Item 4

THE CITY OF
EL CERRITO
FINANCE DEPARTMENT

Staff Liaison
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AGENDA

REGULAR MEETING OF THE
FINANCIAL ADVISORY BOARD (FAB)

Tuesday, February 25, 2025 at 6:30 p.m.
City hall, Council Chambers
10890 San Pablo Avenue
El Cerrito, CA 94530

This Meeting Place is Wheelchair Accessible

6:30 p.m. CONVENNE REGULAR MEETING

1. **ROLL CALL –** Chair Kimberly White called the meeting to order at 6:31 PM.
   Present: Chair Kimberly White; Members Farhad Farahmand, Nate Schaffran, Michael McDougall.
   Absent: Vice-Chair David Carvel.

2. **ORAL COMMUNICATIONS FROM THE PUBLIC**
   Remarks are typically limited to three (3) minutes per person and may be on anything within the subject matter jurisdiction of the body. Remarks on non-agenda items will be heard first, as well as introduction by individuals interested in serving on the advisory body. Remarks on agenda items will be heard at the time the item is discussed.
   Public Comment:
   Barbara Chan - Purchase of the property at 10936 San Pablo Ave. Requests that the FAB investigate how the building is being maintained while vacant and any plans to demolish or change the building. Also requested more information about the library construction project and alternatives to the TOD Plaza project.

3. **COUNCIL/STAFF LIAISONS ANNOUNCEMENTS AND REPORTS** *(5 min.)*
   (Attachment)
   Staff and/or Councilmembers may report Council policies, priorities and significant actions taken by the City Council, and/or on matters of general interest to the FAB.

   Staff updates:
   - General Fund update went to Council on February 18, information included in reports.
   - Purchase of 10936 San Pablo Ave (Church) staff report included in reports.
   - Midyear adjustments going to Council on March 3rd, still working on finalizing.
   - Federal funding updates – none.

   Question from Chair White re: how much federal funding the City receives. Staff to follow up with more detail.

   Council liaison report: Recent Council meeting included conversation about undergrounding utility lines on a small portion of Central. To be paid for by the City of Richmond as a part of a Richmond project. Legislative platform presented to Council.

Chair White requests for FAB to discuss capital expenditures before they are initiated. Requests more information on the plans for the church. Expresses concerns re: use of fund balance for ongoing expenditures.

Councilmember Motoyama provided background information on the purchase of the Church property. Noted that most discussions regarding the church purchase were in closed session due to the contractual negotiations of the sale. Councilmember Motoyama noted that this was a long-term Council priority and the Council acted quickly in the best interest of the City to acquire the parcel.

4. **APPROVAL OF THE MINUTES** (*5 min.) (*Attachment)
Consider a motion adopting the minutes for the FAB meeting held on January 28, 2025.
Motion/Second: To approve the minutes by Farahmand, seconded by Schaffran.
Ayes: Chair Kimberly White; Members Farhad Farahmand, Nate Schaffran, Michael McDougall

5. **SECTION 115 UPDATE** *(30 min.)* (Attachment)
Discuss and possible action regarding the performance of Section 115 investments.

6. **FUTURE AGENDA ITEMS** *(5 min.)*
   - Purchasing Ordinance Review 1988-5 4.04
   - Budget cycle recommendations
   - Federal funding updates

Chair White would like to review mid-year budget adjustments. Chair White also requests that staff inform the FAB about what parameters they should operate within for the purchasing policy updates and recommendations. She requests reviewing/updating the City's Investment Policy.

Farahmand requests to review cost controls for purchasing and notes that FAB members are looking to understand more about their authority to make changes and what the update and adoption process would be.

McDougall requests that the new members receive a copy of the newly adopted FAB Workplan.

Schaffran requests to include a presentation from Willdan on the Cost Allocation Plan and Fee Study. Staff noted it will likely be available in April.

7. ADJOURNMENT

Chair White adjourned the regular meeting adjourned at 7:26 PM.

This is to certify that this foregoing is a true and correct copy of the minutes of the regular Financial Advisory Board meeting of February 25, 2025, as approved by the Financial Advisory Board.

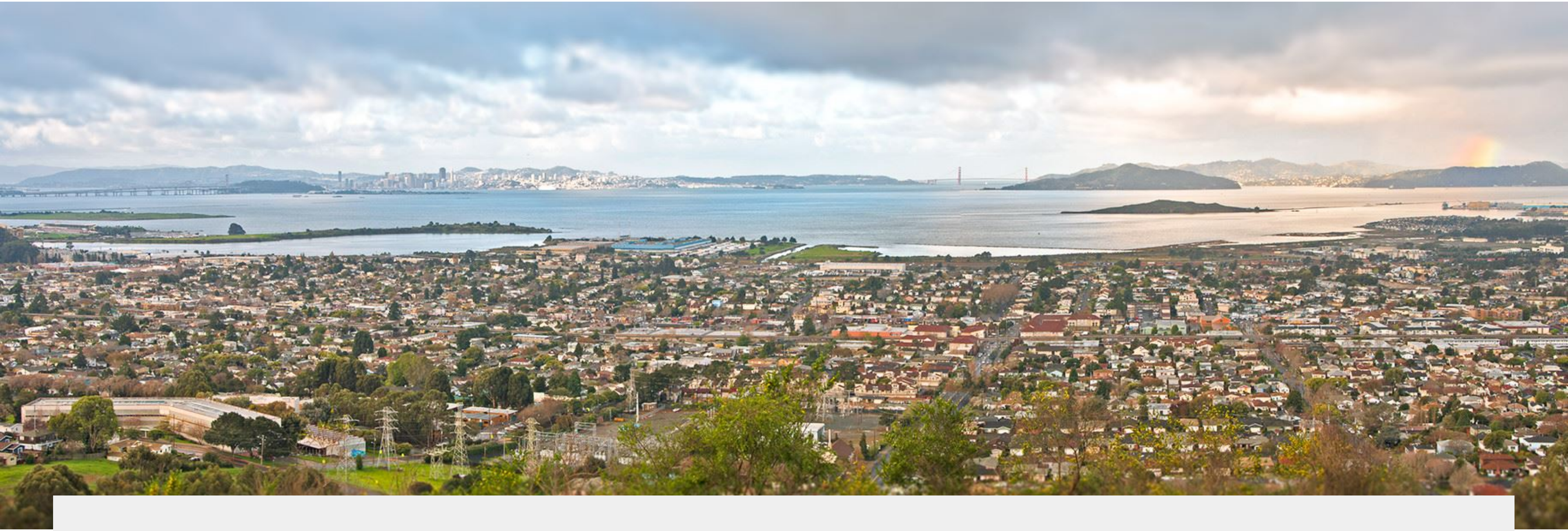
____

Kimberly White, Chair

____

Crystal Reams, Finance Director

Item 5



Finance Department

March 25, 2025

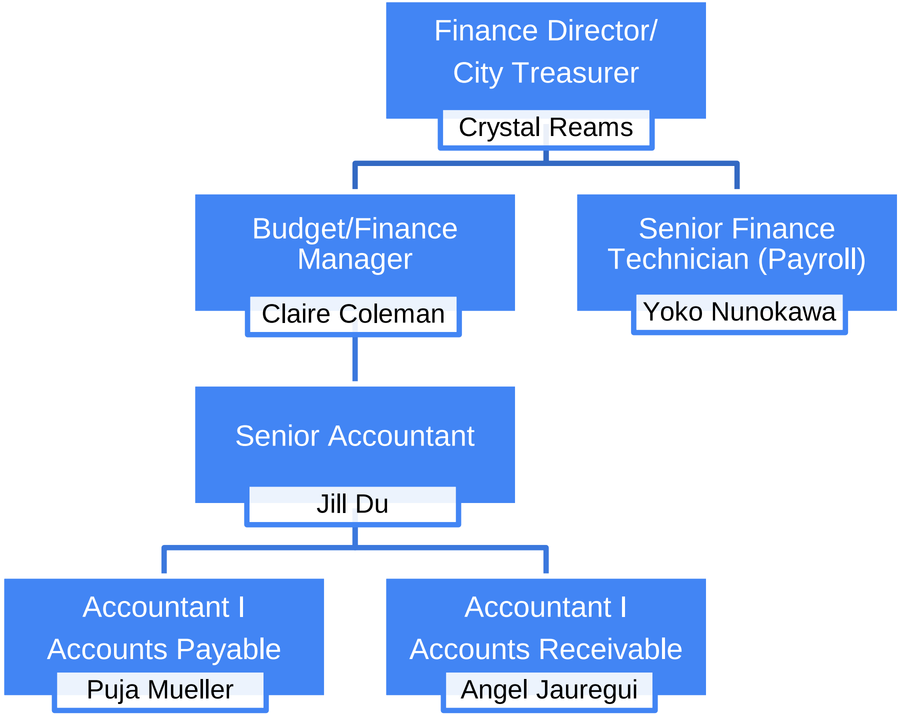
What does the Finance Department do?

Primary Functions

- General Accounting
- Financial Reporting
- Accounts Payable
- Accounts Receivable
- Purchasing
- Budget
- Payroll
- Grants Management
- Debt Management
- Financial Advisory Board

By the Numbers - 2024:

- 26 regular payrolls
- 6,115 AP invoices processed
- 4,252 revenue transactions recorded



Types of Funds

- **Governmental Funds** – Grouping of tax-supported activities for specific spending designations
  - **General Fund** – supports general governmental functions, unrestricted dollars
    - The City has one General Fund
  - **Special Revenue Fund** – funds restricted for a specific program or use
    - The City has 21 different special revenue funds. E.g., the Gas Tax Fund must be used for streets and road-related programs. Grants are also tracked in special revenue funds
  - **Debt Service Funds** – funds used to pay back long-term debt issued to finance specific govt. projects
    - The City has two debt service funds - the City Hall Bond and Street Improvement Bond funds
  - **Capital Projects Funds** – used for financial resources related to construction of major capital projects/facilities
    - The City has three CIP funds

Types of Funds continued

- **Proprietary Funds** – business-like activities conducted by the government
  - **Enterprise Fund** – self-supporting activities funded by fees on a user-charge basis
    - Integrated Waste Management Fund is supported by user charges for the City's solid waste program
  - **Internal Service Fund** – pay for costs accumulated by other funds for operational costs of serving other funds
    - Vehicle Equipment & Replacement Fund
- **Fiduciary Funds** – holds assets in a trust to benefit individuals
  - **Pension Trust Fund** – to be dissolved
  - **Custodial Funds** – amounts held by a government which will benefit parties that are not part of the government administering the fund
    - Redevelopment Agency (Successor Agency) – one fund
    - Agency Deposits – one fund building deposits

Financial Reporting

The City's significant accounting policies are summarized in the Annual Comprehensive Financial Report (ACFR). This outlines how the Finance Department accounts for and records specific items for financial statement preparation.

- **Annual reporting**
  - Over 16 different annual reports to various state and federal agencies
- **Quarterly reporting**
  - 6 different quarterly reports to various state and federal agencies (not including grants)
  - Quarterly updates to Council
- **Monthly monitoring**
  - Each month staff performs a monthly soft close to allow for proper revenue and expenditure monitoring and budget check-ins with departments

Financial Statement Requirements

- Local governments are subject to the Governmental Accountant Standards Board (GASB)
- GASB issues standards that the City must comply with currently 103
  - Almost 40 new statements have been published in the past 10 years
    - GASB 87 Leases and GASB 96 SBITAs
- Local governments are not required to complete and Annual Comprehensive Financial Report (ACFR)
  - GASB Statement 34 – 421 pages
  - The Government Finance Officers Association (GFOA) highly recommends agencies produce the ACFR to provide more context and additional information for readers
    - GFOA Best Practices & Resources

Annual Independent Audit

The City is subject to an Annual Audit, and if applicable a Single Audit

- Phases to an Audit
  - Interim Audit
  - Final Audit
  - Financial Statement Issuance
  - Single Audit (if applicable)

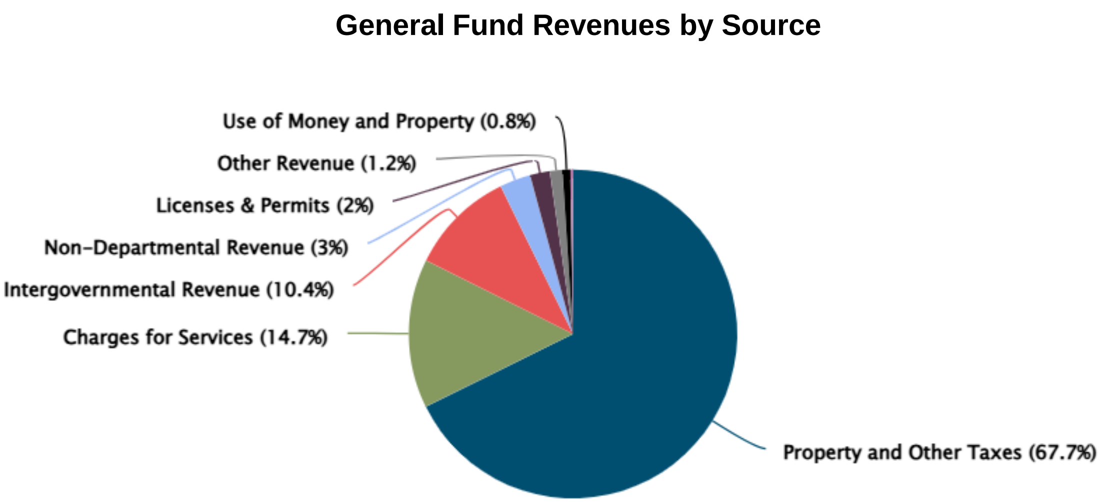
Budget

- The City uses a biennial budget process. The budget process is outlined in the biennial budget document. While the City prepares a biennial budget, the legal spending authority is adopted annually in June.

