CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Ordinance No. 1607 entitled; "An Ordinance of the City Council repealing Chapter 5.04 and 9.16.010B, of the City Code and Adding Chapters 3.01 and 9.16.010B to the City Code entitled: "Business Tax Certification" and "Business Permits"

MEETING DATE: March 1, 1995

PREPARED BY: Finance Director

RECOMMENDATION: Following reading of the title, the City Council adopt Ordinance No 1607.

BACKGROUND INFORMATION: Ordinance No, 1607 was introduced at the regular City Council meeting February 15, 1995 and may be adopted on March 1, 1995 pursuant to State statute after introduction following reading by title.

Resolution No. 95-22 sets the Business License Tax as approved by the City Council February 15, 1995. The tax rates approved are Option 1 for Groups 1 through 5 and Option 3 for Group 6. (Exhibit A)

This Ordinance has been approved as to form by the City Attorney.

FUNDING: Estimated revenues from this ordinance are $200,000 in Fiscal Year 1994-95 and $722,950 in Fiscal Year 1995-96.

H. Dixon Flynn
Finance Director

Attachment

APPROVED: _____
THOMAS A. PETERSON
City Manager

recycled paper

ORDINANCE 1607

AN ORDINANCE OF THE CITY OF LODI REPEALING CHAPTER 5.04. AND 9.16.010 B, OF THE LODI MUNICIPAL CODE AND ADDING CHAPTERS 3.01 AND 9.16.010 B TO THE LODI MUNICIPAL CODE RELATING TO BUSINESS TAX CERTIFICATION AND BUSINESS PERMITS

WHEREAS, the City's business tax ordinance has not been revised since 1948; and

WHEREAS, the City Council established the revision of the business tax ordinance as a high priority at a special Council meeting on December 13, 1994; and

WHEREAS, the staff developed a revised business tax ordinance to improve equity and administrative simplicity and to increase revenues for general municipal purposes; and

WHEREAS, the revised ordinance was presented to the City Council at a public meeting on January 4, 1995; and

WHEREAS, forty-three days have passed between the public meeting on January 4, 1995 and the public hearing on February 15 1995; and

WHEREAS, Chapter 5.04 which provides for the regulation of business is deleted and added as Chapter 3.01 to raise revenues for general municipal purposes; and

WHEREAS, Chapter 9.16.010 B does not include the definition for a solicitor but refers to the definition in Chapter 5.04 which is to be deleted;

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

1. Chapter 5.04, Business Licenses, Taxes and Regulations, is hereby deleted in its entirety. Title 5 is hereby retitled: "Permits and Regulations".

2. New Chapters 3.01, Business Tax Certification is hereby added, as described below.

3. Chapter 9.16.010B, Solicitors and Peddlers is hereby amended as described below.

CHAPTER 3.01
BUSINESS TAX CERTIFICATION

ARTICLE I. GENERAL PROVISIONS

SECTION 3.01.010. PURPOSE

The provisions of this chapter are enacted solely to raise revenue for general municipal purposes and are not intended for regulation.

SECTION 3.01.020 BUSINESS TAX CERTIFICATION REQUIRED

Business taxes are hereby imposed upon all businesses, professions, trades, vocations, enterprises, establishments, occupations, or callings conducting business in the city to which a business tax may lawfully apply, in an amount established by Resolution of the City Council. It shall be unlawful for any person to transact and carry on any business, trade, vocation, enterprise, establishment, occupation, or calling in the City not otherwise exempt without first having procured a business tax certificate from the City or complying with all of the applicable provisions of this chapter.

The business tax certificate shall be evidence only of the fact that such business tax has been paid. Neither the payment of the business tax nor the possession of the business tax certificate shall authorize, permit, or allow the doing of any act which the person paying or holding such business tax certificate would otherwise be entitled to do; nor shall it be construed as permission to conduct or carry on business at any place within the City where the conduct or carrying on of such business is prohibited or fails to comply with the City's zoning, planning, or building regulations, nor shall it be construed as permission to conduct or carry on a business in such a manner as to create or maintain a nuisance.

SECTION 3.01.030. EXEMPTIONS

The following persons and organizations are exempt from the provisions of this Chapter.

A. MINORS UNDER THE AGE OF 18.

Businesses owned and conducted by minors under the age of eighteen (18) years shall be exempt from the business tax provisions of this chapter where all of the following conditions exist and legal documentation is provided to support that:

1. All persons engaged in the operation of the business are under the age of eighteen (18) years, and
2. All persons engaged in the operation of the business have a bona fide ownership interest in the business, and
3. Gross receipts do not exceed $3,000 per year.

