CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Public Meeting To Consider A Revised Business Tax Ordinance

MEETING DATE: January 4, 1995

PREPARED BY: Finance Director

RECOMMENDATION: That the City Council conduct a Public Meeting to consider the following recommendations set for a Public Hearing on February 15, 1995:

a. To adopt Chapter 3.01 of the Municipal Ordinance titled "Business Tax Certification"; and, to amend Chapter 9.16.010B of the Municipal Ordinance to define "solicitor". (Exhibit A)

b. To delete Chapter 5.04 of the Municipal Ordinance titled: "Businesses Licenses Generally". (Exhibit B)

c. To adopt the attached Resolution setting the tax rates by business classification as provided under Chapter 3.01, Article II of the new Municipal Ordinance and to waive penalties for late payments under Chapter 5.04 of the old Municipal Code. (Exhibit C)

BACKGROUND: At a special Council meeting on December 13, 1994, the City Council directed staff to return with a revised business tax ordinance and tax rates by January 1995; and, further directed staff to delay the collection of business license taxes due January 1, 1995.

Financing services and new facilities

The City Council will consider a number of requests to expand City services and to construct new public facilities in the current fiscal year and fiscal year 1995-96. This includes the implementation of an economic development plan to revitalize downtown, the beautification of Cherokee Lane, additional code enforcement for East side residential areas, increasing the number of police officers, adding additional fire services and facilities, park improvements, construction of a performing arts center and construction of a recreation center.

The City's current funding levels will not support any significant increases in services or provide funds to finance major capital projects. Over the last three years the City has balanced the annual budget by cutting services by imposing a hire freeze, cutting 32 staff positions and deferring maintenance programs. Current revenues will allow for some growth in services but will not provide the funds necessary for financing significant changes in services or major capital projects.

APPROVED: Thos. A. Peterson

THOMAS A. PETERSON
City Manager

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Alternative funding sources
The City has several funding sources which could be used to finance new services and capital projects. The following is a list of possible revenue sources that could be used to raise additional revenues. This is not a comprehensive list of all possible revenues but is a list of revenues which do not require a two thirds vote of the general public to be enacted by the City Council.

Assessment Districts
The City has not used assessment districts to finance public improvements or capital maintenance to any extent over the last 20 years. The last assessment district formed by the City was in 1984 to finance a downtown beautification project. Assessment districts could be used more extensively to finance maintenance programs, capital projects and to a limited extent, operating programs. The advantage of an assessment district is that the cost of a project or service is paid for by the beneficiary and not the public from general fund revenues. Assessment districts are used extensively by cities with aggressive growth policies. Assessment districts may require a vote of the benefit group or may be subject to a majority protest.

Redevelopment Agency
The City does not have a redevelopment agency. A redevelopment agency can provide significant revenues to finance economic development and abate blight; however, it requires at least 5 years before the revenues increase to a level necessary to make a significant impact on city services. In addition, start up costs can be high. The City should seriously consider forming a redevelopment agency to finance economic development and to abate blight; however, this is a long term solution to financing services and capital projects.

Increased fees
The City has increased user charges and service fees over the last 3 to 5 years to pay for the cost of existing services and to finance the impact of growth on public facilities. Under current City Council policy, fees will continue to be adjusted to match changes in the cost of services. As such, fees will not provide additional funds for general municipal purposes but will continue to ensure that these services do not require added subsidies from the general fund. The following is a list of fees which have increased over the last five years.

- Electric Rates
- Sewer Rates
- Garbage Rates
- Fees for recreation programs
- Fees for park and facility use
- Other miscellaneous fees for building inspection, public safety, finance and administration
- Impact fees for capital facilities

Added tax revenues
The instability of tax revenues over the last three years has been a major source of the City's difficulty in balancing the annual budget. The shift of the $1.1 million in property taxes to the State resulted in significant cuts in the City's staffing and services.

Sales taxes have grown with the economy for several years and should continue to grow at a rate which reflects the City's plans to promote economic development. San Joaquin County has been benefiting from a shift in population and business from the large metropolitan areas to less expensive and less congested Valley communities. Accordingly, sales taxes have grown, jobs have increased and business has prospered. The City anticipates that sales taxes will continue to grow and provide the revenues necessary to finance growth of existing services over the next two to five years. However, it is important to remember that sales taxes are not a stable source of revenue and are subject to the ups and downs of the economy.

There are two tax sources which could have an immediate impact on City revenues and could be used to finance new services and capital facilities, a utility user's tax and the business license tax. These are relatively stable tax sources and could be adopted by the City Council without a public vote for general fund purposes.

The utility user's tax is considered to be one of the most equitable tax sources for general fund purposes. It is a broad based tax which is relatively stable. The utility user's tax is paid by the public for use of public utilities, i.e. water, sewer, electric, telephone, cable television, garbage, etc. With a broad tax base (number of utility customers versus number of businesses) the utility user's tax rate can raise more revenue than the business license with a similar tax rate. As such, the utility user's tax can be spread over a larger population than the business license tax and be a lesser burden to each taxpayer. However, the utility user's tax has been a very unpopular tax in many cities where it has been adopted and for this reason is not being considered at this time.

