expeditious and orderly regulation of business license taxes and to avoid unnecessary disputes and uncertainty. Without the immediate adoption of such an ordinance, business license taxes may not be collected in an effective, efficient and timely manner.

Section 3. This ordinance is an urgency ordinance for the immediate preservation of the public peace, health and safety and therefore shall be passed immediately upon its introduction and shall become effective immediately upon its adoption.

Section 4. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code, shall certify to the adoption of this ordinance, and shall cause this ordinance and her certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Adopted: January 16, 1996



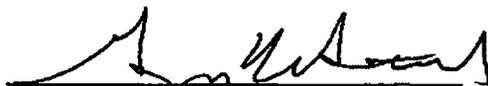
ALLAN ALEXANDER  
Mayor of the City of  
Beverly Hills, California

ATTEST:



FRANCES M. MALNECK  
City Clerk

Approved as to form:

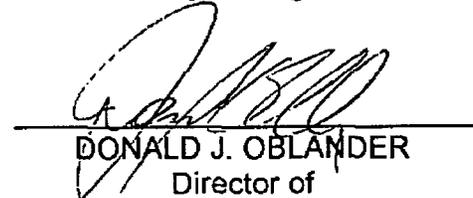


GREGORY W. STEPANICICH  
City Attorney

Approved as to Content:



MARK SCOTT  
City Manager



DONALD J. OBLANDER  
Director of  
Finance Administration

## ORDINANCE NO. 96-0- 2255

**AN ORDINANCE OF THE CITY OF BEVERLY HILLS  
RELATING TO BUSINESS TAX AND AMENDING THE  
BEVERLY HILLS MUNICIPAL CODE**

The City Council of the City of Beverly Hills does hereby ordain as follows:

Section 1. Article 2 of Chapter 1 of Title 3 of the Beverly Hills Municipal Code is hereby amended to read as follows:

**Article 2. Business Tax****Sec. 3-1.201. Registration required; Imposition of tax.**

(a) **Registration required.** No person shall transact, engage in, carry on or permit the operation of any business in the City without first registering and obtaining a current and valid registration certificate from the Department of Finance Administration. A violation of this section or of any other provision of this Article is unlawful and constitutes a misdemeanor as provided in Article 1, Chapter 3, Title 1 of this Code.

(b) **Term of registration.** Each registration, unless otherwise specified in this Article, shall expire annually on the 31st day of December.

(c) **Revenue measure: Tax imposed.** A business tax is hereby imposed in the amount prescribed in the applicable section. The required business tax is imposed pursuant to the taxing power of the City of Beverly Hills solely for the purpose of obtaining revenue. A business tax must be paid by every person engaged in any business or occupation conducted within the City of Beverly Hills.

(d) **Regulatory permit may also be required.** Where this Code requires a regulatory permit to engage in a specific type of business or activity, approval and issuance of a regulatory permit for such business or activity shall be a prerequisite to commencement of the business or activity.

(e) **Registration Certificate.** A Registration Certificate shall be prepared and issued by the Department of Finance Administration when the following conditions have been met:

(1) The registration form has been completely filled out and signed by the owner, agent, corporate officer or other duly appointed and authorized person.

(2) All taxes, penalties and interest owing have been received by the Department of Finance Administration.

(3) All required regulatory permits have been approved and issued.

(f) **Non-transferability of Registration Certificate.** Registration Certificates issued pursuant to this Article shall not be transferable by the registrant to

any other person or registrant, nor shall any tax paid by any registrant under the provisions of this Article be applied in whole or in part to the payment of tax due, or to become due, from any other person or registrant. This subsection shall not apply to a change in ownership of the registrant where the same business continues to be conducted thereafter.

(g) **Identification sticker.** Whenever the business tax for a business imposed under the provisions of this Article is measured by the number of vehicles, devices, machines, or other pieces of equipment used, or whenever the business tax is measured by the gross receipts from the operation of coin-operated devices, the Department of Finance Administration shall issue, in addition to and concurrent with the Registration Certificate, for each tax period for which the business tax has been paid, one identifying sticker or symbol for each vehicle, device, machine or for each coin-operated device used in a business where the tax is measured by the gross receipts from such coin-operated devices.

**Sec. 3-1.202. Exemptions.**

(a) Nothing in this Article shall be construed as requiring the payment of any tax for engaging in a business or the doing of an act when such payment would constitute an unlawful burden upon or an unlawful interference with interstate or foreign commerce, or which payment would be in violation of the Constitution of the United States or the Constitution of the State of California.

(b) Subject to first applying for and obtaining a business tax registration certificate with the classification of exempt from the City, the following persons and activities are exempt from taxation:

(1) Nonprofit or charitable organizations including, without limitation, fraternal, educational, civic, state, military, county and municipal organizations or associations (hereafter collectively "nonprofit entities"), which have the appropriate tax designation or classification from federal and state taxing authorities.

(2) Religious institutions which have the appropriate tax designation or classification from federal and state taxing authorities.

(3) Credit unions which have the appropriate tax designation or classification from federal and state taxing authorities.