B. CHARITABLE, RELIGIOUS, AND NONPROFIT ORGANIZATIONS.

1. *Organization activities.* The provisions of this chapter shall not be deemed or construed to require the payment of a business tax to conduct, manage, or carry on any business, occupation, or activity of any institution or organization recognized by the State of California or Internal Revenue Service of the United States as a "Domestic Non Profit Organization" to conduct business which is wholly for the benefit of charitable, religious, or nonprofit purposes and from which a profit is not derived, either directly or indirectly, by any person.

2. *Nonexempt activities.* The exemption provisions of this section shall not be construed to extend to any person, business, corporation, or organization receiving a fee, wage, stipend, salary, remuneration, compensation, or pay for performance of any business, occupation, or activity related to exempt organization activities. Any such person, business corporation, or organization shall be subject to the business tax provisions of this chapter and shall obtain a Business Tax Certificate prior to any business, occupation, or activity being undertaken in the City.

C. CONFLICTS WITH FEDERAL AND STATE LAWS OR CONTRACTUAL AGREEMENTS. The provisions of this chapter shall not be construed to require a person to obtain a business tax certificate prior to doing business within the City if such requirement conflicts with the applicable statues, laws, or constitution of the United States or the State of California or other contractual obligations or franchise agreements. The Finance Director may develop administrative guidelines concerning exemptions, apportionment, and any other matters which he determines as necessary for the lawful and effective implementation of this Chapter.

D. CERTAIN HOME OCCUPATIONS

1. Every person commencing, transacting, and carrying on in the city any business in his home in a residential zone, not as a nonconforming use, whose annual gross receipts from such business is $3,000 or less shall not be required to pay a business tax.

2. Persons who by reason of age or infirmity are physically unable to earn a livelihood through ordinary means of labor or business, whose annual gross receipts from such business is $5,000 or less shall not be required to pay a business tax.

E. PUBLIC UTILITIES

Public utilities engaged in providing services or commodities to the City of Lodi under a franchise agreement shall not be required to pay a business tax.

F. DISABLED VETERANS

Veterans of the armed forces of the United States qualified under the provisions of the Business & Professions Code Section 16001 shall not be required to pay a business tax.

G. RESIDENTIAL RENTAL UNITS

Persons renting four or less residential units within the City shall not be required to pay a business license tax.

H. STREET FAIRS AND SPECIAL EVENTS

Sponsors of street fairs or special events may request the City Council to waive the Business License Tax in part or whole for participants of a street fair or special event when the waiver is for a limited period of time and a participant does not otherwise conduct business within the City of Lodi either directly or indirectly by positing, advertising or other means as described in Section 3.01.470 below; and, when the City Council determines a blanket waiver of the Business License Tax for a street fair or special event is in the best interest of the City

SECTION 3.01.040 DEFINITIONS

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

A. "Business" shall mean and include professions, trades, vocations, rentals, leases, enterprises, establishments, and occupations and all and every kind of calling, any of which is conducted for the purpose of earning in whole, or in part, a profit or livelihood, whether or not a profit or a livelihood actually is earned thereby, whether paid in money, goods, labor, or otherwise, and whether or not the business has a fixed place of business in the City.

B. "Finance Director" shall mean the individual designated by the City Manager to collect business taxes pursuant to the provisions of this chapter.

C. "Gross Receipts" shall mean and include the total amounts received or receivable from sales, services, rentals, or leases in the total amounts 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 a credit allowed, whether or not such act or service is done as a part of, or in connection with, the sale or rental of materials, property (real or personal), goods, wares, or merchandise. Included in "gross receipts" shall be receipts, cash, credits, and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, rented or leased, the cost of the materials used, labor and service costs, interest paid or payable, or losses or other expenses whatsoever.
Excluded from "gross receipts" shall be the following:

1. Cash and jobber discounts (which reduce selling price and ultimate receipts from sale);

2. Any tax (such as a sales tax, use tax, gas tax, transient occupancy tax, real property transfer tax) which is measured by the sales price and is included in the purchase price and collected from the consumer or purchaser;

3. Any refund that is granted, either in cash or credit, to a purchaser who returns property upon the rescission of a contract of sale;