The current Business License Tax has been in effect since 1948 and has not been changed since first approved by the City Council. The current tax is a flat rate tax based on the number of employees. The revenue from the business license tax has increased since 1948 from $15,000 per year to $90,000 per year as the number of employees and businesses in Lodi have grown; but it has not kept pace with inflation. Accordingly, the revenues from the business license tax contribute less and less each year to the funds used for general municipal purposes. In addition, there have been a number of legislative changes over the last 46 years which have not been incorporated into the City's current ordinance which should be corrected at this time.

Public/Private partnerships

For many years, the City has been fortunate to receive a high level support from the private sector in financing public projects, particularly for park expansion and improvements and for the construction of cultural facilities. Private donations have allowed Lodi to provide public facilities and purchase equipment which might not otherwise have been purchased or constructed, i.e., donations by individuals and service clubs to finance park expansion and improvements, donations by the Hutchins Street Square Foundation to finance renovation and expansion of Hutchins Street Square, and donations by the business community to purchase vehicles and equipment for police services.

The City should continue to nurture and support private participation in community projects and take pride in the fact that there are so many citizens willing to donate their funds and time to important public projects. However, the private sector is not a normal source of funding for operating and maintaining public facilities. Once the private sector has funded the construction of a public facility, it becomes the public sector's responsibility to fund the long term cost of operating and maintaining this facility.

BUSINESS LICENSE TAX

In the last year the City has had two consultants recommend that the City revise the business license tax ordinance (Ralph Anderson & Associates and Friedman, Tung, and Bottomley). Their recommendation was made for several reasons and include:

- To finance the public share of downtown revitalization and Cherokee Lane Beautification at $4.8 million and $138,000 per year in annual maintenance costs
- The current ordinance and tax rates have not been changed since 1948.
- The business tax provides the City with .5% of the total general fund revenue compared to the statewide average of 5.8%.
- The tax rate is based on number of employees and is regressive.
- The current ordinance places an unfair tax burden on labor intensive businesses
- Similar types of business are treated differently
- Not all businesses are subject to the tax

In December 1993, the City reviewed a proposal by Ralph Anderson & Associates to change the City's business license ordinance and tax structure. Their recommendation included the following changes:

- That the City adopt a business classification system based on the standard industrial codes and group similar businesses for taxing purposes into three business classes based on profitability.
- That the City impose taxes based on "gross receipts" ranging from $.20 to $.90 per $1,000 of gross receipts.

Review Process

Beginning in February 1994, the City staff and the Chamber of Commerce held a number of public meetings with citizens, the Chamber of Commerce and the business community to review the tax rates proposed by Ralph Anderson & Associates. In March, the Chamber of Commerce conducted a random survey of its' membership to determine whether there was support for a change in the business license tax or not.

The survey found that the majority of the members would support an increase in the business license tax and that a flat rate tax was favored by 61%, gross receipts was favored by 27%, no fee increase was favored by 10% and a combination of gross receipts and flat rate was favored by 2%.

Based on this information the City Council directed staff to develop alternative tax rates for review by the Chamber of Commerce, the public and the City Council. Staff made adjustments to the recommendation by Ralph Anderson & Associates and developed a flat rate tax based on gross receipts and square feet of space occupied. Prior to the presentation of the new tax rates, the City Council decided to defer any decision on the business license tax until after the need for new taxes is apparent. Table 1 shows optional tax rates recommended by staff. Table 2 shows the estimated revenues that should be received if these rates are approved.

Estimated Revenues

The estimated revenues shown in Table 2 range from $600,000 to $886,000. It must be noted that these estimates are based on a limited source of information available to the City on which to estimate revenues. These estimates are a best guess and may be materially different if the tax is approved and revenues collected.

Late Penalties

Under Chapter 5.04.170 of the Municipal Code, the Finance Director is required to add a penalty of 10% of the business tax due for each month the tax is delinquent. At the December 13, 1994 Council Meeting, the Council directed staff to delay collection of the business tax for 1995 until a decision is made on changing the tax rates. Accordingly, the staff recommends that the City waive penalties for taxes due January 1, 1995.

Schedule

The following is the schedule of meetings and hearings which must be held to adopt a change in the business license ordinance and tax rates.

