

RESOLUTION NO. 2024-57

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT CALLING A MUNICIPAL ELECTION ON A MEASURE TO MODERNIZE AND SIMPLIFY THE CITY'S BUSINESS LICENSE TAX PROVISIONS AND MAKE THEM FAIRER TO SMALL BUSINESS

WHEREAS, the City's business license tax has not been comprehensively updated since 1976; and,

WHEREAS, the current business license tax is overly complicated and sorts business into 16 categories and 25 subcategories and uses multiple methodologies to fix the rate of levy; and,

WHEREAS, numerous categories and subcategories no longer reflect the types of enterprises doing business in Belmont; and,

WHEREAS, after several months of community discussion including business forums, business focus groups, business surveys, and community presentations, over a hundred Belmont businesses agreed that Belmont's business license tax needs to be updated; and,

WHEREAS, the City Council has determined to submit to the citizens of Belmont for their approval a ballot measure modernizing and simplifying the outdated business license tax, making the tax fairer for small businesses and ensuring that large business pay their fair share; and,

WHEREAS, this measure will continue to provide funding for City services such as fixing potholes and repairing streets and sidewalks, keeping public areas healthy, safe and clean, maintaining public works staff necessary to keep street projects like Ralston Avenue improvements and sewer projects on-time and on-budget, and maintaining parks, open spaces, and sports fields; and,

WHEREAS, under the measure large new businesses coming to Belmont will contribute to the cost of providing City services they use and large employers already in the City will contribute to funding critical City services including police, emergency medical response, and the maintenance of local streets and roads; and,

WHEREAS, the measure will maintain Belmont's local control over local funds for local needs, allowing Belmont to be self-reliant and requiring that our tax dollars are spent for Belmont and not taken by Sacramento; and,

WHEREAS, the measure will support Belmont's local small businesses by updating the City's 48-year-old business license tax which is outdated, cumbersome, and inequitable; and,

WHEREAS, updating our local business license ordinance will make it more transparent, easy to understand, equitable and fair for businesses of all sizes, especially small businesses; and,

WHEREAS, the measure is projected to reduce the rate for approximately 63 percent of businesses in Belmont, benefitting small businesses; and,

WHEREAS, the measure will help ensure that residents and local homeowners do not shoulder all of the costs of city services that also benefit businesses; and,

WHEREAS, the measure includes yearly independent financial audits to verify that the taxes levied have been properly applied, exempted, collected, and remitted in accordance with the law; and,

WHEREAS, the State budget deficit puts the City of Belmont under increasing threat to lose over \$1 million dollars per year and the measure will help maintain essential services such as public safety, fixing pothole and repairing streets and sidewalks; and,

WHEREAS, the modifications to the business license tax include a business category for commercial cannabis should the City Council determine to allow cannabis businesses to operate in the City; and,

WHEREAS, Government Code Section 53724, Business and Professions Code Section 16000, and California Constitution Article XIII C authorize the City to levy a business license tax for unrestricted general revenue purposes if the Council approves the resolution proposing the measure by two-thirds vote of the total membership and the ordinance proposing the tax is approved by a majority vote of City voters in an election on the issue.

NOW, THEREFORE, the City Council of the City of Belmont resolves as follows:

SECTION 1. Call for Municipal Election.

(a) A municipal election in the City of Belmont is called for November 5, 2024 for the purpose of submitting to the electorate a ballot measure approving an ordinance modernizing and simplifying the City's business license tax by reducing and reorganizing businesses into three principle categories plus cannabis businesses and calculating the tax rate for all businesses based on gross receipts, with most businesses paying less and larger businesses paying their fair share, to continue from the effective date until changed, and to be used for unrestricted general revenue purposes of the City.

(b) Notice of the time and place of holding the election is to be given and the City Clerk is authorized to give further notice of the election as required by law.

SECTION 2. Consolidation with Statewide General Election

(a) The City Council orders the municipal election consolidated with the statewide general election on Tuesday, November 5, 2024.

(b) In accordance with Elections Code Sections 10002 and 10403, the City Council requests the County of San Mateo Board of Supervisors consolidate the municipal election with the statewide election.

(c) The question to be presented to the voters is as follows:

City of Belmont Business License Tax Measure	
Shall the ordinance simplifying the existing City of Belmont business license structure, funding general city services, such as: fixing potholes, streets and sidewalks maintaining 9-1-1 emergency response, maintaining parks, open space, and sports fields, maintaining neighborhood police patrols, crime prevention, keeping public areas healthy, safe, clean; lowering most businesses' rates with typical rates between 0.04% and 0.1% of gross receipts, described in the ordinance, until ended by voters, maintaining \$1,300,000 annually, requiring independent audits, be adopted?	YES
	NO

This question requires the approval of the majority of qualified electors casting votes.