4. Amounts received by persons acting as agents, brokers or trustees, where such amounts have been collected for and are paid to another party (e.g., amounts collected by salesmen and transmitted to manufacturer or distributor; trust funds received and transmitted by trustee; fees separately itemized on statements and forwarded to a subcontractor or fee consultant as payment for services rendered, provided that a list of subcontractors or consultants and amounts paid is reported to the city; receipts collected for and subsequently paid to a lessor, provided that the name of the lessor and the amount paid is reported to the city);

5. Amounts received as refundable deposits, except those amounts that are forfeited and subsequently taken as business income;

6. Any credit that is granted for property provided by the consumer or purchaser as part of the purchase price (trade-in merchandise), provided that the value of property taken is reported in gross receipts when sold to someone else;

7. Bad debts, when credits are reported in total in the first year and prove uncollectible in a subsequent year;

8. Passive income (e.g., interest on investments, dividends, occasional sale of property or surplus equipment, etc.); and

9. Receipts not taxable by virtue of provisions included in the Federal or State Constitution.

E. "Person" shall mean and include all domestic and foreign corporations, associations, syndicates, joint-stock corporations, partnerships of every kind, clubs, Massachusetts trust, business, and other common law trusts, societies, and individuals transacting and carrying on any business in the City, other than an employee.

F. "Sworn Statement" shall mean an affidavit sworn to before a person authorized to take oaths or a declaration or certification made under the penalty of perjury.

G. "Gross receipts subject to the business tax" shall be that portion of gross receipts relating to business conducted within the City. For businesses with their headquarters located within the City of Lodi, their total gross receipts shall be deemed to be related to business conducted within the City unless an apportionment of gross receipts is requested by the business pursuant to Section 3.01.490 of this chapter.

SECTION 3.01.050 BUSINESS CLASSIFICATIONS

For purposes of this chapter, the broad classifications used in this chapter are defined as follows:

A. **"Administrative Headquarters"** - Any business operation where the principal business transacted consists of providing administrative or management related services such as, but not limited to, record keeping, data processing, research, advertising, public relations, personnel administration, legal and corporate headquarters services, to other locations where the operations of the same business are conducted which lead more directly to the production of gross receipts.

B. **"Contractors"** - Any person who is licensed as a contractor by the State of California and who undertakes to or offers to undertake to or purports to have the capacity to undertake to or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, 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, is defined as a contractor. The term contractor includes subcontractor and specialty contractor.

C. **"Manufacturers"** - Any person conducting, managing or carrying on a business consisting mainly of manufacturing, packing, or processing any goods, wares, merchandise or produce.

D. **" Professions"** - Any person, group, association, partnership, firm or corporation engaged in a profession or vocation licensed by the State, related to a licensed profession or vocation, and/or requiring a period of specialized training such as, but not limited to, physicians, dentists, attorneys, and accountants.

E. **"Public Utilities"** - Any person, including the City of Lodi, engaged in the business of providing utility services to the general public or to private businesses including such services as electrical, gas, sanitary and garbage, water, sewer, cable television and telephone.

F. **"Recreation and Entertainment"** - Any person engaged in the business of providing directly recreation, entertainment, or amusement services.

G. **"Rental of Residential Property"** - Any person engaged in the business of renting or letting a building or structure to a tenant for purposes of dwelling, sleeping or lodging (i.e., apartment, duplex, condominium or other residential property rental excluding hotels and motels).

H. **"Rental of Non-Residential Property"** - Any person engaged in the business of renting or letting a building or structure to a tenant for purposes of conducting business (i.e., commercial retail space, office buildings, warehouses or other non-residential property use). Space occupied by the owner is exempt.

I. **"Retail"** - Any person conducting, managing or carrying on the business consisting mainly of selling at retail any goods.

J. **"Services"** - Any business providing services, repairs or improvements to or on real and personal property; renting or leasing personal property to businesses or persons; involving the operation of hotel or motel; providing services to persons such as, but not limited to, laundries, cleaning and dyeing, shoe repair, barber and beauty shops, photographic studios, and transportation.

K. **"Wholesale"** - Any person conducting, managing or carrying on the business consisting mainly of selling at wholesale any goods.

L. **"Miscellaneous"** - Any person engaged in a business not specifically described by other provisions of this ordinance and not otherwise exempt.

SECTION 3.01.060. SAVINGS CLAUSE
The provision of this chapter are severable. Should any portion of this chapter be deemed invalid by a court of competent jurisdiction, the provisions of Chapter 3.01 shall remain in full force and effect.