• Set Public Meeting	December 21, 1994
• Public Meeting	January 4, 1995
• Public Hearing	February 15, 1995
• Second Reading	March 1, 1995
• Effective Date of Chapter 5.01 of the Municipal Ordinance	March 2, 1995
• Taxes Due	April 1, 1995

Dixon Flynn
Finance Director

Attachments

Tax Rates (Table 1)
Tax Revenues (Table 2)
Draft Ordinance 3.01 and Amended Ordinance 9.16.010B
Ordinance 5.04
Resolution to Adopt Tax Rates

BUSINESS LICENSE TAX RATES

TABLE 1

Business Classification	Minimum Tax *	Option 1	Option 2	Option 3
Retail and Services				
Gross Receipts				
$0 to $200,000	$30	$40	$30	$20
$200,001 to $500,000	$30	$90	$70	$50
$500,001 to $900,000	$30	$150	$110	$80
$900,001 to $5 million	$30	$.60/ $1,000	$.55/$1,000	$.50/$1,000
$5,000,001 and greater	$30	$.90/$1,000	$.75/$1.000	$.60/$1.000

GROUP 2

Contractors				
Rental Residential Property				
Rental Non-Residential Property				
Gross Receipts	$30	$.60/$1,000	$.55/$1,000	$.50/$1,000
Public Utilities				
Administrative Headquarters				
Gross Receipts	$30	$.40/$1,000	$.35/$1,000	$.30/$1,000
Professions				
Gross Receipts	$30	$.90/$1,000	$.75/$1,000	$.60/$1,000
Recreation and Entertainment				
Hotel/Motel Services				
Automobile Dealers				
Gross Receipts	$30	$.25/$1,000	$.20/$1,000	$.15/$1,000
Manufacturers/Wholesalers				
Square Feet of Building Space Occupied **	$30	$.02/ Sq Ft	$.015/Sq Ft	$.01/Sq Ft

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

** Not to exceed $3,000 per year

BUSINESS LICENSE TAX REVENUES

TABLE 2

Business Classification	No of Businesses	Estimated Receipts	Option 1	Option 2	Option 3
GROUP 1					
Retail and Services					
Gross Receipts					
$0 to $200,000	1,660		$ 66,400	$ 49,800	$ 33,200
$200,001 to $500,000	475		$ 42,750	$ 33,250	$ 23,750
$500,001 to $900,000	220		$ 33,000	$ 24,200	$ 17,600
$900,001 to $5 million	158	$348 million	$ 208,800	$191,400	$174,000
$5,000,001 and greater	12	$123 million	$ 110,700	$ 92,250	$ 73,800
GROUP 2					
Contractors					
Rental Residential Property					
Rental Non-Residential Property					
Gross Receipts	1025	$170.4 million	$ 102,240	$ 93,720	$ 85,200
GROUP 3					
Public Utilities					
Administrative Headquarters					
Gross Receipts	5	$51 million	$ 20,400	$ 17,850	$ 15,300
Professions					
Gross Receipts	330	$160 million	$ 144,000	$120,000	$ 96,000
GROUP 5					
Recreation and Entertainment					
Hotel/Motel Services					
Automobile Dealers					
Gross Receipts	94	$106 million	$ 26,510	$ 21,208	$ 15,906
GROUP 6					
Manufacturers/Wholesalers					
Square Feet of Building Space Occupied	330	20,000 Sq Ft	$132,000	$99,000	$66,000
TOTAL REVENUES			$ 886,800	$742,678	$600,756

ORDINANCE _____ (1995 SERIES)

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. Title 5 is hereby retitled: "Permits and Regulations".

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

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

CHAPTER 3.01
BUSINESS TAX CERTIFICATION

ARTICLE I. GENERAL PROVISIONS

SECTION 3.01.101. PURPOSE

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

SECTION 3.01.102 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 3.01.103. 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 $5,000 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 $5,000 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 five $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.

SECTION 3.01.104 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 3.01.509 of this chapter.

SECTION 3.01.104 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 3.01.105. 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 3.01.201. 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 3.01.202. TAX RATE
The tax rate for all businesses shall be set by Resolution of the City Council.

SECTION 3.01.203. MINIMUM TAX
The minimum tax which shall be set by resolution of the City Council. In the first calendar year of business between January 1 and December 31 in the City of Lodi, no business will pay more or less than the minimum tax; and in no instance will the tax be prorated.

ARTICLE III. APPLICATION AND RENEWAL

SECTION 3.01.301. 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 3.01.302 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 3.01.401. 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 3.01.402. 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 3.01.403. 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 3.01.404. 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 3.01.405. 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 3.01.501. 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 3.01.502. 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 3.01.503. 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 3.01.504 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 3.01.505. 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 3.01.506. 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 3.01.507 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 3.01.508. 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 3.01.509 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.

ARTICLE VI. IMPLEMENTATION

SECTION 3.01.601. IMPLEMENTATION OF REVISED PROVISIONS

For business tax renewals for which business taxes were paid prior to March 1, 1995 or due between January 1, 1995 and March 1, 1995, the tax rate upon renewal will be at the new rate provided in SECTION 3.01.

Chapter 9.16.010 Definitions, is hereby deleted.