- The annual budget is the City’s service and financial plan for the fiscal year: a planning tool that matches the services desired by the community to the resources available to provide those services.

- The development, adoption, and implementation of the City budget composes a major decision-making process with several phases.

Where the City gets its funding



- For fiscal year 2024-25, El Cerrito budgeted for General Fund revenues of $51.4M and expenditures of $51.4M
- Like most cities in California, El Cerrito is on a July 1 – June 30 fiscal year

Taxes

- Charge for public services and facilities
- Not required to have a direct relationship between services used and tax paid
- Requires voter approval to establish or increase
- Types of taxes that fund the City of El Cerrito:
  - Property Tax
  - Real Property Transfer Tax
  - Parcel Tax
  - Utility User Tax
  - Sales and Use Tax
  - Transactions and Use Tax (similar to sales tax)
  - Business License/Operations Tax
    - Cannabis Taxes are a type of Business Operations tax
  - Transient Occupancy/Hotel Tax

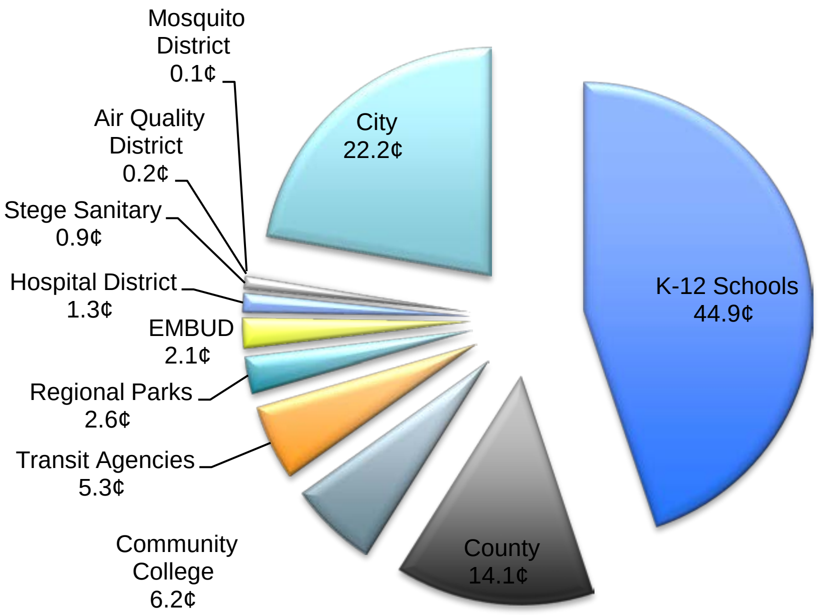
Overview of General Tax and Special Tax Requirements

	GENERAL TAX	SPECIAL TAX
Use of Revenues	Unrestricted	Specific purpose
Governing Body Approval Required	• General-law cities: two-thirds approval is required. • Charter cities: majority approval is required. • Transactions and use taxes: two-thirds approval is required.	Majority
Voter Approval Required	Majority	Two-thirds
Other Rules	A general tax election must be consolidated with a regularly scheduled general election of members of the governing body, unless an emergency is declared by unanimous vote (among those present) of the governing body.	Special tax funds must be deposited in a separate account. The taxing agency must publish an annual report including the tax rate, the amounts of revenues collected and expended and the status of any project funded by the special tax.

Source: Michael Coleman, A Primer on California City Revenues

Property Taxes

For every property tax dollar collected in El Cerrito, the City receives 22.2 cents



- Proposition 13 (1978): Property taxes set at 1% of assessed value at time of sale
    - Increases by 2% annually *or* CPI, whichever is lower
- Divided among various local public agencies
- Largest revenue source for El Cerrito (33% of General Fund)

Fees and Other Revenues

Fees

- Charges imposed on an individual for a service that the person chooses to receive
- May not exceed the estimated reasonable cost of providing the particular service or product for which the fee is charged, plus overhead
- Set by the City's Master Fee Schedule, which is updated on an annual basis (approved by Council)
- Examples in El Cerrito:
  - Building and Planning permits
  - Recreation classes
  - Fingerprinting service fees
  - Recycling fees

Other Revenue Types

- Rents
- Franchises
- Investment Earnings
- Proceeds from Debt Financing
- Fines and Penalties

Resources

- Government Finance Officers Association (GFOA)
- Governmental Accounting Standards Board (GASB)
- U.S. Government Accountability Office
  - Yellow Book: Government Auditing Standards
- California City Finance
- City of El Cerrito Finance
  - Budget/Financial Information

Questions?

ORDINANCE 88-5

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AMENDING TITLE 4, REVENUE AND FINANCE, OF THE EL CERRITO MUNICIPAL CODE.

TITLE 4

Item 6

REVENUE AND FINANCE

CHAPTERS:

CHAPTER 4.01
MASTER FEE SCHEDULE

4.01.010 Prior to July first of each year, the council shall ~~hold a public hearing to~~ consider and adopt the schedule of all general and special fees and charges to be known as the Master Fee Schedule.

The Master Fee Schedule shall list all fees and charges by department.

CHAPTER 4.04
PURCHASING[1]

SECTIONS:

4.04.010 Purchasing system.

The objectives of the purchasing system are to secure for the city supplies and equipment at the lowest possible cost commensurate with quality needed, to exercise financial control over purchases, and to assure quality of purchases. ~~The purchasing system is adopted subject to the requirements of the Government Code of the state of California and relevant sections of the El Cerrito Municipal Code. (Prior code Section 2700.)~~

4.04.020 Purchasing officer.

The city manager is designated as purchasing officer. The city manager may delegate and withdraw in writing powers and duties conferred under this chapter to any officer or employee of the city. The purchasing officer shall have authority to:

A. Purchase or contract for supplies and equipment required by any using ~~agency~~ department in accordance with purchasing procedures prescribed by this chapter, such administrative regulations as the purchasing officer shall adopt, and such other rules and regulations as shall be prescribed by the council;

B. Negotiate and recommend execution of contracts for the purchase of supplies and equipment;

C. Act to procure for the city the needed quality in supplies and equipment at least expense to the city;

D. Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases;

E. Prepare administrative regulations governing the purchase of supplies and equipment for the city to implement the objectives of the purchasing system as defined in this chapter;

F. Keep informed of current developments in the field of purchasing, prices, market conditions and new products;

G. Prescribe and maintain such forms as are reasonably necessary to the operation of this chapter and other rules and regulations;

H. Supervise the inspection of all supplies and equipment purchased to insure conformance with specifications;

I. Recommend the transfer of surplus or unused supplies and equipment which cannot be used by any ~~agency~~-department, or which have become unsuitable for city use;

J. Maintain a bidders' list, vendors catalog file, and the records needed for the efficient operation of the purchasing department.

~~(Prior code Section 2700.1.)~~

4.04.030 Requisitions.

Using ~~agencies~~ departments shall submit requests for supplies and equipment to the purchasing officer ~~by~~ on standard requisition forms. ~~(Prior code Section 2701.)~~

4.04.040 Purchase orders.

All purchases of supplies and equipment costing more than $50 in the aggregate shall be made ~~only~~ by purchase order. ~~(Prior code Section 2702.)~~

4.04.050 Encumbrance of funds.

Except in cases of emergency, the purchasing officer shall not issue any purchase order for supplies or equipment unless there exists an unencumbered appropriation to the fund account against which said purchase is to be charged. ~~(Prior code Section 2703.)~~

4.04.060 Bidding.

Purchases of supplies and equipment shall be ~~by bid procedures~~ pursuant to Sections 4.04.070 and 4.04.080. Bidding shall be dispensed with only when an emergency requires that an order be placed with the nearest available source of supply, when each unit to be purchased is less than fifteen thousand dollars, or when the commodity can be obtained from only one vendor. ~~(Ord. 84-3 Section 1, 1984; Ord. 80-4 Section 1, 1980; prior code Section 2704.)~~

4.04.070 Formal contract procedure.

Except as otherwise provided herein, purchases and contracts for supplies and equipment of estimated unit value greater than fifteen thousand dollars shall be by written contract with the lowest responsible bidder, pursuant to the procedure prescribed herein.

A. Notice Inviting Bids. Notices inviting bids shall include a general description of the articles to be purchased, shall state where bid blanks and specifications may be secured, and shall state the time and place for opening bids.

1. Published notice. Notices inviting bids shall be published at least ten days before the date of opening of the bids. Each notice shall be published at least once in a newspaper of general circulation, printed and published in the city, or if there is none, it shall be posted in at least three public places in the city that have been designated by ordinance as the places for posting public notices.

2. Bidders' list. The purchasing officer shall also solicit sealed bids from all responsible prospective suppliers whose names are on the bidders' list or who have requested that their names ~~to~~ be added thereto.

3. Bulletin board. The purchasing officer shall also advertise pending purchases by a notice posted on a public bulletin board in the City Hall.

B. Bidder's Security. When deemed necessary by the purchasing officer, bidder's security may be prescribed in the ~~public~~ notices inviting bids. Bidders shall be entitled to return of bid security; provided that a successful bidder shall forfeit his bid security upon refusal or failure to execute the contract within ten days after the notice of award of contract has been mailed, unless the city is responsible for the delay. The council may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bidder. If the council awards the contract to the next lowest bidder, the amount of the lowest bidder's security shall be applied by the city to the difference between the low bid and the second lowest bid, and the surplus, if any, shall be returned to the lowest bidder.

C. Bid Opening Procedure. Sealed bids shall be submitted to the purchasing officer and shall be identified as bids on the envelope. Bids shall be opened in public at the time and place stated in the ~~public~~ notice inviting bids. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than thirty calendar days after the bid opening.

D. Rejection of Bids. In its discretion, the council may reject any and all bids presented and readvertise for bids.

E. Award of Contracts. Contracts shall be awarded by the council to the lowest responsible bidder except as otherwise provided in this section.

F. Tie Bids. If two or more bids received are for the same total amount or unit price, quality and service being equal, and if the public interest will not permit the delay of readvertising for bids, the council may accept the one it chooses or accept the lowest bid made by negotiation with the tie bidders at the time of the bid opening.

G. Performance Bonds. The council shall have authority to require a performance bond before entering a contract in such amount as it shall find reasonably necessary to protect the best interests of the city. If the council requires a performance bond, the form and amount of the bond shall be described in the notice inviting bids.

~~(Ord. 84-3 Section 2, 1984; ord. 80-4 Section 2, 1980; Ord. 348 N.S. Section 1, 1974; prior code Section 2704.1.)~~

4.04.080 Open market procedure.

Purchase of supplies and equipment of an estimated value in the amount of fifteen thousand dollars or less may be made by the purchasing officer in the open market without observing the procedure prescribed by Section 4.04.070.

A. Minimum Number of Bids. Open market purchases shall, wherever possible, be based on at least three bids, and shall be awarded to the lowest responsible bidder.

B. Notice Inviting Bids. The purchasing officer shall solicit bids by written requests to prospective vendors, by telephone or by personal contact.

C. Written Bids. Written bids shall be submitted to the purchasing officer, who shall keep a record of all open market orders and bids for a period of one year after the submission of bids or the placing of orders. This record, while so kept, shall be open to public inspection.
~~(Ord. 84-3 Section 3, 1984; ord. 80-4 Section 3, 1980; Ord. 348 N.S. Section 2, 1974; prior code Section 2704.2.)~~

4.04.090 Inspection and testing.

~~The-purchasing-office-shall-inspect~~ The city manager shall appoint an employee of the city, other than the purchasing officer, to be responsible for inspection of supplies and equipment delivered to determine their conformance with the specifications set forth in the order or contract. ~~The purchasing-officer~~ This person shall have authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with specifications. ~~(Prior-code-Section 2705.)~~

CHAPTER 4.08
UNCLAIMED PROPERTY[2]

SECTIONS:

4.08.010 Retention period.

Unclaimed property shall be held by the police department for a period of six months~~,-except-as-provided-in-this-chapter,~~ and a record of such property and the disposition thereof shall be kept by the chief of police. ~~(Ord.-77-11-Section-1,-1977.-prior-code Section-2800.)~~

4.08.020 Use of property by departments.

If the use of any unclaimed property is needed and requested by a department of the city, and the property so requested is not subject to destruction under applicable federal, state or city laws, the council may direct that said property shall be turned over to the city manager or such person as shall be designated by him, who shall sign a receipt therefor, for distribution to the department making the request. ~~(Prior-code-Section-2801.)~~

4.08.030 Disposition at public auction.

All unclaimed property which is not disposed of as provided in this chapter shall be sold at public auction to the highest bidder.

Such public auction ~~sale~~ shall be held at least once a year at a time and place ~~to-be~~ fixed by the city manager. ~~(Prior-code Section-2802-(part).)~~

4.08.040 Auction - Notice.

The city manager ~~or-some-person-designated-by-him~~ shall give notice of the public auction sale at least five days before the time fixed therefor by publication once in ~~the-official-~~anewspaper of general circulation published in the county. However, in order to attract the greatest citizen participation, said auction shall be advertised as widely as practicable.