ARTICLE II. TAX AMOUNTS

SECTION 3.01.110. TAX BASIS
The amount of the business tax to be paid by the applicant shall be paid at a rate determined by the business classification established by resolution of the City Council.

SECTION 3.01.120. TAX RATE
The tax rate for all businesses shall be set by Resolution of the City Council.

SECTION 3.01.130. MINIMUM TAX
The minimum tax shall be paid in full on application for a Business License Certificate and shall not be prorated for the calendar year of January 1 through December 31.

SECTION 3,01.140. PAYMENT SCHEDULE
When the Business License Tax is greater than $750, the tax may be paid to the City in four equal installments due January 31, April 30, July 31 and October 31.

ARTICLE III. APPLICATION AND RENEWAL

SECTION 3.01.210. BUSINESS TAX CERTIFICATE APPLICATIONS
Every person required to have a business tax certificate pursuant to the provisions of this chapter shall make a written application to the Finance Director and submit the following information:

A. The nature or kind of business for which the business tax certificate is requested;

B. The place where the business is to be conducted and, if the business is not to be conducted at a permanent location, the residence address, identified as such, of the owners of the business;

C. If the application is made for the issuance of a business tax certificate to a person to do business under a fictitious name, the names, social security numbers, and residence addresses of the owner(s) of the business;

D. If the application is made for the issuance of a business tax certificate to a corporation or partnership, the names, franchise tax number, and residence addresses of the officers or partners thereof; and

E. Any further information which the Federal or State Taxing authority or the Finance Director may require to enable the issuance of the business tax certificate.

SECTION 3.01.220 BUSINESS TAX CERTIFICATE RENEWALS
In all cases, the applicant for the renewal of the business tax certificate required by the provisions of this chapter shall submit to the Finance Director a written statement, upon a form provided by the Finance Director, written under penalty of perjury or sworn to before a person authorized to administer oaths, setting forth the actual gross receipts earned the preceding calendar or fiscal year as reported to any Federal or State taxing authority to which gross receipts are reported to enable the Finance Director to ascertain the amount of the business tax to be paid. Unless otherwise specifically provided, all annual business taxes required by the provisions of this chapter shall be due and payable on January 1st of each year and shall be delinquent on January 31st of each year.

No renewal of a business tax certificate shall be issued until payment in full of all delinquent business taxes, including accrued interest and applicable penalties thereon is received by the City. It shall be the responsibility of the applicant to ensure renewal of the business tax certificate.

ARTICLE IV. BUSINESS TAX CERTIFICATE ISSUANCE

SECTION 3.01.310. CONTENT

All business tax certificates required by the provisions of this chapter, unless otherwise provided in this chapter, shall be prepared and issued by the Finance Director upon the payment to the City of the proper amount of business tax. Each business tax certificate shall state upon the face thereof the following:

A. The name of the person to whom the business tax certificate is issued

B. The type of business taxed

C. The location or address of the business taxed

D. The date of the expiration of the business tax certificate

E. That the possession of the business tax certificate shall not authorize, permit, or allow the person to do any act which such person would not otherwise be lawfully entitled to do.

SECTION 3.01.320. POSTING AND KEEPING

All business tax certificates issued pursuant to the provisions of this chapter shall be posted and kept in the following manner:

A. Any persons transacting and carrying on the business at a permanent location in the City shall keep such business tax certificate posted in a conspicuous place upon the premises where such business is carried on.

B. Any persons transacting and carrying on business, but not operating at a permanent location in the City, shall keep such business tax certificate upon them at all times while transacting and carrying on such business.

SECTION 3.01.330. DUPLICATES

A duplicate business tax certificate may be issued by the Finance Director to replace any business tax certificate previously issued pursuant to the provisions of this chapter, which business tax certificate has been lost or destroyed, upon the filing of a statement of such fact and the payment of a duplicate fee set by resolution of the City Council.

SECTION 3.01.340. BRANCH ESTABLISHMENTS

A separate business tax certificate shall be issued for each branch establishment or location of business; provided, however, warehouses and distribution plants used in connection with, and incidental to, a business tax pursuant to the provisions of this chapter shall not be deemed to be separate places of business or branch establishments; and provided, further, any person conducting two (2) or more types of business at the same location and under the same management, or at different locations, but which businesses use a single set or integrated set of books and records, may elect to pay only one business tax calculated on all the gross receipts of the businesses, except that a fee set by resolution of the City Council shall be paid upon issuance for each additional branch or location.