9.16.010 ~~Definitions.~~

~~B. "Solicitor" is defined in Section 5.04.010 of this code. (Ord 1352 && 1, 2, 1985)~~

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.

A synopsis of this ordinance, approved by the City Attorney, together with the ayes and noes, shall be published once in full, at least three (3) days prior to the final passage in the Lodi News Sentinel, a newspaper published and circulated in said city, and the same shall go into effect at the expiration of thirty (30) days after its said final passage. A copy of the full text of this ordinance shall be on file in the office of the City Clerk on and after the date following introduction and passage to print and shall be available to any interested member of the public.

INTRODUCED AND PASSED TO PRINT by the Council of the City of Lodi at its meeting held on the 15th day of February, 1995, on motion of _____, seconded by _____, and on the following roll call vote:

AYES:

NOES:

ABSENT:

MAYOR

ATTEST:

_____
CITY CLERK

APPROVED:

_____
CITY MANAGER

_____
CITY ATTORNEY

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Chapter 5.04

BUSINESS LICENSES GENERALLY

Sections:

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5.04.330 Revocation and suspension.
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5.04.350 Appeals.
5.04.360 Administration and enforcement powers.
5.04.370 Violation—Infraction.

5.04.010 Purpose.

This ordinance codified in this chapter was enacted solely to raise revenue for municipal purposes, and this chapter is not intended for the purpose of regulation. (Prior code § 12-2)

5.04.020 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

A. Average number of employees, fixed place of business: "Average number

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of employees" for any business having a fixed place of business in the city means the average number of persons employed daily in the city in the applicant's business for the twelve-month period ending on the last day of the month next preceding the date of such application, and shall be determined by ascertaining the total number of hours of service performed by all employees during such year, exclusive of overtime, and dividing the total number of hours of service thus obtained by the number of hours constituting a day's work, according to the custom or laws governing such employments, and by again dividing the sum thus obtained by the number of working days in such year. In computing the average number of employees, fractions of numbers shall be excluded.

B. Average number of employees, no fixed place of business: "Average number of employees" for any business not having a fixed place of business in the city means the number of persons employed daily in the city in the applicant's business for the period during which such applicant conducts such business in the city and shall be determined by ascertaining the total number of hours of service, exclusive of overtime, performed by all such employees during the three days, or less, on which the greatest number of persons are so employed, and dividing the total number of hours of service thus obtained by the number of hours constituting a day's work, according to the custom of laws governing such employments, and by again dividing the sum thus obtained by the number of working days upon which the total hours of service is based. In computing the average number of employees, fractions of numbers shall be excluded.

C. "Business" means professions, trades, occupations and all and every kind of calling carried on for profit or livelihood.

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

E. "Fixed place of business" means a place of business in the city, regularly kept open with someone in charge thereof for the transaction of the particular business engaged in during the hours customary to transact such business, and shall not so qualify unless and until such place of business has been so operated for a period of not less than six months.

F. "Peddler" means any person who sells and makes immediate delivery, or offers for sale and immediate delivery, any goods, wares, merchandise or thing, in the possession of the seller, at any place in the city other than from a fixed place of business, and who does not follow a fixed route or serve purchasers in the city regularly and continuously.

G. "Person" means all domestic and foreign corporations; associations; syndicates; joint stock corporations; clubs; Massachusetts, business or common law trusts; societies and individuals commencing, transacting and carrying on any business in the city.

H. "Solicitor" means any person who sells or takes orders, or offers to sell or take orders for any goods, wares, merchandise or thing, for future delivery, or

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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, or any person seeking to:

1. Obtain prospective customers for application or purchase of insurance of any type, kind or publication; or

2. Obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication where the aforementioned is not to be delivered on a fixed route; or

3. Obtain gifts or contributions of money, clothing or any other valuable thing for the support or benefit of any charitable or nonprofit association, organization, corporation or project.

"Solicitor" shall not include salesmen or agents for wholesale houses or firms who sell to retail dealers for resale or sell to manufacturers for manufacturing purposes or to bidders for public works or supplies, or newspaper carriers. (Ord. 1352 § 12, 1985: (Prior code § 12-1)

5.04.030 Required.

There is imposed upon all business in the city license taxes in the amount prescribed by this chapter. It is unlawful for any person, either for himself or for any other person, to commence, transact or carry on any business in the city not excluded by this chapter, without first having procured a license from the city to do so, or without complying with any and all regulations contained in this chapter. The carrying on of any business without first having procured a license from the city to do so, or without compliance with any and all regulations of this chapter, shall constitute a separate violation of this chapter for each and every day that such business is carried on. (Prior code § 12-3)

5.04.040 Tax—Fixed place of business.

Every person commencing, transacting and carrying on at a fixed place of business in the city any businesses other than those enumerated in Sections 5.04.060 and 5.04.070 shall pay an annual license tax based upon the average number of employees employed in such business of fifteen dollars for the first employee, three dollars each for the next nine employees, one dollar each for the next forty employees and fifty cents each for each additional employee. (Prior code § 12-4)