(d) The City Council acknowledges that the consolidated election will be held and conducted in the manner prescribed in Election Code Section 10418.

SECTION 3. Conduct of Election

In accordance with Elections Code Section 10002, the City Council requests the County of San Mateo Board of Supervisors authorize the County Clerk to render all services necessary for the conduct of the election regarding the general tax measure and agrees to reimburse the County of San Mateo for the costs of conducting this election.

SECTION 4. Proposed Ordinance

(a) The ordinance authorizing the business license tax to be approved by the voters is as set forth in Attachment 1 hereto.

(b) The City Council hereby approves the ordinance, the form thereof, and its submission to the voters of the City at the November 5, 2024 election.

(c) The ordinance simplifies and modernizes the current business license tax ordinance, reducing the business categories from 16 to 4. The ordinance classifies all business activities except cannabis into one of three categories with a tax rate of 0.4%, 0.75% and 1.0% per thousand dollars of gross receipts, respectively. The rate tax on cannabis businesses is 10% of gross receipts which may be set at a lower rate by the City Council. The City of Belmont will collect the tax from businesses. The proposed tax is for general city purposes and will be deposited in the city's general fund.

(d) The City Council requests the County of San Mateo Board of Supervisors to order the County Clerk to set forth in the voter information portion of all sample ballots to be mailed to the qualified electors of the City the full text of the Ordinance and to mail with the sample ballots to the electors printed copies of the full text of the Ordinance, together with the

primary arguments and supporters for and against the measure, and to provide absent voter ballots for the election for use by qualified electors of the City who are entitled thereto in the manner provided by law.

SECTION 5. Publication of Synopsis

The City Clerk is directed to publish a synopsis of the measure in the manner required by Elections Code Section 12111 at least one week before the election.

SECTION 6. Submission to County Officials

The City Clerk is directed to file a certified copy of this Resolution, with Attachments, with the County of San Mateo Board of Supervisors and the County Elections Official no later than close of business on Friday, August 9, 2024.

SECTION 7. Impartial Analysis

The City Clerk is directed to transmit a copy of the measure to the City Attorney who is directed to prepare an impartial analysis of the measure in accordance with Elections Code Section 9280.

SECTION 8. Ballot Arguments

(a) Ballot arguments for or against the measure may be submitted in accordance with this resolution and applicable provisions of the law.

(b) The City Council will designate by motion a subcommittee of two councilmembers to develop a written argument not exceeding 300 words in favor of the measure. If a qualified argument against measure is submitted, the subcommittee may develop a rebuttal argument not exceeding 250 words. At the discretion of the subcommittee, the argument in favor and rebuttal, if any, may also be signed by other members of the City Council, bona fide associations of citizens, or by individual voters who are eligible to vote. Arguments and rebuttals shall otherwise conform to and comply with all applicable provisions of the Elections Code and be submitted by the deadline required by the County of San Mateo Elections Official.

* * *

ADOPTED July 9, 2024, by the City of Belmont City Council by the following vote

Ayes: McCune, Hurt, Pang-Maganaris, Latimerlo, Mates



Mayor



City Attorney

Attachment 1

To Resolution 2024-57

An Ordinance of the City Of Belmont Making Comprehensive Amendments to Modernize and Simplify the City's Business License Tax Provisions and Make them Fairer to Small Business, Codifying The New Provisions in Belmont City Code Chapter 23, Article VI

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BELMONT MAKING COMPREHENSIVE AMENDMENTS TO MODERNIZE AND SIMPLIFY THE CITY'S BUSINESS LICENSE TAX PROVISIONS AND MAKE THEM FAIRER TO SMALL BUSINESS, CODIFYING THE NEW PROVISIONS IN BELMONT CITY CODE CHAPTER 23, ARTICLE VI

WHEREAS, the City's business license tax has not been comprehensively updated since 1976; and,

WHEREAS, the current business license tax is overly complicated and sorts business into 16 categories and 25 subcategories and uses multiple methodologies to fix the rate of levy; and,

WHEREAS, numerous categories and subcategories no longer reflect the types of enterprises doing business in Belmont; and,

WHEREAS, after several months of community discussion including business forums, business focus groups, business surveys, and community presentations, over a hundred Belmont businesses agreed that Belmont's business license tax needs to be updated; and,

WHEREAS, the City Council has determined to submit to the citizens of Belmont for their approval a ballot measure modernizing and simplifying the outdated business license tax, making the tax fairer for small businesses and ensuring that large business pay their fair share; and,