(c) Notwithstanding the provisions of subsection (b) above, exempt entities shall not be exempt from the payment of a tax in their sponsorship or participation in events involving the theater or arts, dances, concerts, lectures, sports or similar activities unless all of the net proceeds, defined for these purposes as the net amount derived from revenues of the event less the direct costs of the event, derived from the event are used for the operation of these entities or institutions, or for some other nonprofit, charitable or benevolent purpose.

(d) No person engaged in business in the City shall be entitled to a tax exemption by virtue of the sponsorship or participation of any nonprofit entity or religious institution (regardless of any revenue sharing or other form of compensation) in an otherwise taxable activity or event, including without limitation, those described in subsection (b) of this section.

(e) An exemption granted for any activity set forth in subsection (b) is void and payment of the entire business tax is required if said activity was conducted in such a manner that the City would not have granted an exemption had same been accurately described or fully disclosed in the application for an exemption. Furthermore, the failure to use net proceeds in the manner required by subsection (c) shall result in any exemption being void and the entire business tax being immediately due. All tax obligations arising by reason of this section shall be immediately due and payable along with any penalties and interest.

(f) For the purposes of this section, City purchases shall be exempt from the calculation of the required business tax as follows:

(1) Whenever the measure of the business tax is based on gross receipts, the person subject to the business tax may exclude from the business tax calculation the dollar value of purchases made directly by the City of Beverly Hills from the person subject to the tax.

(2) Whenever the measure of the business tax is based on gross payroll, number of persons employed, number of vehicles, devices, or articles of equipment used, the person subject to the business tax may exclude from the business tax calculation the dollar value of the payroll, hours related to the persons employed, hours related to the number of vehicles, devices, or articles of equipment used in providing goods or services related to purchases made directly by the City of Beverly Hills from the person subject to the tax.

**Sec. 3-1.203. Filing of exemption required.**

(a) Any person claiming an exemption from these tax requirements, including exemptions claimed under Section 3-1.202(f), shall register in the manner proscribed in Section 3-1.201(a), Registration Required, and within the time requirements of Section 3-1.206, Due Dates, as classification "Z," Exempt Business or Exempt Business Transactions.

(b) A request for exempt registration from these tax requirements shall be granted by the Director of Finance Administration only when the requesting person fully and completely meets the requirements of Section 3-1.202.

(c) A request for exempt registration from these tax requirements shall be denied by the Director of Finance Administration if the registration form is incomplete or proper documentation of tax designation or classification from federal or state taxing authorities is not included or if the person fails to fully and completely meet the requirements of Section 3-1.202.

**Sec. 3-1.204. Unlawful business not authorized.**

No registration 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.

**Sec. 3-1.205. Definitions.**

The following words and phrases whenever used in this Article shall be construed as defined in this section, unless from the context a different meaning is

intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

(a) **"Agent, agency or broker"** shall mean a person or business, who by authority acts as an intermediary, representative, or agent, on behalf of, or in the place of another person in the purchase or sale of insurance, real or personal property, stocks, bonds, securities, notes, negotiation of contracts for personal or professional services or appearances or other similar items of value and receives compensation, either directly or indirectly, in the form of commission or otherwise for services rendered.

(b) **"Apartment house"** shall mean a building, or portion of a building, which is designed, built, rented, leased, let, or hired out to be occupied, or which is occupied, as the home or residence of three (3) or more families, as defined in Section 10-3.1201(c).

(c) **"Business"** shall mean any occupation, activity, enterprise, profession, trade, or undertaking of any nature conducted or engaged in, or ordinarily conducted or engaged in, with the object of gain, benefit or advantage, whether direct or indirect, to the taxpayer or to another person. The term shall include operations of subsidiary or independent entities conducted for the benefit of others and at no profit to themselves, including nonprofit businesses and trade associations. A person shall not be deemed to be engaged in business solely by reason of receipt of dividend or interest income from passive investments.

(d) **"Business classification"** shall mean the class or type of business activity conducted within the City of Beverly Hills as determined by the Director of Finance Administration or the Directors designates.

(e) **"Business tax"** shall mean the tax imposed upon a person engaged in business within the City of Beverly Hills and is calculated by multiplying the measurement focus of the businesses classification by the tax rate for the businesses classification.

(f) **"Commercial real property"** shall mean all real property, including improvements thereto, of any kind or nature which is owned, held, used, or operated for commercial or industrial purposes but shall not include the leasing or rental of real property for residential purposes.

(g) **"Employee"** shall mean and include any individual who qualifies as an employee within the meaning of Division 4, Part 1, Chapter 2, Article 2 of the California Labor Code and any individual in the service of an employer, under an appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and includes but is not limited to, all of the enumerated categories in subsection (a) through (f) of California Labor Code Section 3351, regardless of whether Workers' Compensation Benefits pursuant to Division 4, Part 1, Section 3200, et seq. of the California Labor Code are required to be paid. Nothing herein shall be deemed to incorporate any provisions from said Labor Code relating to scope of employment. The Labor Code provisions in effect at the time this ordinance is effective shall apply.