SECTION 3.01.350. CHANGE OF LOCATION

No business tax certificate issued pursuant to the provisions of this chapter shall be transferable; provided, however, where a business tax certificate is issued for a person to transact and carry on a business at a particular place, such person, upon an application therefor and the payment of a fee set by resolution of the City Council, may have the business tax certificate reissued for transacting and carrying on of such business under such business tax certificate at some other location to which it is to be moved.

ARTICLE V. ADMINISTRATION

SECTION 3.01.410. CERTIFICATION OF RECORDS

A. **CONCLUSIVENESS OF STATEMENTS.** No statement required by the provisions of this chapter shall be conclusive as to the matters set forth therein, nor shall the filing of such statements preclude the City from collection by appropriate action such sums as are actually due and payable pursuant to the provisions of this chapter. Such statements and each of the several items therein contained shall be subject to certification by the Finance Director, the deputies of the Finance Director, or authorized employees or representatives of the City, who are hereby authorized to examine such books and records of any certificate holder or applicant for a business tax certificate as may be necessary in their judgment to verify or ascertain the amount of the business tax due.

B. **RECORD RETENTION.** All persons subject to the provisions of this chapter shall keep complete records of all business transactions and shall retain such records for examination by the Finance Director, the deputies of the Finance Director, or authorized employees or representatives of the City, and maintain them for a period of at least three years from the annual due date of the federal tax return or the City business tax return, whichever time period is greater. Records which shall be maintained for audit purposes shall include State and Federal income tax returns, schedules and records included in such returns, and any and all work papers used to prepare such returns.

C. **EXAMINATION OF RECORDS.** All business tax certificate holders, applicants for business tax certificates, and persons engaged in business in the City are hereby required to permit an examination of such books and records for the purposes set forth in this section during regular business hours and at reasonable times.

D. **INTEREST AND PENALTIES.** If, subsequent to the examination, it is determined that the business has been delinquent or has non-reported or under-reported gross receipts, thereby underpaying business taxes, the certificate holder shall pay to the City within ten (10) days of notification of the determination of the amount of tax due, interest in the amount equal to the current rate for ninety (90) day Treasury Notes from the date the tax was due, and a penalty in the amount of the business tax due. Interest shall continue to accrue on the additional tax amount until such amount is paid in full. A mistake made in stating the amount of the business tax shall not, in any case, prevent or prejudice the Finance Director from collecting what is actually due from any person or entity carrying on a trade, calling, profession, or occupation subject to a business tax under this chapter.

E. **DETERMINATION OF TAX AMOUNTS DUE.** If any person subject to the tax imposed by this chapter fails to submit information required, or if the Finance Director is not satisfied with records and statements filed, the Finance Director shall determine the amount of the business tax due from such person by means of such information as may be obtainable and shall mail a notice of the amount so assessed by serving it personally or by depositing it in the United States Post Office at Lodi, California, postage prepaid, addressed to the person at their last-known address.

SECTION 3.01.420. INFORMATION CONFIDENTIAL

It shall be unlawful for the Finance Director or designee, or any person having an administrative duty pursuant to the provisions of this chapter, to make known in any manner whatever the business affairs, operations, or financial information obtained by an investigation of the records of any person required to obtain a business tax certificate, or pay a business tax, or any other person visited or examined in the discharge or the official duty of the Finance Director, or of the amount or source of income, profits, losses, or expenditures, or any particular thereof, set forth in any statement or application, or amended statement or application, or copy of either, or in any book containing any abstract or particulars therein to be seen or examined by any person; provided, however, the provisions of this section shall not be construed to prevent:

A. Disclosure to, or the examination of records and equipment by, another City official, employee, or agent for the collection of taxes for the sole purpose of administering or enforcing the provisions of this chapter or collecting the business taxes imposed by the provisions of this chapter;

B. The disclosure of information to, or the examination of records by, Federal or State officials, or the tax officials of another city or county, if the reciprocal arrangement exists, or to a grand jury or court of law upon a subpoena;

C. The disclosure of information and the results of examination of records of particular taxpayers, or relating to particular taxpayers, to a court of law for proceedings brought to determine the existence of the amount of any business tax liability of such particular taxpayers of the City;