WHEREAS, this measure will continue to provide funding for City services such as fixing potholes and repairing streets and sidewalks, keeping public areas healthy, safe and clean, maintaining public works staff necessary to keep street projects like Ralston Avenue improvements and sewer projects on-time and on-budget, and maintaining parks, open spaces, and sports fields; and,

WHEREAS, under the measure large new businesses coming to Belmont will contribute to the cost of providing City services they use and large employers already in the City will contribute to funding critical City services including police, emergency medical response, and the maintenance of local streets and roads; and,

WHEREAS, the measure will maintain Belmont's local control over local funds for local needs, allowing Belmont to be self-reliant and requiring that our tax dollars are spent for Belmont and not taken by Sacramento; and,

WHEREAS, the measure will support Belmont's local small businesses by updating the City's 48-year-old business license tax which is outdated, cumbersome, and inequitable; and,

WHEREAS, updating our local business license ordinance will make it more transparent, easy to understand, equitable and fair for businesses of all sizes, especially small businesses; and,

WHEREAS, the measure is projected to reduce the rate for approximately 63 percent of businesses in Belmont, benefitting small businesses; and,

WHEREAS, the measure will help ensure that residents and local homeowners do not shoulder

all of the costs of city services that also benefit businesses; and,

WHEREAS, the measure includes yearly independent financial audits to verify that the taxes levied have been properly applied, exempted, collected, and remitted in accordance with the law; and,

WHEREAS, the State budget deficit puts the City of Belmont under increasing threat to lose over \$1 million dollars per year and the measure will help maintain essential services such as public safety, fixing pothole and repairing streets and sidewalks; and,

WHEREAS, the modifications to the business license tax include a business category for commercial cannabis should the City Council determine to allow cannabis businesses to operate in the City; and,

WHEREAS, Government Code Section 53724, Business and Professions Code Section 16000, and California Constitution Article XIII C authorize the City to levy a business license tax for unrestricted general revenue purposes if the Council approves the resolution proposing the measure by two-thirds vote of the total membership and the ordinance proposing the tax is approved by a majority vote of City voters in an election on the issue.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF BELMONT DO ORDAIN AS FOLLOWS:

SECTION 1. RECITALS

The People of the City of Belmont find that all Recitals contained in this ordinance are true and correct.

SECTION 2. MEASURE TITLE

This ordinance may be referred to as the “City of Belmont Business License Modernization and Simplification Measure.”

SECTION 3. BCC CHP 23, ART 6 ADDED

Belmont City Code Chapter 23 is amended by adding an Article 6 to read:

ARTICLE VI BUSINESS LICENSE TAX

Sec. 23-200 Title

This article may be referred to as the “City of Belmont Business License Tax Ordinance.”

Sec. 23-201 Definitions

The definitions in this section apply to the words and phrases used in this article unless the context clearly indicates otherwise.

(a) “*Business*” means a profession, art, trade, vocation, rental, lease, enterprise, establishment, occupation, or calling, which is conducted for the purpose of earning in

whole, or in part, a profit or livelihood, whether or not a profit or livelihood is actually earned, whether paid in money, goods, labor, or otherwise, and whether or not the business has a fixed place of business in the city.

(b) “*Business classification*” means the category of business subject to tax under this article. The business classifications are as follows.

(1) “*Category 1*,” which consists of the following business types:

Operating an establishment where meals, prepared food, or beverages are served to customers (restaurants). An establishment includes mobile and transient businesses that operate from a temporary location.

Selling goods, including pre-packaged food, to ultimate consumers, usually in small quantities (retail sales).

Any similar business.

(2) “*Category 2*,” which consists of the following business types:

Arborists, lawn services, gardening and landscaping services but not including landscape architects.

Arts, music, and dance instructors.

Automotive repair, car washing and detailing.

Child care and educational services.

Drycleaners.

Hairstylists, beauticians, cosmetologists, and aestheticians.

Home health providers.

Janitorial services.

Massage therapists.

Photographic, videographer, and printing services.

Gym, physical fitness, and sports trainers services.

Translation and interpretation services.

Any similar business.

(3) “*Category 3*,” which consists of the following business types:

Conducting, managing, or carrying on the business of contractor, subcontractor, or builder; or engaging in the construction or repair of any buildings; or regularly employing

help for building construction, sewer construction, plumbing construction, or general construction; but not including architects or engineers.

Manufacturing, packing, or processing of any goods, wares, merchandise, or commodities at a fixed place of business within the city.

Selling goods in quantity, such as to retailers for resale (wholesales).

Scientific and technical services.

Legal advice and representation.

Medical, skilled nursing, and dental services.

Chiropractors and physical therapists.