Said notice shall state the day and hour when such auction shall commence, the place at which it is to be held, and shall contain a general description of property to be sold, or shall refer to a list thereof on file with the city clerk. ~~(Prior-code Section-2802-(part).)~~

4.08.050 Auction - Proceeds disposition.

The proceeds of such ~~sale~~ public auction shall, together with all moneys unclaimed for a period of one year, be paid into the city treasury. ~~(Prior-code-Section-2802-(part).)~~

CHAPTER 4.16
TAX FUNCTIONS BY COUNTY[3]

SECTIONS:

4.16.010 Assessing and tax collection.

The assessing and property tax collection duties ~~performed~~ for ~~by~~-the city ~~assessor-and-city-tax-collector~~-are transferred to the assessor and tax collector of the county of Contra Costa., ~~as-provided-for-in-Title-5,-Division-1,-Part-2,-Chapter-2, Article-1,-Volume-3-of-the-Government-Code,-state-of-California. Transfer-for-current-property-tax-purposes-shall-be-effective-for the-1956---1957-fiscal-year.--(Prior-code-Section-2600.1.)~~

4.16.020 City-county agreement.

The mayor and city clerk are authorized to enter into an agreement ~~contract~~ with the board of supervisors of the county of Contra Costa fixing the amount of compensation to be charged and paid to said county ~~as-provided-for-in~~ pursuant to Section 4.16.010. ~~(Prior-code-Section-2600.2.)~~

CHAPTER 4.20

SALES AND USE TAX[4]

SECTIONS:

4.20.010 Purpose.

The council declares that this chapter is adopted to achieve the following, among other, purposes, and directs that the provisions of this chapter be interpreted in order to accomplish those purposes:

A. To adopt a sales and use tax ordinance which complies with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code of the state of California;

B. To adopt a sales and use tax ordinance which incorporates provisions identical to those of the Sales and Use Tax Law of the state of California, insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.5 of Division 2 of the said Revenue and Taxation Code;

C. To adopt a sales and use tax ordinance which imposes a nine hundred and seventy-five thousandth of one percent tax and provides a measure therefor that can be administered and collected by the ~~State~~ Board of Equalization of the state of California in a manner that adapts itself as fully as practical to and requires the least possible deviation from the existing statutory and administrative procedures followed

by ~~the-State~~ said Board of Equalization in administering and collecting the ~~California~~ state sales and use taxes;

D. To adopt a sales and use tax ordinance which can be administered in a manner that will, to the degree possible consistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code of the state of California, minimize the cost of collecting city sales and use taxes, and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this ~~ordinance~~ chapter.

~~(Prior code Section 2605.)~~

4.20.020 Operative date - Contract with state.

This chapter shall become operative on October 1, 1956. ~~and prior thereto this city shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this sales and use tax chapter, provided, that if this city shall not have contracted with the said State Board of Equalization, as above set forth, prior to October 1, 1956, this chapter shall not be operative until the first day of the first calendar quarter following the execution of such a contract by the city and by the State Board of Equalization, provided further that the ordinance codified in this chapter shall not become operative prior to the operative date of the uniform local sales and use tax ordinance of the county of Contra Costa. (Prior code Section 2605.1.)~~

4.20.030 Sales tax - Imposition.

For the privilege of selling tangible personal property at retail, a tax is imposed upon all retailers in the city at the rate of nine hundred and seventy-five thousandths of one percent of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in the city on and after the operative date of ~~the ordinance codified in~~ this chapter. ~~(Prior code Section 2606(a)(1).)~~

4.20.040 Sales tax - Retail sales consummated where.

For the purposes of this chapter all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the state or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the Board of Equalization of the state of California. ~~(Prior code Section 2606(a)(2).)~~

420.050 Sales tax - Sales code provisions adopted.

Except as provided in this chapter, and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the said Revenue and Taxation Code, all of the provisions of Part 1 of Division 2 of said code, as amended and in force and effect on October 1, 1956, applicable to sales taxes are adopted and made a part of this ~~section~~ chapter as though fully set forth herein. ~~(Prior code Section 2606(b)(1).)~~

4.20.060 Sales tax - State code - References to state substituted.

Wherever, and to the extent that in Part 1 of Division 2 of the said Revenue and Taxation Code, the state of California is named or referred to as the taxing agency, the city of El Cerrito shall be substituted therefor. Nothing in this subdivision shall be deemed to require the substitution of the name of the city for the word "State" when that word is used as part of the title of the State Controller, the State Treasurer, the State Board of Equalization, or the name of the State Treasury, or of the Constitution of the State of California; nor shall the name of the city be substituted for that of the state in any section when the result of that substitution would require action to be taken by or against the city or any agency thereof, rather than by or against the State Board of Equalization of the state of California, in performing the functions incident to the administration or operation of this chapter; and neither shall the substitution be deemed to have been made in those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the state of California, where the result of the substitution would be to provide an exemption from this tax with respect to certain gross receipts which would not otherwise be exempt from this tax while those gross receipts remain subject to tax by the state under the provisions of Part 1 of Division 2 of the said Revenue and Taxation Code; nor to impose this tax with respect to certain gross receipts which would not subject to tax by the state under the said provisions of that code; and, in addition, the name of the city shall not be a substituted for that of the state in Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 and 6828 of the said Revenue and Taxation Code ~~as adopted. (Prior code Section 2606(b)(2).)~~

4.20.070 Sales tax - Seller's permit.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional seller's permit shall not be required by reason of this section. ~~(Ord. 323 N.S. Section 1, 1973: Prior code Section 2606(b)(3).)~~

~~4.20.080 Sales tax - Exclusions.~~

~~There shall be excluded from the gross receipts by which the~~

tax is measured:

~~A.--The-amount-of-any-sales-or-use-tax-imposed-by-the-state-of California-upon-a-retailer-or-consumer;~~

~~B.--The-gross-receipts-from-the-sale-of-tangible-personal property-to-operators-of-aircraft-to-be-used-or-consumed principally-outside-the-city-in-which-the-sale-is-made-and directly-and-exclusively-in-the-use-of-such-aircraft-as common-carriers-of-persons-or-property-under-the-authority-of the-laws-of-this-state,-the-United-States,-or-any-foreign government.~~

~~(Ord.-83-15-Section-1,-1983:-prior-code-Section-2606(b)(4).)~~

~~4.20.090--Sales-tax---Exclusions.~~

~~There-shall-be-excluded-from-the-gross-receipts-by-which-the tax-is-measured:~~

~~A.--The-amount-of-any-sales-or-use-tax-imposed-by-the-state-of California-upon-a-retailer-or-consumer;~~

~~B.--The-gross-receipts-from-the-sale-of-tangible-personal property-to-operators-of-waterborne-vessels-to-be-used-or consumed-principally-outside-the-city-in-which-the-sale-is made-and-directly-and-exclusively-in-the-carriage-of-persons or-property-in-such-vessels-for-commercial-purposes;~~

~~C.--The-gross-receipts-from-the-sale-of-tangible-personal property-to-operators-of-aircraft-to-be-used-or-consumed principally-outside-the-city-in-which-the-sale-if-made-and directly-and-exclusively-in-the-use-of-such-aircraft-as common-carriers-of-persons-of-property-under-the-authority-of the-laws-of-this-state,-the-United-States,-or-any-foreign government.~~

~~(Ord.-83-15-Section-3,-1983:-Ord.-323-N.S.-Section-2,-1973:-prior code-Section-2606(b)(4.5).)~~

4.20.100 Use tax - Imposition.

An excise tax is imposed on the storage, use or other consumption in the city of tangible personal property purchased from any retailer on or after the operative date of this chapter, for storage, use or other consumption in the city at the rate of nine hundred and seventy-five thousandths of one percent of the sales price of the property. The sales price shall include delivery charges when such charges are subject to sales or use tax regardless of the place to which delivery is made. ~~(Prior code-Section-2607(a).)~~

4.20.110 Use tax - State code provisions adopted.

Except as provided in this chapter, and except~~-the-exceptions~~ insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 of Division 2 of said code, as amended and in force and effect on October 1, 1956. ~~as-amended-and-in-force and-effect-on-October-1,-1956,~~ applicable to use taxes are adopted and made a part of this ~~section~~ chapter as though fully set forth herein. ~~(Prior-code-Section-2607(b)(1).)~~

4.20.120 Use tax - State code - References to state substituted.

Wherever, and to the extent that in Part 1 of Division 2 of ~~the~~ said Revenue and Taxation Code, the state of California is named or referred to as the taxing agency, the ~~name-of-this~~-city of El Cerrito shall be substituted therefor. Nothing in this subdivision shall be deemed to require the substitution of the name of ~~this~~ the city for the word "State" when that word is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, or the name of the State Treasury, or of the Constitution of the State of California; nor shall the name of the city be substituted for that of the state in any section when the result of that substitution would require action to be taken by or against the city or any agency thereof rather than by or against said ~~the-State~~ Board of Equalization, in performing the functions incident to the administration ~~of~~ or operation of this chapter; and neither shall the substitution be deemed to have been made in those sections, including but not necessarily limited to, sections referring to the exterior boundaries of the state of California, where the result of the substitution would be to provide an exemption from this tax with respect to certain storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such storage, use or other consumption remains subject to tax by the state under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or to impose this tax with respect to certain storage, use of other consumption of tangible personal property which would not be subject to tax by the state under the provisions of that code; and in addition, the name of the city shall not be substituted for that of the state in Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 and 6828 of the Revenue and Taxation Code as adopted, and the name of the city shall not be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 nor in the definition of that phrase in Section 6203. ~~(Prior-code-Section-2607(b)(2).)~~

~~4.20.130--Use-tax---Exemptions.~~

~~There-shall-be-exempt-from-the-tax-due-under-this-section:~~

~~A.--The-amount-of-any-sales-or-use-tax-imposed-by-the-state-of California-upon-a-retailer-or-consumer;~~

~~B. The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under the sales and use tax ordinance enacted in accordance with Part 1.5 or Division 2 of the Revenue and Taxation Code by any city and county, county, or city in this state;~~

~~C. In addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code, the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under the certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government.~~

~~(Ord. 83-15 Section 2, 1983: Prior code Section 2607(b)(3).)~~

~~4.20.140 Use Tax--Exemptions.~~

~~There shall be exempt from the tax due under this section:~~

~~A. The amount of any sales or use tax imposed by the state of California upon a retailer or consumer;~~

~~B. The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any city and county, county, or city in this state;~~

~~C. The storage, use, or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property in such vessels for commercial purposes;~~

~~D. In addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code, the storage, use, or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government.~~

~~(Ord. 83-15 Section 4, 1983: Ord. 323 N.S. Section 3, 1973: prior code Section 2607(b)(3.5).)~~

4.20.150 State code amendments adopted.

All amendments of the Revenue and Taxation Code of the state of California enacted subsequent to the effective date of the ordinance codified in this chapter, which relate to the Sales and Use Tax and which are not inconsistent with Part 1.5 of Division 2 of the ~~chapter~~ Revenue and Taxation Code, shall automatically become a part of this chapter. ~~(Prior-code-Section-2607.1.)~~

~~4.20.160--Application-of-provisions-relating-to-exclusions-and exemptions.~~

~~A.--Sections-4.20.080-and-4.20.130-of-this-chapter-shall-be operative-January-1,-1984.~~

~~B.--Sections-4.20.090-and-4.20.140-of-this-chapter-shall-be operative-on-the-operative-date-of-any-act-of-the-Legislature of-the-state-of-California-which-amends-or-repeals-and reenacts-Section-7202-of-the-Revenue-and-Taxation-Code-to provide-an-exemption-from-city-sales-and-use-taxes-for operators-of-waterborne-vessels-in-the-same,-or-substantially the-same,-language-as-that-existing-in-subdivisions-(i)(7) and-(i)(8)-of-Section-7202-of-the-Revenue-and-Taxation-Code as-those-subdivisions-read-on-October-1,-1983.--(Ord.--83-15 Section-5,-1983;-Ord.-323-N.S.-Section-4,-1973;-prior-code Section-2607.1a.)~~

~~4.20.170--Enjoining-collection-forbidden.~~

~~No-injunction-or-writ-of-mandate-or-other-legal-or-equitable process-shall-issue-in-any-suit,-action-or-proceeding-in-any court-against-the-state-of-this-city,-or-against-any-officer-of the-state-or-this-city,-to-prevent-or-enjoin-the-collection-under this-chapter,-or-Part-1.5-of-Division-2-of-the-Revenue-and Taxation-Code,-of-any-tax-or-any-amount-of-tax-required-to-be collected.--(Prior-code-Section-2607.2.)~~

