#4

BALLOT MEASURE SUBMITTAL FORM

Official Use Only: Date Stamp
RECEIVED
Alameda County
AUG 05 2026
Reg. of Voters

All fields with an * are required.

BALLOT MEASURE QUESTION

Jurisdiction Name*: City of Albany	Election Date*: November 3, 2026

Note: The information as it appears within the text box will be printed on the ballot and voter guide.

Insert ballot question text here*:

Shall the measure supporting City of Albany general services, such as fire protection, public safety, environmental and community service programs, by increasing the City's business license tax to those rates specified in the measure, levying the tax upon business gross receipts instead of number of employees, and updating local tax collection procedures, providing an estimated additional $600,000 annually, until ended by voters, with all funds remaining local which cannot be taken by Sacramento be adopted?

TYPE OF MEASURE*	PERCENTAGE NEEDED TO PASS*
☒ Regular Measure ☐ Parcel Tax	☒ 50% + 1 ☐ 66.6667% ☐ 2/3
☐ Bond Measure ☐ Charter Amendment	☐ Other: Click or tap here to enter text.

FULL-TEXT OPTION*

Full Text to be printed in the Voter Information Pamphlet:

☒ **YES** ***(note:** must provide an MS Word file)*

☐ **NO** – Do not print, but it's accessible at: Click or tap here to enter text.

AUTHORIZED REPRESENTATIVE/CONTACT PERSON*

(office use)

Print Name: [redacted]	Signatu[redacted]
Phone #: [redacted]	Email: [redacted]

CONTACT INFORMATION

(public use)

Phone #: 510-528-5710	Email: cityclerk@albanyca.gov
	Website: www.albanyca.gov

All fields with an * are required. Rev. 8/2022

RESOLUTION NO. 2026-63

A RESOLUTION OF THE ALBANY CITY COUNCIL CALLING FOR THE PLACEMENT OF A GENERAL TAX MEASURE ON THE NOVEMBER 3, 2026 GENERAL MUNICIPAL ELECTION BALLOT FOR SUBMITTING TO THE VOTERS AN ORDINANCE AMENDING CHAPTER 5, SECTIONS 5-1 AND 5-2 OF THE ALBANY MUNICIPAL CODE INCREASING THE RATE OF THE CITY'S BUSINESS LICENSE TAX, LEVYING THE TAX BASED UPON BUSINESS GROSS RECEIPTS INSTEAD OF NUMBER OF EMPLOYEES, AND UPDATING THE PROCESS AND PROCEDURES FOR COLLECTION OF THE BUSINESS LICENSE TAX; REQUESTING THE BOARD OF SUPERVISORS OF ALAMEDA COUNTY TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 3, 2026 WITH THE STATEWIDE GENERAL ELECTION; SETTING RULES AND DEADLINES FOR THE FILING OF WRITTEN ARGUMENTS REGARDING SAID MEASURE

WHEREAS, Section 2.01 of the Albany City Charter provides that the City's General Municipal Election will be held on each even year and shall be consolidated with the Statewide General Election to be held in said City on Tuesday, November 3, 2026; and

WHEREAS, the City of Albany is a charter city and pursuant to Article XI, Section 7 of the California Constitution and Section 1.03 of the Albany City Charter is empowered to exercise all powers necessary and appropriate for a municipal corporation and the general welfare of its inhabitants; and

WHEREAS, Section 5.01 of the Albany City Charter provides that except as otherwise provided in the Charter or City ordinances, City elections shall be conducted in accordance with the State Elections Code; and

WHEREAS, pursuant to Section 9222 of the California Elections Code, the City Council has the authority and desires to submit a ballot measure to the voters of the City of Albany for their approval and adoption at the General Municipal Election to be held in the City on November 3, 2026; and

WHEREAS, the ballot measure is an ordinance amending Chapter 5 Sections 5-1 and 5-2 of the Albany Municipal Code to increase the rate of the City's business license tax, to levy said tax based upon business gross receipts instead of number of employees, and updating the process and procedures for business license tax collection ("Business License Tax"), as more particularly outlined in the text of the measure; revenue from this tax funding general municipal purposes; and

WHEREAS, the specific terms of the Business License Tax measure are provided for in the ordinance to be considered by the qualified voters, attached hereto as Exhibit "A" (the "Business License Tax Ordinance", "Business License Tax Measure" or "Measure") and by this reference made an operative part hereof, and in accordance with all applicable laws; and

WHEREAS, the Measure enacts a general tax, the proceeds of which are deposited into the City's general fund and which pay for important general municipal services to the public; and

WHEREAS, on November 6, 1996, the voters of the State of California approved Proposition 218 (California Constitution, Article XIIIC), an amendment to the State Constitution which requires that all general taxes which are imposed, extended or increased must be submitted to the electorate and approved by a majority vote of the qualified electors voting in the election; and

WHEREAS, the proposed amendments which increase the rate of the Business License Tax constitute tax "increases" subject to Proposition 218; and

WHEREAS, pursuant to Proposition 218 (California Constitution Article XIIIC, §2(b)), the general rule is that any local election for the approval of an increase to a general tax must be consolidated with a regularly scheduled general election for members of the governing body of the local government; and

WHEREAS, the next regularly scheduled general election at which City Council Members are to be elected is November 3, 2026; and

WHEREAS, it is desirable that the General Municipal Election be consolidated with the Statewide General Election to be held on the same date and that within the City the precincts, polling places, voting centers and election officers of the two elections be the same, and that the Alameda County election department canvass the returns of the General Municipal Election and that the election be held in all respects as if there were only one election; and

WHEREAS, it is also desirable to establish deadlines and rules for the submission of written arguments and rebuttals for and against the Measure in accordance with applicable California Elections Code procedures; and

WHEREAS, pursuant to Albany City Charter Section 2.05, "[T]he affirmative vote of a majority of the Council shall be necessary to adopt any ordinances, resolutions or claims against the City, which vote shall be taken by ayes and noes and entered upon the record".

NOW THEREFORE, THE ALBANY CITY COUNCIL DOES HEREBY RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1 Recitals. The City Council hereby finds and determines that the foregoing recitals are true and correct, are incorporated herein and by this reference made an operative part hereof.

Section 2 Submission of Ballot Measure. Pursuant to Albany City Charter Section 2.05, California Elections Code §9222, and any other applicable requirements of the laws of the State of California relating to the City of Albany, the City Council, by a simple majority vote of its members, hereby orders the Business License Tax Measure to be submitted to the voters of the City at the General Municipal Election to be held on Tuesday, November 3, 2026.

Section 3 There is hereby called and ordered to be held in the City of Albany, California on November 3, 2026, a General Municipal Election for the purposes of submitting to the voters the Business License Tax Measure as set forth in Exhibit A.

Section 4 The City Council hereby orders that the ballot question for the Measure shall be presented and printed upon the ballot submitted to the qualified voters in the manner and form set forth in this Section 4. On the ballot to be submitted to the qualified voters at the General Municipal Election to be held on November 3, 2026, in addition to any other matters required by law, there shall be printed substantially the following ballot question:

"Shall the measure supporting City of Albany general services, such as fire protection, public safety, environmental and community service programs, by increasing the City's business license tax to those rates specified in the measure, levying the tax upon business gross receipts instead of number of employees, and updating local tax collection procedures, providing an estimated additional $600,000 annually, until ended by voters, with all funds remaining local which cannot be taken by Sacramento be adopted?"	**YES**
	NO

Section 5 The Measure requires the approval of a simple majority of the qualified electors casting votes at the General Municipal Election.