Psychiatrists, psychologists, therapists, and marriage counselors.

Licensed financial planners and licensed investment counselors.

Accounting, bookkeeping, and payroll services.

Architects and landscape architects.

Engineers and land surveyors.

Specialized design services.

Computer services.

Consulting services.

Research and development services.

Advertising services.

Real estate agents and real estate brokers.

Mortgage and insurance brokers.

Veterinary services.

Administrative offices and business headquarters.

Property management.

Property rental.

Any similar business and any business that does not fit into another category.

(4) “*Category 4*,” which consists of cannabis businesses and includes all cannabis business

activities regardless of whether a different category describes all or part of a cannabis business' activity.

(c) "*Business license*" means the document issued by the city acknowledging that a person has declared their business activity in the city and has paid the business license tax required by this article for the declared business activity.

(d) Cannabis related definitions.

(1) "*Cannabis*" or "*marijuana*" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds of such plants. "*Cannabis*" also means cannabis as defined by Business and Professions Code section 26001, subdivision (f), Health and Safety Code section 11018, and by other state law.

(2) "*Cannabis accessory*" is any device intended to aid in the use of cannabis or cannabis products which does not itself consist in all or part of cannabis or cannabis products as defined in Health and Safety Code section 11018.2 and by other state law.

(3) "*Cannabis business*" means the activity of any person or collective in the City relating to cannabis, including but not limited to cultivation (including nurseries), transportation, distribution, manufacture, compounding, conversion, processing, preparation, testing, storage, packaging, delivery, and sales (including both wholesale and retail sales) of cannabis, cannabis products, or any accessories for the use of cannabis or cannabis products, whether or not carried on for gain or profit, whether for medical or recreational use, and whether or not such business is licensed by the State. A cannabis business does not include any business the only relationship of which to cannabis or cannabis products is the production or sale of cannabis accessories.

(4) "*Cannabis product*" means any product containing cannabis or its derivatives, including, but not limited to, flowers, buds, oils, tinctures, concentrates, extractions, edibles, and products described in Health and Safety Code Section 11018.1.

(5) "*Delivery*" means the transfer for any form of compensation of cannabis or cannabis products to a customer or caregiver at a location that is not a dispensary.

(6) "*Dispensary*" means a place at which cannabis, cannabis products, or accessories for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that engages in delivery.

(7) "*Distributor*" means a person engaged in procuring cannabis or cannabis products for sale to a dispensary or other point of retail sale. "*Distribution*" means engaging in that conduct and a "*distribution facility*" is any real estate, whether or not improved, used in such conduct.

(e) "*Fixed place of business*" means the premises occupied in the city for the purpose of conducting a business and regularly kept open for that purpose with a person in attendance for the purpose of attending to the business.

(f)(1) “*Gross receipts*” means the total amount of compensation actually received or receivable from all sales and the total amount of compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as part of or in connection with the sale of materials, goods, wares, or merchandise. Included in “gross receipts” are all receipts, cash, credits, and property of any kind or nature, without any deduction for the cost of property sold, materials, labor, service, interest, losses, or other expenses whatsoever.

(2) If the gross receipts are less than the cost of maintaining the operations of the licensee, the licensee shall be deemed to produce gross receipts in an amount at least equal to the cost of maintaining such operations if the difference between the gross receipts and the cost of maintaining the operations of the licensee is the greater of either \$300,000 or 20 percent of the gross receipts. Such cost of operations includes, but is not limited to, rent, depreciation, salaries, wages, fixed charges, loan payments, utilities, insurance premiums, and other expenses.

(A) Paragraph (f)(2) does not apply to a business that solely operates as a Category 1 or 2 business type.

(B) Paragraph (f)(2) does not apply to that portion of an integrated business that includes Category 1 or 2 types of business that the Tax Collector has determined under Section 23-203(e) can be reasonably allocated to Category 1 or 2.

(3) The following are excluded from “gross receipts”:

(A) Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser.

(B) Receipts of refundable deposits, except that such deposits when forfeited and taken as income of the licensee are not excluded.

(C) Amounts collected for others where the licensee is acting as an agent or trustee to the extent that such amounts are paid to those for whom they are collected, provided the agent or trustee has furnished the Tax Collector with the names and addresses of the others and the amounts paid to them. The exclusion does not apply to any fees, percentages, or other payments retained by the agent or trustee.

(D) Transactions between a partnership and its partners when the partnership itself has obtained a business license and paid business license tax under this Article.

(g) “*Licensee*” means a person required to obtain a business license under this article.

(h) “*Person*” has the same meaning provided in section 1-2 of this code.