~~4.20.180--Existing-sales-and-use-tax-ordinances-suspended.~~

~~At-the-time-this-chapter-goes-into-operation,-the-provisions of-prior-code-Sections-2690-through-2694.3-of-the-El-Cerrito ordinance-code-shall-be-suspended-and-shall-not-again-be-of-any force-or-effect-until-and-unless-for-any-reason-the-State-Board of-Equalization-ceases-to-perform-the-functions-incident-to-the administration-and-operation-of-the-sales-and-use-tax-imposed; provided,-however,-that-if-for-any-reason-it-is-determined-that the-city-is-without-power-to-adopt-this-chapter,-or-that-the State-Board-of-Equalization-is-without-power-to-perform-the functions-incident-to-the-administration-and-operation-of-the taxes-imposed-by-this-chapter,-the-provisions-of-prior-code Sections-2690-through-2694.3-of-the-El-Cerrito-ordinance-code shall-not-be-deemed-to-have-been-suspended,-but-shall-be-deemed to-have-been-in-full-force-and-effect-at-the-time-at-the-rate-of one-percent-continuously-from-and-after-October-1,-1956.--Upon the-ceasing-of-the-State-Board-of-Equalization-to-perform-the functions-incident-to-the-administration-and-operation-of-the taxes-imposed-by-this-chapter,-this-chapter-shall-again-be-in full-force-and-effect-at-the-rate-of-one-percent.--Nothing-in-the~~

~~chapter-shall-be-construed-as-relieving-any-person-of-the obligation-to-pay-to-the-city-any-sales-or-use-tax-accrued-and owing-by-reason-of-the-provisions-of-prior-code-Sections-2690 through-2694.3-of-the-El-Cerrito-ordinance-code-in-force-and effect-prior-to-and-including-October-1,-1956.---(Prior-code Section-2607.3.)~~

CHAPTER 4.24
REAL PROPERTY TRANSFER TAX[5]

SECTIONS:

4.24.010 Imposition - Rate
4.24.020 Payment.
4.24.030 Exemption - Instrument to secure debt.
4.24.040 Exemption - United States, states and District of Columbia.
4.24.050 Exemption - Plan of reorganization or adjustment.
~~4.24.060----Exemption---Securities-and-Exchange-Commission orders.~~
~~4.24.070----Exemption---Transfer-of-interest-in-partnership.~~
4.24.080 Administration.
4.24.090 Claims for refund.
~~4.24.100----Operative-date.~~

4.24.010 Imposition - Rate.

There is imposed on each deed, instrument or writing by which any lands, tenements, or other realty sold within the city shall be granted, assigned, transferred or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his or their direction, ~~when-the-consideration-or value-of-the-interest-or-property-conveyed-(exclusive-of-the value-of-any-lien-or-encumbrances-remaining-thereon-at-the-time of-sale-exceeds-one-hundred-dollars,~~-a tax at the maximum rate ~~of-twenty-seven-and-one-half-cents-for-each-five-hundred dollars-or-fractional-part-thereof.~~-allowable by state law as provided in Section 11900 et seq. of the Revenue and Taxation Code of the state of California. ~~(Prior-code-Section-2608.)~~

4.24.020 Payment.

Any tax imposed pursuant to Section 4.24.010 shall be paid by any person who makes, signs, or issues any document or instrument subject to the tax, or for whose use or benefit the same is made, signed or issued. ~~(Prior-code-Section-2608.1.)~~

4.24.030 Exemption - Instrument to secure debt.

Any tax imposed pursuant to this chapter shall not apply to any instrument in writing given to secure a debt. ~~(Prior-code Section-2608.1.)~~

4.24.040 Exemption - United States, states and District of Columbia.

The United States or any agency or instrumentality thereof, any state or territory, or political subdivision thereof, or the District of Columbia, shall not be liable for any tax imposed pursuant to this chapter with respect to any deed, instrument, or writing to which it is a party, but the tax may be collected by assessment from any other party liable therefor. ~~(Prior code Section 2608.3.)~~

4.24.050 Exemption - Plan of reorganization or adjustment.

Any tax imposed pursuant to this chapter shall not apply to the making, delivering or filing of conveyances to make effective any plan of reorganization or adjustment:

A. Confirmed under the Federal Bankruptcy Act, as amended;

~~B. Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (m) of Section 205 of Title 11 of the United States Code, as amended;~~

~~C. Approved in an equity receivership proceeding in a court involving a corporation, as defined in subdivision (3) of Section 506 of Title 11 of the United States Code, as amended; or~~

B. ~~D.~~ Whereby a mere change in identity, form or place of organization is effected.

~~Subsections A to D exclusive, of this section shall only apply if the making, delivery or filing of instruments of transfer or conveyance occurs within five years from the date of such confirmation, approval or change. (Prior code Section 2608.4.)~~

~~4.24.060 Exemption - Securities and Exchange Commission orders.~~

~~Any tax imposed pursuant to this chapter shall not apply to the making or delivery or conveyances to make effective any order of the Securities and Exchange Commission as defined in subdivision (a) of Section 1083 of the Internal Revenue Code of 1954, but only if:~~

~~A. The order of the Securities and Exchange Commission is obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of Section 79(k) of Title 15 of the United States Code, relating to the Public Utility Holding Company Act of 1935;~~

~~B.--Such-order-specifies-the-property-which-is-ordered-to-be conveyed;~~

~~C.--Such-conveyance-is-made-in-obedience-to-such-order.~~

~~(Prior-code-Section-2608.5.)~~

~~4.24.070--Exemption---Transfer-of-Interest-in-partnership.~~

~~A.--In-the-case-of-any-realty-held-by-a-partnership,-no-levy shall-be-imposed-pursuant-to-this-chapter-by-reason-of-any transfer-of-an-interest-in-a-partnership-or-otherwise,-if:~~

~~1.---Such-partnership-(or-another-partnership)-is-considered a-continuing-partnership-within-the-meaning-of-Section 708-of-the-Internal-Revenue-Code-of-1954,-and~~

~~2.---Such-continuing-partnership-continues-to-hold-the-realty concerned.~~

~~B.--If-there-is-a-termination-of-any-partnership-within-the meaning-of-Section-708-of-the-Internal-Revenue-Code-of-1954, for-purposes-of-this-chapter,-such-partnership-shall-be treated-as-having-executed-an-instrument-whereby-there-was conveyed,-for-fair-market-value-(exclusive-of-the-value-of any-lien-or-encumbrance-remaining-thereon),-all-realty-held by-such-partnership-at-the-time-of-such-termination-.~~

~~C.--Not-more-than-one-tax-shall-be-imposed-pursuant-to-this chapter-by-reason-of-a-termination-described-in-subsection B,-and-any-transfer-pursuant-thereto,-with-respect-to-the realty-held-by-such-partnership-at-the-time-of-such termination.~~

~~(Prior-code-Section-2608.6.)~~

4.24.080 Administration.

The county recorder shall administer this chapter in conformity with the provisions of ~~Part-6.7-of-Division-2-~~Section 11901 et seq. of the Revenue and Taxation Code of the state of California, and the provisions of any county ordinance adopted pursuant thereto. ~~(Prior-Code-Section-2608.7.)~~

4.24.090 Claims for refund.

Claims for refund of taxes imposed pursuant to this chapter shall be governed by the provisions of Chapter 5 (commencing with Section 5096) of Part 9 of Division 1 of the Revenue and Taxation Code of the state of California. ~~(Prior-Code-Section-2608.8.)~~

~~4.24.100--Operative-date.~~

~~This-chapter-shall-become-operative-upon-the-operative-date of-any-ordinance-adopted-by-the-county-of-Contra-Costa-pursuant to-Part-6.7-(commencing-with-Section-11901)-of-Division-2,-of-the Revenue-and-Taxation-Code-of-the-state-of-California,-or-upon January-1,-1960,-whichever-is-later.--(Prior-code-Section 2600.9.)~~

CHAPTER 4.28
TRANSIENT OCCUPANCY TAX[6]

SECTIONS:

4.28.010 Short title.

This chapter shall be known as the Uniform Transient Occupancy Tax chapter of the city. ~~(Prior-code-Section-6900.)~~

4.28.020 Definitions.

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

A. "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients <u>for rent</u>. <u>"Hotel" shall include without limitation</u> any hotel, inn, tourist home, ~~or~~ house, motel, ~~studio-hotel,-bachelor~~ apartment house, dormitory, public or private club, mobile home or housetrailer at a fixed location, or other similar structure or portion thereof <u>used</u> for dwelling, lodging or sleeping purposes.

B. "Occupancy" means the use or possession or the right to the use or possession of any room or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.

C. "Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

D. "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

E. "Rent" means the consideration charged, whether or not received, for the occupancy of space in a hotel ~~valued-in money,~~ and regardless of whether such consideration is to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.

F. "Transient" means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. ~~In-determining whether-a-person-is-a-transient,-uninterrupted-periods-of time-extending-both-prior-and-subsequent-to-the-effective date-of-the-ordinance-codified-in-this-chapter-may-be considered.~~

~~(Prior-code-Section-6901.)~~

4.28.030 Imposition.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of five percent of the rent charged by the operator. Said tax constitutes payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel~~.--If-for-any-reason-the-tax-due-is-not-paid-to-the operator-of-the-hotel,-the-license-administrator-of-the-city-may require-that-such-tax-shall-be-paid-directly-to-him.~~ and shall be paid to the city by the operator. The tax is due to the city by the operator whether or not it is paid to the operator by the transient. ~~(Prior code Section 6902.)~~

4.28.040 Exemptions.

~~A.~~ No tax shall be imposed upon any person as to whom, or any occupancy as to which, it is beyond the power of the city to impose the tax provided in this chapter~~;~~.

~~B. Any federal or state of California officer or employee when on official business;~~

~~C. Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.~~

No exemption shall be granted except upon a claim therefor made at the time rent is collected and under penalty of perjury upon a form prescribed by the license administrator. ~~(Prior code Section 6903.)~~

4.28.050 Operator - Duties.

Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof ~~will be assumed or absorbed by the operator, or that it~~ will not be added to the rent, or that, if added, any part will be refunded except in the manner provided in this chapter. ~~(Prior code Section 6904.)~~

4.28.060 Registration.

Within thirty days ~~after the effective date of the ordinance codified in this chapter, or within thirty days~~ after commencing business, ~~whichever is later,~~ each operator of any hotel renting occupancy to transients shall register said hotel with the license administrator and obtain from him a "Transient Occupancy Registration Certificate" to be at all times posted in a conspicuous place on the premises. Said certificate shall, among other things, state the following:

A. The name of the operator;

B. The address of the hotel;

C. The date upon which the certificate was issued;

D. And the following: "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Ordinance by registering with the License Administrator for the purpose of collecting from transient Occupancy Tax and remitting said tax to the License Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this City. This certificate does not constitute a permit." ~~(Prior-code Section-6905.)~~

4.28.070 Reporting and remitting.

Each operator shall on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the ~~license-administrator-~~~~El-Cerrito-city~~ council, make a return to the license administrator, on forms provided by him, of the total rents charged and received and the amount of tax due - ~~collected~~ for transient occupancies. At the time the return is filed, the full amount of the tax ~~collected~~ due shall be remitted to the license administrator. ~~The-license-administrator-may establish-shorter-reporting-periods-for-any-certificate-holder-if he-deems-it-necessary-in-order-to-insure-collection-of-the-tax and-he-may-require-further-information-in-the-return.~~ Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the city until payment thereof is made to the license administrator. ~~(Prior code-Section-6906.)~~

4.28.080 Delinquency - Original.

Any operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty of fifty dollars plus ten percent of the amount of the tax in addition to the amount of the tax ~~(Prior-code-Section-6907.)~~

4.28.090 Delinquency - Continued.

Any operator who fails to remit any delinquent remittance on or before a period of thirty days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ~~ten-percent~~ two hundred dollars plus one percent per month, on any part thereof of nonremittance of the amount of the tax in addition to the amount of the tax and the ~~ten-percent~~ penalty first imposed. ~~(Prior-code-Section-6907(b).)~~

4.28.100 Fraud.

If the license administrator determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of five hundred dollars plus twenty-five percent of the amount of the tax shall be added thereto in addition to the penalties stated in sections 4.28.080 and 4.28.090. ~~(Prior-code Section-6907(c).)~~

4.28.110 Interest.

In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of ~~one-half-of~~ one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid. ~~(Prior-code-Section-6907(d).)~~

4.28.120 Penalties merged with tax.

Every penalty imposed and such interest as accrues under the provisions of this chapter shall become a part of the tax required to be paid. ~~(Prior-code-Section-6907(e).)~~

4.28.130 Failure to collect and report - Determination.

If any operator shall fail or refuse to collect said tax and to make, within the time provided in this chapter, any report and remittance of said tax or any portion thereof required by this chapter, the license administrator shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the license administrator shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the license administrator shall give a notice of the amount so assessed. ~~by serving-it-personally-or-by-depositing-it-with-the-United-States mail,-postage-prepaid,-addressed-to-the-operator-so-assessed-at his-last-known-place-of-address.~~ Such operator may within ten days after the serving or mailing of such notice make application in writing to the license administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the license administrator shall become final and conclusive and immediately due and payable. If such application is made, the license administrator shall give not less than five days' written notice ~~in-the-manner-prescribed herein~~ to the operator to show cause at a time and place fixed in said notice why said amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After such hearing the license administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after fifteen days unless an appeal is taken as provided in Section 4.28.140. ~~(Prior code Section 6908.)~~

4.28.140 Appeal.

Any operator aggrieved by any decision of the license administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the council by filing a notice of appeal with the city clerk within fifteen days of the serving or mailing of the determination of tax due. The council shall fix a time and place for hearing such appeal, and the city clerk shall give notice.~~in writing to such operator at his last known place of address.~~ The findings of the council shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice. ~~(Prior code Section 6909.)~~