(h) **"Engaged in business"** shall mean the conducting, operating, managing, participating in or carrying on, of a business by a person whether in the capacity of an

owner, principal, partner, officer, agent, representative, broker, employee, servant, independent contractor, lessee or other person.

(i) **"Financial institution"** shall mean an institution as defined by the California Finance Code, Section 31041.

(j) **"Gross receipts."** Except as otherwise specifically provided, the term "gross receipts" as used in this Article shall mean the gross receipts of the calendar year and is defined as follows:

The total amount of the sales price of all sales, the total amount charged or received for the performance of any act, service or employment of whatever nature it may be, whether such service, act or employment is done as a part of or in connection with the sale of goods, wares, merchandise or not, for which a charge is made or credit allowed, including, without limitation, all receipts, cash, credits, forfeited or retained deposits of any kind and property of any kind or nature, in any amount for which credit is allowed by the seller to the purchasers without any deductions therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, losses or any other expense whatsoever. Gross receipts shall also include the amount of any federal manufacturers' or importers' excise tax included in the price of the property sold, even though the manufacturer or importer is also the retailer thereof and whether or not the amount of such tax is stated as a separate charge.

Excluded from gross receipts shall be:

- (1) Cash discounts allowed and taken on sales;
- (2) The value of property accepted as part of the purchase price for subsequent resale;
- (3) Any California state, city or city and county sales or use tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- (4) Any City of Beverly Hills Transient Occupancy Tax required to be included in or added to the price of a room and collected from a transient;
- (5) Such part of the sales price of property returned by the purchaser upon the rescission of the contract or sale as is refunded either in cash or by credit;
- (6) Deposits which by law or contract must be refunded and are actually refunded;
- (7) Collections for others when the business is acting as an agent or trustee to the extent that payments are made to those for whom collected;
- (8) The cash value of sales, trades, or transactions between departments or units of the same business; and
- (9) The amount of gross receipts which has been the measure of a business tax paid to any other city.

(k) **"Hotel, motel or rooming house"** shall mean any lodging, hotel, motel, rooming house, dormitory, or public or private club that is designed for occupancy by more than six (6) persons not related by blood or marriage, whether the rent is paid in money, goods, labor, or otherwise, and which is maintained, advertised, or held out to the public as a place where sleeping or rooming accommodations are furnished to the whole or any part of the public, whether with or without meals.

(l) **"Measurement focus"** shall mean the measurement of a businesses activities within the City through the use of a standard designated by this Article for each business classification. Measurement focus includes such measures of business activity as gross receipts, gross payroll, gross operating expenses, number of vehicles, machines, devices, or articles of equipment used, or the number of persons employed.

(m) **"Number of payroll hours - non-professional business classifications"** shall mean the total number of payroll hours recorded, including, but not limited to, regular, overtime, part-time, vacation, compensated absences, and all other hours for which compensation of any form is provided, of persons employed in the registrants business within the City of Beverly Hills in the previous calendar year.

(n) **"Number of professional and semi-professional payroll hours - professional business classifications"** shall mean one of the following:

(1) Where the professional business being registered bills its clientele based on total professional and/or semi-professional hours of service provided, the total number of professional and semi-professional hours charged to client accounts, whether compensation of any form whatsoever has been received, in the previous calendar year.

(2) Where the professional business being registered does not bill its clientele based on total professional and/or semi-professional hours of service provided, the total number of professional and semi-professional payroll hours recorded, including, but not limited to, regular, overtime, part-time, vacation, compensated absences, and all other hours for which compensation of any form is provided, of professional and semi-professional persons employed in the registrants business within the City of Beverly Hills, in the previous calendar year.

(o) **"Number of nonprofessional payroll hours - professional business classifications"** shall mean the total number of nonprofessional payroll hours recorded, including, but not limited to, regular, overtime, part-time, vacation, compensated absences, and all other hours for which compensation of any form is provided, of nonprofessional persons employed in the registrants business within the City of Beverly Hills in the previous calendar year.

(p) **"Person"** shall mean any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, domestic or foreign corporations, associations, syndicates, partnerships of every kind, Massachusetts business or common law trusts, societies, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise transacting and carrying on any business in the City other than as an employee.

(q) **"Professional"** shall mean any person who engages in an occupation of technical expertise which generally requires a higher education and certification by a governmental agency.

(r) **"Public utility"** shall mean any person furnishing the public with communications, water, light, gas, heat, power, or other public utilities or services subject to regulation by the Public Utilities Commission of the State.

(s) **"Register"** shall mean to complete, execute and file a City approved application with the Department of Finance Administration by each person prior to the

commencement of business operation and the payment of all required taxes and any penalties and interest. This definition shall include any reference to "registering" and "registration".

(t) **"Registration Certificate"** shall mean a document issued by the Department of Finance Administration to evidence the satisfactory completion of registration for a specified period of time.

(u) **"Registrant"** shall mean a person to whom a registration certificate has been issued by the Department of Finance Administration.