(i) “*Previous tax year*” means the tax year for a licensee that immediately precedes the tax year for which a business license is being obtained. Upon request by a licensee, the Tax Collector may approve the use of a different “previous tax year” for a licensee in order to conform to a licensee’s fiscal year or to otherwise simplify the calculation of the amount of business license tax owed by the licensee.

licensee's gross receipts from business activity in the city. The rates in the Rate Table are expressed in dollars per thousand dollars of the licensee's total gross receipts derived from business conducted in the city for the previous tax year, except when a licensee did not operate in the city for the entirety of the previous tax year in which case the tax is measured by the licensee's gross receipts derived from business conducted in the city for the current tax year. The rate applied is the maximum rate unless lowered by appropriate Council action.

Sec. 23-203 Rate Table

<i>Category 1</i>	Up to \$0.40 per \$1,000
<i>Category 2</i>	Up to \$0.75 per \$1,000
<i>Category 3</i>	Up to \$1.00 per \$1,000
<i>Category 4</i>	Up to \$100.00 per \$1,000

(c) The base amount of license tax on gross receipts derived from business activity in the city is \$25. Beginning in calendar year 2030 or any time thereafter the City Council may by ordinance or resolution increase the base amount of the license tax by a percentage equal to up to three percent per calendar year after calendar year 2025. After an initial adjustment, the City Council may by ordinance or resolution increase the base amount of the license tax by a percentage equal to up to three percent per calendar year since the last adjustment.

(d) Neither the establishment of a tax on cannabis nor the payment of a tax imposed under this article authorizes cannabis business activity that is in whole or in part prohibited by any provision of this code, the zoning regulations of the city, or any other city ordinance. Nothing in this article authorizes or implies the lawfulness of any activity connected with the distribution or possession of cannabis unless otherwise authorized and allowed in strict and full conformance with this code. Nothing in this article may be applied or construed as authorizing commercial cannabis activity.

(e) If a licensee conducts a single integrated business with two or more parts, each of which could each fall within different business categories, the city may, at its discretion, tax each part under the applicable category, provided the business's gross receipts can be reasonably allocated between the parts. If the Tax Collector determines that the gross receipts cannot be reasonably allocated between the different parts of the business, then the entire business shall be taxed at the highest rate applicable to any of the business's parts.

Sec. 23-204 Exemptions from Tax

Any business exempt by the laws of the United States or the laws of the State of California from the tax imposed by this article are not required to pay the tax imposed by Section 23-203 but is required to demonstrate the business is exempt and obtain a license.

Sec. 23-205 When Tax Is Due

(a) When a licensee first begins operating a business in the city, the tax imposed by this article is due 30 days after the first day of business operation in the city and is delinquent 60

days after the first day of business operation if not paid.

(b) After the first tax year of operation and for all subsequent tax years, the tax is due February 1 of the tax year and is delinquent if not paid by March 1 of the tax year.

Sec. 23-206 Issuance of Business License

(a) Except as provided in subsection (c), upon full payment of the tax imposed by this article, a business license will be issued for the tax year for which the tax has been paid.

(b) A business license is valid for one tax year and only for the tax year for which the business license tax has been paid.

(c) A business license may not be issued to conduct business from a fixed place of business within the city unless:

(1) The Zoning Administrator or other city official designated by the City Manager certifies that the business to be conducted at the premises is permitted by the City's zoning regulations; and,

(2) The local fire marshal or other official designated by the City Manager certifies that the premises where the business is to be conducted complies with state and local life safety standards.

(d) Issuance of the certifications in subsection (c) does not exempt the licensee or the premises from actual compliance with any law or regulation.

Sec. 23-207 Business License Application for a New Business

(a) When a licensee begins operating a business in the city, the licensee must provide the Tax Collector with the following information and any other information required by the Tax Collector:

(1) The name of the business and the address at which it will be operating.

(2) The date on which the business will begin operating.

(3) The nature of the business's activities sufficient for the Tax Collector to determine the business classification and category of the business.

(4) An estimate of the business's gross receipts for the first tax year.

(b) For the first tax year that a business operates in the city, it must initially pay tax measured by an estimate of the business's gross receipts for the first tax year.

(c) By February 1 after a business's first tax year operating in the city, the business must provide the Tax Collector with a statement of the business's actual gross receipts for the first tax year with supporting records.

(1) If the actual gross receipts for the first tax year are more than the estimated gross

receipts on which the tax for the first tax year was calculated and paid, then an additional amount of tax based on the additional gross receipts will be assessed and due by March 1 after the first tax year.

(2) If the actual gross receipts for the first tax year are less than the estimated gross receipts on which the tax for the first tax year was calculated and paid, then the excess amount of tax will be refunded to the business or applied to the business's tax for the second tax year.