4.28.150 Records.

It shall be the duty of every operator liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the city, which records the license administrator shall have the right to inspect at all reasonable times. ~~(Prior code Section 6910.)~~

4.28.160 Refunds.

~~A. Whenever t~~The amount of any tax, including interest or penalty, regardless of whether~~has been~~ overpaid or paid more than once or has been erroneously or illegally collected or received by the city under this chapter is non-refundable.~~it may be refunded as provided in subsection B and C of these sections provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the license administrator within three years of the date of payment. The claim shall be on forms furnished by the license administrator.~~

~~B. An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the license administrator that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.~~

~~C.--A-transient-may-obtain-a-refund-of-taxes-overpaid-or-paid more-than-once-or-erroneously-or-illegally-collected-or received-by-the-city-by-filing-a-claim-in-the-manner-provided in-subsection-A-of-this-section,-but-only-when-the-tax-was paid-by-the-transient-directly-to-the-license-administrator,-or when-the-transient,-having-paid-the-tax-to-the-operator, establishes-to-the-satisfaction-of-the-license-administrator-that the-transient-has-been-unable-to-obtain-a-refund-from-the operator-who-collected-the-tax.~~

~~D.--No-refund-shall-be-paid-under-the-provisions-of-this-section unless-the-claimant-establishes-his-right-thereto-by-written records-showing-entitlement-thereto.~~

~~(Prior-code-Section-6911.)~~

4.28.170 Actions to collect.

Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owed by the transient to the city. Any such tax collected by an operator which has not been paid to the city shall be deemed a debt owed by the operator to the city. Any person owing money to the city under the provisions of this chapter shall be liable to any action brought in the name of the city for the recovery of such amount. ~~(Prior-code-Section-6912)~~

~~4.28.180--Violation---Penalty.~~

~~Any-person-violating-any-of-the-provisions-of-this-chapter shall-be-guilty-of-a-misdemeanor-and-shall-be-punishable-therefor by-a-fine-of-not-more-than-five-hundred-twenty-thousand-dollars or-by-imprisonment-in-the-city-jail-for-a-period-of-not-more-than six-months-or-by-both-such-fine-and-imprisonment.--(Prior-code Section-6913.)~~

4.28.190 Operator - Violation.

Any operator or other person who fails or refuses to register as required in this chapter, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the license administrator, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor.~~and-is-punishable-as-in-Section-4.28.180.~~ Any person required to make, render, sign or verify any report or claim who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this chapter to be made, is also guilty of a misdemeanor ~~and-is punishable-as-in-Section-4.28.180.--(Prior-code-Section-6913 (part).)~~

CHAPTER 4.32
BUSINESS LICENSE TAX[7]

SECTIONS:

4.32.010 Definitions.

A. "Average number of persons employed" daily in the applicant's business during the previous year within the city, as used in this ~~title,~~chapter shall be determined by ascertaining the total number of hours of service performed by all employees of applicant within the city during the previous year and dividing the total number of hours of service constituting a year's work of one full-time employee according to the custom or laws governing such employment. In computing the average number of persons employed, fractions of numbers ~~shall be excluded.~~ greater than one half shall be rounded up to the next whole number.

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

C. "Casual businesses" and "Transient businesses" include all those businesses not otherwise mentioned in this chapter regardless of whether such businesses are operated from a fixed place of business in the city.

~~B. "City" means the city of El Cerrito, a municipal corporation of the state of California in its present incorporated form or in any later reorganized, consolidated, enlarged, or reincorporated form.~~

D. "Coin-operated mechanical or electrical games of skill" means a machine which upon insertion of a coin or token(s) operates or may be operated for use as a game, contest or amusement of any description~~, or which may be used for any such game, contest or amusement, and which contains no automatic payoff device for the return of tokens, money or physical merchandise.~~

E. "Contractor and subcontractor" means all persons engaged in conducting the business of construction, decorating, fencing, gardening, janitorial, painting, plumbing, maintenance, removal, repair, roofing, tree care, and similar services.

F. "Employee" means all persons engaged in the operation or conduct of any business, whether as a member of the owner's family, agent, manager, or solicitor, and any and all other persons employed or working in said business. For purposes of computing tax based on employees, the average number of employees, as defined in subsection A, will be used.

G. <u>"Fine arts" as used in this chapter means painting, drawing, sculpturing, and music.</u>

~~(Ord. 83-3 Section 1, 1983; Ord. 82-4 Section 2, 1982; Ord. 78-19 Section 1, 1978; Ord. 318 N.S. Section 1 (part), 1973; prior code Section 6000.)~~

H. "Fixed place of business" means the premises within the city where a business is continuously conducted from day to day and regularly kept open for the purposes of such business. The term "regular place of business" has the same meaning as "fixed place of business."

I. "Gross receipts" <u>as used in this chapter,</u> ~~title~~ includes the total of amounts actually received or receivable from sales and the total of amounts actually received or receivable for the performance of any act or service of whatever nature it may be for, for which a charge is made or credit allowed, ~~whether 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 material used, labor service costs, interest paid or payable, ~~or~~ losses, or other expenses whatsoever. Excluded from "gross receipts" shall be the following:

1. Cash discounts allowed ~~and taken~~ on sales;

2. Credit allowed on property accepted as part of the purchase price, ~~and~~ which property may later be sold;

3. Any tax required by law to be included in or added to the purchase price; ~~and collected from the consumer or purchaser;~~

4. Such part of the sale price of property returned by purchasers upon recision of the contract of sale as is refunded either in cash or by credit;

5. Amounts collected for others where the business is acting as an agent or trustee to the extent that such amounts are paid to those for whom collected, provided the agent or trustee has furnished the collector with the names and addresses of the others and the amounts paid to them;

6. Receipts of refundable deposits, except that refundable deposits forfeited and taken into income of the business shall not be excluded.

J. "Home occupation" means any business ~~an-occupation~~-conducted ~~entirely-within-the-living-area-of~~ at a dwelling unit. ~~by-persons residing-therein,-which-use-is-clearly-incidental-to-the-use-of the-dwelling-for-dwelling-purposes-and-does-not-change-the residential-character-thereof.--This-use-requires-maintenance-of a-mail-address-and-telephone-listing-~~ The License Administrator shall insure that, in addition to the business or mailing address, the home address and telephone listing is maintained as part of the file of this use for business licensing purposes, ~~only,~~ with or without a permit as may be required by the zoning code.

K. "Ice cream vendor" means all persons, both principals and agents, who engage in business by going ~~in-or~~ along the streets within the city selling and making immediate delivery of products whose principal nature is ~~ice-cream-or~~ frozen dairy products, deserts, candy or ~~its~~ the equivalent.

L. "Itinerant vendor" means all persons, both principals and agents, who engage in a temporary and transient business in the city, selling goods, wares, and merchandise, and who for the purpose of carrying on such business, hire, lease, or occupy any room, ~~building,~~ structure or land for the exhibition or sale of such goods, wares, or merchandise, or from which room, ~~building,~~ or structure the sales shall be made or business solicited by means of samples or deliveries from house to house. The persons so engaged shall not be relieved from the provisions of this ~~section~~ chapter by reason of associating temporarily with any local dealer, trader, merchant, or auctioneer, or by conducting such temporary or transient business in connection with or as a part of or in the name of any local dealer, trader, merchant, or auctioneer.

M. "License administrator" means the ~~city-finance-director-or other~~ city officer charged with the administration of this chapter.

N. "Patrol service" means any service or system which purports to furnish or does furnish to members or subscribers for a consideration, or otherwise, any watchman or guard, either uniformed or otherwise, to patrol any district in the city, or to guard or watch any property, or to perform any service usually and customarily performed by the regular patrolmen of the police department.

O. "Peddler" means any hawker, vendor, or other persons who goes from ~~house-to-house-or~~ place to place, ~~or-in~~ or along the streets or to any public place within the city selling and ~~making-immediate-delivery-or~~ offering for sale ~~and-immediate~~

~~delivery-of~~ any goods, wares, merchandise, or anything of value ~~in-possession-of-the-peddler~~ to persons other than manufacturers, wholesalers, jobbers, or retailers in such commodities.

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

Q. "Professional office" means ~~an~~ a fixed office which provides advice, designs, information, research, or consultation of a professional nature and/or the transfer of money, legal instruments, insurance policies, and real estate; medical or dental services; the wholesale brokerage of goods; professional libraries; or electronic computing services.

R. "Retail business" means 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 subsection W.

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

T. "Solicitor" means every agent, canvasser, or other person who travels from place to place or house to house and solicits or takes orders for or canvasses for or makes demonstrations of any goods, wares, merchandise, or things or articles of value, ~~for-advertising~~ or for services to be performed in the future, or for subscriptions to periodicals, or tickets of admission to entertainments or memberships in any clubs.

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

V. "Temporary sales" are the selling at retail, from a temporary place of business in the city, of seasonal decorations. These include, but are not limited to, Christmas trees and pumpkins. Temporary sales licenses shall be limited to the season but in no case have a duration in excess of six weeks.

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

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

4.32.020 Revenue measure.

This chapter is enacted solely to raise revenue for ~~municipal~~ city purposes and is not intended for regulation. ~~(Ord. 318 N.S. Section 1(part), 1973: prior code Section 6101.)~~

4.32.030 Effects on other ordinances.

Persons required to pay a license tax for ~~transacting and~~ carrying on any business under this chapter shall not be relieved from payment of any fee required under any other ordinance of the city and ~~shall~~ remain subject to the regulatory provisions of other ordinances. ~~(Ord. 318 N.S. Section 1(part), 1973: prior code Section 6102.)~~

4.32.040 Imposition - License required.

License taxes in the amounts hereinafter prescribed are imposed upon the businesses, trades, professions, callings, and occupations specified in this chapter. It is unlawful for any person to transact and carry on any business, trade, profession, calling, or occupation in the city, or to provide a service within the city, without first having procured a license from said city so to do and paying the tax hereinafter prescribed, or without complying with ~~any and~~ all applicable provisions of this chapter.

This section shall not be construed to require any person to obtain a license prior to doing business within the city if such requirement conflicts with applicable statutes of the United States or ~~of~~ the state of California. Persons not ~~so~~ required to obtain ~~a~~ such license prior to doing business within the city nevertheless shall be liable for payment of the tax imposed by this chapter, ~~(Ord. 318 N.S. Section 1(part), 1973: prior code Section 6103.)~~

4.32.050 Branch establishments.

A separate license must be obtained for each branch establishment or location of the business transacted and carried on and for each separate type of business at the same location, and each license shall authorize the licensee to transact and carry on only the business licensed thereby at the location or in the manner designated in such license, provided that warehouses and distributing plants used in connection with and incidental to a business licensed under ~~the provisions of~~ this chapter shall not be deemed to be separate places of business or branch establishments. ~~(Ord. 82-4 Section 3, 1982.)~~

4.32.060 Evidence of doing business.

When any person shall by use of signs, circulars, cards, telephone book, mailings, or ~~newspapers-advertise,~~ other advertisements, hold out, or represent that he is in or conducts business in the city, or when any person holds an active professional or other license, ~~or~~ permit or registration issued by a governmental agency indicating that he is in business in the city, ~~and-such-person-fails-to-deny-by-a-sworn-statement-given-to the-license-administrator-that-he-is-not-conducting-a-business-in the-city-after-being-requested-to-do-so-by-the-license administrator,~~-then these facts shall be considered ~~prima-facie~~ conclusive evidence that he is conducting a business in the city. ~~(Ord.-318-N.S.-Section-1(part),-1973:-prior-code-Section-6105.)~~

4.32.070 Constitutional apportionment.

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

In any case where a license tax is believed by a licensee or applicant for a license to place an undue burden upon interstate commerce or be violative of such constitutional clauses, he may apply to the license administrator for an adjustment of the tax. Such application may be made before, at, or within six months after payment of the prescribed license tax. The applicant shall by sworn statement and supporting testimony, show such information as the license administrator may deem necessary in undue burden or violation. The license administrator shall ~~then~~ conduct an investigation and, after having ~~first~~ obtained the approval of the city attorney, shall fix as the license tax for the applicant an amount that is reasonable and nondiscriminatory or, if the license tax has already been paid, shall order a refund of the amount over ~~and-above-~~the license tax so fixed. In fixing the license tax to be charged, the license administrator shall have the power to base the license tax ~~based-~~on the number of employees or any other measure which will assure that the license tax assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the license tax as prescribed by this chapter. ~~(Ord.-318-N.S.-Section-1(part),-1973:-prior-code-Section-6106.)~~

4.32.080 Exemptions.

A. Charitable Purposes. The provisions of this chapter shall not require the payment of a license tax to conduct, manage, or carry on any business, occupation, or activity from any institution or organization which ~~is-conducted,-managed,-or carried-on-wholly-for-the-benefit-of-charitable-purposes-and from-which-profit-is-not-derived,-either-directly-or indirectly,-by-any-individual.~~ is qualified under ~~IRS regulation~~ Section 501(c)(3) of the United States Internal Revenue Code or any superseding section.

B. Nonprofit Activities. The provisions of this chapter shall not require the payment of a license tax for the conducting of any entertainment, dance, concert, exhibition, lecture, or other activity by any benevolent, religious, fraternal, educational, military, ~~state, county,~~ or ~~municipal~~ governmental organization or association whenever the receipts of any such ~~entertainment, dance, concert exhibition, lecture, or~~ activity 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 an individual.

