

RESOLUTION NO. 2015-48

A RESOLUTION OF THE CITY OF NEVADA CITY APPROVING
BALLOT MEASURE TEXT TO BE SUBMITTED TO THE VOTERS IN A QUESTION
RELATING TO SIMPLIFICATION AND MODERNIZATION OF THE
CITY BUSINESS LICENSE TAX TO BE INCLUDED WITH THE
PRESIDENTIAL PRIMARY ELECTION OF JUNE 7, 2016

WHEREAS, the City of Nevada City's business license tax ordinance was last updated in 1957; and

WHEREAS, the complex and dated business license tax structure is comprised of more than 30 different methodologies for calculating business license tax; and

WHEREAS, a simplified tax structure will facilitate the City's ability to provide convenient customer-friendly online payment options, reduce administrative processing, and enable the City to keep business license tax rates competitively low.

IT IS HEREBY RESOLVED by the City Council of the City of Nevada City approves for submittal to the voters at the June 7, 2016 Primary election the following question:

To facilitate initiation of customer-friendly online transactions and simplify administration while keeping rates affordable, shall the City of Nevada City simplify its 59-year-old Business License Tax which provides revenues for municipal purposes by reducing rate methodologies from more than 30 to 2 with a lower maximum annual tax of \$150 on large businesses and \$100 on smaller businesses, subject to annual adjustments for inflation and required independent financial audits?

YES _____ NO _____

PASSED AND ADOPTED at a regular scheduled meeting of the City Council held on this 28th day of October, 2015 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:



Jennifer Ray, Mayor

ATTEST:



Niel Locke, City Clerk

ORDINANCE NO. 2015-11

AN ORDINANCE OF THE CITY OF NEVADA CITY REPEALING AND RE-ENACTING CHAPTER 5.04 TO TITLE 5 OF THE NEVADA CITY MUNICIPAL CODE RELATING TO BUSINESS LICENSES

WHEREAS, Chapter 5.04 of Title 5 of the Nevada City Municipal Code as last updated in 1957 sets forth licensing requirements and imposes business license taxes pursuant to a complex and dated structure comprised of more than 30 different methodologies; and

WHEREAS, a simplified tax structure will reduce confusion as to the applicable tax methodology, facilitate the City's ability to provide convenient customer-friendly online payment options, and reduce administrative processing, while keeping business license tax rates competitively low:

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Nevada City as follows:

SECTION I:

Chapter 5.04 of Title 5 of the Nevada City Municipal Code is hereby repealed and re-enacted as a new Chapter 5.04 adopted to read as set forth in Exhibit "A", attached hereto and incorporated herein by such reference.

SECTION II:

Within fifteen (15) days of the passage of this Ordinance after a second reading, the City Clerk shall publish this Ordinance in the Union, a newspaper of general circulation. Because this Ordinance relates to the levying and collection of taxes, a measure to approve the new rates therein shall be placed on the ballot for the next municipal election in 2016 and this Ordinance and the new rates therein shall not be effective unless and until that measure is approved by the voters.

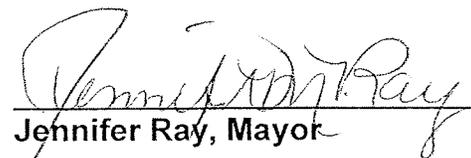
PASSED AND ADOPTED at a regularly scheduled meeting of the City Council of Nevada City held this 28th day of October, 2015 by the following vote:

AYES: RAY, PHELPS, ANDERSEN, STRAWSER, BERGMAN

NOES: NONE

ABTAIN: NONE

ABSENT: NONE


Jennifer Ray, Mayor

ATTEST:


Niel Locke, City Clerk

Chapter 5.04

BUSINESS LICENSES

Sections:

Article I. General Provisions

5.04.010 Definitions.

5.04.020 Purpose.

Article II. Licensing Requirements

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5.04.040 License and tax—Required.

5.04.050 Branch establishments.

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5.04.080 License—Revocation.

