

RESOLUTION NO. 089-2022

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURLINGAME ORDERING AND CALLING A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2022, AND SUBMITTING TO THE VOTERS A LOCAL REVENUE TAX MEASURE

WHEREAS, City of Burlingame residents have indicated that the quality of life in Burlingame is highly valued; and

WHEREAS, like every other city across the nation, Burlingame faces economic challenges brought about by COVID-19 and the current national downturn; and

WHEREAS, the City has a proven track record of fiscal responsibility, making the most efficient use of limited resources; and

WHEREAS, Burlingame has weathered the current economic recession better than most cities, even providing help to small businesses to keep them afloat during a difficult time; and

WHEREAS, keeping Burlingame clean, safe, and well-maintained is the Council and staff's top priority; and

WHEREAS, on April 18, 2022, the Burlingame City Council adopted Resolution No. 037-2022, calling for a General Municipal Election for November 8, 2022; and

WHEREAS, the Burlingame City Council has determined to place on the ballot a local revenue tax measure.

NOW, THEREFORE, BE IT RESOLVED, that the City Council order as follows:

Section 1. The City Council approves the proposed ordinance set forth in Exhibit A, attached hereto and incorporated in this Resolution by this reference, for submission to the voters of the City, and orders that a proposition shall appear on the ballot in the following form and shall be submitted to the voters of the City:

To support city services such as fixing streets/sidewalks; enhancing police patrols/crime prevention; undergrounding power lines; and for general government use, shall an ordinance be adopted updating Burlingame's business licensing, last increased in 1993, with rates ranging from \$200 to \$750, with the highest rate on larger businesses, and 5% of gross receipts for non-storefront marijuana businesses, providing approximately \$2,500,000 annually, until ended by voters, requiring audits and all funds staying in Burlingame?

Section 2. That the "full text" of the proposed ordinance shall appear in the Voter Information Pamphlet. The "full text" of the proposed ordinance is attached to this resolution as "Exhibit A."

Section 3. That the City Clerk is directed to transmit a copy of the measure to the City Attorney, and the City Attorney is directed to prepare an impartial analysis of the measure showing the effect and operation of the proposed ordinance and to file the analysis no later than August 29, 2022, with the City Clerk.

Section 4. The City Council authorizes members of that body collectively or individually, or any Burlingame voter or bona fide association of citizens or combination of voters and associations to submit a written argument for or against the measure. Such argument, whether in favor or against, shall not exceed 300 words and shall be accompanied by the printed name(s) and signature(s) of the person(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers. Primary arguments in favor of and against the measure must be submitted to the City Clerk by 5:00 p.m. on August 19, 2022. In the event that more than one written argument is filed in favor of or against the measure, the City Clerk shall select one of the multiple arguments in accordance with the provision of Elections Code Section 9287 and Resolution Number 15-2016. Rebuttal Arguments must be submitted to the City Clerk by 5:00 p.m. on August 29, 2022, and shall not exceed 250 words.

Section 5. The boundaries of the City have not changed since the City of Burlingame's previous election held on November 5, 2019.

Section 6. The measure requires a simple majority of the voters voting on the proposed ordinance to pass.

Section 7. Pursuant to the California Elections Code Section 10002, the City Council hereby requests the Board of Supervisors of the County of San Mateo to make available the services of the County Clerk as County Elections Official for the purpose of performing the usual and customary services necessary in the conduct of the consolidated general municipal election, including but not limited to, the provision of election supplies, voters' pamphlets, issuing vote-by-mail ballots, establishing and providing early voting, conducting central counting and official canvass, and performing such other acts as required.

Section 8. Pursuant to California Elections Code Section 10400 and following, the City Council hereby requests the Board of Supervisors of the County of San Mateo to order the consolidation of the general municipal election to be conducted within the boundaries of the City of Burlingame on November 8, 2022, with respect to which the Board of Supervisors of the County of San Mateo has the power to order a consolidation. The City Council further consents to and orders the consolidation of the general municipal election hereby called with the elections in public districts to be held the same day. Upon consolidation, the consolidated election shall be held and conducted in the manner prescribed in California Elections Code Section 10418.

Section 9. The City Manager and the City Clerk are authorized to enter into a service agreement with the San Mateo County Elections Office to request the services of the Elections Office in conducting the election, consolidating the election and canvassing the returns. The election shall

be held in all respects as if there were only one election and only one form of ballot shall be used.

Section 10. The ballots to be used at the election shall be in the form and content as required by law.

Section 11. That the City Clerk is authorized, instructed and directed to contract for the procurement and furnishing of any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election and to take all other necessary actions to place the measure on the November 8, 2022 ballot.

Section 12. That the polls for the election shall be open at 7:00 a.m. on the day of the election and shall remain open continuously from that time until 8:00 p.m. of the same day when the polls shall be closed, pursuant to Elections Code Section 10242, except as provided in Elections Code Section 14401.