~~C. Disabled or Handicapped Persons. The license administrator, without payment to the city of any consideration, may grant to any disabled war veteran or to any indigent person or to any person who by reason of the infirmities of age, loss of limb, or other disabling cause is unable to obtain a livelihood by other means, any license provided by this chapter.~~

C. Federal and State Exemptions. Nothing in this chapter shall be deemed or construed to apply to any person transacting and carrying on any business exempt by virtue of the constitutions or applicable statutes of the United States or of the state of California from the payment of such taxes as are prescribed in this chapter.

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

The license administrator shall, upon a proper showing contained in the sworn statement, issue a license to such person claiming exemption under this section without payment to the city of the license tax.

~~(Ord. 318 N.S. Section 1(part), 1973: Prior code Section 6107.)~~

4.32.090 License - Contents.

Every person required to have a license under the provisions of this chapter shall make application as prescribed in Section 4.32.100 for the same to the license administrator of the city, and upon the payment of the prescribed license tax, the license administrator shall issue to such person a license which shall contain the following information:

A. The name of the person to whom the license is issued;

B. The business licensed;

C. The place where such business is to be transacted and carried on;

D. The date of the expiration of such license;

E. Such other information as may be necessary for the enforcement of the provisions of this chapter.

Whenever the tax imposed under the provisions of this chapter is measured by the number of vehicles, devices, machines, or other pieces of equipment used, or whenever the license tax is measured by the gross receipts from the operation of such items, the license administrator shall issue only one license, provided that he may issue for each tax period for which the license tax has been paid one identification sticker, tag, plate, or symbol for each item included in the measure of the tax or used in a business where the tax is measured by the gross receipts from such items. ~~(Ord. 318 N.S. Section 1(part), 1973: Prior code Section 6108.)~~

4.32.100 License - Application.

~~Upon~~ When a person is making application for the first license to be issued under this chapter or for a newly established business, such person shall furnish to the license administrator a sworn statement upon a form provided by the license administrator, setting forth the following information:

A. The exact nature or kind of business for which a license is requested;

B. The place where such business is to be carried on, and if the same is not to be carried on at any permanent place of business, the places of residences of the owners of same;

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

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

E. In all cases where the amount of license tax to be paid is measured by the number of employees, the application shall set forth such information as may be therein required and as may be necessary to determine the amount of the license tax to be paid by the applicant:

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

If the amount of the license tax to be paid by the applicant is measured by the number of employees, he shall estimate the number of employees for the period to be covered by the license to be issued. Such estimate, if accepted by the license administrator as reasonable, shall be used in determining the amount of license tax to be paid by the applicant.

The license administrator shall not issue to any such person another license for the same or any other business until such person shall have furnished to him the sworn statement and paid the license tax as required in this chapter. ~~(Ord. 318 N.S. Section 1(part), 1973: Prior code Section 6109.)~~

4.32.110 License - Renewal.

~~In all cases, t~~The applicant for the renewal of a license shall submit to the license administrator for his guidance in ascertaining the amount of the license tax to be paid by the applicant, a sworn statement upon a form to be provided by the license administrator, setting forth such information concerning the applicant's business during the preceding year as may be required by the license administrator to enable him to ascertain the amount of the license tax to be paid by said applicant pursuant to the provisions of this chapter. ~~(Ord. 318 N.S. Section 1(part), 1973: Prior code Section 6110.)~~

4.32.120 Statements and records.

No statements shall be conclusive as to the matters set forth therein, nor shall the filing of the same preclude the city from collecting ~~by appropriate action~~ such sum as is actually due ~~and payable~~ under this chapter. Such statement ~~and each of the several items therein contained~~ shall be subject to audit and verification by the license administrator~~, his deputies,~~ or ~~authorized~~ employees of the city who are authorized to examine, audit, and inspect such books and records of any licensee or applicant for license as may be necessary in their judgment to verify or ascertain the amount of license fee due. ~~(Ord 318 N.S. Section 1(part), 1973: Prior code Section 6111.)~~

4.32.130 Information confidential.

It is unlawful for the license administrator or any person having an administrative duty under the provisions of this chapter to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person required to obtain a license, provided that nothing in this section shall be construed to prevent:

A. The disclosure to or the examination of records and equipment by another city official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this chapter; ~~or-collecting-taxes-imposed hereunder;~~

B. The disclosure of the names and addresses of persons to whom licenses have been issued and the general ~~type-or-~~nature of their business;

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

D. The disclosure of general statistics regarding taxes collected or business done in the city. ~~(Ord.-318-N.S.-Section 1(part),-1973:-Prior-code-Section-6112.)~~

E. The disclosure of the commission of a crime to an appropriate law enforcement agency.

4.32.140 Failure to file statement.

The license administrator is not required to send a renewal notice or bill to any person subject to the provisions of this chapter, and failure to send notice or bill shall not affect the validity of any license fee due under this chapter.

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

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

If such a determination is made, the license administrator shall give a notice of the amount so assessed. ~~by-serving-it personally-or-by-depositing-it-in-the-United-States-Post-Office at-El-Cerrito,-California,-postage-prepaid,-addressed-to-the person-so-assessed-at-his-last-known-address.~~ Such person may, within fifteen days after the mailing or serving of such notice, make application in writing to the license administrator for a hearing on the amount of the license tax. If such application is made, the license administrator shall cause the matter to be set for hearing within thirty days before the council. ~~The-license~~

administrator shall give at least ten days notice to such person of the time and place of hearing in the manner prescribed above for serving notices of assessment. The council shall consider all evidence produced and shall make findings thereon which shall be final. Notice of such findings shall be served upon the applicant in the manner prescribed above for serving notices of assessment. (Ord. 318 N.S. Section 1(part), 1973: Prior code Section 6113.)

4.32.150 Appeal.

Any person aggrieved by any decision of the license administrator with respect to the issuance or refusal to issue such license may within 15 days after mailing or serving of the notice of decision, appeal to the council by filing a notice of appeal with the city clerk. The council shall~~, thereupon,~~ fix a time and place for hearing such appeal within thirty days. The city clerk shall give notice to such person of the time and place of hearing.~~-by-serving-it-personally-or-by-depositing-it-in-the United-States-Post-Office-at-El-Cerrito,-California,-postage prepaid,-addressed-to-such-person-at-his-last-known-address.~~ The council shall have authority to determine all questions raised on such appeal. ~~No-such-determination-shall-conflict-with-any substantive-provision-of-this-chapter.--(Ord-318-N.S.-Section 1(part),-1973:-Prior-code-Section-6114.)~~

4.32.160 License administrator -Additional powers.

In addition to ~~all~~ any other power, ~~conferred-upon-him,~~ the license administrator shall have the power, for good cause shown, to extend the time for filing any required sworn statement or application for a period not exceeding sixty days and, in such case, to waive any penalty that would otherwise ~~have~~-accrued. ~~(Ord.-318-N.S.-Section-1(part),-1973:-Prior-code-Section-(6115.)~~

4.32.170 License - Nontransferable.

No license issued pursuant to this chapter shall be transferable, provided that where a license is issued ~~authorizing a-person-to-transact-and-carry-on-a-business-at~~ designating a particular business location ~~place~~ such license may be amended, upon application therefor by the licensee and ~~paying-a-fee-of five-dollars-have-the-license-amended-to-authorize-the transacting-and-carrying-on-of-such-business-under-said-license at-some-other~~ payment of a fee as set in the Master Fee Schedule, to designate a new location to which the business is~~-is-to-be~~ moved.

~~Provided-further-that-t~~Transfer, whether by sale or otherwise, to another person under such circumstances that the real or ultimate ownership after the transfer is substantially similar to the ownership existing before the transfer, shall not be prohibited by this chapter.

For the purpose of this section, stockholders, bondholders, partnerships, or other persons holding an interest in a corporation or other entity herein defined to be a person are regarded as having the real or ultimate ownership of such corporation or other entity. ~~(Ord. 318 N.S. Section 1(part), 1973: Prior code Section 6116.)~~

4.32.180 License - Duplicate

A duplicate license may be issued by the license administrator to replace any license previously issued ~~under this chapter~~ which has been lost or destroyed upon the licensee filing statement of such fact, and at the time of the filing of such statement, paying to the license administrator a duplicate license fee ~~of five dollars~~ as set in the Master Fee Schedule. ~~(Ord. 318 N.S. Section 1(part), 1973: Prior code Section 6117.)~~

4.32.190 License - Display.

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

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

~~(Ord. 318 N.S. Section 1(part), 1973: prior code Section 6118.)~~

4.32.200 Tax - Due when.

Unless otherwise specifically provided, all annual license taxes under the provisions of this chapter shall be due and payable in advance on the first day of July of each year or the date on which a person first conducts business within the city, whichever is applicable. All licenses issued under this chapter shall be effective on a calendar-year basis of July 1st through June 30th or any portion thereof, provided that license taxes for new businesses commenced on and after the first day of October shall be prorated for the balance of the license period as follows:

Date of Commencement of Business	Prorated Tax
Between October 1 and December 30	Three-fourth of annual license tax
Between January 1 and March 31	One-half of annual license tax
Between April 1 and June 30	One-fourth of annual license tax.

~~(Ord.-318-N.S.-Section-1(part),-1973:--Prior-code-Section-6119.)~~

4.32.210 Tax - Delinquency - Installments.

~~For-failure-to-pay-a-license-tax-when-due,-the-license administrator-shall-add-a-penalty-of-ten-percent-of-said-license on-the-last-day-of-the-first-month-after-the-due-date,-an additional-twenty-percent-after-the-last-day-of-the-second-month, and-an-additional-twenty-percent-after-the-last-day-of-the-third month-after-the-due-date,-providing-that-the-amount-of-such penalty-to-be-added-shall-in-no-event-exceed-fifty-percent-of-the amount-of-the-license-due.~~

For failure to pay a renewal fee of the license tax when due, the license administrator shall add a penalty of ten percent of said license on the first day of August, an additional penalty of twenty percent on the first day of September, and an additional penalty of twenty percent on the first day of each succeeding month, providing that the amount of the penalties to be added shall in no event exceed one hundred percent of the amount of the license due.

No license shall be issued, nor one which has been suspended or revoked, shall be reinstated or reissued, to any person who, at the time of applying therefor, is indebted to the city for any delinquent license taxes, unless such licensee ~~-person,~~ with the consent of the license administrator, enters into a written agreement with the city through the license administrator to pay such delinquent taxes in at least monthly installments ~~or oftener,~~ extending over a period ~~of~~ not to exceed one year.

Such ~~-In-an~~ agreement ~~so-entered-into,-such-person-shall~~ must acknowledge the obligation owed to the city by the licensee, and ~~agree~~ provide that ~~in-the-event-of~~ upon failure to make timely payment of any installment, the whole amount unpaid shall become immediately due and payable, and that the ~~his~~ current license shall be revocable by the license administrator upon thirty days' notice~~.~~, and, ~~-I~~in the event legal action is brought by the city to enforce collection of any amount included in the agreement, such ~~person~~ licensee shall pay all costs of suit incurred by the city or its assignee, including ~~a-reasonable~~ attorney~~'s~~ fees. The execution of such an agreement shall not prevent the prior accrual of penalties on unpaid balances at the rate provided in this section, but no penalties shall accrue on account of taxes included in the agreement after the execution of the agreement and the payment of the first installment and during such time as such licensee ~~person~~ shall not be in breach of the agreement. ~~(Ord.-318-N.S.-Section-1(part),-1973:-Prior-Code-Section-6120.)~~

4.32.220 Tax - Refunds.

No refund of an overpayment of taxes imposed by this chapter shall be allowed in whole or in part. ~~-unless-a-claim-for-refund is-filed-with-the-license-administrator-within-a-period-of-three~~

~~years-from-the-last-day-of-the-calendar-month-following-the period-for-which-the-overpayment-was-made,-and-all-such-claims for-refund-of-the-amount-of-the-overpayment-must-be-filed-with the-license-administrator-on-forms-furnished-by-him-and-in-the manner-prescribed-by-him.--Upon-the-filing-of-such-a-claim-and when-he-determines-that-an-overpayment-has-been-made,-the-license administrator-may-refund-the-amount-overpaid.--~~(Ord. 318 N.S. Section 1(part), 1973: Prior code Section 6121.)

4.32.230 Fixed place of business.

Every person engaged in a fixed place of business in the city in any trade, calling, occupation or other means of livelihood, and not as an employee of another ~~and-not-specifically-licensed-by other-sections-of-this-chapter,-~~shall pay an annual license tax ~~based-upon-the-average-number-of-employees-employed-in-such-business according-to-the-following-schedule:~~ set in the Master Fee Schedule.

~~A.-Less-than-three-employees-(including-proprietor),-seventy dollar-annually;~~

~~B.-Less-than-five-employees-(including-proprietor),-eighty-five dollars,-plus-ten-dollars;-for-each-employee-in-excess-of two,-annually;~~

~~C.-Five-or-more-employees-(including-proprietor),-one-hundred dollars,-plus-ten-dollars-for-each-employee-in-excess-of-two, annually.~~

~~The-average-number-of-employees-shall-be-determined-by ascertaining-the-total-number-of-hours-of-service-performed-by all-employees-during-each-year-and-dividing-the-total-by-the year's-work-by-one-full-time-employee,-according-to-the-custom governing-such-employment.~~
~~(Ord.-78-19-Section-2,-1978.)~~

4.32.231 Professional offices.

Every person engaged ~~in-a-fixed-place-of-business~~ in any professional office ~~as-defined-in-this-chapter-and-not-as-an employee-of-another-and-not-specifically-licensed-by-other sections-of-this-chapter~~-shall pay the ~~an~~ annual license tax ~~based-on-the-average-number-of-employees-employed-in-such business-according-to-the-following-schedule:~~ set in the Master Fee Schedule.