(d) A business's first tax year is any tax year following a tax year in which the business had no business activity in the city, was not required to obtain a license, and owed no tax under this article.

Sec. 23-208 Business License Renewal

(a) After the first tax year of operating in the city and for all subsequent tax years, a business's business license renewal application is due February 1 of each tax year.

(b) The business license renewal application must provide the following information and any other information required by the Tax Collector:

(1) The name of the business and the address at which it will be operating.

(2) The nature of the business's activities sufficient for the Tax Collector to determine the business classification and category of the business.

(3) The business's gross receipts for the previous tax year unless a renewing business did not operate for the entirety of the previous tax year, in which case it must provide an estimate of the business's gross receipts for the current tax year, pay tax based on that estimate, and comply with subdivision (c) below.

(c) If a business pays tax based on an estimate of gross receipts for the tax year, by February 1 of the following tax year the business must provide the Tax Collector with a statement of the business's actual gross receipts with supporting records for the tax year for which an estimate was used to calculate tax.

(1) If the actual gross receipts for the tax year are more than the estimated gross receipts on which the tax was calculated and paid, then an additional amount of tax based on the additional gross receipts must be paid by March 1.

(2) If the actual gross receipts for the tax year are less than the estimated gross receipts on which the tax was calculated and paid, then the excess amount of tax will be refunded to the business or applied to the business's tax for the current tax year.

Sec. 23-209 Delinquent Taxes (penalties and interest)

(a) When a tax becomes delinquent, a penalty of 25% of the amount of the delinquent tax will be added to the amount of tax due. If the tax remains unpaid 60 days after becoming delinquent, an additional penalty of 25% of the amount of the delinquent tax (excluding the initial penalty) will be added to the amount of tax due.

issuance of the decision being challenged. If the Tax Collector was required to provide notice of the decision, then the time to file an objection to the decision begins to run from the date of service of the notice of the decision. The Tax Collector must serve a written response to the objection within 30 days of the filing of the objection, which period can be extended by the Tax Collector for an additional 30 days. The Tax Collector's response to the objection must be served on the challenger either personally or by U.S. mail to the most recent address for the challenger in the Tax Collector's records.

(b) The challenger may request a hearing before the Tax Collector on the Tax Collector's response to the objection by filing a request for a hearing with the Tax Collector within 15 days of service of the response to the objection. If a timely request for a hearing on a response to the objection is filed with the Tax Collector, the Tax Collector must set a hearing within 30 days of the filing of the request for a hearing or as soon as reasonably practical thereafter. Notice of the hearing must be served on the challenger either personally or by U.S. mail to the most recent address for the challenger in the Tax Collector's records.

(c) At the hearing the challenger may present evidence and argument regarding the decision being challenged to show why the decision is incorrect and to show what it should be. Within 60 days after the close of the hearing, which the Tax Collector may extend for an additional 60 days, the Tax Collector must serve a Final Determination on the decision, setting forth the Tax Collector's determination of the decision that was challenged. The Final Determination must be served on the challenger either personally or by U.S. mail to the most recent address for the challenger in the Tax Collector's records. Service is effective upon deposit of the Final Determination in the U.S. mail.

Sec. 23-212 Appeals

(a) A Final Determination of the Tax Collector under section 23-210, subdivision (d), or section 23-210, subdivision (c), can be appealed to the City Manager by filing a written notice of appeal with the City Manager within 15 days of service of the notice of the Final Determination being appealed.

(b) Only a licensee who files a timely request for a hearing on an Initial Determination under section 23-211 and participates in the hearing or a challenger who files an objection to a decision and files a request for a hearing on the response to the objection under section 23-211 and participates in the hearing can file an appeal under this section.

(c) If a timely appeal is filed, the City Manager or the City Manager's designee, must set a hearing within 60 days of the filing of the appeal, which may be extended by the City Manager for an additional 60 days. Notice of the hearing must be served on the appellant either personally or by U.S. mail to the most recent address for the challenger in the Tax Collector's records. The tolling of the accrual of penalties or interest under section 23-210, subdivision (b), shall continue upon the timely filing of an appeal under this section.

(d) At the hearing the appellant and the Tax Collector may present evidence and argument regarding the decision being appealed to show why the decision is correct or incorrect and to show what it should be. Within 60 days after the close of the hearing, which the City Manager may extend for an additional 60 days, the City Manager must serve a written decision, setting forth the resolution of the appeal. The decision must be served on the

appellant either personally or by U.S. mail to the most recent address for the appellant in the Tax Collector's records. Service is effective upon deposit of the decision in the U.S. Mail. Any penalties and interest that were tolled under section 23-210, subdivision (b), shall resume accruing 10 days after the service of the decision.