(v) **"Semiprofessional"** shall mean a person who assists or studies under a professional, either as an apprentice or employee, or one who participates in the operation of a professional occupation as a technical employee.

(w) **"Tax rate"** shall mean the rate of taxation established for each business classification.

**Sec. 3-1.206. Due dates.**

All business taxes shall be paid to the Department of Finance Administration in lawful money of the United States and taxes required hereunder shall be received in advance by the Department of Finance Administration except where otherwise specifically provided, and shall be due and payable at the following times:

(a) **Annual business taxes** - on the first day of January of each calendar year.

(b) **Newly established business** - on or before the first day of operation in the City.

(c) **Construction project taxes** - on or before the first day work commences on the project.

(d) **Taxes arising from assessment** - on the date established by Section 3-1.213(b) of this Article.

(e) **Taxes arising from amendments to this Article** - When a person first becomes subject to business tax by reason of an amendment of this Article, or because of such an amendment, becomes subject to business tax under a section not previously applicable to such person or on a basis not previously applicable to such person, any new or additional tax required to be paid by reason of this Article, as so amended, shall be due and payable upon the effective date of the amending ordinance unless an operative date different from the effective date of the amendment is specified therein.

**Sec. 3-1.207. Delinquent dates - penalties -overpayments interest.**

(a) **Delinquent dates.** Unless otherwise specifically provided for in other provisions of this Article, all business taxes required to be paid thereby shall be deemed delinquent if not received on or before the close of business thirty (30) calendar days after the date the tax first became due.

(b) **Penalties.**

(1) **Initial delinquency.** Any person who fails to pay the required tax by the date stated in Section 3-1.207(a) shall pay a penalty on the first calendar day of the first day that the tax is delinquent and on each subsequent calendar day, equal to one percent (1%) of the tax due, or unpaid portion thereof; provided, however, the

amount of such penalty to be added for the first thirty (30) calendar days of delinquency shall in no event exceed ten percent (10%) of the amount of the tax due.

(2) **Continuing delinquency.** Any person who fails to pay any delinquent tax, penalties and interest due on or before the first calendar day of the second thirty (30) calendar day period that the tax is due shall pay a penalty of ten percent (10%) of the tax due, or unpaid portion thereof and on the first calendar day of each subsequent thirty (30) calendar day period shall pay a penalty of ten percent (10%) of the tax due, or unpaid portion thereof; provided, however, the amount of all initial delinquency and continuing delinquency penalties to be added shall in no event exceed fifty percent (50%) of the amount of the total tax due.

(c) **Overpayment.** For the purpose of allowing overpayments as credit against underpayments of the aforementioned taxes, whenever such overpayment has been received by the City within the three years preceding the current tax year, or during any year for which the taxpayer, at the request of the Director of Finance Administration, has executed a waiver of the defense of the statute of limitations with regard to any claim the City may have for business, sales or use taxes, the Director of Finance Administration, when making determinations of the amount of taxes due the City, shall make an allowance of credit for any such overpayments. Whenever an overpayment has been made prior to an underpayment, no penalty or interest shall apply upon the amount of the underpayment satisfied by the prior overpayment.

(d) **Interest.** In addition to the penalties imposed, any person who fails to pay any tax required to be paid by this Article shall pay interest at the rate of one and one-half percent (1.50%) per month, or fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the tax first became delinquent until paid. Interest shall run during any period of time for which an extension of time has been granted by the Director of Finance Administration. Interest required by any of the provisions of this section shall not be subject to waiver or compromise other than as the Council may direct.

(e) **Penalties and interest merged with tax.** Except for the purpose of calculation of interest and penalties, every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax herein required to be paid.

**Sec. 3-1.208. Separate registration required for each location and each business tax classification.**

(a) Unless otherwise provided in this Article, every person who engages in any business within the City must register with the Department of Finance Administration and pay a separate business tax for:

(1) each establishment or location within the City at which registrant conducts business; and

(2) each type of business as set forth in Sections 3-1.219 of this Article which a registrant conducts at every primary and branch establishment within the City.

Where business is engaged in from one or more locations outside the City, only one registration for each classification of business is required for engaging in that business in the City from all such outside locations.

**Sec. 3-1.209. Refunds of overpayments.**

No refund of an overpayment of taxes imposed by this Code shall be made except under the following procedure:

(a) No claim for refund shall be accepted nor shall any refund be made by the Director of Finance Administration unless the Director receives a complete and executed claim form with all required supporting documentation or records within one calendar year from the date the claimed overpayment was tendered to the Department of Finance Administration. Claim forms shall be furnished upon request by the Department of Finance Administration to any person who seeks a refund.

(b) There shall be no refund of taxes paid where a business vacates its premises or otherwise ceases business operations during the term of the business tax calendar year.

(c) The Director of Finance Administration shall refund taxes paid when it has been determined by the Director of Finance Administration that the tax was paid in error, computed incorrectly, overpaid, or collected illegally.

(d) Nothing contained in this section shall modify, extend or suspend the one calendar year deadline to make a claim in the manner stated in Section 3-1.209(a) nor shall the timely filing of a claim extend any state statute of limitations which constitutes a bar to the recovery of a tax refund.