Article III. License Taxes

5.04.090 How and when payable.

5.04.100 Debt to city.

5.04.110 Collector—Duties.

5.04.120 Inspectors.

5.04.130 Annual license tax —designated.

5.04.140 Repealed.

5.04.150 Repealed.

5.04.160 Repealed.

5.04.170 Repealed.

5.04.180 Repealed.

5.04.190 Repealed.

5.04.200 Repealed.

5.04.210 Repealed.

5.04.220 Repealed.

5.04.230 Repealed.

5.04.240 Repealed.

5.04.250 Repealed.

5.04.260 Trucking, hauling and vehicles for hire.

5.04.270 Utilities.

5.04.280 Repealed.

5.04.290 Repealed.

5.04.300 Repealed.

5.04.310 Charitable organizations.

5.04.320 Disabled persons.

Article IV. Enforcement

5.04.330 Violation—Penalty.

5.04.340 Convictions will not excuse payment.

Article I. General Provisions

5.04.010 Definitions.

As used in this chapter:

"Business" means all professions, services, trades, occupations, and each and every kind of calling carried on for profit or livelihood, including without limitation, home occupations, peddlers, rental of rooms, trucking and hauling for hire, or operating a taxicab or any vehicle for hire.

"City" means the City of Nevada City, California.

"Collector" means the person appointed by the city manager to collect business license taxes imposed by this chapter.

"Fiscal year" means the period from July 1st of one year to June 30th of the next year.

"Fixed place of business" means premises in the city occupied for the particular purpose of conducting the business thereat, and regularly kept open for that purpose with a competent person in attendance for the purpose of attending to such business.

"Employee" means all persons engaged in the operation or conduct of any business, whether as owner, any member of the owner's family, partner, agent, manager, or solicitor and all other persons employed or working in the business.

"Manufacturer" means one engaged in making materials, raw or partly finished into wares suitable for use.

"Peddler" is defined to be and includes every person not having a fixed place of business in the city, and not an agent of a principal having a fixed place of business in the city; who travels from place to place, or has a stand upon any public street, alley or other public place, doorway of any public buildings; unenclosed or vacant lot, or parcel of land, who sells or offers for sale at retail any goods, wares or merchandise in his possession.

"Person" means all 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.

"Retail business" is defined to be every business conducted for the purpose of selling, or offering to sell, any goods, wares or merchandise, other than as a part of a wholesale business as defined in this section.

"Vehicles" means and includes every device in, upon or by which any person or property is or may be transported or drawn upon a public street or highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

"Wholesale business" is defined to be every business conducted solely or mainly for the purpose of selling goods, wares or merchandise in wholesale lots to retailers for resale at retail to the trade by said retailers. (Ord. 2015, Ord. 281 § 1, 1957)

5.04.020 Purpose.

This chapter is enacted primarily to raise revenue for municipal purposes and is not intended for regulation. (Ord. 281 § 2, 1957)

Article II. Licensing Requirements

5.04.030 Applicability.

The license and tax requirements of this chapter are imposed for the privilege of doing business in the city and apply to any person transacting, conducting, or carrying on any business or providing services in the city, whether or not they have a fixed place of business within the city. Applicability is to be interpreted broadly and the city council is authorized, after a duly noticed public hearing, to adopt amendments and regulations if needed to clarify applicability of the requirements herein. These requirements shall apply in addition to any inspection and permit requirements and fees that may be required under any other ordinance of the city. (Ord. 2015; Ord. 281 § 3, 1957)

5.04.040 License and tax—Required.

There are imposed upon the businesses specified in this chapter license taxes in the amounts hereinafter prescribed, and it shall be unlawful for any person to transact and carry on any business in the city without first having procured a license from the city to do so, or without complying with any and all applicable provisions of this chapter; and each day such business is carried on without a license shall constitute a separate violation of this chapter. (Ord. 281 § 4, 1957)

5.04.050 Branch establishments.

A separate license must be obtained for each branch establishment or location of the business transacted and carried on within the city and each license shall authorize the licensee to transact and carry on only the business licensed thereby at the location and in the manner designated in such license; provided, that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this chapter shall not be deemed to be separate places of business or branch establishments. (Ord. 281 § 5, 1957)

5.04.060 License—Application.

A. Every person required to have a license under the provisions of this chapter shall make application for the same to the collector of the city, and, upon payment of the prescribed tax, the collector shall issue to such person a license in accordance with the provisions of this chapter.