D. The disclosure, after the filing of a written request to the effect, to the taxpayer, or to the taxpayers' successors, receivers, trustees, executors, administrators, assignees, or guarantors if directly interested, of information as to items included in the measure of any paid business tax, any unpaid business tax, or any amount of business tax required to be collected, including interest and penalties; further provided, however, that the City Attorney shall approve each such disclosure, and the Finance Director or designee may refuse to make any disclosure referred to in this subsection when, in their opinion, the public interest would suffer thereby;

E. The disclosure of the names and business address of persons to whom business tax certificates have been issued and the general type and nature of their business;

F. The disclosure, by way of public meeting or otherwise, of such information as may be necessary to the City Council in order to permit the City Council to be fully advised as to the facts if a taxpayer files a claim for the refund of business taxes, or submits an offer of compromise with regard to a claim asserted against them by the City for business taxes, or when acting upon any other similar matter; and

G. The disclosure of general statistics regarding business taxes collected or business done in the City.

SECTION 3.01.430. FINANCE DIRECTOR ADJUSTMENT POWERS
The Finance Director shall have the power, for good cause shown, and documented by the Finance Director as a permanent record:

A. To extend the time for filing any required sworn statement;

B. To waive any penalties which would otherwise have accrued;

C. To adjust the amount of the business tax due;

D. To make refunds or prorations of taxes paid; and

E. To establish a basis or "proxy" to calculate gross receipts for those businesses and classes of business which do not have a "gross receipts" on which to base the tax, i.e. administrative headquarters.

SECTION 3.01.440 DEBT TO CITY
The amount of any business tax and penalty imposed by the provisions of this chapter shall be deemed a debt to the City. A suit may be brought against any person to enforce the collection of the debt described in this Chapter in any court of competent jurisdiction.

The conviction of any person for transacting any business without a certificate shall not excuse or exempt such person from payment of any license due or unpaid at the time of such conviction and nothing herein shall prevent a criminal prosecution for any violation of the provisions of this Chapter.

SECTION 3.01.450. DELINQUENCIES AND PENALTIES
For failure to pay the business tax required by the provisions of this chapter prior to the delinquency date, the Finance Director shall add a penalty of Ten and no/100ths ($10.00) or ten percent (10%) of the business tax, whichever is the greater, on the first day of each month after the delinquency thereof; provided, however, the total amount of such penalty to be added in no event shall exceed one hundred percent (100%) of the amount of the business tax due.

SECTION 3.01.460. ENFORCEMENT

A. **DUTIES OF THE FINANCE DIRECTOR AND CHIEF OF POLICE.** It shall be the duty of the Finance Director to enforce each and all of the provisions of this chapter, and the Chief of Police shall render such assistance in such enforcement as may from time to time be required by the Finance Director.

B. **INSPECTIONS.** The Finance Director, in the exercise of the duties imposed by the provisions of this section, and acting through deputies of duly authorized assistants, shall have the right to enter and examine all places of business free of charge during normal business hours to ascertain whether the provisions of this chapter are being complied with.

C. **PENALTY FOR VIOLATION.** Any person who violates any provision of Section 3.01.102 by transacting and carrying on any business, trade, vocation, enterprise, establishment, occupation, or calling in the City without first having procured a business tax certificate is guilty of an infraction and is subject to punishment as provided for in Chapter 1.12 of this municipal code.

SECTION 3.01.470 EVIDENCE OF DOING BUSINESS

When any person, by the use of a sign, circular, card, telephone book, newspaper, other publication, or advertising media, shall advertise, hold out, or represent that they are in business in the City, or when any person holds an active license or permit issued by a government agency indicating that they are conducting a business in the City, and such person fails to deny, by a sworn statement given to the Finance Director or designee, that they are not conducting a business in the City after being requested to do so by the Finance Director or designee, then these facts shall be considered prima facie evidence that such person is conducting a business in the City.

SECTION 3.01.480. REMEDIES CUMULATIVE.

All remedies prescribed by the provisions of this chapter shall be cumulative, and the use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.

SECTION 3.01.490 APPORTIONMENT

When the business tax imposed by this Chapter cannot be enforced without there being an apportionment according to the amount of business done in the City of Lodi, apportionment rules shall be established by the Finance Director. The Finance Director shall conduct an investigation and shall fix as the business tax for the applicant an amount that is reasonable and nondiscriminatory or, if a business tax has already been paid, shall order a refund of the amount over and above the business tax so affixed. In fixing the business tax to be charged, the Finance Director shall have the power to base the business tax upon a percentage of gross receipts, operating expenses, floor space, payroll, number of employees, business taxes paid to other cities, or any other measure which will assure that the business tax assessed shall be uniform with the amount of business done in the City of Lodi, or of businesses of a like nature, so long as the amount assessed does not exceed the business tax set forth in this Chapter.