Section 13. That the City shall reimburse the County for services performed when the work is completed and upon presentation to the City of a properly approved bill.

Section 14. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

Section 15. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

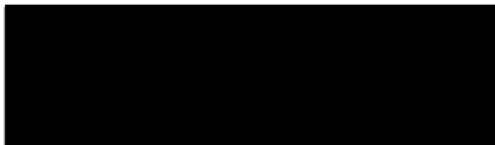
Section 16. That the City Manager is authorized to negotiate and execute an agreement with the Board of Equalization in accordance with Revenue and Taxation Code Section 7270 to perform all functions incident to the administration and operation of the ordinance if adopted.



Ricardo Ortiz, Mayor

I, MEAGHAN HASSEL-SHEARER, City Clerk of the City of Burlingame, do hereby certify that the foregoing Resolution was introduced at a regular meeting of the City Council held on the 5th day of July, 2022 and was adopted thereafter by the following vote:

AYES: COUNCILMEMBERS: BEACH, BROWNRIGG, COLSON, O'BRIEN KEIGHRAN, ORTIZ
NOES: COUNCILMEMBERS: NONE
ABSENT: COUNCILMEMBERS: NONE



Meaghan Hassel-Shearer, City Clerk

ORDINANCE NO. ____

CITY COUNCIL, CITY OF BURLINGAME, STATE OF CALIFORNIA

Full text begins below.



AN ORDINANCE OF THE CITY OF BURLINGAME AMENDING CHAPTER 6.04 AND CHAPTER 6.08 OF TITLE 6 OF THE BURLINGAME MUNICIPAL CODE TO INCREASE AND MODERNIZE THE BUSINESS LICENSE TAX AND IMPOSE A CANNABIS BUSINESS TAX; CEQA DETERMINATION: EXEMPT PURSUANT TO STATE CEQA GUIDELINES SECTION 15378, 15601(b)(3)

WHEREAS, the City of Burlingame imposes license taxes upon businesses in the City of Burlingame; and

WHEREAS, these business license taxes are imposed to raise revenue and not for regulation; and

WHEREAS, the business license tax was last increased, from an annual rate of \$75 to an annual rate of \$100, in 1993; and

WHEREAS, the City wishes to impose a separate cannabis business tax on each person who is engaged in commercial activity involving cannabis products in the City of Burlingame; and

WHEREAS, the purpose of this Ordinance is to increase and modernize the City's business license tax by changing from a flat rate structure for all businesses to a tiered structure ranging from \$200 to \$750 annually depending on the gross receipts of the individual business; and to levy a gross receipts tax of up to 5% on commercial cannabis activity.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURLINGAME DOES ORDAIN AS FOLLOWS:

Section 1. The recitals set forth above are true and correct and are hereby incorporated herein by this reference as if fully set forth in their entirety.

Section 2. Chapter 6.04 and Chapter 6.08 of the Burlingame Municipal Code are hereby amended to read as follows:

Chapter 6.04 GENERAL LICENSE PROVISIONS

(All Content Displayed)

- 6.04.010 Purpose of licenses.

- 6.04.020 Definitions.
- 6.04.030 Evidence of doing business.
- 6.04.040 License required.
- 6.04.050 Contents of license.
- 6.04.060 License tax—How payable.
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- 6.04.080 Proration.
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- 6.04.120 Duplicate licenses.
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- 6.04.160 Application for issuance of license.
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- 6.04.180 Applications not conclusive.
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- 6.04.210 Appeals.
- 6.04.220 Additional power of license collector.
- 6.04.225 Document production and inspection and entry.
- 6.04.230 License of new business—Approval.
- 6.04.240 Exemptions.
- 6.04.250 Exclusions.
- 6.04.260 Substitute for other revenue acts.
- 6.04.270 Effect on past actions and obligations previously accrued.
- 6.04.280 Revocation of licenses—Hearing—Subsequent application for license.
- 6.04.290 License tax a debt.
- 6.04.300 Both criminal and civil action authorized for failure to pay license tax.
- 6.04.310 Effect of mistake.
- 6.04.320 Evidence of liability.

6.04.010 Purpose of licenses.

It is hereby declared that the provisions of this title of the ordinance code of the city of Burlingame are for the purpose of revenue and not regulation. (Ord. 1125 § 2, (1978))

6.04.020 Definitions.

For the purpose of this title, words and phrases used herein shall be held to mean the following:

- a) "Business" includes professions, trades and occupations of all and every kind of calling, whether or not carried on for profit.
- b) "Cannabis Business" means any business activity involving cannabis, including but not limited to: Commercial Cannabis Activities, as that term is set forth in Chapter 25.48 of

Title 25; and delivery of cannabis and cannabis products, as “delivery” defined in State Law.