5.04.050 Tax—No fixed place of business.

Every person commencing, transacting and carrying on at other than a fixed place of business in the city any businesses other than those enumerated in Sections 5.04.060 and 5.04.070 shall pay an annual license tax based upon the average number of employees of thirty dollars for the first employee, six dollars each for the next nine employees, two dollars each for the next forty employees and one dollar each for each additional employee. (Prior code § 12-5)

5.04.060 Tax—Flat amount.

Every person commencing, transacting and carrying on in the city any business enumerated in this section shall pay a license tax as follows:

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Business	Period	Tax
Amusement rides and similar concessions, children's, per each	month	$ 5.00
Amusement rides and similar concessions, adult, per each	month	10.00
Astrologers, fortunetellers, etc.	quarter	250.00
Auctioneer	quarter	25.00
Bowling	year	24.00
Bowling and pool or billiards	year	30.00
Boxing and wrestling	day	20.00
Carnivals	day	100.00
Circuses and side shows .	day	100.00
Crane, claw or grab machines, per machine	quarter	25.00
Dances	day	5.00
Dice or card games, per table	quarter	25.00
Junk dealer (resident) ...	quarter	15.00
Junk dealer (nonresident)	quarter	30.00
Pawnbroker	quarter	15.00
Peddlers and solicitors ..	day	10.00
Peddlers and solicitors, personally manufactured goods or produce	quarter	6.00
Pool, billiards	year	24.00
Swimming pools	year	24.00
Theaters, occasional	day	5.00

(Prior code § 12-6)

5.04.070 Tax—Grape Festival.

For the purpose of this chapter, the Lodi Grape Festival and National Wine Show, referred to in this section as "festival," shall be considered to be a fixed place of business within the city and shall pay to the director of finance the sum of twenty-five dollars per day during the actual operation of the festival. This sum shall not constitute a tax against the festival, but shall be paid on behalf of all concessionaires, exclusive of carnivals and allied side shows, officially listed with the director of finance by the festival prior to the first day of actual operation, who transact their business wholly upon grounds operated by the festival. Each of the officially listed concessionaires shall, upon payment by the festival of the sum of twenty-five dollars per day, be entitled to such license as may in this chapter be required. Each such license shall be in effect during the period of actual operation of the festival for business conducted on festival grounds and shall be displayed and be subject to all other provisions of this chapter. (Prior code § 12-7)

5.04.080 Tax—Home occupations.

Every person commmencing, 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 one thousand dollars or less shall be exempt from the payment of a license tax, but shall be required to obtain and display a license issued by the director of finance without charge. Where the annual gross receipts from such business exceeds one thousand dollars, a license tax as prescribed in Section 5.04.080 shall be imposed. Persons who, by reason of age or infirmity, are physically unable to earn a livelihood through ordinary means of labor or business shall be exempt from any tax on business conducted from their own homes, as a home occupation, but shall be required to obtain a license to be issued without charge. (Prior code § 12-8)

5.04.090 Exemptions—Generally.

Persons in the categories set out in Sections 5.04.100 through 5.04.140 shall be exempt from the payment of a license tax, but shall be required to obtain and display a license, which license shall be

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issued free of charge by the director of finance. (Prior code § 12-9)

5.04.100 Exemptions—Delivery business.

Persons operating without a fixed place of business in the city whose sole business in the city consists of delivering to places of business within the city shall be exempted from payment of a license tax; provided, that such persons soliciting and making immediate delivery shall be required to pay an annual license as prescribed in Section 5.04.040. For the purposes of this section, the city government, public library and public schools shall be considered to be places of business. (Prior code § 12-10)

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5.04.110 Exemptions—Charities.

Any charitable institution, organization or association organized for charitable purposes and conducted for charitable purposes only shall be exempted from payment of a license tax. (Prior code § 12-11)

5.04.120 Exemptions—Religious, educational, fraternal, governmental organizations.

Any religious, fraternal, educational, military, state, county or municipal organization for the conduct of any business or entertainment, which is open only to the members thereof, or which is conducted for the benefit of such organization and not for the private gain of any person, shall be exempted from payment of a license tax. (Prior code § 12-12)

5.04.130 Exemptions—Garbage collectors.

Any person collecting garbage or refuse under contract or agreement with the city shall be exempted from the payment of a license tax for the portion of such business done under such contract or agreement. (Prior code § 12-13)

5.04.140 Exemptions—Utilities, banks, insurance companies.

Any public utility which pays to the city a tax under a franchise or similar agreement; banks, as provided by the State Constitution; insurance companies, as provided by the State Constitution; and any person whom the city is not authorized to license under any law or the Constitution of the United States or the state is exempt from the payment of a license tax. (Prior code § 12-14)

5.04.150 Contents.

All licenses shall be prepared and issued by the director of finance and each license shall state upon the face thereof the following:

A. Name of the person to whom the license is issued;

B. Kind or kinds of business licensed thereby;

C. Location of such business;

D. Date of expiration of such license;

E. Such other information as the director of finance requires. (Prior code § 12-15)

5.04.160 Payment of fee.

All licenses shall be paid in advance in lawful money of the United States at the office of the director of finance. When a license tax is per day, it shall be due and payable each day. Quarterly licenses shall be due on the first day of January, April, July and October. Annual licenses shall be due on the first day of January, and may be prorated to the nearest quarter-year. (Prior code § 12-16)

5.04.170 Delinquency.

Every license tax which is not paid when due and payable is delinquent, and if such license tax is not paid within thirty days from the time it is due and payable, the director of finance shall add to such tax and collect a penalty of ten percent of such tax for each month, or fraction thereof, during which such tax is delinquent. (Prior code § 12-17)

5.04.180 Branch establishments.

Separate licenses must be obtained for each branch establishment or location, as if each branch establishment or location

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were a separate business; provided, that warehouses and distributing plants used in connection with and incidental to a business licensed under this chapter are not separate places of business or branch establishments. (Prior code § 12-18)

5.04.190 Multiple businesses at one location.

Whenever any person is engaged in two or more businesses at the same location, such person shall be issued one license which shall specify on its face all such businesses, and the license tax to be paid shall be computed as if one business were being conducted at such location, except that businesses listed in Section 5.04.060 shall in every case be regarded as separate businesses. (Prior code § 12-19)

5.04.200 Transfer.

No license issued pursuant to this chapter shall be transferred, except under the following conditions:

A. When a licensee transfers his business from one location to another in the city, the license previously issued may be amended to authorize the conduct of the business at the new location.

B. When a licensee who conducts a business from a fixed place of business in the city makes a bona fide sale of the business, an amended license may be issued to authorize the purchaser to conduct such business at such location, upon the surrender of the old license.

C. The license transfers authorized in this section may be obtained upon application therefor to the director of finance and payment of a fee of one dollar. (Prior code § 12-20)

5.04.210 Carrying or posting.

A. Every person having a license under the provisions of this chapter and carrying on a business at a fixed place of business shall keep such license posted and exhibited in some conspicuous part of the business.

B. Every person having such a license and not having a fixed place of usiness shall carry such license with him at all times, or shall have attached to the vehicle or vehicles used in such business the windshield sticker provided for in Section 5.04.270. (Prior code § 12-21)

5.04.220 Application—Generally.

Every person required to have a license shall make application to the director of finance of the city. Such application shall be a written statement upon a form provided by the director of finance and shall set forth such information as may be necessary properly to determine the amount of the license tax to be paid by the applicant. (Prior code § 12-22(a))

5.04.230 Application—New businesses.

Every person making application for a license for a business taxable under Section 5.04.040, which has not been established in the city for a sufficient length of time to meet the requirements of Section 5.04.020(E), shall pay to the director of finance the minimum license tax for the business in which he is engaged. The tax thus paid shall be tentative only. Such licensee shall within thirty days after the expiration of the period for which the license was issued, furnish the director of finance with an application as prescribed

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in Section 5.04.220, showing the average number of employees during the period of such license. The license tax shall be ascertained and paid upon the basis of such average number of employees, credit being given for the minimum license tax previously paid. Every person making application under this section shall furnish such information as may be deemed necessary by the director of finance to provide satisfactory proof of intent to establish a fixed place of business in the city. (Prior code § 12-22(b))

5.04.240 Application—No fixed place of business.

Every person making application for a license for a business without a fixed place of business in the city and not included in Section 5.04.060 shall pay to the director of finance the minimum license tax for the business in which he is engaged. The tax thus paid shall be tentative only; and, prior to the expiration of the period for which such license was issued, such person shall furnish the director of finance with an application as prescribed in Section 5.04.220, showing the average number of employees as provided in Section 5.04.020(B). The license tax shall be ascertained and paid upon the basis of such average number of employees, credit being given for the minimum license tax previously paid. (Prior code § 12-22(c))

5.04.250 Application—Occult arts—Peddlers and solicitors.

In addition to the requirements of Section 5.04.220, applicants for a license to conduct the businesses of astrologers, fortunetellers, peddlers and solicitors must also file with the director of finance a sworn application, in writing, on a form to he furnished by the director of finance, which application shall give the following information:

A. Name and description of applicant;

B. Address, legal and local;

C. In the case of peddlers and solicitors, a brief description of the nature of the business and the goods to be sold and, if employed, the name and address of the employer, together with credentials establishing the exact relationship;

D. The length of time for which the right to do business is desired;

E. If a vehicle is to be used, a description of same, together with the license number or other means of identification;

E. A photograph of the applicant, taken within sixty days immediately prior to the date of the filing of the application, which picture shall be two by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner;

F. The fingerprints of the applicant;

G. A statement as to whether or not the applicant has been convicted of any felony, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor. (Prior code § 12-22(d))

5.04.260 Stickers—Form and content.

Each sticker required by this chapter shall have thereon the words "LODI, CALIFORNIA," or any abbreviation thereof, and shall be of such form and color and contain such information as the director of finance shall determine. (Prior code § 12-23)

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5.04.270 Stickers—Vehicle—Issuance.