SECTION 3.01.500 APPEALS

A. Any tax payer aggrieved by a decision of the Finance Director with respect to the issuance or refusal to issue a business tax certificate may appeal such decision by first submitting a written request to the City Manager for an administrative hearing by the City Manager or his designee who shall have the power, for good cause shown to:

1. Waive any penalties which would other wise accrued;

2. Adjust the amount of the business tax due;

3. Make refunds or prorations of taxes paid; and

4. Establish a basis or "proxy to calculate the tax .

B. Any tax payer dissatisfied with the decision of the City Manager or his designee following an administrative hearing may appeal to the city council by filing a notice of such appeal with the city clerk. The city council shall thereupon fix a time and place for hearing such appeal. The city clerk shall give notice to such person of the time and place of hearing by serving it personally or by depositing it in the United States Post Office at Lodi, California, postage prepaid, addressed to such person at his last-known address.

ARTICLE VI. IMPLEMENTATION

SECTION 3.01.510. IMPLEMENTATION OF REVISED PROVISIONS

For business tax renewals due between January 1, 1995 and April 1, 1995, the tax rate upon renewal will be the amount of tax paid in 1994 but not less than the minimum tax set by resolution of the City Council.

The Finance Director shall have the power, for economic hardship or financial impact on any one business, to adjust the amount of the business tax due through January 1997.

Chapter 9.16.010 Definitions, is hereby added to read as follows:

9.16.010 Definitions.

B. "Solicitor" means any person who takes orders, or offers to sell or take orders for any goods, wares, merchandise or thing, for future delivery, or for services to be performed, at any place in the city other than a fixed place of business, and who does not follow a fixed route or serve prospective purchasers in the city regularly or continuously. "Solicitor" does not include salesmen or agents for wholesale houses or firms who sell to retail dealers for resale or sell to manufactures for manufacturing purposes or to bidders for public works or supplies, or newspaper carriers.

All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

This ordinance is for the usual and current expenses of the City and is adopted pursuant to Government Code 36937(d). This ordinance shall be published one time in the Lodi News Sentinel, a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect immediately upon its passage and approval.

Approved this 1st day of March 1995

Stephen J. Mann, Mayor

Attest:

Jacqueline L. Taylor
Acting City Clerk

State of California
County of San Joaquin, ss

I, Jacqueline L. Taylor, Acting City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1607 was introduced at a regular meeting of the City Council of the City of Lodi held February 15, 1995 and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held March 1, 1995 by the following vote:

Ayes:	Council Members -Pennino, Sieglock, Mann (Mayor)
Noes:	Council Members -Davenport, Warner
Absent:	Council Members - None
Abstain:	Council Members - None

I further certify that Ordinance No. 1607 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

Jacqueline L. Taylor
Acting City Clerk

Approved as to Form

Bobby W. McNatt
City Attorney

RESOLUTION NO 95-22

A RESOLUTION OF THE LODI CITY COUNCIL SETTING THE TAX RATES FOR THE BUSINESS LICENSE TAX PROVIDED IN NEW CHAPTER 3.01 OF THE LODI MUNICIPAL ORDINANCE AND WAIVING LATE PENALTIES ON BUSINESS LICENSE TAXES DUE JANUARY 1, 1995 REQUIRED UNDER CHAPTER 5.04 OF THE LODI MUNICIPAL CODE

WHEREAS, the City Council adopted Chapter 3.01 of the Lodi Municipal Code , Business Tax Certification; and

WHEREAS, Article II, Tax Amounts, requires the business tax rates to be set by resolution of the City Council, and

WHEREAS, the City Council has held a public meeting on January 4, and a public hearing on February 15, 1995 to take public testimony; and,

WHEREAS, at a special City Council meeting on December 13, 1994, the City Council directed the Finance Department to delay the collection of the business license tax due January 1, 1995 until after hearings on a new business license ordinance and tax rates.

NOW, THEREFORE BE IT RESOLVED by the Lodi City Council as follows:

1. The tax rates required by Article II, Chapter 3.01, Business Tax Certification, and listed in Table 1 are hereby adopted.

2. The estimated revenue from the business license tax is $722,950.

3. Late penalties charged for payment of the Business License Tax after January 31, 1995 under the provisions of Chapter 5.04, Business Licenses, Taxes and Regulations, are waived.

BE IT FURTHER RESOLVED that this Resolution No 95-22 shall become effective concurrent with Ordinance No. 1607 (March 2, 1995)

Dated: February 15, 1995

I hereby certify that Resolution No. 95-22 was passed and adopted by the City Council of Lodi in a regular meeting held February 15, 1995 by the following vote:

Ayes: Council Members - Pennino, Sieglock, and Mann (Mayor)

Noes: Council Members -Davenport and Warner

Absent: Council members - None

Jacqueline L. Taylor
Acting City Clerk

BUSINESS LICENSE TAX RATES - TABLE 1		
Business Classification	**Minimum Tax ***	**Tax Rate**
Retail and Services		
Wholesale		
Contractors		
Public Utilities		
Administrative Headquarters		
$0 to $200,000	$50	$50
$200,001 to $500,000		$98
$500,001 to $900,000		$210
$900,001 to $3,000,000		$450
$3,000,001 to $10,000,000		$.60/ $1,000
$10,000,001 and greater		$1.00./$1,000
GROUP 2		
Rental Residential Property		
Rental Non-Residential Property		
Gross Receipts	$50	$.60/ $1,000
GROUP 3		
Professions		
$0 to $75,000	$50	$50
$75,001 to $300,000		$110
$300,001 to $500,000		$250
$500,001 to $1,500,000		$525
$1,500,000 to $5,000,000		$1,100
$5,000,001 and greater		$.60/ $1,000
Recreation and Entertainment		
Hotel/Motel Services		
$0 to $150,000	$50	$50
$150,001 to $300,000		$85
$300,001 or greater		$.30/ $1,000
Automobile Dealers		
Square Feet of Building Space Occupied	$200	$.02/Sq Ft
Manufacturers		
Options **	$200	See Options

* Minimum tax due in the first calendar year of business in Lodi (not prorated)

** Not to exceed $4,000 per year

BUSINESS LICENSE TAX RATES - TABLE 1 continued		
Business Classification	**Minimum Tax ***	**Tax Rate**
Square Feet of Building Space Occupied	$200	$.01/Sq Ft
1st thru 10th Employee	$200	$200
11th thru 25th Employee		$10
26th thru 100th Employee		$7
101st thru 200th Employee		$5
Over 200 Employees		$2

The Group 6 tax rate will be a rate established by the Finance Director on application by the manufacturer and based on either gross receipts, gross payroll, square feet of occupied space or number of employees as determined to be fair and equitable. The tax rate and tax method may be adjusted to foster implementation of new rates over three years and when the economic conditions of the City or manufacturer require an adjustment.

The tax rate and tax method will be set on a business by business basis with the minimum tax set at $200 per year and the tax ceiling set at $4,000 per year. The tax rate, tax method, minimum tax and tax ceiling will be reviewed and adjusted once every five years based on inflation. and the economic conditions of the tax payor.

BUSINESS LICENSE TAX REVENUES

Business Classification	No of Businesses	Estimated Receipts	Estimated Revenues
GROUP 1			
Retail and Services			
Wholesale			
Contractors			
Public Utilities			
Administrative Headquarters			
$0 to $200,000	1850		$ 92,500
$200,001 to $500,000	645		$ 63,210
$500,001 to $900,000	270		$ 56,700
$900,001 to $3,000,000	100		$ 45,000
$3,000,001 to $10 Million	70	$355 Millior	$ 213,000
$10 Million and greater			$ 118,000
GROUP 2			
Rental Residential Property			
Rental Non-Residential Property			
Gross Receipts	300	30.6 Millio	$ 18,360
GROUP 3			
Professions			
$0 to $75,000	150		$ 7,500
$75,001 to $300,000	125		$ 13,750
$300,001 to $500,000	45		$ 11,250
$500,001 to $1,500,000	8		$ 4,800
$1,500,000 to $5,000,000	2		$ 2,200
$5,000,001 and greater			$ -
GROUP 4			
Recreation and Entertainment			
Hotel/Motel Services			
$0 to $150,000	52		$ 2,600
$150,001 to $300,000	28		$ 2,380
$300,001 and greater	10	$5 M	$ 1,500
Automobile Dealers			
Square Feet of Building Space Occupied **	7		$ 4,200
Manufacturers			
Proxy	328	6.6 M	$ 66,000
TOTAL REVENUES	**4,000**	**-**	**$ 722,950**