- c) “City” means the city of Burlingame.
- d) “Collector” or “license collector” means the finance director, or the finance director’s duly authorized representative.
- e) “Contractor” means any person who undertakes to, or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does him or herself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, parking facility, railroad, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith. The term contractor includes subcontractor and specialty contractor.
- f) “Employee” means all persons engaged in the operation or conduct of any business, whether as owner, any member or owner, any member of owner’s family, partner, agent, manager, solicitor, broker, salesperson and any and all other persons employed or working in said business.
- g) “Fixed place of business” means the premises occupied in the city of Burlingame for the particular purpose of conducting a business thereat.
- h) “Gross Receipts” except as otherwise specifically provided, means, whether designated a sales price, royalty, rent, commission, dividend, or other designation, the total amount (including all receipts, cash, credits, services and property of any kind or nature) received or payable for sales of goods, wares or merchandise or for the performance of any act or service of any nature for which a charge is made or credit allowed (whether such service, act or employment is done as part of or in connection with the sale of goods, wares, merchandise or not), without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, losses or any other expense whatsoever. Where the gross receipts, as defined above, are less than the cost of operations of the licensee, then the licensee shall be deemed to produce gross receipts in an amount at least equal to the cost of maintaining such operations. Such cost of operations shall include, but not be limited to, rent and/or depreciation, salaries and wages, fixed charges and other expenses. However, the following shall be excluded from gross receipts:
 - 1. Cash discounts where allowed and taken on sales;
 - 2. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
 - 3. Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;
 - 4. Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer’s business;
 - 5. Cash value of sales, trades or transactions between departments or units of the same business;

6. Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected they shall be included in the amount of gross receipts for the period when they are recovered;
7. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar (\$1.00);
8. Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the City's Finance Department with the names and the addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees.
 - i) "Newly established business" means a business in existence and operation within the city for less than three (3) months.
 - j) "Peddler" means any person not having a regularly established place of business, who travels or goes from house to house, or from place to place, and who sells and makes immediate delivery, or offers for sale and immediate delivery, any services, goods, wares or merchandise in his or her possession.
 - k) "Person" includes all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, Massachusetts business or common law trusts, societies and individuals transacting and carrying on any business in the city of Burlingame, other than as an employee.
 - l) "Solicitor" means any person who travels or goes from house to house, or from place to place, or in or along the streets, taking orders for or endeavoring to take orders, for the sale, exchange or delivery of any services, goods, wares or merchandise not in his or her immediate possession.
 - m) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public street or highway, except devices moved by human power or used upon stationary rails or tracks. (Ord. 1125 § 2, (1978); Ord. 1459 § 2, (1992); Ord. 1671 § 7, (2001))

6.04.030 Evidence of doing business.

When any person shall, by the use of signs, circulars, cards, stationery, telephone books or newspapers, advertise, hold out or represent that he or she is in business in the city, or when any person holds an active license or permit issued by a governmental agency indicating that he or she is in business in the city, or when any person makes a sale, takes an order, renders a commercial service or performs any other similar act within the city, and such person fails to deny by sworn statement given to the collector that he or she is not conducting a business in the city after being requested to do so by the collector, then these facts shall be considered prima facie evidence that he or she is conducting a business in the city. (Ord. 1125 § 2, (1978))

6.04.040 License required.

There are hereby imposed upon the businesses, trades, professions, callings and occupations specified in this title license taxes in the amounts hereinafter prescribed. No person shall transact and carry on any business, trade or profession, calling or occupation in the city without first having procured a license or without first having paid to the city the license tax provided herein, and to do so without complying with all such regulations shall constitute a separate violation of this code for each and every day that such business is so carried on.

The issuance of a license under this title shall not entitle the licensee to engage in any business which for any reason is in violation of any law or ordinance and shall not entitle the holder thereof to carry on any business unless he or she has complied with all the requirements under the other ordinances of the city and all other applicable laws, nor shall it entitle the licensee to carry on any business in any building or on any premises designated in such license in the event that such business or premises are situated in a zone or locality in which the conduct of such business is a violation of any law. (Ord. 1125 § 2, (1978))

6.04.050 Contents of license.

All licenses shall be prepared and issued by the license collector upon payment of the sum to be paid therefor, and each license so issued shall state upon the face thereof the following:

- (a) The name of the person to whom the license is issued;
- (b) The kind or kinds of business licensed thereby;
- (c) The location of such business;
- (d) The date of the expiration of such license;
- (e) Such other information as the license collector may require. (Ord. 1125 § 2, (1978))

6.04.060 License tax—How payable.

All license taxes due hereunder shall be paid in advance, in lawful money of the United States, at the office of the license collector. (Ord. 1125 § 2, (1978))

6.04.070 Terms of licenses—Delinquency.

(a) Except as otherwise provided, all license taxes due hereunder shall be due and payable on the first day of July.

(b) If a license tax that is due and payable under subsection (a) above has not been received before August 1, the license collector shall add to each license remaining unpaid a penalty of twenty-five (25) percent of the amount of the delinquent license tax, up to a maximum penalty of one hundred (100) percent of the amount of the delinquent license tax.