(e) A decision of the City Manager, or the City Manager's designee, served under subdivision (d) of this section is subject to judicial review under sections 1094.5 and 1094.6 of the Code of Civil Procedure with a writ petition filed in the appropriate court within 90 days of the service of the written decision. Any tax, penalties, or interest determined by the decision to be owed to the city by the appellant must be paid to the city as a precondition to filing a writ petition challenging the decision, but a claim for a refund under section 23-214 does not have to be filed before filing a writ petition.

Sec. 23-213 Constitutional Apportionment

(a) No tax imposed by this article may be applied to a licensee so as to constitute an undue burden on interstate commerce or intercity commerce or be violative of the equal protection or due process clauses of the United States or California constitutions.

(b) A licensee who contends that the application of a tax imposed by this article on the licensee constitutes an undue burden on interstate commerce or intercity commerce or violates the equal protection or due process clauses of the United States or California constitutions may apply to the Tax Collector for an apportionment of the tax imposed on the licensee that would remove the constitutional violation. The licensee must file a written request with the Tax Collector that explains the factual and legal basis for the claimed constitutional violation and proposes a method of apportionment that would resolve the alleged constitutional violations. The request may be filed before the tax is due and must be filed no longer than 90 days after the tax is due.

(c) The Tax Collector, in consultation with City Attorney, must review the application and within 60 days of the filing of the application issue a decision on the application. The decision on the application must be served on the licensee either personally or by U.S. mail to the most recent address for the challenger in the Tax Collector's records. The decision can be challenged under section 23-211.

Sec. 23-214 Refunds

(a) A licensee who believes that any tax, penalty, or interest has been illegally, erroneously, or mistakenly paid to, collected by, or otherwise received by the city may file a claim for a refund of the amount of tax, penalty, or interest claimed to have been improperly received by the city.

(b) The claim must be filed with the Tax Collector and signed under penalty of perjury by the licensee. The claim must state:

- (1) The legal and factual basis for the refund claim;
- (2) The amount of tax, penalty, or interest allegedly improperly received by the city,
- (3) The date or dates that the improper payments were made to the city, and

(4) The address of the claimant.

(c) The claim must be filed with the Tax Collector within one year of the date of the allegedly improper payment to the city.

(d) The Tax Collector must provide a written decision on the claim within 30 days of the filing of the claim by serving the decision on the claimant either personally or by U.S. mail to the address provided in the claim. Service is effective upon deposit of the response in the U.S. Mail.

(e) A claimant may challenge the Tax Collector's decision on a refund claim under section 23-211.

(f) This section does not apply to:

(1) A claim for a refund arising out of a decision of the Tax Collector or City Manager under sections 23-210, 23-211, 23-212, or 23-213; or

(2) A claim that could have been asserted by the claimant, but was not, under sections 23-210, 23-211, 23-212, or 23-213.

Sec. 23-215 Business Audits

(a) The Tax Collector may conduct an audit of any licensee to ensure proper compliance with the requirements of this article.

(b) To initiate an audit the Tax Collector must provide written notice to the licensee that is the subject of the audit of the initiation of the audit by serving the notice personally or by U.S. mail to the most recent address for the licensee in the Tax Collector's records. The notice must state the period of time subject to the audit.

(c) Notice of the initiation of an audit for a tax year for which an application for a business license under section 23-207 or section 23-208 was filed by the licensee must be served within three years of the last day of the tax year to which the application applied.

(d) Notice of the initiation of an audit for a tax year for which an application for a business license was not filed by the licensee under section 23-207 or section 23-208, but for which the licensee did otherwise register as a business under another Chapter of this code, must be served within five years of the last day of the tax year for which the application should have been filed.

(e) Notice of the initiation of an audit for a tax year for which an application for a business license was not filed by the licensee under section 23-207 or section 23-208, and for which the licensee did not register as a business under another Chapter of this code, must be served within 10 years of the last day of the tax year for which the application should have been filed.

(f) Upon completion of an audit, the Tax Collector may make an Initial Determination under subdivision (a) of section 23-210 of any taxes, penalties, and interest determined to be owed and not paid for the audit period. If a licensee subject to audit is unable or unwilling to

provide sufficient records to enable the Tax Collector to verify compliance with this article, the Tax Collector is authorized to make a reasonable estimate of the amount of tax due and the reasonable estimate shall be entitled to a rebuttable presumption of correctness.