Section 6 Conduct of Election. The City Clerk is authorized, instructed, and directed to coordinate with the Alameda County Registrar of Voters/Elections Official to procure and furnish any and all official ballots, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

Section 7 Impartial Analysis. Pursuant to California Elections Code Section 9280, the City Council hereby directs the City Clerk to transmit a copy of the Measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the Measure, not to exceed 500 words in length, showing the effect of the Measure on the existing law and the operation of the Measure, and transmit such impartial analysis to the City Clerk not later than the deadline set by the County of Alameda. The impartial analysis shall include a statement indicating whether the Measure was placed on the ballot by a petition signed by the requisite number of voters or by the City Council. In the event the entire text of the Measure is not printed on the ballot, nor in the voter information guide, there shall be printed immediately below the impartial analysis, in no less than 10-font bold type, the following: "**The above statement is an impartial analysis of Ordinance or Measure ____. If you desire a copy of the Ordinance or Measure, please call the Office of the City Clerk at 510-528-5710 and a copy will be mailed at no cost to you.**"

Section 8 Request for Consolidation. Pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of Alameda is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General Election on Tuesday, November 3, 2026, for the purpose of submitting to the voters the question relating to: The City's business license tax to fund general City services. The County election department is authorized to canvass the returns and perform all other proceedings incidental to and connected with the General Municipal Election. The Election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. Pursuant to California Elections Code Sections 10403 and 10418, the election will be held and conducted in accordance with the provisions of law regulating the Statewide General Election. The Board of Supervisors is requested to issue instructions to the County Registrar of Voters/Election Department to take any and all steps necessary for the holding of the consolidated election. The City of Albany recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs.

Section 9. Primary Arguments. That the City Council authorizes (i) the City Council or any member(s) of the City Council, (ii) any individual voter eligible to vote on the above measure, (iii) a bona fide association of such citizens or (iv) any combination of voters and associations, to file a written argument in favor of or against the City measure, accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California, and to change the argument until and including the date fixed below by the City Clerk, after which no arguments for or against the City measure may be submitted to the City Clerk.

The deadline to submit arguments for or against the City measure pursuant to this Resolution is declared by the City Clerk to be **August 14, 2026, at 12:00 p.m.** Each argument shall not exceed 300 words and shall be filed with the City Clerk, signed, and include the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument.

Section 10 Rebuttal Arguments. Pursuant to Section 9285 of the Elections Code of the State of California, when the City Clerk has selected the primary arguments for and against the City measure which will be printed and distributed to the voters, the Clerk shall send copies of the primary argument in favor of the measure to the authors of the primary argument against, and copies of the primary argument against to the authors of the primary argument in favor. The authors or persons designated by them may prepare and submit rebuttal arguments not exceeding 250 words. The rebuttal arguments shall be filed with the City Clerk not later than **August 21, 2026, at 12:00 p.m.** Rebuttal arguments shall be printed in the same manner as the primary arguments. Each rebuttal argument shall immediately follow the primary argument which it seeks to rebut.

Section 11 November 3, 2026 Election. That the provisions of Sections 9 and 10 shall apply only to the election to be held on November 3, 2026, and shall then be repealed.

Section 12 The City Clerk is hereby directed to cause notice of the Measure to be published in a newspaper of general circulation, or any other newspaper designated as an official newspaper of the City of Albany in accordance with Elections Code §12111 and Government Code §6061.

Section 13 Placement on the Ballot. The full text of the Measure shall be printed in the voter information guide, and a statement shall be printed in the ballot pursuant to Elections Code §9223 advising voters that they may obtain a copy of this Resolution and the Measure, at no cost, upon request made to the City Clerk.

Section 14 Public Examination. Pursuant to California Elections Code §9295, the Measure will be available for public examination for no fewer than ten (10) calendar days prior to being submitted for printing in the voter information guide. The City Clerk shall post notice in the Clerk's office of the specific dates that the examination period will run.

Section 15 That in all particulars not recited in this Resolution, said election shall be held and conducted as provided by law for holding Municipal Elections in the City of Albany.

Section 16 That the General Municipal Election, to be held in the City of Albany, shall be canvassed by the Registrar of Voters of the County of Alameda, State of California.

Section 17 That the City Clerk of the City of Albany is hereby authorized, instructed and directed to provide the Alameda County Registrar of Voters with all pertinent information and material as required.

Section 18 That the City Clerk of the City of Albany is hereby authorized and directed to file a copy of this Resolution immediately upon its adoption with the appropriate County agencies. With the concurrence of the City Attorney, the City Clerk is hereby authorized to make such minor, technical and clarifying changes to this Resolution and/or the Exhibits hereto as may be deemed necessary and appropriate.

Section 19 The City Council of the City of Albany shall meet at its usual place of meeting and review the certified statement of results of the election after the County Registrar of

Voters/Elections Official has provided said statement to the City Clerk and shall thereafter declare the results at the next scheduled meeting.

Section 20 The Voter Information Guide shall include the ballot question's wording to the voters as set forth above, and the exact wording of the proposed Albany Municipal Code sections or present Albany Municipal Code with language to be deleted shown in ~~strikeout type~~ and the language to be added to be shown in underlined, ***bold italicized***, or otherwise **highlighted** in the Exhibit "A" attached hereto.

Section 21 The approval of this Resolution is exempt from the California Environmental Quality Act (CEQA). The Business License Tax Measure to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action or actions. As such, under CEQA Guidelines Section 15378(b)(4), the Measure is not a project within the meaning of CEQA because it creates government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the Measure is used for a purpose that would have any such effect, the City would undertake the required CEQA review for that particular project at the earliest feasible time prior to approval of the project. Therefore, under CEQA Guidelines Section 15060, review under CEQA is not required prior to enactment of the Measures.

The undersigned hereby certifies that the foregoing is a full, true, and complete copy of the Resolution duly passed and adopted by the City Council of the City of Albany at a regular meeting thereof on the 20th day of July, 2026.

[redacted]

PEGGY McQUAID, MAYOR

EXHIBIT "A"

AN ORDINANCE AMENDING SECTIONS 5-1 AND 5-2 OF CHAPTER 5 OF THE ALBANY MUNICIPAL CODE INCREASING THE RATE OF THE CITY'S BUSINESS LICENSE TAX, LEVYING THE TAX BASED UPON BUSINESS GROSS RECEIPTS INSTEAD OF NUMBER OF EMPLOYEES AND UPDATING THE PROCESS AND PROCEDURES FOR COLLECTION OF THE BUSINESS LICENSE TAX

"Shall the measure supporting City of Albany general services, such as fire protection, public safety, environmental and community service programs, by increasing the City's business license tax to those rates specified in the measure, levying the tax upon business gross receipts instead of number of employees, and updating local tax collection procedures, providing an estimated additional $600,000 annually, until ended by voters, with all funds remaining local which cannot be taken by Sacramento be adopted?"	**YES**
	NO

ORDINANCE NO. 2026-06

AN ORDINANCE AMENDING SECTIONS 5-1 AND 5-2 OF CHAPTER 5 OF THE ALBANY MUNICIPAL CODE INCREASING THE RATE OF THE CITY'S BUSINESS LICENSE TAX, LEVYING THE TAX BASED UPON BUSINESS GROSS RECEIPTS INSTEAD OF NUMBER OF EMPLOYEES AND UPDATING THE PROCESS AND PROCEDURES FOR COLLECTION OF THE BUSINESS LICENSE TAX

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

SECTION 1: AUTHORITY.

This Ordinance is enacted in accordance with the authority granted to cities by Article XI, Section 7, and Article XIIIC, Section 2 of the California Constitution and the California Elections Code.

SECTION 2: AMENDMENT TO SECTION 5-1 OF THE MUNICIPAL CODE.

Chapter 5, Section 5-1 of the City of Albany Municipal Code is hereby amended to read:

"§ 5-1 GENERAL PROVISIONS.

§ 5-1.1 Definitions.