(c) The license collector may include in the delinquency assessment, costs of any necessary audits or investigations necessitated by an incorrect or incomplete return of a license tax under this chapter.

(d) Every penalty and assessment imposed and such interest as accrues under the provisions of this section shall become a part of the tax required to be paid by this chapter. (Ord. 1125 § 2, (1978); Ord. 1459 § 2, (1992); Ord. 1500 § 1, (1994); Ord. 1671 § 2, (2001))

6.04.090 Duration of license.

(a) No license shall be issued for a period of more than twelve (12) months. No license shall be issued for any period extending beyond the thirtieth day of June following the issuance.

(b) While the license collector is empowered to mail renewal notices to businesses regarding the annual business license, the failure of the license collector to mail such a notice or the failure of the business to receive such a notice shall not excuse any failure to pay the business license tax due at the time and pursuant to the provisions of Section 6.04.070 nor to excuse any penalties or interest that may be assessed because of late or incomplete payment. (Ord. 1125 § 2, (1978); Ord. 1671 § 3, (2001))

6.04.100 Limitations.

No greater or lesser amount of money shall be charged or received for any license tax other than provided for in this title, and no license shall be sold or issued for any period of time other than provided for in this title; provided, that this section shall not refer to such penalties as are herein provided for. (Ord. 1125 § 2, (1978))

6.04.110 Branch establishments.

Separate licenses must be obtained for each branch establishment or location of the business engaged in, as if each such branch establishment or location were a separate business, and each license shall authorize the licensee to engage only in 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 title shall not be deemed to be separate places of business or branch establishments. (Ord. 1125 § 2, (1978))

6.04.120 Duplicate licenses.

Duplicate licenses may be issued by the license collector to replace any license previously issued which has been lost or destroyed upon the licensee filing an affidavit attesting to such fact, and at the time of filing such affidavit paying to the license collector the sum of ten dollars (\$10.00). (Ord. 1125 § 2, (1978); Ord. 1459 § 2, (1992); Ord. 1752 § 2, (2005))

6.04.130 Transfer of place of business.

No license issued pursuant to this title shall be transferred to another person. When a licensee transfers his or her business from one location to another within the city, the license previously issued may be amended to authorize the conduct of the business at the new location. (Ord. 1125 § 2, (1978); Ord. 1459 § 2, (1992))

6.04.140 License to be conspicuously posted.

All licenses must be kept and posted in the following manner:

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

(b) Any licensee transacting and carrying on business but not operating at a fixed place of business in the city shall keep the license upon his or her person or in his or her vehicle at all times while transacting and carrying on such business. (Ord. 1125 § 2, (1978))

6.04.150 Refunds.

No refunds will be made on any amount paid as a license tax except in case of an error on the part of the city in the determination of the amount of the license tax, in the case of a miscalculation by the business of the license tax due, in the event of double payment for a license, or in case of an illegally collected license tax. Claims for such refunds must be made pursuant to and within the time requirements of Chapter 4.15. Accrual of the cause of action shall be the date of payment for the license or the date the license payment was due, whichever is earlier. (Ord. 1125 § 2, (1978); Ord. 1657 § 4, (2001); Ord. 1671 § 4, (2001))

6.04.160 Application for issuance of license.

Every person required to have a license under the provisions of this title shall make application for the same to license collector. Such application shall be a written statement upon a form provided by such department and shall be signed by the applicant under penalty of perjury, or sworn to by the applicant before a person authorized to administer oaths. The application shall set forth such information as may be necessary properly to determine the amount of the license tax to be paid by applicant. (Ord. 1125 § 2, (1978))

6.04.170 Application for first license.

Every person making application for a license shall pay to the license collector the license tax for the business in which he or she is engaged and a nonrefundable application fee of thirty-five dollars (\$35.00). (Ord. 1125 § 2, (1978); Ord. 1459 § 2, (1992); Ord. 1752 § 3, (2005))

6.04.180 Applications not conclusive.

No applications 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 hereunder. (Ord. 1125 § 2, (1978))

6.04.200 Determination of license tax in certain cases.

(a) If any person fails to apply for a business license, or, after demand therefor has been made by the license collector, he or she fails to file a corrected application within fifteen (15) days after notification to so do, the license collector shall determine the amount of license tax due from such person by means of such information as the collector may be able to obtain.