B. The application shall furnish all information required to enable the collector to properly classify the business of the applicant and determine the proper license tax to be paid by such applicant. The completed applications must be submitted to the collector who shall determine the proper amount of the license tax and, on payment of said amount, shall issue the appropriate license. (Ord. 281 § 9, 1957)

5.04.065 License—Term.

Business licenses may be issued for either one or three years. No license will be issued for less than twelve (12) months. Licenses issued pursuant to this chapter are non-transferrable and cannot be prorated even if the business or event will occur during less than a year. (Ord. 2015)

5.04.070 Appeals.

Any person aggrieved by any decision of the collector, or any administrative officer or agency, with respect to the issuance or refusal to issue a license, may appeal to the city council by filing a notice of appeal with the clerk of the council. The council shall thereupon fix a time and place for hearing such appeal. The clerk of the council shall give notice to such person of the time and place of hearing by serving it personally or by depositing it in the United States Post Office in Nevada City, California, postage prepaid, addressed to such person at his last known address. (Ord. 281 § 12, 1957)

5.04.080 License—Revocation.

Should the city council at any time determine that the premises wherein any business is conducted are not in good sanitary condition or are dangerous to adjacent property, or that the business does injure or affect the public health, peace, safety or morals, it may revoke the license for such business, and no further license shall be issued without authorization of the city council. (Ord. 281 § 10, 1957)

Article III. License Taxes

5.04.090 How and when payable.

A. All license taxes shall be paid in advance at the office of the collector or on-line.

B. License taxes for annual renewals and for three-year licenses shall be due and payable to the city on the first day of the new period covered by the license.

C. License taxes for new businesses shall be paid within thirty (30) days after commencement of the business.

D. If the license tax is not paid when due, a penalty of twenty-five dollars (\$25.00) shall be added as an additional tax. (Ord. 2015, Ord. 281 § 8, 1957)

5.04.100 Debt to city.

The amount of any license imposed by this chapter shall be deemed a debt to the city, and any person carrying on any business mentioned in this chapter without having a license from the city to do so, shall be liable to an action in the name of the city in any court of competent jurisdiction, for the amount of the license by this chapter imposed on such business, together with all penalties then due thereon in any such action. (Ord. 281 § 6, 1957)

5.04.110 Collector—Duties.

A. A business tax collector shall be appointed by the city manager.

B. It shall be the duty of the collector to prepare and issue under this chapter for every person liable to pay a license hereunder, and to state in each license the amount thereof, the period of time covered thereby, the name of the person to whom issued, the business licensed and the location or place where such business is to be carried on.

C. It shall be the duty and responsibility of the collector to see that all new businesses are licensed and that all changes in location and status are recorded.

D. No license granted or issued under any provision of this chapter shall be in any manner transferred or assigned nor shall authorize any person other than is therein mentioned or named to do business without the approval of the business tax collector.

E. The business tax collector shall make a charge of twenty-five dollars (\$25.00) for each duplicate license issued to replace any license issued under the provisions of this chapter which has been lost or destroyed.

F. In no case shall any mistake made by the collector in stating the amount of the license prevent or prejudice the collection by the city of what shall be lawfully due from anyone carrying on a business subject to a license under this chapter. (Ord. 2015, Ord. 281 § 7, 1957)

5.04.120 Inspectors.

All police officers are appointed inspectors of licenses and, in addition to their several duties as police officers, are required to examine all places of business and persons in their respective beats liable to pay licenses, and to see that such license are taken out; and shall exercise the power to:

A. Make arrests for the violation of any of the provisions of this chapter;

B. Enter free of charge, at any time, any place of business for which a license is required by this chapter and to demand the exhibition of such license for the current period by any person engaged or employed in the transaction of such business; and if the person shall then and there fail to exhibit such license, the person shall be liable to the penalty provided for violation of this chapter. (Ord. 281 § 13, 1957)

5.04.130 Annual License Tax—Designated.

A. Unless otherwise specifically provided in this chapter, every person carrying on a business, profession, service, trade, occupation or any other calling at a fixed place of business within the city shall pay a business license tax as follows:

1. An annual business license tax of one hundred dollars (\$100.00) per year if the business, profession, service, trade, occupation or other calling has less than ten (10) employees,

2. An annual business license tax of one hundred fifty dollars (\$150.00) per year if the business, profession, service, trade, occupation or other calling has ten (10) or more employees;

B. Unless otherwise provided, every person carrying on a business in the city, but not having a fixed place of business within the city, including, without limitation, contractors and subcontractors and truckers, haulers and vehicles for hire, shall pay a business license tax of one hundred dollars (\$100.00) per year;

C. Any person carrying on, either as a principal or agent, any business in the city not herein specifically set forth shall pay the amount of the license tax prescribed herein provided for the business nearest corresponding to the nature of the business sought to be licensed;

D. The license taxes provided for herein shall be adjusted annually at the beginning of each fiscal year after 2016-17 by the percentage change in the Consumer Price Index from the last setting of such rates as shown by the State of California Division of Labor Statistics & Research Consumer Price Index Calculator for the

California CPI for Urban Wage Earners and Clerical Workers unless the city council otherwise directs.

E. Persons electing to secure a three-year business license, paying taxes due in advance, shall receive a five per cent (5%) reduction in the total tax due for the three years to reflect the reduction in administrative costs.

F. Taxes due under the provisions of this chapter will not be prorated and no tax collected will be refunded for any business which ceases to exist or changes ownership after a license tax is paid. (Ord. 2015, Ord. 93-02 § 1, 1993)

5.04.140 Repealed.

(Ord. 2015, Ord. 326 § 1, 1965)

5.04.150 Repealed.

(Ord. 2015, Ord. 281 § 15, 1957)

5.04.160 Repealed.

(Ord. 2015, Ord. 281 § 16, 1957)

5.04.170 Repealed.

(Ord. 2015, Ord. 281 § 17, 1957)

5.04.180 Repealed.

(Ord. 2015, Ord. 281 § 18, 1957)

5.04.190 Repealed.

(Ord. 2015, Ord. 281 § 19, 1957)

5.04.200 Repealed.

(Ord. 2015, Ord. 281 § 20, 1957, Ord. 2015)

5.04.210 Repealed.

(Ord. 2015, Ord. 281 §§ 11, 21, 1957)

5.04.220 Repealed.

(Ord. 2015, Ord. 281 § 22, 1957)

5.04.230 Repealed.

(Ord. 2015, Ord. 281§ 23, 1957)

5.04.240 Repealed.

(Ord. 2015, Ord. 281 § 24, 1957)

5.04.250 Repealed.

(Ord. 2015, Ord. 325 § 1, 1965: Ord. 281 § 25, 1957)

5.04.260 Trucking, hauling and vehicles for hire.

This chapter shall not be construed as imposing a tax on vehicles but as a method of classification and taxation of businesses, (Ord. 2015, Ord. 281 § 26, 1957)

5.04.270 Utilities.

Every person engaged in the business of operating a bus company, garbage company, express company, telegraph, telephone, water, gas or electric company, or other public utility, within the city shall be required to obtain a license and pay the license tax prescribed in Section 5.04.130 of this chapter; provided, however, that the provisions of all ordinances with reference to the granting of a franchise or contract to such public utility and requiring the payment of a franchise tax or other payment by them, shall remain in full force and effect, and no license tax shall be required of them other than such franchise tax, or other payment required of them. (Ord. 281 § 27, 1957)

5.04.280 Repealed.

(Ord. 2015, Ord. 281 § 28, 1957)

5.04.290 Repealed.

(Ord. 2015, Ord. 281 § 29, 1957)

5.04.300 Repealed.

(Ord. 2015, Ord. 313 § 1, 1963)

5.04.310 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, occupation, activity or any organization of Veterans of the armed forces of the United States operating on a national scale and having a local post or branch of such national organization, which is conducted, managed or carried on wholly for the benefit of charitable purposes, or from which profit is not derived, either directly or indirectly, by any individual, firm or corporation; nor shall any license tax be required for the conducting of any entertainment, exhibition, concert 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 conducting of any entertainment, dance, concert, exhibition or lecture by any religious, charitable, fraternal, educational, military, 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, firm or corporation; provided, however, that nothing in this section shall be deemed to exempt any such organization or association from complying with the provisions of any ordinance of the city requiring a permit from the city council or any commission or officer to conduct, manage or carry on any profession, trade, calling or occupation. (Ord. 281 § 30, 1957)

5.04.320 Disabled persons.

Any person who is unable to obtain a livelihood by manual labor due to physical disability and who has been a resident of the city for six months or more, may, at the discretion of the city council, obtain a license to hawk or peddle any goods, wares or merchandise without payment of any license tax or fee, but under such requirements or restrictions as the council may direct. (Ord. 281 § 31, 1957)

Article IV. Enforcement

5.04.330 Violation—Penalty.

Any person violating any of the provisions of this chapter, or knowingly or intentionally misrepresenting to any officer or employee of this city any material fact in procuring the license or permit herein provided for, shall be guilty of a misdemeanor. (Ord. 90-4 § 4, 1990: Ord. 281 § 32, 1957)

5.04.340 Convictions will not excuse payment.

The conviction or punishment of any person for transacting any business without a license shall not excuse or exempt such person from the payment of any license due or unpaid at the time of such conviction, together with all penalties due as provided in this chapter, and nothing herein shall prevent a criminal prosecution for any violation of the provisions of this chapter. (Ord. 281 § 33, 1957)

Draft of Title and Summary to Business License Tax Measure prepared by City Attorney 2/1/16:

TITLE: MEASURE TO SIMPLIFY AND MODERNIZE NEVADA CITY BUSINESS LICENSE TAX BY REDUCING AND STANDARDIZING RATE COMPUTATION METHODOLOGIES

SUMMARY: Nevada City imposes an annual business license tax for the privilege of doing business in the City to raise revenue. The current tax, adopted in 1957 and last amended 50 years ago, is imposed on a daily, quarterly or annual basis depending upon which of 30 categories the business fall under. This measure would reduce the number of business categories to three billed annually, basically: non-profits \$50; employers with less than 10 employees \$100; and employers with 10 or more employees \$150. Standardizing the rate would lower the tax for some businesses and raise it for others, while simplifying calculations and administration of the tax.

RESOLUTION 2016-02

RESOLUTION OF THE CITY OF NEVADA CITY
CALLING GENERAL MUNICIPAL ELECTION

WHEREAS, an election will be held within the City of Nevada City on Tuesday, June 7, 2016 for the purpose of electing three (3) members to the City Council and a City Clerk; and

WHEREAS, whenever two or more elections are called to be held on the same day, in the same territory or in part of the same territory, such elections should be consolidated.

BE IT RESOLVED, that the City of Nevada City requests the governing body of the County of Nevada, as prescribed by Elections Code Section 10402 and 10403 to consolidate the regularly scheduled municipal election with any other elections to be held on June 7th, 2016; and

BE IT FURTHER RESOLVED, the candidate is to pay for the publication of the candidate's statement, pursuant to Election's Code Section 10509. The limitation on the number of words that a candidate may use in his/her Candidate's Statement is 200 words; and

BE IT FURTHER RESOLVED, the City of Nevada City agrees to reimburse the County of Nevada for the City's prorated share of the costs of the election.

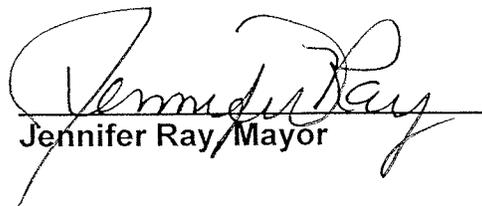
PASSED AND ADOPTED at a regularly scheduled meeting of the Nevada City City Council on the 13th day of January, 2016 by the following vote.

AYES: RAY, PHELPS, ANDERSEN, BERGMAN

NOES: NONE

ABSTAIN: NONE

ABSENT: STRAWSER


Jennifer Ray, Mayor

ATTEST:


Niel Locke, City Clerk