~~A.--Less-than-three-employees-(including-principal),-eighty-five dollars-annually;~~

~~B.--More-than-two-employees-(including-principal),-one-hundred dollars,-plus-ten-dollars-for-each-employee-in-excess-of-two annually;~~

~~C.--The-average-number-of-employees-shall-be-determined-as-in-~~

~~Section-4.32.230.~~
~~(Ord.-78-19-Section-3,-1978.)~~

4.32.240 Contractors and subcontractors.

~~Every-person-doing-contracting-or-subcontracting-work-in-the city-shall-pay-a-license-fee-as-follows:-annually,-ninety dollars;-semiannually,-fifty-dollars;-and-quarterly,-thirty dollars.-(Ord.-78-8-Section-2(part),-1978.)~~

Every person doing contracting or subcontracting work in the city shall pay ~~a~~ the license tax~~fee-as-established-by~~ set in the Master Fee Schedule. ~~adopted-by-the-City-Council-each-year.~~

4.32.245 Home Occupations.

~~Every-person-engaged-in-business-in-home-occupation-as defined-in-this-chapter-and-not-specifically-licensed-by-other sections-of-this-chapter-shall-pay-an-annual-license-tax-of-fifty dollars.-(Ord.-78-19-Section-4,-1978.)~~

Every person engaged in business in a home occupation as defined in this chapter shall pay the annual license tax set in the Master Fee Schedule.

4.32.246 Casual businesses

Any person conducting a casual business in the city shall pay the license tax set in the Master Fee Schedule.

4.32.250 Delivery vehicles.

Every person ~~not-having-a-fixed-place-of-business-within-the city,-and-not-herein-otherwise-licensed-or-classified,~~-who delivers goods, wares or merchandise of any kind by vehicle, or who provides any service by the use of vehicles in the city, shall pay ~~annually-a~~-the license tax set in the Master Fee Schedule ~~tax-of-forty-dollars-for~~and shall permanently affix to the left rear bumper or other place designated by the license administrator of each such vehicle evidence of such payment. ~~(Ord.-78-8-Section-2(part),-1978.)~~

4.32.255 Fine arts ~~Music-and-art~~ teachers.

Every person engaged in the business of teaching ~~music~~ fine arts in his or her home shall pay the ~~annual~~ license fee set in the Master Fee Schedule. ~~tax-of-sixteen-dollars.--(Ord.-78-19 Section-5,-1978.)~~

4.32.260 Apartment houses, duplexes and single-family rental units.

Every person ~~carrying-on-the-business-of~~ operating rental units, whether apartment house, in-law unit, duplex or, ~~in-the case-of-a~~ single-family unit,~~-one~~ which ~~is~~ are rented or occupied by any person other than the legal owner of the property for ~~at-least-a-two-year-period,~~ any portion of a year, regardless of whether any consideration is received therefor, shall pay ~~an~~ the ~~annual~~ license fee ~~of~~ set in the Master Fee Schedule. ~~twenty-five-dollars-per-unit-per-year-(adjusted-by-the-provisions contained-in-Section-4.32.381).--Further,~~ A valid certificate of occupancy shall be required for all rental units. For this purpose, a certificate of occupancy granted under Chapter 16.49 shall be valid for a period of two years. Any unit used for living quarters of the owner ~~or-manager~~ shall be exempt from the business license tax contained herein. ~~Additionally,-for-every year-in-which-the-municipal-services-tax-levied-upon-residential rental-units-under-Chapter-4.38-is-in-operation,-the-first-two rental-units-per-parcel-will-be-exempt-from-the-business-license tax-contained-herein.--the-provisions-of-this-section-shall-apply automatically-to-the-aforementioned-exempted-two-units-upon-any cessation,-expiration,-suspension,-or-termination-of-the operation-of-the-municipal-services-tax-of-Chapter-4.38-for-any reason.--In-the-event-that-Chapter-4.38-does-not-continue-in operation-as-provided-therein,-and-sums-ordinarily-due-under-its provisions-thereby-are-cancelled,-then-the-above-referenced-two unit-exemption-is-repealed-retroactively-to-the-date-upon-which the-municipal-services-tax-would-cease-to-be-valid-or-effective. The-provision-for-the-aforementioned-two-unit-exemption-shall-not way-alter-or-waive-the-requirements-of-any-other-section-of-the municipal-code.--(Ord.-83-8-Section-1,-1983;-Ord.-78-8-Section 2(part),-1978.)~~

4.32.270 Hotels and Motels.

Every person ~~carrying-on-the-business-of~~ operating a hotel, motel, auto court or cabin court shall pay ~~an~~ the annual license fee ~~of-one-hundred-dollars-and,-in-addition,-shall-pay-four dollars-per-year-for-each-rental-unit;-shall-pay-an-the-annual license-fee-~~set in ~~based-upon~~ the Master Fee Schedule; ~~adopted-by the-City-Council-each-year;~~ providing, however, that any rental unit used for the living quarters of the owner ~~or-manager~~ shall be exempt from the provisions of this ~~section~~ chapter. ~~(Ord. 78-8-Section-2(part),-1978.)~~

4.32.280 Trailer courts.

Every person, firm or corporation ~~conducting-the-business-of~~ operating or managing auto trailer camps or courts ~~shall-pay-an annual-license-tax-of-one-hundred-dollars-and,~~ shall pay ~~an~~ the ~~annual~~ license fee set in ~~tax-based-upon~~ the Master Fee Schedule. ~~in-addition,-the-sum-per-month-per-occupied-trailer-space-as indicated-in-the-fee-schedule-will-be-remitted.--in-addition, shall-pay-the-sum-of-four-dollars-per-month-per-occupied-trailer space.-Monthly-payments-shall-be-based-on-the-average-trailer occupancy-for-any-given-month;-providing,-however,-that-any rental-unit-used-for-the-living-quarters-of-the-owner-or-manager shall-be-exempt-from-the-provisions-of-this-section.--(Ord.-78-8 Section-2(part),-1978.)~~

4.32.290 Restaurants and nightclubs.

Every person ~~conducting~~ operating a restaurant where the sale of alcoholic beverages is prohibited shall pay the ~~annual-a-license~~ fee~~-in-accordance-with-Section-4.32.230.~~ set in the Master Fee Schedule.

Every person ~~conducting~~-operating a restaurant, nightclub or tavern where the sale of on-sale general alcoholic beverages is permitted shall pay ~~an~~ the ~~annual~~-license fee set in the Master Fee Schedule.~~of-two-hundred-dollars.--(Ord.-78-8-Section-2 (Part),-1978.)~~

4.32.300 Public amusement.

Every person ~~conducting,-managing,-or-carrying-on-in-the-city the-business-of~~ providing a type of public amusement shall pay ~~a~~ the license fee ~~tax-as-specified~~ set in ~~this-section:~~ the Master Fee Schedule. Public amusements include, but are not limited to, amusement rides, shows, carnivals, circuses, billiards, bagatelle, bowling lanes, pool tables, bingo, motion picture theaters, plays, poker, card games and public dances.

~~A.--Amusement-rides-and-shows,-except-where-carnival-or-circus license-is-obtained:--forty-dollars-for-the-first-day-and twenty-dollars-for-each-succeeding-day;-~~

~~B.--Billiards,-bagatelle,-pool-tables-(per-table):-twenty-dollars per-year,-plus-other-applicable-rates;-~~

~~C.--Bowling-lanes:-one-hundred-six-dollars-for-the-first-lane-and ten-dollars-and-sixty-cents-for-each-additional-lane;~~

~~D.--Carnival-and-Circus:~~

~~1.---Circuses-seating-four-thousand-or-less-than-four thousand;-three-hundred-dollars-for-the-first-day-and two-hundred-dollars-per-day-thereafter.~~

~~2.---Circuses-seating-more-than-four-thousand-and-carnivals:-six-hundred-dollars-the-first-day-and-four-hundred dollars-per-day-thereafter,~~

~~3.---All-circuses-and-carnivals-shall-also-pay-the-cost-of extra,-necessary-city-police-and-fire-services,-as estimated-by-the-police-chief-and-the-fire-chief, required-for-the-protection-of-said-circus-or-carnival;~~

~~E.--Motion-picture-theater-and-plays-produced-for-profit:--A motion-picture-theater-or-hall,-where-moving-or-motion pictures-are-exhibited-or-plays-performed-and-an-admission-is charged,-collected-or-received:--One-hundred-sixty-dollars per-year;-semiannually-eighty-dollars;-and-quarterly-forty dollars;-~~

~~F.--Public-dance:--Every-person,-other-than-nonprofit organizations,-conducting-the-business-of-a-public-dance-for profit:--Thirty-dollars-per-day-or-one-hundred-dollars-per quarter.~~

~~G.--Amusement-not-otherwise-defined:~~

~~1.---Educational:--Thirty-dollars-per-day-or-one-hundred dollars-per-quarter.------------------------------~~

~~2.---Noneducational:--One-thousand-dollars-per-day.--~~

4.32.310 Distribution and circulation of advertising matter.

Every person ~~engaged-in-the-business-of~~ who distribut~~ing~~es advertising matter as defined in Section 6.20.010, shall pay ~~a~~ the quarterly license fee ~~of-one-hundred-dollars-per-quarter, less-business-license-fees-already-paid-based-on~~ set in the Master Fee Schedule. ~~(Ord.-78-8-Section-2(part),-1978.)~~

4.32.320 Amplification vehicles.

Every person engaged in ~~the-business-of~~ advertising by means of any vehicle containing amplifiers, phonographs, loudspeakers, microphones, or other devices for public address used for advertising on public streets in the city shall pay the ~~following~~ license fees ~~One-thousand-dollars-per-day-for-each-such-vehicle, payable-in-advance,-less-business-license-fees-already-paid,-with a-minimum-fee-of-five-hundred-dollars-per-day.--A-fee-based-on~~ set in the Master Fee Schedule. ~~-(Ord.-78.8-Section-2(part), 1978.)~~

4.32.330 Taxicabs.

Every person ~~engaged-in-the-business-of~~ who operat~~ing~~es a vehicle for hire or taxicabs shall pay ~~a~~ the~~-annual~~ license fees ~~of-sixty dollars-per-vehicle-per-year,-payable-in-advance,-for-up-to-four vehicles.--Vehicles-in-excess-of-four-shall-not-be-subject-to additional-tax.--The-sixty-dollar-per-vehicle-tax-shall-be adjusted-pursuant-to-Section-4.32.381-of-the-El-Cerrito-Municipal Code.-based-on-the-~~set in the Master Fee Schedule. ~~payable-in advance--(Ord.-81-8-Section-1,-1981:-Ord.-78-8-Section-2-(part), 1978.)~~

4.32.340 Auctioneer.

Every person ~~conducting-the-business-of-auctioneer-or~~ who conducts any auction within the city shall pay ~~a~~ the license fee set ~~of-fifty-dollars-per-day-or-four-hundred-dollars-annually.~~ ~~based-on-~~in the Master Fee Schedule.

4.32.345 Vehicle parking lot.

Every person who operates a public, vehicle parking lot, for pay, whether or not otherwise licensed or classified herein, shall pay the ~~annual~~ license fee set in the Master Fee Schedule. The fee is subject to ~~annual~~ revision under section 4.32.381, and is fifteen dollars per one hundred square feet available for parking or moving vehicles in 1987-1988.

4.32.350 Pawnbroker and check casher.

Every person conducting the business of pawnbroker, which means the business of loaning money either for himself or any other person upon any personal property, personal security, or purchasing personal property and agreeing to resell, ~~agreed-upon,~~ or cashes checks for a fee, shall pay the ~~an~~ annual license fee ~~of-two-hundred-dollars.-Ord.-78.8-Section-2-(part),-1978.)~~ set in the Master Fee Schedule.

4.32.355 Patrol services.

Every person operating a patrol service shall pay the license fee set in the Master Fee Schedule.

4.32.360 Peddlers and solicitors.

Every person engaged in the business of peddling or soliciting shall pay the license fee set in ~~of-one-hundred dollars-per-quarter.-~~the Master Fee Schedule ~~(Ord.-78-8-Section 2(part),-1978.)~~

4.32.365 Ice cream vendors.

Every person operating or doing business as an ice cream vendor in the city shall pay ~~a~~ the license fee ~~as-follows: Annually,-one-hundred-fifty-dollars;-or-quarterly,-fifty-dollars. This-fee-shall-be-effective-for-fiscal-year-1982-83-as-if having-been-modified-by-the-rate-adjustment-contained-in-Section 4.32.381-and-shall-continue-to-be-modified-by-the-rate adjustment.--(Ord.-83-3-Section-2,-1983.)~~set in the Master Fee Schedule.

4.32.370 Coin operated vending and amusement and service machines - Distributors.

Every person who ~~is-carrying-on-the-business-of~~ rent~~ing~~s, leas~~ing~~es, lend~~ing~~s or otherwise distribut~~ing~~es or supply~~ing~~es coin-operated machines while retaining title thereto, shall pay ~~an~~ the ~~annual~~ license fee based on the annual gross receipts attributable to business conducted in the city as ~~follows~~ set in the Master Fee Schedule.