(b) The license collector will determine which classification of business under this title applies to each business in light of the information available to the collector. When more than one classification might apply to a business, the license collector will apply that classification that best represents the overall conduct of the business. Classification by the business itself is not binding on the collector. (Ord. 1125 § 2, (1978); Ord. 1664 § 1, (2001))

6.04.210 Appeals.

(a) When the license collector determines that a license tax is due that is more than the tax paid by the business, the license collector will give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the business at its last known place of address. The assessed business may, within ten (10)

days after the serving or mailing of such notice, make application in writing to the license collector for a hearing on the amount assessed. If application by the business for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the license collector shall become final and conclusive and immediately due and payable. If application for a hearing is made, the license collector shall give not less than five (5) days' written notice by mail to the business of the time and place for the hearing. At the hearing, the business may appear and offer evidence what the specified tax, interest and penalties should be. After hearing, the license collector will determine the proper tax to be remitted and shall thereafter give written notice to the business of the decision. The amount determined to be due shall be payable after fifteen (15) days unless an appeal is taken as provided in subsection (b) below.

(b) Any person aggrieved by any decision of the license collector with respect to the issuance or refusal to issue a license, or the amount of a license tax, may appeal to the city manager by filing a written notice of appeal with the manager within fifteen (15) days of the collector's decision. If no appeal is filed within the fifteen (15) day period, the decision of the license collector is final. The city manager shall fix a time and place for hearing such appeal, and give notice in writing to the appellant of the time and place of hearing by serving it personally or by depositing it in the United States Post Office, postage prepaid, addressed to such person at the address appearing on the person's last license or application. The person who filed the appeal may appear and offer evidence regarding the matter. Following the hearing, the city manager may affirm, modify, or reverse the decision of the license collector. The decision of the city manager shall be served upon the appellant in the manner prescribed above for service of notice of hearing. The city manager's decision is the final administrative determination. (Ord. 1125 § 2, (1978); Ord. 1459 § 2, (1992); Ord. 1671 § 6, (2001))

6.04.220 Additional power of license collector.

In addition to all other power conferred upon him or her, the license collector shall have the power, for good cause shown, to extend the time for filing any required sworn statement for a period not exceeding thirty (30) days in such case to waive any penalty which would otherwise have accrued; and shall have the further power, with the consent of the council, to compromise any claim as to amount of license tax due. (Ord. 1125 § 2, (1978))

6.04.225 Document production and inspection and entry.

(a) The license collector may review any application or return filed pursuant to this chapter and may request or inspect any documents or accounts as provided for in this title to determine what the correct tax due is. The license collector, and any person designated as an agent by the license collector, may, at any time during normal business hours, for the purpose of enforcing the provisions of this title, inspect the accounts, books, papers, and documents of any business that holds any permit or tax certificate of the city under this title or that has filed a permit application or business tax return with the city under this title. Any person shall produce under the seal of the city the person's authority to make such an inspection.

(b) It shall be the duty of each business that receives a license or permit under this title to keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of such tax as the business may have been liable for the collection of and payment

to the city. Such records shall be maintained at the business' premises or shall be available for delivery to the license collector within one week after request. Such records shall be so maintained for at least six (6) months after a change of owner. The license collector may, upon five (5) days' written notice, require any business that holds a permit or business license under this title or that has filed a permit application or business tax return with the city to produce any accounts, books, papers, or documents at any location in the city that the license collector may designate in writing, for the purpose of enforcing this title.

(c) No person conducting an inspection or review pursuant to this section may reveal the information obtained from such an inspection or review to anyone not charged with the administration or enforcement of the provisions of this title.

(d) The license collector, any designated officer or agent of the license collector, and any police officer is entitled to enter free of charge at any time any place of business for which a tax, license, or permit under this title is required, and to demand the exhibition of the business license or permit for the current term from any person engaged or employed in the transaction of such business. (Ord. 1671, § 5, (2001))

6.04.230 License of new business—Approval.

Upon the issuance of an initial license to conduct a business at a place, building or premises located in the city, or when a license is transferred to a new place of business in the city, the license collector shall transfer a copy of the application to the building inspector, the fire chief, planner and health inspector of the city. It shall be the duty of said officials to report to the license collector whether or not the place, building or premises, including any incidental warehouse or distribution plants, can be used for the purpose stated in the application. If it is reported that the carrying on of such business will violate any law or ordinance or jeopardize or constitute a menace to the public health or safety, it shall be the duty of the license collector to revoke the issuance or the transfer of the license. License fees shall not be refunded upon such revocation. (Ord. 1125 § 1, (1978), Ord. 1459 § 2, (1992))

6.04.240 Exemptions.

(a) Charitable and Nonprofit Organizations.

(1) The license provisions of this code shall not be deemed or construed to require the payment of a license fee to conduct, manage or carry on any business, or require the payment of any license fee from any institution or organization which is conducted, managed or carried on solely for the benefit of charitable purposes or from which profit is not derived either directly or indirectly by any person, if such business is exempt from the payment of bank and corporation taxes by Sections 23701 of the Revenue and Taxation Code, nor shall any license be required for the conducting of any entertainment, concert, exhibition, lecture or scientific, historical, religious or moral services whenever the receipts of such entertainment, concert, exhibition or lecture are to be appropriated to any church, school or to any religious or benevolent purpose within the city; nor shall any license be required for the conducting of any entertainment, dance, concert, exhibition or lecture by any religious, charitable, fraternal, educational, military, state, county or municipal organization or association whenever the receipts of any such entertainment, dance, concert, exhibition or lecture are to be appropriated for the purpose and objects for which such association or organization was formed and from

which a profit is not derived either directly or indirectly by any person; provided, however, that nothing herein contained shall be deemed to exempt any institution or organization from complying with the provisions of any of the ordinances of the city requiring such institution or organization to obtain a permit from the city to conduct, manage or carry on such business.