**Sec. 3-1.210. Computation of business tax.**

The business tax is computed by multiplying the measurement focus for the classification of the business being registered by the tax rate for the classification of the business being registered as defined in Section 3-1.219. Where the measurement focus is based on an estimation, the registrant shall estimate the tax due by multiplying the estimated measurement focus for the classification of the business being registered by the tax rate for the classification of the business being registered as defined in Section 3-1.219. The business tax shall be based on the estimate, if such estimate is reasonable as compared to criteria established by the Director of Finance Administration; otherwise the tax shall be based on the criteria established by the Director of Finance Administration. The registrant shall pay the business tax as determined; provided however, the amount of the tax so determined shall be tentative only, and the registrant, within thirty (30) calendar days after the expiration of the period for which such tax was deposited, shall furnish the Department of Finance Administration information showing the actual tax calculation for the period along with any taxes due as a result of an underestimation by the registrant. Any taxes due and not paid within thirty (30) calendar days after the expiration of the period for which such tax was deposited shall be considered delinquent and subject to penalties and interest as required by Section 3-1.207 of this Article. If the registrant over estimated the tax due, any excess shall first be credited to the renewal of the business registration. After fulfillment of any renewal requirement, or other amounts owing the City of Beverly Hills, any remaining overpayment shall be refunded to the registrant.

**Sec. 3-1.211. Change of address.**

Every person who, under the provisions of this Article, is subject to a business tax and who has a fixed place of business shall notify the Department of Finance Administration in writing of any change in location of such fixed place of business or mailing address within thirty (30) days thereafter.

**Sec. 3-1.212. Director of Finance Administration - Duty to enforce - Powers - rules and regulations.**

(a) **Duty to enforce.** It shall be the duty of the Director of Finance Administration and the Director's deputies, designates or any other person deemed appropriate by the Director, and the Director and other such designated individuals are hereby directed to enforce each and all of the provisions of this Article, and the Chief of Police shall render such assistance in the enforcement of this Article as may from time to time be required by the Director of Finance Administration. The Director of Finance Administration may make such rules and regulations as are not inconsistent with the provisions of this Article as may be necessary or desirable to aid in the enforcement of the provisions of this Article.

The determination of the classification of business a registrant is engaged in, or is about to engage in, or the determination of the number of vehicles, machines, devices, or articles of equipment used, or the number of persons employed or the gross receipts, gross operating expense or gross payroll, for the computation of tax to be paid shall be an administrative function of the Director of Finance Administration or the Directors designated representative.

(b) **Inspection and examination of places of business.** The Director of Finance Administration, and the Director's deputies, designates or any other person deemed appropriate by the Director, shall have the authority to inspect and examine all places of business in the City to ascertain whether or not the provisions of this Article have been complied with.

(c) **Audit and examination of records and equipment.** The Director of Finance Administration and the Director's deputies, designates or any other person deemed appropriate by the Director, shall have the power to audit and examine all books, and records, and, where necessary, all equipment, of any person engaged in business in the City for the purpose of ascertaining the amount of business tax, sales or use tax, if any, required to be paid by the provisions hereof, and for the purpose of verifying the statements, or any item thereof, when filed by any taxpayer pursuant to this Article. If such person, after written demand by the Director of Finance Administration or the Director's deputies, designates or any other person deemed appropriate by the Director, refuses to make available for audit, examination or verification such books, records or equipment as the Director of Finance Administration or the Director's deputies, designates or any other person deemed appropriate by the Director, requests, the Director of Finance Administration may make an assessment in the manner provided in Sec. 3-1.213 of any taxes estimated to be due.

(d) **Extension of time for filing.** The Director of Finance Administration may extend the time for filing any statement required under the provisions of this Article for a period not to exceed forty-five (45) calendar days under the following circumstances:

(1) The City Council of the City of Beverly Hills has declared a state of emergency within thirty (30) calendar days of the annual renewal date and as a result of conditions that caused the declaration of emergency the timely filing of annual renewals by local businesses would be effected. The Director of Finance Administration shall notify the City Manager of the Director's intent to extend the time for filing prior to issuing notification of the extension. If the City Manager concurs with the Director of Finance Administrations decision to extend the time for filing, all registrants will be notified of the extension of the time for filing by publication in a newspaper of general circulation.

(2) Upon receipt of a written request from a registrant who is a sole proprietor or the only person with the information necessary to complete the registration form and who provides proof that the timely filing of registration was not possible as a result of the death or severe illness of the registrant or an immediate family member, herein defined as a spouse, parent, brother, sister, child, grandparent or in-law of the registrant. The decision of the Director of Finance Administration to either grant or deny an extension shall be served upon the registrant by deposit of the notice in the United States mail, postage prepaid thereon, addressed to the registrant at the address of the location of the business registered with the Department of Finance Administration within fifteen (15) calendar days from the date of the receipt of the request for extension.

If an extension is granted, no penalty for delinquent payment shall accrue by reason of such extension. Interest shall accrue during said extension in the manner provided by in this Article. Taxes become delinquent on the first day after the last day of the extension.