~~Gross Receipts~~	~~Fee~~
~~$ 0 - $ 1,000~~	~~$20~~
~~$1,001 - $ 5,000~~	~~$30~~
~~$5,001 - $15,000~~	~~$60~~
~~Over $15000~~	~~$ 4 per $1,000.~~

~~(Ord. 78-8 Section 2(part), 1978.)~~

4.32.375 Temporary sales.

Every person conducting temporary sales shall pay the license fee set in the Master Fee Schedule.

4.32.380 Coin-operated vending, amusement service, or mechanically or electrically operated games of skill.

A. Every person who ~~is carrying on the business of~~ offering~~s~~ for public use coin-operated vending, amusement, service, or mechanically or electrically operated games of skill shall pay ~~an~~ the ~~annual~~ license fee, based upon the gross receipts attributable to each machine, ~~as follows~~ set in the Master Fee Schedule~~:~~.

~~Gross Receipts .... Fee~~

~~$ 1 to $ 1,000 .... $20~~
~~$1,001 to $ 5,000 .... $30~~
~~$5,001 to $15,000 .... $60~~
~~Over $15000 .... $ 4 per $1,000 gross receipts~~

B. Every person required to make a payment under A above, shall make a ~~P~~payment ~~of sixty dollars~~ per machine of the highest fee specified in the Master Fee Schedule for ~~a~~ the fiscal year beginning on July 1st ~~shall become due on August 31st,~~ which payment shall be applied as a credit toward the fee due based upon gross receipts for the period July 1st to June 30th. Refunds or payments due based upon gross receipts, with credit for the ~~sixty dollar~~ advance payment, shall be calculated and submitted on forms supplied by the ~~business~~ license administrator at the end of the fiscal year.

~~(Ord. 82-4 Section 4, 1982)~~

4.32.381 Rate Adjustment.

All business license taxes or fees payable under this chapter for ensuing years after 1977-78, beginning with the fiscal year which starts July 1, 1979, with the exception of the rates in Sections 4.32.370 and 4.32.380 (gross receipts taxes), shall be adjusted upward or downward ~~six percent for each cumulative six~~ based on the percent change from the March 1978 figure of 191.0 in the San Francisco Bay Area Consumer Price Index to the Revised Consumer Price Index for Urban Wage Earners and Clerical Workers for the San Francisco - Oakland Bay Area as published by the Department of Labor for the most recent published month ~~of February~~ prior to the fiscal year in which the rate adjustment is applicable. The ~~business~~ license administrator shall compute such changes each year and submit them to the city council which may incorporate same into the Master Fee Schedule. ~~(Ord. 80-9 Section 1, 1980; Ord. 80-8 Section 1, 1980; Ord. 78-8 Section~~

2(part), 1978)

4.32.390 Rules of procedure.

The license administrator shall make rules of practice and procedure not inconsistent with the provisions of this chapter ~~as may-be-necessary-or-desirable~~-to aid in the administration of the provisions of this chapter. ~~(Ord.-318-N.S.-Section-1(part),-1973; prior-code-Section-6138.)~~

4.32.400 Enforcement.

A. Enforcement shall be the duty of the license administrator, and he is directed to enforce ~~each-and~~ all of the provisions of this chapter ~~and~~ the chief of police shall render ~~such~~ assistance in the enforcement of this chapter as may~~,-from time-to-time,~~-be required by the license administrator or the council.

B. The license administrator, in the exercise of the duties imposed upon him under this chapter and acting through his deputies or duly authorized assistant, may examine or cause to be examined all places of business in the city to ascertain whether the provisions of this chapter have been complied with.

C. The license administrator and each ~~and-all~~-of his assistants and any police officer shall have the ~~power-and~~-authority (upon obtaining an inspection warrant therefor) to enter, free of charge and at any reasonable time, any place of business required to be licensed in this chapter and demand an exhibition of its license. Any person having such license theretofore issued, in his possession or under his control, 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-in-this-chapter.~~ It shall be the duty of the license administrator and each of his assistants to cause a complaint to be filed against any ~~and-all~~-persons found to be violating any of ~~said~~ <u>the</u> provisions <u>of this chapter.</u>

~~(Ord.-318-N.S.-Section-1(part),-1973;-prior-code-Section-1639.)~~-

~~4.32.420--Tax-Deemed-a-debt.~~

~~The-amount-of-any-license-tax-and-penalty-imposed-by-the provisions-of-this-chapter-shall-be-deemed-a-debt-to-the-city. An-action-may-be-commenced-in-the-name-of-said-city-in-any-court of-competent-jurisdiction-for-the-amount-of-any-delinquent license-tax-and-penalties.--A-reasonable-attorney's-fee-for prosecuting-such-action-shall-be-awarded-to-the-city.--(Ord.-318 N.S.-Section-1(part),-1973;-prior-code-Section-6141.)~~ -

4.32.430 Remedies cumulative.

All remedies prescribed under this chapter shall be cumulative, and the use of one or more remedies by the city shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter. ~~(ord.--318-N.S.--Section-1(part),-1973:-prior-code-Section-6142.)~~

4.32.440 Penalty for violation.

Any person subject to ~~violating-any-of~~ the provisions of this chapter shall be strictly liable for compliance. Upon notice of first violation, the license administrator may impose a fine equal to fifty percent (50%) of the applicable license fee. Such fine shall be in addition to other penalties which may be assessed, and said person shall have fifteen days following notice to pay all fees, taxes, fines, and penalties and otherwise achieve full compliance with the provisions of this chapter.

In addition to the fine described above, any person found by the license administrator to be in violation more than fifteen days after notice of first violation, or who is subsequently found in violation, or who knowingly misrepresents to any officer or employee of the city any material fact in procuring the license or permit herein provided shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars or by imprisonment in jail for a period of not more than six months, or both such fine and imprisonment. ~~(Ord.--318-N.S.--Section-1(part),-1973:-prior-cost-Section-6143.)~~

~~4.32.450--Effect-of-chapter-on-past-action,-unexpired-licenses.~~

~~Neither-the-adoption-of-the-ordinance-codified-in-this chapter,-nor-its-superseding-of-any-portion-of-any-other ordinance-of-the-city,-shall,-in-any-manner,-be-construed-to effect-prosecution-for-violation-of-any-other-ordinance committed-prior-to-the-effective-date-of-adoption-of-the ordinance-codified-in-this-chapter,-nor-to-be-construed-to affect-the-validity-of-any-bond-or-cash-deposit-required-by-any ordinance-to-be-posted,-filed,-or-deposited,-and-all-rights-and obligations-thereunto-appertaining-shall-continue-in-full-force and-effect.-(Ord.-318-N.S.-Section-1(part),-1973:-prior-code Section-6144.)~~

CHAPTER 4.36
CONSTRUCTION TAX

SECTIONS:

436.010 Construction tax.

Every person constructing or adding to any commercial or residential structure in the city~~-of-El-Cerrito~~ shall pay to the city a tax on such construction according to the following rate:

One half of one percent of permit value (0.5%)

Refund of Tax: In the event the building permit for construction covered by this section of the ~~El-Cerrito-Municipal~~ code is not approved, is cancelled, or is otherwise terminated prior to construction, the tax paid under this section shall be refunded to the applicant. ~~(ord.-78-7-Section-1,-1978.)~~

~~CHAPTER-4.38~~
~~MUNICIPAL-SERVICES-TAX~~

~~SECTIONS:~~

~~4.038.010--Authority-and-purpose-for-adoption-of-measure.~~

~~The-ordinance-codified-in-this-chapter-and-tax-authorized herein-is-adopted-pursuant-to-the-provisions-of-Article-1-of Chapter-1-of-Division-4-of-Title-4-of-the-Government-Code (Section-43000-et-seq.)-for-the-purpose-of-providing-general municipal-revenues-to-be-used-for-general-municipal-purposes. (Ord.-83-1-Section-2(part),-1983)~~

~~4.38.020--Authorization-to-levy-municipal-services-tax.~~

~~If-for-any-fiscal-year-commencing-on-or-after-July-1,-1983, the-city-council-determines-that-the-cost-to-maintain-municipal services,-including-maintenance-of-prudent-reserves,-would-exceed the-amount-of-funds-and-revenues-generated-through-all-other income-for-the-city-for-said-services,-and-that-said-services-are necessary-for-the-public-good,-welfare,-health,-and-safety,-then it-may-levy-a-tax-for-that-fiscal-year-on-each-dwelling-unit-on residential-and-commercial-real-property-within-the-city-in-the manner-provided-herein.--This-tax-shall-be-in-addition-to-the annual-tax-rate-allowed-by-law.--(Ord.-83-1-Section-2(part), 1983.)~~

~~4.38.030--Determination-of-amount-of-tax-levied.~~

~~Each-year,-in-determining-revenues-and-expenditures-of-the annual-budget,-the-city-council-shall-determine-the-total-amount of-expenditures-necessary-to-maintain-municipal-services,~~

~~including prudent reserves, and deduct therefrom the projected revenue to be gathered from all revenue sources other than this tax. The city council shall be authorized to determine the amount of tax to be levied, depending upon the difference, if any, between the total amount of expenditures and reserves and the total projected revenue. (Ord. 83-1 Section 2(part), 1983.)~~

~~4.38.040 Maximum tax and method of assessment.~~

~~After determining the amount of tax to be levied under Section 4.38.030, the city council shall, by resolution, levy a tax per dwelling unit within the city, as specified herein, not exempted by a law or pursuant to section 4.38.090 of this chapter. In no case shall the revenues generated by this measure be allowed to exceed the limitation established in California Constitution Article XIII-B Section 4.~~

~~The records of the Contra Costa County assessor as of March 1st of each year shall determine the actual use of each parcel for purposes of this municipal services levy. (Ord. 83-1 Section 2(part), 1983.)~~

~~4.38.050 Collection.~~

~~Any service tax authorized under this chapter shall become a lien upon the property the same as property taxes and shall be collected by the tax collector of the county of Contra Costa, pursuant to chapter 4.16, El Cerrito Municipal Code. The tax shall be included on the annual tax bill sent out by said tax collector. (Ord. 83-1 Section 2(part), 1983.)~~

~~4.38.070 Severability.~~

~~If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid, such decision shall not effect the validity of the remaining portions of this chapter. The city council hereby declares that it would have adopted the ordinance codified in this chapter and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid. (Ord. 83-1 Section 2(part), 1983)~~

~~4.38.080 Expiration.~~

~~The authorization to levy a tax under this chapter shall expire with the fiscal year 1986-87, ending June 30, 1987, and this chapter shall be of no further force and effect. (Ord.83-1 Section 2 (part), 1983)~~

~~4.38.090 Exemptions.~~

~~The city council may, by resolution, create exemptions to the tax measure created by this chapter. (Ord. 83-1 Section 2 (part), 1983.)~~

TITLE 4 FOOTNOTES

1. For statutory provisions relating to the purchasing of supplies by cities, see Government Code Section 54201 et seq.

2. For the statutory provisions relating to the sale or destruction of unclaimed or abandoned firearms, see Penal Code Section 12032. For the statutory provisions relating to the disposition of lost or unclaimed property, see Civil Code Section 2080 et seq.

3. For the statutory provisions regarding the city tax system, see Government Code Section 43000 et seq. For the statutory provision requiring the transfer of the functions of tax assessor and collector from the city to the county, see Government Code Section 51501. For the property tax generally, see Revenue and Taxation Code Section 101 et seq.

4. For statutory provisions regarding the Uniform Local Sales and Use Tax Act, see Revenue and Taxation Code Section 7200 et seq. For statutory provisions authorizing cities to impose sales and use taxes, see Government Code Section 37101.

5. For statutory provisions authorizing cities to impose a documentary stamp tax on the sale of real property within the city limits, see Revenue and Taxation Code Section 11901 et seq.

6. For statutory provisions authorizing cities to impose a tax on transients who occupy room space within the city limits, see Revenue and Taxation Code Sections 7280 and 7281.

7. For the statutory provisions authorizing cities to license businesses for revenue, see Government Code Section 37101.

~~8. Prior ordinance history: ord. 82-8.~~

EFFECTIVE DATE: This ordinance shall take effect and be in full force thirty (30) days after the final passage thereof.

* * * * *

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of El Cerrito, held on the 1st day of February, 1988.

Adopted and ordered posted at a regular meeting of the City Council of the City of El Cerrito held on the 16th day of February, 1988, by the following called vote:

AYES:	COUNCILMEMBERS:	Abelson, Bacon, Mank, Siri
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	Howe

IN WITNESS WHEREOF, I have hereunto subscribed my hand and affixed the corporate seal of said city this 16th day of February, 1988.

RONALD D. CREAGH, CITY CLERK

Joanne K. Sidwell

Joanne K. Sidwell, Deputy City Clerk

APPROVED:

Howard Abelson, Vice-Mayor

I HEREBY CERTIFY that the above and foregoing ordinance was duly passed and adopted by the City Council of the City of El Cerrito, County of Contra Costa, State of California, at a regular meeting thereof, held on the 16th day of February, 1988.

RONALD D. CREAGH, CITY CLERK

Joanne K. Sidwell

Joanne K. Sidwell, Deputy City Clerk
of the City of El Cerrito