(2) The license provisions of this code shall not be deemed or construed to require the payment of a license fee to conduct, manage or carry on any business in the city that consists solely of selling foodstuffs, live plants, art work, or handicrafts at an event or market in the city that is operated by any religious, charitable, fraternal, educational, military, state, county or municipal organization or association. However, nothing herein contained shall be deemed to exempt any such person from complying with the provisions of any of the ordinances of the city requiring such a person to obtain a permit from the city to conduct, manage or carry on such a business.

(b) Interstate Commerce. Nothing in this title shall be deemed or construed to apply to any person transacting or carrying on any business exempt by virtue of the Constitution or applicable statutes of the United States or of the state of California from payment of such licenses as are herein prescribed. Such person shall file a verified statement with the license collector setting forth all of the facts showing that he or she is entitled to such exemption. The statement shall contain the name and location of the person for which the orders are to be solicited or secured, the name and address of the nearest local or state manager, the kind of goods, wares or merchandise to be delivered, the place from where the same are to be shipped or forwarded, the method of solicitation or taking orders, the location of any warehouse, factory or plant within the state of California, the method of delivery, the name and address of the applicant, and any other facts necessary to establish such claim of exemption.

(c) Veterans. Any veteran, as defined by Section 16001 and Section 16001.5 of the Business and Professions Code of the state of California, shall be exempt from the payment of license fees for peddling or soliciting upon presentation of proof of such exemption satisfactory to the license collector.

(d) Minors, Sixteen Years and Younger. Every natural person of the age of sixteen (16) years or under, whose annual gross receipts from any and all businesses are four thousand dollars (\$4,000.00) or less, shall be exempt from payment of any license tax under the provisions of this title.

(e) Senior Citizens. Every natural person of the age of sixty-five (65) years or over, whose annual gross receipts from any and all business are four thousand dollars (\$4,000.00) or less, shall be exempt from payment of any license tax under the provisions of this title.

(f) Nothing in this title shall be deemed or construed to require the payment of a license tax by any person to conduct or officiate any recreation program or activity provided or sponsored by the city.

(g) Nothing in this title shall be deemed or construed to require the payment of a license tax by any person engaged in the business of providing goods or services to a nonprofit organization that provides activities to the youth of Burlingame, or who conducts or officiates any recreation program or activity provided or sponsored by a legal, nonprofit organization that provides services to the youth of Burlingame; provided however, that any and all persons providing goods or services to other organizations that are not explicitly exempted by this

chapter are still required to obtain a business license and pay the annual tax. (Ord. 1125 § 2, (1978); Ord. 1815 § 2, (2008); Ord. 1818 § 2, (2008); Ord. 1853 § 2, (2010))

6.04.250 Exclusions.

Except as may be otherwise specifically provided in this title, the terms hereof shall not be deemed or construed to apply to any of the following persons:

(a) Any public utility which makes payments to the city of Burlingame under a franchise or similar agreement;

(b) Banks, including national banking associations, to the extent that a city may not levy a license tax upon them under the provisions of Article XIII, Section 16, Subdivision 1(a) of the State Constitution;

(c) Insurance companies and associations to the extent that a city may not levy a license tax upon them under the provisions of Article XIII, Section 14 4/5 of the State Constitution;

(d) Any person whom the city is not authorized to license under any law or constitution of the United States or the state of California.

The license collector may require the filing of a verified statement from any person claiming to be exempted or excluded by the provisions of Section 6.04.240 or 6.04.250, which statement shall set forth all facts upon which the exclusion is claimed. (Ord. 1125 § 2, (1978))

6.04.260 Substitute for other revenue acts.

Any person required to pay a license tax for transacting and carrying on any business under this title shall not be relieved from the payment of any license tax for the privilege of doing such business which has been required under any other ordinance of the city, and shall remain subject to the regulatory provisions of such other ordinance. (Ord. 1125 § 2, (1978))

6.04.270 Effect on past actions and obligations previously accrued.

Neither the adoption of this title, nor its superseding of any portion of any other ordinance of the city of Burlingame, shall in any manner be construed to affect prosecution for violation of any other ordinance committed prior to the effective date hereof, nor be construed as a waiver of any license or any penal provision applicable to any such violation, nor be construed to affect the validity of any bond or cash deposit required by any ordinance to be posted, filed or deposited, and all rights and obligations thereto appertaining shall continue in full force and effect. (Ord. 1125 § 2, (1978))

6.04.280 Revocation of licenses—Hearing—Subsequent application for license.

Any license issued under the terms of this code may be suspended or revoked by the city council whenever it shall appear that the licensee has failed to pay the charges imposed by this title, that the business, calling, profession or trade of the person to whom such license was issued is conducted in a disorderly or improper manner or in violation of any law of the United States, the state of California, or any ordinance on the city, or that the person conducting the business, trade, profession or calling is of an unfit character to conduct the same, or the purpose for which the license has been issued is being abused to the detriment of the public, or is being used for a purpose foreign to that for which the license was issued.