As used in this chapter:

~~**ADVERTISING MATERIAL DISTRIBUTION**~~

~~Shall mean the business of distribution, circulating or delivering any paper, advertisement, broadside, handbill, circular, dodger, card, poster, sample, booklet, pamphlet or other advertising medium of similar nature.~~

~~**ADVERTISING VEHICLES**~~

~~Shall mean any vehicle containing amplifiers, phonographs, loudspeakers, microphones, broadcasting, radio or devices for public address or carrying advertising signs and which is used for announcing or advertising upon the streets or public grounds in the City.~~

~~**AUTOMOBILE FOR HIRE**~~

~~Shall mean any vehicle kept for hire and used for the transportation of persons or property with or without drivers. This term shall include, but is not limited to taxicabs, sightseeing automobiles, drive-your-self services, limousine services, ambulance services and hearse service.~~

~~**AVERAGE NUMBER OF PERSONS EMPLOYED**~~

~~Shall mean the average number of persons engaged or to be engaged within this City in the applicant's business for the license period, whether as owner, partner, spouse, or employee, and shall be determined by ascertaining the total number of days of service performed or to be performed by all such persons during the license period, and dividing such total by the number of business days in the license period. Fractions of one-half (1/2) and more shall be deemed one (1) and fractions of less than one-half (1/2) shall be disregarded in determining total days of service and average number of persons employed.~~

BUSINESS

~~Shall mean professions, trades and occupations and all and every kind of activity, undertaking, calling or enterprise carried on for profit or livelihood or ordinarily carried on for profit or livelihood.~~Shall mean a profession, art, trade, vocation, rental, lease, enterprise, establishment, occupation, or calling, which is conducted for the purpose of earning in whole, or in part, a profit or livelihood, whether or not a profit or livelihood is actually earned, whether paid in money, goods, labor, or otherwise, and whether or not the business has a fixed place of business in the City. "Business" shall also include commencing, transacting or carrying on any business in a home.

For the purpose of this chapter, any person shall be deemed to be in business and subject to the provisions of this chapter who does one (1) act of selling, offering for sale or taking an order for any goods, wares, merchandise, article, thing or service, or offering or soliciting for compensation the rental of any automobile for hire, or furnishing or offering to furnish for compensation bail to any person in any criminal proceeding.

COLLECTOR

Shall mean the City's Finance Director or designee charged with the administration of this business license Code.

~~**EMPLOYEE**~~

~~Shall mean any person 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.~~

FIXED PLACE OF BUSINESS

Shall mean 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.

GROSS RECEIPTS

Shall mean the total amount of compensation actually received or receivable from all sales and the total amount of compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as part of or in connection with the sale of materials, goods, wares, or merchandise. Included in "gross receipts" are all receipts, cash, credits, and property of any kind or nature, without any deduction for the cost of property sold, materials, labor, service, interest, losses, or other expenses whatsoever. Gross Receipts shall mean the gross receipts of the calendar year preceding the beginning of the annual license period.

The following are excluded from "gross receipts":

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

b. Receipts of refundable deposits, except that such deposits when forfeited and taken as income of the Business are not excluded.

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

d. Transactions between a partnership and its partners when the partnership itself has obtained a business license and paid business license tax under this chapter.

~~**MECHANICAL PIN AMUSEMENT GAME DISTRIBUTOR**~~

~~Shall mean the same as defined in subsection 5-10.1 of this chapter.~~

~~**PEDDLER**~~

~~Shall mean 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 a fixed place of business, but not including 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.~~

~~**PEDDLERS AND SOLICITORS OF PERSONALLY MANUFACTURED ARTICLES OR PRODUCE**~~

~~Shall mean any peddler or solicitor as defined in this subsection who peddles or solicits anything which he has personally manufactured or produced, including, but not limited to any farmer, poultryman or horticulturist soliciting or peddling his own produce. This term shall be limited to natural persons and shall include the farmer, poultryman or horticulturist, members of his immediate family, or an employee who is regularly engaged in assisting in the production of the produce. This term shall not include persons who buy articles or produce for resale as well as selling their own produce or articles.~~

PERSON

Shall mean all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, ~~Massachusetts businesses,~~ or common law trusts, societies and individuals.

~~**SOLICITOR**~~

~~Shall mean 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 for services to be performed at any place in the City other than a fixed place of business, but not including salesmen or agents for wholesale houses or firms who solicit orders from retail dealers for resale, or solicit orders from manufacturers for manufacturing purposes, or to bidders for public works or supplies.~~

~~THEATRES, OCCASIONAL~~

~~Shall mean the operation or carrying on of any theatrical or vaudeville performance, the exhibition of motion pictures, lectures, entertainments, shows or exhibitions which are not operated or carried on regularly throughout the year in the City.~~

~~VEHICLE~~

~~Shall mean every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks. A trailer shall be treated as a separate vehicle.~~

~~VENDING OF RACING FORMS~~

~~Shall mean temporary, transient or permanent business in the City, whether or not at a fixed place of business, of selling, offering for sale, giving away or distributing any chart, form, table, list, sheet, dodger, handbill, circular, booklet, letter or any other printed, typewritten, mimeographed, or written matter of any kind pertaining to any horse race, choice of horse or horses, or giving or conveying any information about any horse, horse race or contest of endurance or speed between horses, but not including the following:~~

~~a. Sales of any newspaper of general circulation as defined in Section 6000 of the government Code.~~

~~b. Sales of such racing forms in the portion of the City included with any racing enclosure duly licensed by the State to conduct horse racing under and in accordance with the laws of the State relating to such matters.~~

~~c. Sales of racing forms made by regularly licensed merchant of the City having a fixed place of business.~~

§ 5-1.2 Purpose.

~~This chapter~~Sections 5-1 and 5-2 ~~is~~are enacted solely to raise revenue for municipal purposes and ~~is~~are not intended for the purpose of regulation. All business licenses issued under the authority of this Code are receipts for payment of the business license tax levied on the privilege of carrying on or engaging in a business, profession or occupation under the City's taxing power. Business licenses are not regulatory licenses, permits, entitlements or other legal permission to operate within the City issued under the City's police power. Provisions of a regulatory nature contained in this section are placed herein as a matter of convenience only.

5-1.2.1 Issuance of Business License

Upon full payment of the business license tax imposed by Sections 5-1 and 5-2, a business license will be issued by the Collector for the tax year for which the tax has been paid.

§ 5-1.3 Required.

It shall be unlawful for any person, either for ~~himself~~ themself 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.

§ 5-1.4 Separate License for Branch Establishments.

Separate licenses must be obtained for each branch establishment or location of the business engaged in, as if each such branch establishment or location were a separate business.~~, and each license shall authorize the license to engage only in the business licensed thereby at the location or in the manner designated in such license; provided, that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this chapter, shall not be deemed to be separate places of business or branch establishments.~~

§ 5-1.5 Prerequisite to Issuance of Permits.

Each department of the City which issues regulatory licenses, permits, entitlements or other permission for work to be done shall require the production of a valid unexpired business license prior to the issuance of such a regulatory license, permit, entitlement or other permission.

§ 5-1.6 Application.

a. Every person required to have a license under the provisions of this Chapter shall make an application for the same to the ~~City Treasurer~~Collector. Such application shall be an original written statement upon the form provided by the ~~City Treasurer~~Collector and signed under ~~the~~ penalty~~ies~~ of perjury by the applicant. The application shall set forth such information as may be therein required and as may be necessary properly to determine the amount of the license tax to be paid by the applicant.

~~If the amount of the license tax to be paid by the applicant is based upon the average number of employees of such applicant such application shall set forth the average number of employees for the applicable period.~~b. For the first tax year that a business operates in the City, it must pay the license tax measured by the estimate of the business's gross receipts for the first tax year. Within 30 days of the end of a business's first tax year operating in the City, the business must provide the Collector with a statement of the business's actual gross receipts for the first tax year.

1. If the actual gross receipts for the first tax year are more than the estimated gross receipts on which the tax for the first tax year was calculated and paid, then an additional amount of tax based on the additional gross receipts will be levied and due within 30 days of the start of the second tax year.

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

§ 5-1.7 ~~Preparation and Issuance; Lost Certificate.~~(Reserved)

~~All licenses shall be prepared and issued by the City Treasurer. The City Treasurer shall issue a duplicate business license certificate to replace any certificate issued under the business license tax provisions of this chapter which has been lost or destroyed at a cost to the taxpayer in an~~

~~amount as set forth in the Master Fee Schedule. Each replacement certificate issued thereafter shall be issued at a cost cited in the Master Fee Schedule.~~

§ 5-1.8 Contents.

Each business license issued under this Chapter shall state upon the face thereof, the following:

a. The name of the person to whom the license is issued.

b. The kind or kinds of business licensed thereby.

c. The location of such business.

d. The date of the expiration of such license.

e. Misrepresentation. No person shall knowingly or intentionally misrepresent to any officer or employee of the City any material fact in any statement or other information submitted to the Collector or other agent of the City in connection with the administration and enforcement of this chapter. Any person, who with the intent to defraud the City or evade ~~his~~their business license tax obligation who misrepresents in any business license tax return which ~~he~~they file~~s~~ any fact material to the determination of a correct amount of business license tax due, shall be assessed a penalty of fifty (50%) percent of the amount of business license tax due plus one and one-half (1-1/2%) percent interest per month or fraction thereof on the unpaid amount from the date the tax was due until the date of payment.

f. Such other information as required by the State of California.

g. Such other information as the ~~City Treasurer~~Collector shall determine.

§ 5-1.9 Terms.

Unless otherwise provided, licenses for businesses within the City as required by this Chapter shall be for the following terms:

a. The term of the annual business license shall be for one (1) year beginning January first of each year.

b. The term of semi-annual business licenses shall be six (6) months, beginning January first, April first, July first, ~~and~~or October first of each year, or a date to be determined by Collector.

c. The term of quarterly business licenses shall be three (3) months, beginning January first, April first, July first ~~and~~or October first of each year, or a date to be determined by Collector. ~~For businesses of an occasional or temporary nature, operating from outside the City, the term of annual, semi-annual or quarterly licenses shall begin on the date the business is first conducted within the City and continue for the duration of the license in question.~~

d. All licenses shall be valid only for the period issued.

§ 5-1.10 Does Not Authorize Illegal Business.

No business license issued under the provisions of this chapter shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any provision of this Code or other ordinance of the City.

§ 5-1.11 ~~Joint Licenses.~~(Reserved)

~~Whenever any person is engaged in two (2) or more businesses at the same location, such person shall not be required to obtain separate licenses for conducting each of such businesses, but shall be issued one (1) license which shall specify on its face all such businesses; provided, however, that to qualify for a joint license of all businesses, shall be those of the type set forth and described in subsection 5-2.3, and no business listed under subsection 5-2.2 shall qualify as a joint licensee. The license tax, if applicable, shall apply to the total of all employees in both businesses.~~

§ 5-1.12 (Reserved)

§ 5-1.13 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 (1) 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. When a peddling and soliciting license has been issued to and paid for by an employer under the provisions of subsection 5-2.2 of this chapter, on behalf of a particular employee, and there is a change in the personnel peddling or soliciting in the City for such employer, such license may be amended to authorize peddling and soliciting by such other personnel for the unexpired portion of the license. Before such amended license shall be issued, the employer shall file an affidavit setting forth the change in personnel.~~

~~d. The license transfers and amendments herein authorized may be obtained upon application therefor to the City Treasurer with the payment as set forth in the Master Fee Schedule.~~

§ 5-1.14 Renewal.

In all cases, the applicant for the renewal of a business license shall submit to the ~~City Treasurer~~Collector for ~~his or her~~their guidance in ascertaining the amount of the license tax to be paid by the applicant, a written statement upon a form to be provided by the ~~City Treasurer~~Collector, signed under penalty of perjury, or sworn to before a person authorized to administer oaths. Such form shall set forth such information concerning the applicant's business during the preceding year as may be required by the ~~City Treasurer~~Collector to enable ~~him/her~~them to ascertain the amount of the license tax to be paid by the applicant pursuant to the provisions of this Chapter.

§ 5-1.15 Disclosure of Information.

~~The City Treasurer and each representative of the City having an administrative duty shall keep confidential all information concerning the business affairs and operations obtained by an investigation of records in the discharge of official duty and the amount and source of income, profits, losses and expenditures set forth in a statement or application. However, this subsection does not prevent:~~

~~a. Disclosure of examination of records and equipment by another City official for collection of taxes for the purpose of administering this chapter or collecting taxes imposed by it, or to other taxing agencies with authority to obtain such information;~~

~~b. Disclosure or information to, or the examination of records by, Federal or State officials or the tax officials of another City or County, or the City and County, if a reciprocal arrangement exists;~~

~~c. Disclosure of information to a grand jury or court of law upon subpoena;~~

~~d. Disclosure of information and results of examination of records of particular taxpayers to a court of law in a proceeding brought to determine the existence or amount of license tax liability to the City;~~

~~e. Disclosure to the taxpayer or his successor, administrator, assignee, or guarantor if directly interested, or information as to the items included in the measure of the paid tax, unpaid tax, or amount of tax required to be collected, interest and penalties.~~

It is unlawful for the Collector or any person having an administrative duty under the provisions of this Chapter to make known in any manner whatever, the business affairs, operations, or information obtained by an investigation of records and equipment of any business or person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth in any statement or application, or to permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person; provided, that nothing in this section shall be construed to prevent:

a. The disclosure of information to, or the examination of records and equipment by, another City official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this Chapter, or collecting taxes imposed under 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, or city and county, if a reciprocal arrangement exists, or to a grand jury or court of law, upon subpoena or final court order;

c. The disclosure of information and results of examination of records of particular taxpayers, or relating to particular taxpayers, to a court of law in a proceeding brought to determine the existence or amount of any license tax liability of the particular taxpayers to the City;

d. The disclosure, after the filing of a written request to that effect, to the taxpayer themself, or to their successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, of information as to the items included in the measure of any paid license tax, any unpaid tax or amounts of tax required to be collected, interest and penalties; further provided, however, that the City Attorney approves each such disclosure;

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

f. The disclosure of such information as may be necessary to the City Council in order to permit it to be fully advised as to the facts when a taxpayer files a claim for refund of license taxes, or submits an offer of compromise with regard to a claim asserted against them by the City for license taxes, penalties or interest;

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

h. The disclosure of information as required by the California Public Records Act or any other applicable public disclosure law, provided that the City may, in good faith, seek judicial review in a court of law as to whether it is required to publicly disclose any such information pursuant to applicable law.

§ 5-1.16 Enforcement of Chapter Generally.

It shall be the duty of the ~~City Treasurer~~Collector, and ~~he or she is~~they are hereby directed, to enforce each and all the provisions of this chapter.

§ 5-1.17 Right to Audit Statements and Records.

a. For the purpose of ascertaining the correctness of any affidavit filed, or the amount of any license tax paid, the ~~City Treasurer~~Collector of the City, or any person designated by ~~him or her~~ them 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~~ their testimony with reference thereto, with power to administer oath to such person or persons.

~~b. In lieu of such an examination information reported by the licensee for income tax purposes and pertaining to the gross receipts of the licensed business may be accepted by the City Treasurer of the City when substantiated by a true and correct copy of that portion of the Federal or State income tax return. This usually means Schedule C of the return.~~

~~c~~b. In the event of an appeal by a licensee from a classification assigned to ~~him or her~~ them, the ~~City Treasurer~~Collector of the City shall not be required to accept information reported by the licensee to the Collector of Internal Revenue for income tax purposes in lieu of an examination authorized in the above paragraph.

§ 5-1.18 Statements Filed Under Chapter Not Conclusive/Retention of Records.

a. No statement filed under this Chapter shall be conclusive as to the matters set forth therein, nor shall the filing of the same preclude the City from collecting, by appropriate action such sum as is actually due and payable under this Chapter. Such statement and each of the several items therein contained ~~shall~~may be subject to audit and verification by the ~~City Treasurer~~Collector, ~~his~~

~~or her~~their deputies, or authorized employees, or agents of the City, who are hereby authorized to examine, audit and inspect such records of any licensee or applicant for a license, as may be necessary, in their judgment, to verify or ascertain the amount of license tax due.

b. All persons subject to the provisions of this Chapter shall keep complete records of business transactions, including sales, receipts, purchases, and other expenditures, and shall retain all such records for examination by the Collector. Such records shall be maintained for a period of at least three years. No person required to keep records under this Section shall refuse to allow authorized representatives of the Collector to examine such records at reasonable times and places.

§ 5-1.19 Inspection of Places of Business.

The ~~City Treasurer~~Collector, in the exercise of the duties imposed upon ~~him or her~~them by this Chapter and acting through ~~his or her~~their deputies or duly authorized assistants, ~~shall~~may examine or cause to be examined all places of business in the City to ascertain whether the provisions of this Chapter have been complied with.

§ 5-1.20 Right of Entry.

The ~~City Treasurer and each and all of his or her assistants~~Collector and any Police Officer shall have the power and authority to enter, free of charge and at any reasonable time, any place of business required to be licensed by this Chapter and demand an exhibition of its license ~~certificate~~. Any person having such business license ~~certificate~~ theretofore issued, in ~~his~~their possession or under ~~his~~their control who willfully fails to exhibit the same on demand shall be guilty of a misdemeanor.

§ 5-1.21 Complaints for Violations of Chapter.

~~It shall be the duty of t~~The ~~City Treasurer~~Collector ~~and each of his or her assistants to~~may cause a complaint to be filed against any and all persons found to be violating any provision of this Chapter.

§ 5-1.22 Collector, Etc., May Administer Oaths.

For the purpose of this Chapter, the ~~City Treasurer~~Collector~~, his or her deputies and authorized agents are~~ is authorized to administer oaths.

§ 5-1.23 Powers of City Attorney.

The City Attorney, in the event of the failure, inability or incapacity of the ~~City Treasurer~~Collector to act under this Chapter, or upon ~~his or her~~their own determination, shall have concurrent and contemporaneous jurisdiction and authority with that of the ~~City Treasurer~~Collector in the investigation and enforcement of the provisions of this Chapter.

§ 5-1.24 Cumulative Remedies.

a. The conviction and punishment of any person for transacting any business without first obtaining a license shall not excuse or exempt such person from the payment of any license tax due or unpaid at the time of such conviction, and nothing herein shall prevent a criminal prosecution of any violation of the provisions of this chapter. All remedies prescribed hereunder shall be cumulative and the use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.

b. Any person who violates any provision of this Chapter shall be guilty of a misdemeanor or an infraction.

1. If charged as an infraction, the penalty upon conviction of such person shall be as follows: (i) a fine not exceeding one hundred ($100.00) dollars for a first violation; (ii) a fine not exceeding two hundred ($200.00) dollars for a second violation within one year; (iii) a fine not exceeding five hundred ($500.00) dollars for each additional violation within one year.

2. If charged as a misdemeanor, the penalty upon conviction of such person shall be imprisonment in the county jail for a period not to exceed six (6) months, or a fine not exceeding one thousand ($1,000.00) dollars or by both such fine and imprisonment.

§ 5-1.25 Appeals.

Any person aggrieved by any decision of ~~an administrative officer or agency~~the Collector with respect to the issuance or refusal to issue a license, the revocation of a license, or the amount of ~~a~~ license tax, may appeal to the ~~Council~~City Manager by filing a notice of appeal with the City ~~Clerk~~Manager within fifteen (15) days of such decision. The ~~Council~~City Manager shall then fix a time and place for hearing such appeal. ~~and t~~The City ~~Clerk~~Manager or designee shall give notice, in writing, to such person of the time and place of the hearing by serving it personally or by depositing it in the United States Post Office ~~at~~in Albany, California, postage prepaid, addressed to such person at ~~the~~their last known address ~~appearing on his last license or application~~. ~~The findings of the Council shall be final and conclusive~~The City Manager shall have the authority to determine all questions raised on such appeal and their decision shall be served upon the ~~applicant~~person in the manner prescribed above for service of notice of hearing. The findings of the City Manager shall be final and conclusive.

§ 5-1.26 Persons Excluded from Chapter.

~~Except as otherwise specifically provided, the terms of this chapter shall not be deemed or construed to apply to any of the following persons~~Unless otherwise provided in this Chapter 5 of the Albany Municipal Code, persons in the following categories shall be exempt from the payment of a business license tax:

a. Banks, including national banking associations, as provided in Article XIII, Section 16, Subdivision 1 (a) of the State Constitution.

b. Insurance companies and associations as provided by Article XIII, Section 14 of the State Constitution.

c. Any person whom the City is not authorized to apply the business license tax to under any law or ~~c~~Constitution of the United States or the State.

d. Charitable Organizations. Any charitable institution, organization or association organized for charitable purposes and conducted for charitable purposes only.

e. Religious, Educational, Etc., Organizations.

1. Any religious, fraternal, educational, military, State, County or Municipal organization or association for the conducting of any business which is open to the members thereof only and not open to the public.

2. Any religious, fraternal, educational, military, State, County or Municipal organization or association for the conducting or staging of any amusement or entertainment, concert, exhibition, lecture, dance or athletic event, when the receipts derived are to be used wholly for the benefit of such organization and not for private gain of any person.

3. Any student organization or association sanctioned by the educational institution from which the membership is drawn, for the conducting or staging of any amusement or entertainment, concert, exhibition, lecture, dance or athletic event, when the receipts derived are to be used wholly for the benefit of such organization and not for private gain of any person.

f. Solicitors in Interstate Commerce. Solicitors engaged in interstate commerce, when a license tax casts a burden upon such interstate commerce. Any person claiming exemption upon this ground shall, at the time of making the application for exemption, pay an administrative fee to cover the cost of investigation and registration of the claim as set forth in the Master Fee Schedule.

The ~~City Treasurer~~Collector may require the filing of a verified statement from any person claiming to be excluded by the provisions of this ~~subsection~~Section, which statement shall set forth all facts upon which the exclusion is claimed.

§ 5-1.27 Application for Exemption.

Any person desiring to claim exemption from the payment of a license tax, pursuant to Subsection 5-1.26, shall make application therefor upon forms prescribed by the Collector, and shall furnish such information and make such affidavits as may be required. Upon the determination being made that the applicant is entitled to exemption from the payment of a license tax for any reason set forth in this Chapter, the Collector, shall issue a business license to such person without the payment of license tax, which shall show upon its face that the license is exempt from said tax."

SECTION 3: AMENDMENT TO SECTION 5-2 OF THE MUNICIPAL CODE.

Chapter 5, Section 5-2 of the City of Albany Municipal Code is hereby amended to read:

"§ 5-2 LICENSE TAX.

§ 5-2.1 Imposed.

There is hereby imposed upon every business in the City, a business license tax in the amount prescribed in this section.

§ 5-2.2 ~~Amount of Tax Generally.~~(Reserved)

~~Every person commencing, transacting and carrying on any business herein enumerated shall pay a license tax as is set forth in a resolution duly adopted by the City Council, or as set forth by ordinance.~~

~~The provisions of this subsection shall not apply to persons employed as solicitors or peddlers by any person who has a fixed place of business in the City and who holds a valid unexpired license for such business in the City. The employer shall make application to the City Treasurer and shall furnish such information and make such affidavits as may be required. Upon the determination~~

~~being made that such solicitor or peddler is entitled to exemption under the provisions of this subsection and upon his complying with the provisions of all other ordinances relating to peddling or soliciting, the City Treasurer shall issue a free license to such person, which shall show upon its face that the license is exempt.~~

~~The license amounts established by this subsection shall be adjusted each August for the next calendar year in the following manner: Each of the license amounts as set forth by the City Council by separate resolution or ordinance shall be multiplied by the percent change in the June Consumer Price Index (CPIW), established by the U.S. Bureau of Labor Statistics, All Urban Wage Earners and Clerical Workers San Francisco Bay Area Index from the previous year to the current. The amount of the product shall be rounded down or up to the nearest whole dollar. The product thus produced shall automatically be deemed to be the base amount of any increase to the license amount to be collected during the subsequent year, in addition to any other modifications set by the City Council. Any prorations shall be rounded out (up or down) to the nearest dollar.~~

~~A company, person or utility, not otherwise covered by this chapter, providing a service similar to those services performed by a franchisee, contractor, or utility shall pay as a license tax at least the same fees as the utility, franchisee, or contractor is paying under any already existing agreement with the City.~~

§ 5-2.3 Business License Tax Rates.

a. ~~Except as otherwise provided in this Chapter 5 of the Albany Municipal Code and subsection, e~~Every person commencing, transacting and carrying on, ~~in~~either at a fixed place of business in the City or not, any business other than those ~~enumerated in subsections 5-2.2 and 5-2.4~~exempted by this Chapter, shall pay an annual license tax based upon the flat rates and/or gross receipts of the business~~average number of employees employed in such business~~ as provided in subsections b. and c. below.~~ as set forth in the resolution duly adopted by the City Council, or as set forth by ordinance.~~

~~Persons taking out business license for less than one (1) full year shall pay, in addition to the pro rata share of the above license tax, an administrative charge as set forth in the Master Fee Schedule for each license period in excess of one (1) in any calendar year. A business located within Albany may not take out more than two (2) licenses each year.~~

b. ~~Every person commencing, transacting and carrying on at other than a fixed place of business in the City any business other than those enumerated in subsection 5-2.2 shall pay an annual license tax based upon the average number of employees and upon the annual rates provided for in the preceding paragraphs.~~ The maximum business license tax rates shall be as follows:

1. For businesses conducting the rental of residential real property (including apartments, condominiums and single-family houses for rent):

(a) $120 per residential rental unit.

2. For businesses conducting the rental of commercial real property:

(a) $50 for businesses with up to $50,000 in gross receipts;

(b) $200 for businesses with gross receipts more than $50,000 but less than or equal to $200,000; and

(c) $5 per $1,000 of gross receipts above $200,000.

3. For contractor businesses:

(a) $50 for businesses with up to $50,000 in gross receipts;

(b) $200 for businesses with gross receipts more than $50,000 but less than or equal to $200,000; and

(c) $5 per $1,000 of gross receipts above $200,000.

4. For general retail businesses (including public utilities):

(a) $50 for businesses with up to $50,000 in gross receipts;

(b) $200 for businesses with gross receipts more than $50,000 but less than or equal to $200,000; and

(c) $1 per $1,000 of gross receipts above $200,000.

5. For businesses providing professional services:

(a) $50 for businesses with up to $50,000 in gross receipts;

(b) $200 for businesses with gross receipts more than $50,000 but less than or equal to $200,000; and

(c) $5 per $1,000 of gross receipts above $200,000.

6. For businesses providing non-professional services and any other businesses not classified anywhere:

(a) $50 for businesses with up to $50,000 in gross receipts;

(b) $200 for businesses with gross receipts more than $50,000 but less than or equal to $200,000; and

(c) $5 per $1,000 of gross receipts above $200,000.

7. For exempt businesses:

(a) No business license tax shall be due from such businesses as provided in this Chapter.

c. The maximum flat rates and the flat gross receipts thresholds provided in subparagraphs (a) and (b) of paragraphs (1) through (6) of subsection b. above shall be annually adjusted commencing with the first calendar year after this Ordinance is adopted, as set forth herein to reflect any increase in the Consumer Price Index. The maximum rates per $1000 in gross receipts provided in subparagraph (c) of paragraphs (1) through (6) of subsection shall not be so adjusted, however the flat $200,000 gross receipts thresholds shall be so adjusted. The flat tax rate per year and flat gross receipts thresholds for each calendar year shall be an amount determined as follows: Tax rate and gross receipts thresholds for the current year

Tax rate and gross receipts thresholds for the current year	=	Tax rate and gross receipts thresholds for the preceding year	X	Change in Consumer Price Index from April of the immediately preceding year to April of the current year or 1.03, whichever is less

"Consumer Price Index" or "CPI" means the Consumer Price Index for All Urban Consumers (CPI-U) for San Francisco-Hayward as published by the U.S. Department of Labor, Bureau of Labor Statistics. If the Consumer Price Index is discontinued or revised, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Consumer Price Index had not been discontinued or revised. The adjustment identified above shall be subject to an annual cap of 3%. In no event shall the tax rate or gross receipts thresholds for any year be less than the amount established for the preceding year. If, in any such Consumer Price Index measurement period, the Consumer Price Index increase exceeds three percent (3%), the amount above three percent (3%) shall carryover to any subsequent calendar year in which the applicable Consumer Price Index increase is less than three percent (3%), provided that the total increase in that calendar year (the CPI-based increase for that year and any carried over increase from prior years) does not exceed three percent (3%).

d. The rates set forth in subsection b. or c. may be adjusted upwardly or downwardly by the City Council without a vote of the people of the City of Albany. However, as required by California Constitution Article XIIIC (Proposition 218), voter approval is required for any adjustment that would increase the maximum rate or methodology of any tax levied pursuant to this Chapter. The people of the City of Albany affirm that the following actions shall not constitute an increase of the rate or methodology of the business license tax requiring subsequent voter approval:

1. The restoration of the rate of the tax to a rate that is no higher than the maximum set by this voter-approved Chapter, if the City Council has previously acted to reduce the rate of the tax;

2. An ordinance amending the procedural provisions of Sections 5-1 and 5-2 relating to the application for and issuance of business licenses, collection of business license tax, and penalties for non-compliance, so long as such ordinance does not increase the maximum rate or methodology of any tax levied pursuant to this chapter;

3. An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this Chapter;

4. Resuming collection of the tax imposed by this chapter, even if the City had, for some period of time, either suspended collection of the tax or otherwise failed to collect the tax, in whole or in part.

§ 5-2.4 ~~License Tax for Home Businesses.~~(Reserved)

~~Every person commencing, transacting or carrying on any business in his home in a residential zone, not as a nonconforming use, shall pay an annual license tax as required by subsection 5-2.3.~~

§ 5-2.5 ~~License Tax in Case of Joint License.~~(Reserved)

~~The license tax to be paid in case of a license issued under subsection 5-1.1 of this chapter for two (2) or more businesses at the same location shall be computed as if one (1) business were being conducted at such location, and where one (1) or more of such businesses is designated under subsection 5-2.2 of this chapter, then the tax shall be the highest applicable under such subsection, inclusive of the total number of employees for the combined businesses.~~

§ 5-2.6 License Tax Determination When Required Statements Not Filed.

a. If any person fails to file any statement required by this Chapter within the time prescribed; or, if after demand therefor has been made by the ~~City Treasurer~~Collector, ~~he or she~~they fails to file a corrected statement within fifteen (15) days after notification so to do, or it appears to the satisfaction of the ~~City Treasurer~~ Collector that a statement filed does not set forth the true facts of the business for which a license is required, the ~~City Treasurer~~Collector shall determine the amount of license tax due from such person by means of such information as ~~he or she~~they may be able to obtain.

b. In case such determination is made, the ~~City Treasurer~~Collector shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States Post Office at Albany, California, postage prepaid, addressed to the person so assessed at the person's last known address ~~appearing on his or her last license or application~~. Such person may, within ten (10) days after the serving or mailing of such notice, make application in writing to the ~~City Treasurer~~Collector for a hearing on the amount of the license tax. If such application is made, the ~~City Treasurer~~Collector shall give not less than five (5) days' written notice, in the manner prescribed herein, to the licensee to show cause at a time and place fixed for such license. At such hearing the licensee may appear and offer evidence why such specified tax should not be fixed as the license tax. After such hearing the ~~City Treasurer~~Collector shall determine the proper tax to be charged and shall forthwith give written notice to the licensee in the manner prescribed herein of such determination and the amount of such tax.

c. If application by the licensee for a hearing is not made within the time prescribed, the license tax determined by the ~~City Treasurer~~Collector shall become final and conclusive.

§ 5-2.7 When and Where Taxes Payable.

a. All license taxes shall be paid in advance, on or before the first day of the term for which the license is required, in lawful money of the United States at the office of the ~~City Treasurer~~Collector. ~~The tax for daily licenses shall be payable each day in advance.~~

b. The amount of any license tax finally determined as provided in Subsection 5-1.25 or 5-2.6 of this Chapter shall be due and payable as of the date the original license fee was due and payable, together with any penalties that may be due thereon~~; provided, however, if the amount of such license tax is fixed in accordance with the original statement of the applicant, then no penalty shall attach by reason of the delinquency~~.

§ 5-2.8 (Reserved)

§ 5-2.9 ~~Proration.~~(Reserved)

~~License taxes for new operations commenced after the beginning of the license period may be prorated on an even monthly basis for the balance of the license period.~~

§ 5-2.10 Penalty for Non-Payment of Annual Business Tax.

a. Every annual business tax ~~or registration fee renewal~~ which is not paid on or before January 31 of each year is hereby declared delinquent, and the ~~City Treasurer~~Collector shall thereupon add to the business tax~~ or registration fee~~ and collect a penalty of ten (10%) percent or five ($5.00) dollars, whichever is greater, of the tax so delinquent; an additional penalty of fifteen

(15%) percent of the tax so delinquent shall accrue if the tax remains unpaid on March 1 of the current tax year; if the tax amount still remains unpaid on April 1 of the current tax year, a further penalty of twenty-five (25%) percent of the tax so delinquent will accrue. The aggregate total of all penalties shall be:

February 1 - February 28/29: 10%

March 1 - March 31: 25%

April 1 and thereafter: 50%

Plus interest at the rate of one and one-half (1-1/2%) percent per month, interest compounded monthly.

For newly established businesses commencing after January 1 of that year, taxes and fees are delinquent if not paid within fifteen (15) days of commencement of business, and the aggregate total of all penalties shall be:

16 - 45 days delinquent; 20%

46 - 75 days delinquent: 50%

76 days delinquent and thereafter: 75%

b. ~~Prior Year Registration Assessments~~Tax Based Upon First Day of Engaging in Business. If any person has failed to apply for and secure a valid ~~B~~business ~~Tax Certificate~~license, the business license tax due shall be that amount due and payable from the first date on which the person was engaged in business in the City, together with applicable penalties and interest.

c. Notice Not Required. The ~~City Treasurer~~Collector is not required to send a renewal, delinquency or other notice or bill to any person subject to the provisions of this ~~s~~Section and failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this ~~s~~Section.

d. Interest. In addition to the penalties imposed, any person who fails to remit any business tax imposed by the business tax provisions of this ~~c~~Chapter shall pay interest at the rate of one and one-half (1-1/2%) percent per month or fraction thereof, compounded monthly, on the amount of the tax and penalties from the date on which the business tax first became delinquent until paid.

~~e. Business Tax a Debt. The amount of any business tax and penalty imposed by this section shall be deemed a debt to the City, and any person carrying on any business without first having procured a Business Tax Certificate from the City shall be liable to an action in the name of the City in any court of competent jurisdiction, for the amount of tax and penalties imposed on such business.~~

~~The amount of tax, penalty and interest imposed under the provisions of this chapter is hereby assessed against the business property on which the tax is imposed in those instances where the owner of the business and the business property are one and the same. If the taxes are not paid when due, such tax shall constitute an assessment against such business property and shall be a lien on the property for the amount thereof, which lien shall continue until the amount thereof including all penalties and interest are paid, or until it is discharged of record.~~

~~f. Notice of Hearing on Lien. The City Treasurer shall file with the City Clerk a written notice of those persons on whom the City will file liens. Upon receipt of such notice the City Clerk shall present same to the City Council, and the City Council shall forthwith, by resolution, fix a time and place for a public hearing on such notice. The City Treasurer shall cause a copy of such resolution and notice to be served upon the owner of the business/business property not less than five (5) days prior to the time fixed for such hearing. Such service shall be by mailing a copy of such resolution and notice to the owner of the business/business property at his/her last known address. Service shall be deemed complete at the time of deposit in the United States mail.~~

~~g. Collection of Delinquent Taxes by Special Tax Roll. With the confirmation of the report by the City Council, the delinquent tax charges contained therein which remain unpaid by the owner of the business/business property shall constitute a special assessment against the business property and shall be collected at such time as is established by the County Assessor for inclusion in the next property tax assessment.~~

~~h. The City Treasurer shall turn over to the County Assessor for inclusion in the next property tax assessment the total sum of unpaid delinquent charges consisting of the delinquent business taxes, with penalties and interest (Section 5-2.10a) and interest at the legal rate from the date of recordation to the date of lien, administrative charges as set forth in the Master Fee Schedule for staff time and a release of lien fee as set forth in the Master Fee Schedule. Thereafter, the assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected.~~

§ 5-2.11 Any License Tax, ~~and~~ Penalty, and Interest Constitute a Debt; Suit for Collection.

The amount of any license tax and penalty imposed by the provisions of this ~~c~~Chapter, plus any accrued interest thereon, shall be deemed a debt to the City and any person so ~~carrying on any business without first having procured a license from the City~~owing ~~so to do~~ shall be liable to an action in the name of the City in any court of competent jurisdiction for the amount of the license tax, ~~and~~ penalties, and interest imposed on such business.

In any action brought under or arising out of any of the provisions of this ~~c~~Chapter, the fact that a party thereto represented ~~himself~~themself as engaged in any business or calling for the transaction of which a license is required; or that such party exhibited a sign indicating such business or calling, shall be conclusive evidence of the liability of such party to pay for a license for such business.

§ 5-2.12 Refunds.

~~No refunds will be made on any amount paid as a license tax except in the case of error on the part of the City in the determination of the amount of tax or in the event of double payment for a license.~~

~~Any refund as herein provided will be made only upon authorization of the City Treasurer.~~

a. Any business owner who believes that any tax, penalty, or interest has been illegally, erroneously, or mistakenly paid to, collected by, or otherwise received by the City may file a claim for a refund of the amount of tax, penalty, or interest claimed to have been improperly received by the City.

b. The claim must be filed with the Collector and signed under penalty of perjury by the business owner. The claim must state:

1. The legal and factual basis for the refund claim;

2. The amount of tax, penalty, or interest allegedly improperly received by the City,

3. The date or dates that the improper payments were made to the City, and

4. The address of the claimant.

c. The claim must be filed with the Collector within one year of the date of the allegedly improper payment to the City.

d. The Collector must provide a written decision on the claim within 45 days of the filing of the claim by serving the decision on the claimant either personally or by U.S. mail to the address provided in the claim. Service is effective upon deposit of the response in the U.S. Mail.

§ 5-2.13 ~~**Exemptions, Generally.**~~**(Reserved)**

~~Unless otherwise provided in this Chapter 5 of the Albany Municipal Code, persons in the following categories shall be exempt from the payment of a license tax:~~

~~a. Charitable Organizations. Any charitable institution, organization or association organized for charitable purposes and conducted for charitable purposes only.~~

~~b. Charitable Entertainments. Any person conducting or staging any concert, exhibition, lecture, dance, amusement or entertainment where the receipts, if any, derived therefrom are to be used solely for charitable or benevolent purposes and not for private gain.~~

~~c. Religious, Educational, Etc., Organizations.~~

~~1. Any religious, fraternal, educational, military, State, County or Municipal organization or association for the conducting of any business which is open to the members thereof only and not open to the public.~~

~~2. Any religious, fraternal, educational, military, State, County or Municipal organization or association for the conducting or staging of any amusement or entertainment, concert, exhibition, lecture, dance or athletic event, when the receipts derived are to be used wholly for the benefit of such organization and not for private gain of any person.~~

~~3. Any student organization or association sanctioned by the educational institution from which the membership is drawn, for the conducting or staging of any amusement or entertainment, concert, exhibition, lecture, dance or athletic event, when the receipts derived are to be used wholly for the benefit of such organization and not for private gain of any person.~~

~~d. Political Party, Etc. Any party, group, association, individual, proponent or opponent of any political or elective proposition or candidate for office, whether national, local or State;~~

~~provided, that the party, association, group, individual, proponent or opponent shall not advocate the overthrow of national, State or local government.~~

~~e. Rubbish and Garbage Collectors. Any person collecting rubbish or garbage under contract with the City for the portion of such business done under such contract.~~

~~f. Solicitors in Interstate Commerce. Solicitors engaged in interstate commerce, when a license tax casts a burden upon such interstate commerce. Any person claiming exemption upon this ground shall, at the time of making the application for exemption, pay an administrative fee to cover the cost of investigation and registration of the claim as set forth in the Master Fee Schedule.~~

~~g. Minors. Every natural person of the age of sixteen (16) years or under whose annual gross receipts from any and all business are five hundred ($500.00) dollars, or less shall be subject to license fees as set forth by resolution.~~

§ 5-2.14 ~~Application for Exemption~~<u>Interstate Commerce/Apportionment of Tax</u>.

~~a. Any person desiring to claim exemption from the payment of a license tax, and to have a free license issued to him or her, pursuant to subsection 5-2.13, paragraphs b, c, d, e, f and g, thereof, shall make application therefor upon forms prescribed by the City Treasurer, and shall furnish such information and make such affidavits as may be required. Upon the determination being made that the applicant is entitled to exemption from the payment of a license tax for any reason set forth in this chapter, the City Treasurer, upon the applicant complying with the provisions of this chapter or any other ordinance of the City which may require a permit for the doing of the particular act proposed to be done, shall issue a free license to such person, which shall show upon its face that the license tax is exempt.~~

~~b. Any person or any agent or representative thereof, desiring to claim exemption from the payment of a license tax and to have license issued to him pursuant to subsection 5-2.13a thereof, shall file an application in writing and under oath with the City Treasurer, signed by such person or if a society, association or corporation, by an officer thereof, setting forth:~~

~~1. The name or names of the organization or of the person or persons by whom and by which such solicitation is to be made, with the address or addresses of such organization or person or persons, the phone number, together with the names and addresses of all officers of such organization, and the names and addresses of all persons who will solicit or manage or direct the solicitation of such funds; provided, that the names and addresses of persons who will solicit such funds, without any remuneration or compensation, either direct or indirect, need not be required, wherein in the opinion of the City Treasurer, the number of such persons makes it impractical to name them all.~~

~~2. The purpose or object for which such solicitation is made, and the use to be made of the funds derived therefrom, and the address or location of the place or places from which distribution or disbursement of such funds shall be made for such purpose or object.~~

~~3. The time when such solicitation shall be made, giving the date of the beginning and ending of such solicitation, which in no case shall be for a period of longer than one (1) year; provided that when such license is issued for a period of less than one (1) year, it may be renewed for additional periods not exceeding in all the total period of one (1) year, for such original permit and renewal.~~

~~4. A financial statement by such applicant, setting forth:~~

~~(a) The amount of any wages, fees, commissions, costs, expenses or emoluments to be expended or paid in connection with such solicitation, together with the manner~~

~~in which such wages, fees, commissions, costs, expenses or emoluments are to be expended, the character of the services for which such expenses are to be incurred and, where possible, the names of the persons to whom payments are to be made and the amounts each of such persons shall receive.~~

~~(b) All funds received and disbursed by such applicant during the calendar year or applicant's fiscal year next preceding the filing of such application.~~

~~(c) All funds received or collected by public solicitation or otherwise during such preceding calendar year or fiscal year, with a statement of the wages, fees, commissions, costs, expenses or emoluments expended in connection with solicitation during such year.~~

~~5. Such other information as may be deemed necessary by the City Treasurer.~~

~~c. Upon receipt of the completed application as provided for in paragraph b hereof, the City Treasurer may grant the application unless the applicant or its officers have been convicted of a felony, or shall transmit to the City Council all such information received for its consideration at its next regular meeting. If the City Treasurer denies the application, the matter shall be forwarded to the City Council for its consideration upon the request of the applicant at the next City Council meeting.~~

~~The City Council shall review the application as submitted, and may deny such application if it appears that the applicant or its officers has been convicted of a felony. The City Council shall grant or deny such application within fifteen (15) days of the filing of such application, and written notice shall be given to the applicant.~~

~~d. Persons receiving licenses to solicit in accordance with this subsection shall submit to the City Treasurer in a form and at such times as prescribed by such City Treasurer in such license,~~

~~sworn statements setting forth the amount of the contributions received and the disposition made thereof, the final statement to be made within thirty (30) days after completion of such solicitation.~~

~~e. A badge is to be worn by all exempt solicitors, when soliciting, showing on its face in pica 10 or larger type the solicitor's name, organization and the amount or percentage of compensation they receive from that organization, if it is a percentage of the donation.~~

a. None of the taxes provided for by this Chapter shall be so applied as to occasion an undue burden upon interstate commerce or violate the Equal Protection and Due Process Clauses of the Constitutions of the United States and the State of California.

b. If the holder of a business license or an applicant for a business license (the taxable person or entity) believes that the business tax places an undue burden upon interstate commerce or would violate such constitutional clauses, the taxable person or entity may apply to the Collector for an adjustment of the tax (the apportionment application). The taxable person or entity may make an apportionment application within six months after payment of the prescribed business license tax. The taxable person or entity shall, by sworn statement and supporting testimony, show its method of business, its cost of operations for all locations within the City, and such other information as the Collector may deem necessary to determine the extent, if any, of such undue burden on interstate commerce or other violation of constitutional protection.

c. The Collector shall then conduct an investigation, which may include but is not limited to inspecting the taxable person's or entity's books and records and other tax filings, and, after having first obtained the written approval of the City Attorney, shall fix as the business tax for the taxable person or entity an amount that is reasonable and nondiscriminatory, or if the business tax has already been paid, and the amount of the tax already paid is larger than the tax that was already paid, shall order a refund of the amount over and above the business tax so fixed.

d. In fixing the amount of the business tax, the Collector shall take the cost of operations for the locations in the City as the minimum amount owed in tax (absent extraordinary evidence to the contrary).

§ 5-2.15 Revocation of ~~Exempt~~Business License.

The ~~City Treasurer~~Collector may revoke any ~~exempt~~business license granted pursuant to the provisions of this ~~c~~Chapter, upon information that the licensee has provided false or inaccurate information to the Collector in obtaining said license, has filed false or inaccurate business license tax returns to the Collector, or is not entitled to ~~the~~a business license tax exemption as provided herein. In such revocation, the procedure to be followed and right of appeal shall be as provided in ~~s~~S ubsections 5-1.25 and 5-2.6 of this ~~c~~Chapter."

SECTION 4: INCREASE TO APPROPRIATIONS LIMIT.

Pursuant to California Constitution Article XIIIB, the appropriations limit for the City of Albany is hereby increased by the aggregate sum authorized to be levied by this general tax for fiscal year 2026/2027 and each year thereafter.

SECTION 5: CALIFORNIA ENVIRONMENTAL QUALITY ACT.

The findings for this Ordinance in compliance with the California Environmental Quality Act ("CEQA") are the same as those set forth in City Council Resolution No. 2026-63 calling for an election on this Ordinance. The CEQA findings set forth in Resolution No. 2026-63 are incorporated herein by reference.

SECTION 6: SEVERABILITY.

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

SECTION 7: EFFECTIVE DATE.

Pursuant to California Constitution Article XIIIC §(2)(b) and California Elections Code §9217, this Ordinance shall take effect only if approved by a majority of the eligible voters of the City of Albany voting at the General Municipal Election to be held on November 3, 2026 and shall become effective 10 days after the City Council has declared the results of the Election.

Ordinance No. 2026-06 was submitted to the People of the City of Albany at the November 3, 2026 General Municipal Election. It was approved by the following vote of the People:

YES:

NO:

Ordinance No. 2026-06 was thereby adopted by the voters at the November 3, 2026 election and shall become effective ten (10) days following adoption of a resolution declaring the results of the election at a meeting of the City Council held on December ___, 2026 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

I HEREBY CERTIFY that the foregoing is a true and correct copy of an ordinance duly and regularly adopted by the People of the City of Albany, California.

Anne Hsu, City Clerk

City of Albany

1000 San Pablo Avenue • Albany, California 94706
(510) 528-5710 • www.albanyca.org

RESOLUTION NO. 2026-63

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF ALBANY,

The 20th day of July, 2026, by the following votes:

AYES: Council Members Hansen-Romero, Jordan, López, Miki and

Mayor McQuaid

NOES: none

ABSENT: none

ABSTAINED: none

RECUSED: none

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY,

This 21st day of July, 2026.

[redacted]

Anne Hsu
CITY CLERK