Upon the issuance of a license, the director of finance shall deliver to the licensee one windshield sticker for each commercial vehicle used by the licensee in the conduct of his business, which windshield sticker shall be attached to the windshield of such vehicle. In the event such vehicle does not have a windshield, such sticker shall be attached in a conspicuous place in the operator's compartment of such vehicle. (Prior code § 12-24)

5.04.280 Stickers—Vehicle—Additional vehicles.

If, subsequent to the issuance of any license and prior to its expiration date, any licensee shall use any commercial vehicle in his business for which a windshield sticker has not been issued, he shall procure a windshield sticker for such vehicle from the director of finance. The director of finance shall furnish such windshield sticker without cost upon the production of satisfactory proof of the use of such vehicle by the licensee. (Prior code § 12-25)

5.04.290 Stickers—Vehicle—Operation without.

It is unlawful for any person to drive, operate or use, or cause to be driven, operated or used, any commercial vehicle in the conduct of his business, without a sticker being attached as required by this chapter, or to remove, deface or cover up such sticker, or to place the same upon any vehicle other than a vehicle used by the licensee in his business. (Prior code § 12-26)

5.04.300 Stickers—Vending machine—Issuance.

Upon the issuance of a license, the director of finance shall deliver to the licensee one sticker for each vending machine used by the licensee in the conduct of his business, which sticker shall be attached in a conspicuous place on such machine. (Prior code § 12-27)

5.04.310 Stickers—Vending machine—Additional machines.

If subsequent to the issuance of any license and prior to its expiration date, any licensee shall use any vending machine in his business for which a sticker has not been issued, he shall procure a sticker from the director of finance. The director of finance shall furnish such sticker without cost upon the production of satisfactory proof of the use of such machine by the licensee. (Prior code § 12-28)

5.04.320 Stickers—Vending machine—Operation without.

It is unlawful for any person to operate or use, or cause to be operated or used, or offer for operation and use in the conduct of his business any vending machine without a sticker being attached as required by this chapter, or to remove, deface or cover up such sticker, or place, cause to be placed or permit the placing of the same upon any such machine other than one used by the licensee in his business. (Prior code § 12-29)

DELETE

5.04.330 Revocation and suspension.

The city council shall have the authority to revoke or suspend any license issued under the provisions of this chapter upon competent information that the licensee has not complied or is not complying with any provision of this chapter, any other city ordinance or any requirement of a competent governmental jurisdiction. Any such action taken by the city council shall be in addition to any actions taken or penalties assessed as a result of noncompliance with any law or ordinance. (Prior code § 12-30)

5.04.340 Examination of records.

For the purpose of ascertaining the correctness of any affidavit filed, or the amount of any license tax paid, the director of finance, or any person designated by him for that purpose, is authorized to examine any papers, records and memoranda bearing upon the matter, and may require attendance of any person having knowledge in the premises and may take his testimony with reference thereto, with power to administer oath to such person or persons. (Prior code § 12-31)

5.04.350 Appeals.

Any person aggrieved by any decision of an administrative officer or agency with respect to the issuance or refusal to issue such license 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. (Prior code § 12-32)

5.04.360 Administration and enforcement powers.

In addition to all other powers conferred upon him, the director of finance shall have the power for good cause shown to extend the time for filing any required sworn statement for a period of not exceeding thirty days, and in any such case, to waive any penalty that would have otherwise accrued, and shall have the further power, with the consent of the city council, to compromise any claim as to the amount of license tax due. He may also require evidence of compliance with other ordinances of the city and may make such stipulations as to the location, manner and conduct of businesses as may be reasonable, necessary and in conformity with the ordinances, laws and the police powers of this city as a prerequisite to the issuance of any license prescribed in this chapter. (Prior code § 12-33)

5.04.370 Violation—Infraction.

Any violation of this chapter is an infraction unless the defendant has been convicted of three or more violations of a particular section within the twelve-month period immediately preceding the commission of the offense, and then the violation of this chapter constitutes a misdemeanor. (Ord. 1397 § 1, 1978)

RESOLUTION NO.....

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 1, and 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 $600,700.

3. Late penalties due January 1, 1995 under the provisions of Chapter 5.04, Business Licenses, Taxes and Regulations, are waived.

Dated:

I hereby certify that Resolution No. 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 -

Noes: Council Members -

Absent: Council members -

Jennifer Perrin
City Clerk

BUSINESS LICENSE TAX RATES

TABLE 1

Business Classification	Minimum Tax *	Option 1	Option 2	Option 3
GROUP 1				
Retail and Services				
Gross Receipts				
$0 to $200,000	$30	$40	$30	$20
$200,001 to $500,000	$30	$90	$70	$50
$500,001 to $900,000	$30	$150	$110	$80
$900,001 to $5 million	$30	$.60/ $1,000	$.55/$1,000	$.50/$1,000
$5,000,001 and greater	$30	$.90/$1,000	$.75/$1,000	$.60/$1,000
GROUP 2				
Contractors				
Rental Residential Property				
Rental Non-Residential Property				
Gross Receipts	$30	$.60/$1,000	$.55/$1,000	$.50/$1,000
GROUP 3				
Public Utilities				
Administrative Headquarters				
Gross Receipts	$30	$.40/$1,000	$.35/$1,000	$.30/$1,000
Professions				
GROUP 5				
Recreation and Entertainment				
Hotel/Motel Services				
Automobile Dealers				
Gross Receipts	$30	$.25/$1,000	$.20/$1,000	$.15/$1,000
GROUP 6				
Manufacturers/Wholesalers				
Square Feet of Building Space Occupied **	$30	$.02/ Sq Ft	$.015/Sq Ft	$.01/Sq Ft

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

** Not to exceed $3,000 per year

BUSINESS LICENSE TAX REVENUES

TABLE 2

Business Classification	No of Businesses	Estimated Receipts	Option 1	Option 2	Option 3
GROUP 1					
Retail and Services					
Gross Receipts					
$0 to $200,000	1,660		$ 66,400	$ 49,800	$ 33,200
$200,001 to $500,000	475		$ 42,750	$ 33,250	$ 23,750
$500,001 to $900,000	220		$ 33,000	$ 24,200	$ 17,600
$900,001 to $5 million	158	$348 million	$ 208,800	$191,400	$174,000
$5,000,001 and greater	12	$123 million	$ 110,700	$ 92,250	$ 73,800
GROUP 2					
Contractors					
Rental Residential Property					
Rental Non-Residential Property					
Gross Receipts	1025	$170.4 million	$ 102,240	$ 93,720	$ 85,200
GROUP 3					
Public Utilities					
Administrative Headquarters					
Gross Receipts	5	$51 million	$ 20,400	$ 17,850	$ 15,300
Professions					
Gross Receipts	330	$160 million	$ 144,000	$120,000	$ 96,000
Recreation and Entertainment					
Hotel/Motel Services					
Automobile Dealers					
Gross Receipts	94	$106 million	$ 26,510	$ 21,208	$ 15,906
Manufacturers/Wholesalers					
Square Feet of Building Space Occupied	330	20,000 Sq Ft	$132,000	$99,000	$66,000
TOTAL REVENUES			$ 886,800	$742,678	$600,756

1/4

CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING

Date: January 4, 1995 (Public Meeting)
February 15, 1995 (Public Hearing)

Time: 7:00 p.m.

For information regarding this notice please contact:
Jennifer M. Perrin
City Clerk
Telephone: (209) 333-6702

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on Wednesday, January 4, 1995, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a Public Meeting, **and** on February 15, 1995 at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a Public Hearing to consider the following matter:

a) To consider and hear public testimony on the proposed Business License Tax Ordinance.

Business taxes will be imposed on all businesses, professions, trades, vocations, enterprises, establishments, occupations or callings conducted in the City of Lodi to which a business tax may be lawfully applied using the tax rates in Table 1 (attached). New businesses will not pay more than the minimum tax in their first year of business whether located in or outside of the City. The tax will be due and payable annually in January for the prior year except for new businesses which will pay the minimum tax at the time issued.

Businesses exempt from the business license tax:

- Minors under the age of 18 with gross receipts of less than $5,000 per year;
- Home occupations with gross receipts of less than $5,000 per year;
- Charitable, religious and non-profit organizations;
- Businesses exempt by Federal or State statutes, laws, franchise agreements, or other contractual agreements. This includes banks, insurance companies, their agents and other financial institutions, cafe musicians, real estate auctioneers, businesses that manufacture, sell, purchase, possess or transport alcoholic beverages.

Excluded from the calculation of gross receipts is the following:

- All taxes;
- Discounts, refunds and credits;
- Passive income from investments, dividends and the occasional sale of property;
- Bad debts;
- Amounts received by one party and paid to another party by persons acting as agents, brokers and trustees.

PUBLIC HEARING NOTICE
PROPOSED BUSINESS LICENSE TAX
JULY 6, 1994

Table 2 (attached) shows the estimated revenue for each of the three options, and it ranges from $887,00 to $601,000.

All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

By Order of the Lodi City Council:

Jennifer M. Ferrin
City Clerk

Dated: December 21, 1994

Approved as to form:

Bobby W. McNatt
City Attorney

BUSINESS LICENSE TAX RATES

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