Except as provided in Section 6.04.230, a license issued under this title shall not be revoked, canceled or suspended until a hearing thereon shall have been had by the city council. Written notice of the time and place of such hearing shall be served upon the permittee at least three (3) days prior to the date set for such hearing. Such notice shall also contain a brief statement of the grounds to be relied upon for revoking, canceling or suspending such license. Notice may be given either by personal delivery thereof to the person to be notified or by depositing it in the United States Post Office in a sealed envelope, postage prepaid, addressed to such person to be notified, at the business address appearing upon said license. At the hearing before the city council the person aggrieved shall have an opportunity to answer and may be thereafter heard, and, upon due consideration and deliberation by the city council, the complaint may be dismissed, or, if the city council concludes that charges have been sustained and substantiated, it may revoke, cancel or suspend the license of the permittee, and the action of the city council shall be final and conclusive and no appeal therefrom shall be had.

If any such license shall have been revoked, neither the holder thereof nor any person acting for him or her directly or indirectly shall be entitled to another license to carry on the same or any similar business within the city unless the application for such license shall be approved by the city council. (Ord. 1125 § 2, (1978); Ord. 1459 § 2, (1992))

6.04.290 License tax a debt.

The amount of any license tax and penalty imposed by the provisions of this title shall be deemed a debt to the city of Burlingame, and any person carrying on any business without first having procured a license from the city to do so shall be liable to an action in the name of the city in any court of competent jurisdiction for the amount of the license tax and penalties imposed on such business. (Ord. 1125 § 2, (1978))

6.04.300 Both criminal and civil action authorized for failure to pay license tax.

The conviction of any person for engaging in any business without first obtaining a license to conduct such business shall not relieve such person from paying the license tax to conduct such business, nor shall the payment of any license tax prevent a criminal prosecution for the violation of any of the provisions of this title; all remedies prescribed hereunder 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 hereof. (Ord. 1125 § 2, (1978))

6.04.310 Effect of mistake.

In no case shall any mistake made by the city in stating the amount of a license tax prevent or prejudice the collection by the city of what shall be actually due from anyone carrying on a business subject to a license tax under this title. (Ord. 1125 § 2, (1978))

6.04.320 Evidence of liability.

In any action brought under or arising out of any of the provisions of this title, or of any ordinance imposing a license tax, the fact that a party thereto represented him or herself as engaged in any business or calling for the transaction of which a license is required, or that such party exhibited a sign indicating such business or calling, shall be presumptive evidence of the liability of such party to pay for a license for such business. (Ord. 1125 § 2, (1978))

Chapter 6.08 LICENSE TAXES

(All Content Displayed)

- 6.08.010 General.
- 6.08.020 License taxes.
- 6.08.030 Cannabis License Tax
- 6.08.040 Subcontractors.
- 6.08.085 Operators of commercial parking facilities.
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6.08.010 General.

For every person engaged in carrying on or maintaining any profession, trade, occupation, calling or business, the license tax shall be as set forth in the following sections. (Ord. 1125 § 3, (1978))

6.08.020 License taxes.

(a) Unless otherwise provided by this Title, persons shall pay an annual license tax at the following rates based on annual gross receipts:

1. Businesses with annual gross receipts up to \$249,999 shall pay an annual license tax of \$200.
2. Businesses with annual gross receipts from \$250,000 to \$999,999 shall pay an annual license tax of \$300.
3. Businesses with annual gross receipts of \$1,000,000 shall pay an annual license tax of \$750.

(b) Unless otherwise provided by this Title, this section shall apply to:

1. Every person conducting or carrying on the business consisting of selling any goods, wares and merchandise or commodities, or services, or conducting or carrying on any profession, trade, occupation, calling or business not otherwise specifically taxed by this chapter.
2. Every person not having a fixed place of business within the city who engages in business within the city, including contractors.
3. Every person conducting a home occupation as defined by Title 25 of this code.
4. Every person conducting or carrying on the business of selling Holiday trees, except where such business is conducted in connection with another regularly established place of business for which a license has been issued.

6.08.030 Cannabis License Tax

(a) Tax Imposed.