(e) **Rules and regulations - apportionment.** When, by reason of the Constitution of the United States or the Constitution of the State of California, the business tax imposed by this Article cannot be enforced without there being apportionment according to the amount of business done in the City of Beverly Hills, or in the State of California, as the case may be, the Director of Finance Administration may make such rules and regulations for the apportionment of the tax as necessary or desirable to overcome the constitutional objections. Such rules and regulations shall be approved by the City Attorney prior to becoming effective.

(f) **Payments and requests, made by mail.** Whenever any payment, statement, report, request or other communication is received by the Department of Finance Administration after the time prescribed by this Article for the receipt thereof, but is in an envelope bearing a postmark showing that it was mailed prior to the time prescribed in this Article for the receipt thereof, or whenever the Director of Finance Administration is furnished substantial proof that the payment, statement, report, or request for communication was in fact deposited in the United States mail prior to the time prescribed for receipt thereof, the Director of Finance Administration may regard such payment, statement, report, request or other communication as having been timely received.

**Sec. 3-1.213. Assessment - administrative remedy.**

(a) **Assessment of taxes.** If the Director of Finance Administration is not satisfied that any statement filed as required under the provisions of this Article is correct, or that the amount of tax is correctly computed, or that the business classification has been correctly determined, or that any tax is due or may be due to the City of Beverly Hills under the provisions of this Article, the Director of Finance Administration, or the Directors designate, may compute and determine the amount to be paid and make an assessment upon the basis of the facts contained in the statement or upon the basis of any information in the City's possession or that may come into the City's possession. One or more assessments of the amount of tax due for a given period or periods may be made. When a person discontinues engaging in a business, an assessment may be made at any time within three (3) years thereafter as to any tax liability arising from engaging in such business.

(b) **Application of penalties to assessment - due date of tax.** The due date of the assessed taxes for the purpose of application of penalties shall be one of the following:

(1) The due date of the original tax obligation; or  
(2) The date the assessment becomes final if the Director of Finance Administration makes the following findings as a part of the assessment:

(i) That the business was properly registered and a current registration certificate was issued or the registrant was eligible for issuance of a current registration certificate prior to the findings of the assessment; and

(ii) that the assessment is the result of a tax underpayment; and

(iii) that the underpayment of the tax was the result of incorrect information provided, in writing, by fax or documented telephone conversation or other verifiable means of communication, to the registrant by Finance Administration staff; and

(iv) that the incorrect information provided by Finance Administration staff was not the result of incorrect or incomplete information provided by the registrant but rather by an administrative error by Finance Administration staff.

(c) **Notice of Assessment.** A Notice of Assessment shall be prepared and shall separately set forth the amount of any tax known or estimated to be due by the Director of Finance Administration and any penalties or interest due as of the date of its preparation.

(d) **Service of assessment.** The Notice of Assessment shall be served upon the registrant or person by deposit of the notice in the United States mail, postage prepaid thereon, addressed to the registrant at the address of the location of the business registered with the Department of Finance Administration. Should the person not have previously registered the business, then the notice of assessment shall be served to the person's last known address. For the purpose of this section, a service by mail is complete at the time of deposit in the United States mail.

(e) **Right to hearing.** Within fifteen (15) calendar days after the date of service, the registrant or person assessed may apply in writing to the Director of Finance Administration for a hearing on the assessment.

(f) **No timely request for hearing.** If the registrant or person does not request a hearing upon the assessment within the prescribed time, the amount of the assessment shall be final and the amount thereof shall immediately be due and owing to the City of Beverly Hills, but penalties and interest as provided by this Article shall continue to accrue until paid.

(g) **Time of hearing; Notice.** If the registrant or person requests a hearing, the Director of Finance Administration shall cause the matter to be set for hearing not later than ninety (90) calendar days after the date of the request. Notice of the time and place of the hearing shall be mailed to the registrant or person assessed as prescribed in Section 3-1.213(b) not later than fifteen (15) calendar days before the date set for hearing and, if the Director of Finance Administration desires said registrant or person to produce specific records at such hearing, such notice shall designate the records required to be produced.

(h) **Administrative hearing.** The hearing prescribed by this section shall be before the Director of Finance Administration or the duly appointed representative of the Director of Finance Administration. At the hearing, the registrant or person assessed may submit evidence why the assessed tax, interest and penalties should not be fixed. The registrant or person may be represented by counsel.

(i) **Decision of the Director of Finance Administration.** Upon completion of the hearing the Director of Finance Administration, or the Directors Designate, shall determine the proper tax, interest and penalties to be remitted and shall give written notice to the registrant or person assessed in the same form and in the same manner as the notice of assessment and within thirty (30) calendar days from the conclusion of the hearing at which time the assessment shall become final.

(j) **Effect of delay in administrative proceedings.** Failure of the Director of Finance Administration to set any hearing within the time prescribed in this section and failure of the Director of Finance Administration to complete any procedure prescribed in this section within the period stated shall not affect the validity of any proceedings taken hereunder.

(k) **Effect of payment of an assessment.** Acceptance of any payment upon an assessment shall not preclude the Director of Finance Administration from subsequently levying another assessment in any case where the original assessment does not correctly reflect the actual tax liability.

(l) **Appeal from the decisions of the Director of Finance Administration.** Any registrant or person assessed not in agreement with the decision of the Director of Finance Administration with respect to the amount of such tax, interest and penalties, if any; may appeal to the City Council as provided in Article 1, Chapter 4, Title 1 of this Code.

**Sec. 3-1.214. Confidential character of information obtained - disclosure unlawful.**

It shall be unlawful for the Department of Finance Administration, or for any City official, to release information in its possession (hereafter "confidential information") regarding a registrant to any other person without the prior written authorization of registrant, except in the following instances:

(a). For use in the enforcement of any provision of the Beverly Hills Municipal Code. This exception shall include the use of confidential information by the City Council or other City officials or representatives in connection with the resolution, compromise or adjustment of any claim relating to a tax liability;

(b). For examination of any governmental taxing authority if reciprocal arrangements with said agency exists, or to a grand jury;

(c). To a court of law in an action involving a registrant's tax liability;

(d). To the registrant's successor, receiver, trustee, executor, administrator, assignee, guarantor or a duly appointed agent or representative. The release of confidential information by the Director of Finance Administration to any such person upon the Director's receipt of a request in writing shall not be made without prior written approval of the City Attorney who shall review the legal standing of the person requesting disclosure;

(e). The name and address of the registrant may be released to any person requesting this information for any reason.

(f). If otherwise required by law.

**Sec. 3-1.215 Delinquent taxes - installment payment.**

(a) Registrants indebted to the City of Beverly Hills for unpaid taxes, penalties or interest (hereafter "the delinquency") may, upon a determination by the Director of Finance Administration that (i) the registrant lacks the present ability to pay the entire sum due and (ii) a reasonable basis exists to believe that registrant can successfully make monthly payments on a timely basis, enter into a written agreement with the City for a period not to exceed three (3) years for the installment payment of the delinquency on such terms as the Director may approve.

(b) Any installment or other partial payment received by the Department of Finance Administration, whether or not as a result of a written agreement pursuant to this section, shall be applied to that portion of the delinquency which first arose in time.

(c) Any agreement executed pursuant to this section, shall include, without limitation, provisions reciting the registrant's admission that the delinquency is presently due, the continued accrual of interest, an acceleration clause, the recovery of attorney's fees and costs in any litigation to enforce the agreement, the reservation of all of the City's rights and remedies to enforce its laws, as well as a recital that no penalties shall be applied to the unpaid portion of the delinquency for the period covered by the agreement so long as all installment payments are timely made..

**Sec. 3-1.216 Delinquent taxes - suit for recovery.**

Any person who fails to register a business and pay a business tax according to the provisions of this Article shall be liable to the City in any action brought in a court of competent jurisdiction.

**Sec. 3-1.217 Delinquent taxes - debt not discharged by penal conviction.**

The conviction of any registrant or person for a failure to pay a tax liability or for a violation of any other provision of this Article shall not excuse the obligation to pay a tax, penalty or interest charge, nor shall the total or partial payment of a tax, penalty or

interest charge bar a prosecution. The remedies provided in this Code are cumulative and the exercise of one remedy shall not preclude the exercise of any other remedies.

**Sec. 3-1.218 Effect of repeals and amendments.**

Except where a repealing or amendatory ordinance specifically provides otherwise, the amendment or repeal of any provision of this Article shall not be construed to operate as a release or waiver of any liability or sum of money which may be due or owing to the City of Beverly Hills by any person pursuant to provisions of said Article as they existed prior to such amendment or repeal. The rule of construction required by this section is declared to be in clarification and confirmation of the existing intent of said Article, and is not to be construed as applying solely to the effect of repealing or amending ordinances adopted subsequent to the effective date of this section.

**Sec. 3-1.219 Business classifications.**

Every person who engages in business, whether or not at a fixed place in the City, shall first pay a business tax to the Department of Finance Administration as computed for the following activities:

(a) **Classification "A": Corporate Headquarters and Business and personal services.** All registrants engaged in businesses classified by Finance Administration as Classification "A", Corporate Headquarters or Business and personal services, shall pay an annual basic tax plus a per employee tax for each employee, based on the annualized average number of persons employed in the prior calendar year or in the case of a new business an estimate by the registrant of the average number of persons to be employed during the current calendar year, as established in the City of Beverly Hills "Schedule of Taxes, Fees and Charges" for Classification A.

(b) **Classification "B": Retail, wholesale, manufacturing, and contractors.** All registrants engaged in businesses classified by Finance Administration as Classification "B", Retail, wholesale, manufacturing and contractors, shall pay an annual basic tax plus a gross receipts tax for each One Thousand Dollars (\$1,000) of gross receipts in excess of Sixty Thousand Dollars (\$60,000), based on the annualized actual gross receipts of the prior calendar year or in the case of a new business an estimate by the registrant of the gross receipts during the current calendar year, as established in the City of Beverly Hills "Schedule of Taxes, Fees and Charges" for Classification B.

(c) **Classification "C": Professions and semiprofessions.** All registrants engaged in businesses classified by Finance Administration as Classification "C", Professions and semiprofessions, shall pay an annual tax for each professional and semiprofessional employee, based on the annualized average number of professional and semiprofessional persons employed in the prior calendar year or in the case of a new business an estimate by the registrant of the average number of professional and semiprofessional persons to be employed during the current calendar year, plus a per employee tax for each non-professional employee, based on the annualized average number of non-professional persons employed in the prior calendar year or in the case of a new business an estimate by the registrant of the average number of non-

professional persons to be employed during the current calendar year, as established in the City of Beverly Hills "Schedule of Taxes, Fees and Charges" for Classification C.

(d) **Classification "D": Used Car Dealers.** All registrants engaged in the business of selling used automobiles, other than vehicles accepted as a part of the purchase price for a new automobile and classified by Finance Administration as Classification "D", Used Car Dealers, shall pay an annual basic tax plus a gross receipts tax for each One Thousand Dollars (\$1,000) of gross receipts in excess of Sixty Thousand Dollars (\$60,000), based on the annualized actual gross receipts of the prior calendar year or in the case of a new business an estimate by the registrant of the gross receipts during the current calendar year, as established in the City of Beverly Hills "Schedule of Taxes, Fees and Charges" for Classification D.

(e) **Classification "E": Residential property renting and leasing.** All registrants engaged in the business of conducting or operating a hotel or apartment house or leasing or renting of any residential property, dwelling unit, or room for dwelling, sleeping, or lodging and classified by Finance Administration as Classification "E", Residential property renting and leasing, shall pay an annual gross receipts tax for each One Thousand Dollars (\$1,000) of gross receipts, provided, however, the total gross receipts average greater than Three Thousand Six hundred Dollars (\$3,600) per unit, based on the annualized actual gross receipts of the prior calendar year or in the case of a new business an estimate by the registrant of the gross receipts during the current calendar year, as established in the City of Beverly Hills "Schedule of Taxes, Fees and Charges" for Classification E.

(f) **Classification "F": Commercial property renting and leasing.** All registrants engaged in the business of leasing or renting any commercial property, and which is not subject to the provisions of subsection (e), and classified by Finance Administration as Classification "F", Commercial property renting and leasing, shall pay an annual gross receipts tax for each One Thousand Dollars (\$1,000) of gross receipts, provided, based on the annualized actual gross receipts of the prior calendar year or in the case of a new business an estimate by the registrant of the gross receipts during the current calendar year, as established in the City of Beverly Hills "Schedule of Taxes, Fees and Charges" for Classification F.

(g) **Classification "G": Agencies, lenders, brokerages, and other similar services.** All registrants engaged in the business of an agency, lender, brokerage, or other service, and classified by Finance Administration as Classification "G", Agencies, lenders, brokerages and other similar services, shall pay an annual gross receipts tax for each One Thousand Dollars (\$1,000) of gross receipts, provided, based on the annualized actual gross receipts of the prior calendar year or in the case of a new business an estimate by the registrant of the gross receipts during the current calendar year, as established in the City of Beverly Hills "Schedule of Taxes, Fees and Charges" for Classification G.

(h) **Classification "H": Depository financial institutions; branch and sale office locations.**

(i) **Classification "I": Oil production.** All registrants engaged in the business of extracting oil from a well where the well, or any portion of the well, is located in, passes through, or is bottomed under real property in the City, and classified

by Finance Administration as Classification "I", Oil production, shall pay an annual tax within sixty (60) calendar days after December 31 of each calendar year as follows:

(1) Wells located entirely inside the City. A basic minimum tax plus a subsequent additional tax, based on each barrel which is produced during the calendar year in excess of ten thousand (10,000) barrels, as established in the City of Beverly Hills "Schedule of Taxes, Fees and Charges" for Classification I wells inside City.

(2) Wells located outside the City. A basic minimum tax plus a subsequent additional tax, based on each barrel which is produced during the calendar year in excess of ten thousand (10,000) barrels, as established in the City of Beverly Hills "Schedule of Taxes, Fees and Charges" for Classification I outside City.

Section 2. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code, shall certify to the adoption of this ordinance, and shall cause this ordinance and her certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 3. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted: February 20, 1996



ALLAN ALEXANDER  
Mayor of the City of  
Beverly Hills, California

ATTEST:



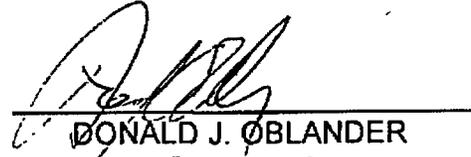
FRANCES M. MALNECK  
City Clerk

Approved as to form:

  
GREGORY W. STEPANICICH  
City Attorney

Approved as to Content:

  
MARK SCOTT  
City Manager

  
DONALD J. OBLANDER  
Director of  
Finance Administration

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