Sec. 23-216 Maintenance and Review of Records

(a) Licensees must maintain for six years records of gross receipts and other information necessary to calculate the tax. If the Tax Collector serves notice of the initiation of an audit, the information pertinent for the years subject to the audit must be maintained until the conclusion of the audit.

(b) The Tax Collector may with reasonable notice inspect the records of the licensee.

(c) The Tax Collector may request the City Council to issue an administrative subpoena for records of a licensee or other persons with relevant information.

Sec. 23-217 Confidentiality of Records

(a) Personal information collected for purposes of issuing a business license by a city, as provided in Business and Professions Code Section 16000.1, is confidential and not available to the public for inspection and may not be disclosed except as required to administer the city's business license program or comply with a judicial warrant, subpoena, or court order.

(b) All documents submitted to the city by a licensee under this article and all documents of a licensee inspected by the Tax Collector in the conduct of an audit are presumed received in confidence and to include personal information as defined in Business and Professions Code Section 16000.1 and will not be subject to public inspection to the fullest extent allowed by law and must be maintained so that the contents of the documents will not become known except to persons charged with the administration of this article. Confidential documents may be shared with consultants retained by the city to aid in the administration of this article, provided the consultants agree to maintain the confidentiality of the documents.

Sec. 23-218 Action to Collect Delinquent Taxes

(a) Any tax, penalty, and interest imposed on a licensee under this article is a debt owed by the licensee to the city, which may be recovered in an action filed by the city in a court of competent jurisdiction.

(b) An action under this section must be filed within three years of an Initial Determination becoming final under section 23-210(b), the issuance of a Final Determination under section 23-210(d) that is not timely appealed, the issuance of a Final Determination under section 23-211(c) that is not timely appealed, or the issuance of a decision under section 23-212(d) for which an action for judicial review is not timely filed.

(c) During the pendency of an action filed under this section, interest will continue to accrue under section 23-209(b) until the entry of judgment.

(d) The City Council may by resolution establish a collection fee to be imposed on any licensee against whom an action is filed under this section, which fee may be recovered in the action.

Sec. 23-219 Rules and Regulations

The Tax Collector, in consultation with the City Attorney, may adopt rules and regulations that are not inconsistent with the provisions of this article as may be necessary to aid in the application and enforcement of this article.

Sec. 23-220 Errors not binding on the city

No error by the Tax Collector or any other officer, employee, or agent of the city in the application of this article shall prevent, prejudice, or estop the collection by or for the city of the full amount of tax owed by any person under this article.

Sec. 23-221 Amendments

(a) The tax adopted herein may be increased only by a vote of the people of the City of Belmont in accordance with California Constitution Article XIIC, Section 2(b).

(b) Except as provided in subsection (a), the provisions in this article may amended by ordinance adopted by the city council.

Sec. 23-222 Annual Audit.

By no later than April 1 of each year or such date as coincides with the completion of other reoccurring city audits, the City's independent auditors are to complete a report to verify that the taxes levied under this article in the preceding year have been properly applied, exempted, collected, and remitted in accordance with the law.

SECTION 4. APPLICATION OF TAX

(a) Beginning on the operative date, this ordinance supersedes the business license tax imposed by the Belmont City Code Chapter 12.

(b) Notwithstanding sections 23-203, 23-205, 23-208, and any other conflicting provisions of this ordinance, the following provisions apply for the 2025 tax year:

(1) All licensees operating in the city holding a valid business license that will expire in 2025 must submit an application for a business license renewal by March 1, 2025.

(2) The renewal application must include the information required by section 23-208 of this ordinance.

(3) Tax for the 2025 tax year is due March 1, 2025 and is delinquent April 1, 2025 if not paid.

(4) A licensee holding a business license that would expire in 2025 will receive a proportionate credit, as determined by the Tax Collector to correct for overlapping license periods.

SECTION 5. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by

a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The People of the City of Belmont hereby declare that they would have passed this Ordinance and each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 6. EFFECTIVE DATE

This ordinance relates to the levying and collecting of the City business license tax and will be in full force and effect 10 days after the certification by the City Council of the election returns indicating passage of the ordinance in the election of November 5, 2024, by the margin of votes required by California Constitution Article XIIC, Section 2(b) for general tax measures.

SECTION 7. OPERATIVE DATE

The taxes imposed by this ordinance will begin being imposed on January 1, 2025.

SECTION 8. CITY COUNCIL APPROVAL.

The City Council of the City of Belmont approved this ordinance for placement on the November 5, 2024 ballot by Resolution 2024-57 adopted by a two-thirds vote of all members.

* * *

This ordinance was submitted to the People of the City of Belmont at the November 5, 2024 election and was adopted by the following vote of the People:

YES:

NO:

ATTEST:

City Clerk

Mayor