1. There is imposed upon each person who is engaged in business as a cannabis business a cannabis business tax at a rate of five percent (5%) of annual gross receipts. The tax under this section shall not be imposed on a cannabis business unless and until the City Council, by resolution, takes action to set a tax rate not to exceed five percent (5%) of annual gross receipts.

2. Such tax is payable regardless of whether the business has been issued a license or permit to operate lawfully in the City or is operating unlawfully. The City's acceptance of a cannabis business tax payment from a cannabis business operating illegally will not constitute the City's approval or consent to such illegal operations.

(b) Adjustment of Cannabis Business Tax Rate. Notwithstanding the maximum rate established in subsection (a) of this section, the City Council may, in its discretion and at any time by resolution, adopt a lower tax rate for all cannabis businesses or establish differing tax rates for different categories of cannabis businesses, as defined in such resolution, subject to the maximum rate of five percent (5%) of annual gross receipts. The City Council may, by resolution, also increase any such tax rate from time to time, not to exceed the maximum tax rate of five percent (5%) of annual gross receipts established under subsection (a) of this section.

(c) Personal Cultivation Not Taxed. The provisions of this section shall not apply to personal cannabis cultivation or use as those activities are authorized in the Medicinal and Adult Use Cannabis Regulation and Safety Act. This section shall not apply to personal use of cannabis that is specifically exempted from State licensing requirements, that meets the definition of personal use or equivalent terminology under State law, and provided that the individual receives no compensation whatsoever related to that personal cultivation or use.

6.08.040 Subcontractors.

Every person conducting or carrying on the business of contractor shall furnish the collector the names and addresses of all subcontractors doing work on each such construction or work and the premises on which it is located. (Ord. 1125 § 3, (1978))

6.08.085 Operators of commercial parking facilities.

(a) Commercial Parking Facility Defined. "Commercial parking facility" means any privately owned or operated facility that provides, for any form of consideration, parking or storage for motor vehicles, motorcycles, trailers, bicycles, or other similar means of conveyance for passengers or property. "Commercial parking facility" does not include a parking facility that is:

- (1) Not the predominant use of the parcel on which the parking facility is located; or
- (2) Leased or owned by a business and operated exclusively to park or store vehicles that are owned or leased by that same business; or
- (3) Leased or owned by a business and operated exclusively to park or store vehicles that are part of that same business' inventory for purposes of sale, lease, or resale.

(b) Operator Defined. "Operator" means any person who, as owner, lessee, employee, agent, or otherwise, operates, maintains, manages, keeps, permits, or allows to be operated, maintained, managed, or keep any commercial parking facility in or upon any premises owned, leased, managed, operated, or controlled by such person within the city.

(c) The operator of a commercial parking facility in the city shall pay an annual license tax of five (5) percent of the gross receipts received from the operation of the commercial parking facility without deduction therefrom.

(d) Each operator of a facility 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 collector, make a return to the license collector, on forms provided by the collector of the total tax. At the time the return is filed, the full amount of the tax shall be remitted to the license collector. The license collector may establish shorter reporting periods for any operator if the collector deems it necessary in order to insure timely collection of the tax; and the collector may also require further information in the return. Returns and payments are due immediately upon cessation of business for any reason. (Ord. 1670, § 1, (2001))

Section 3. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance and application of such provision to other persons or circumstances shall not be affected thereby, and to this end the provisions of this Ordinance are declared to be severable.

Section 4. Section 2 of this Ordinance shall be codified in the City of Burlingame Municipal Code. Sections 1, 3, 4, 5, 6, and 7 shall not be codified.

Section 5. The action to adopt this Ordinance involves the modification and/or adoption of business license taxes and does not involve any commitment to any specific project that may result in a potentially significant impact on the environment, and thus is not a "project" subject to the requirements of the California Environmental Quality Act (Public Resources Code section 2100, et seq.) (CEQA), pursuant to CEQA Guidelines section 15378. In addition, it can be seen with certainty that there is no possibility the adoption and implementation of this Ordinance may have a significant effect on the environment, and accordingly the adoption of this Ordinance is exempt from the provisions of CEQA pursuant to the "general rule" at CEQA Guidelines section 15061(b)(3).

Section 6. This Ordinance is submitted to the City of Burlingame electorate at an election called for on November 8, 2022. This Ordinance may be approved by a majority vote of the City of Burlingame electorate voting on the measure at the election. If this Ordinance is approved by the electorate as described above, then this Ordinance shall become effective ten (10) days following the date the vote is declared by the City Council in accordance with Elections Code section 9217.

Section 7. The City Clerk is directed to take all actions to publish this ordinance as required by applicable law.

Full text ends above this line.

RICARDO ORTIZ, Mayor

I, MEAGHAN HASSEL-SHEARER, City Clerk of the City of Burlingame, do hereby certify that the foregoing ordinance was introduced at a regular meeting of the City Council held on the _____ day of _____ 2022 and adopted thereafter at a regular meeting of the City Council held on the _____ day of _____ 2022, by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS: