

ORDINANCE NO. 2023-02

AN ORDINANCE OF THE CITY OF NEVADA CITY ADDING SECTIONS 5.04.140 (“EVENTS”) AND 5.04.350 (“IMPERMISSIBLE TAXES”) TO CHAPTER 5.04 (“BUSINESS LICENSES”) OF TITLE 5 (“BUSINESS TAXES, LICENSES AND REGULATIONS”) OF THE NEVADA CITY MUNICIPAL CODE

WHEREAS, Chapter 5.04 of the Municipal Code generally requires that a business license be obtained from the City by any person transacting, conducting, or carrying on any business or providing services in the City, whether or not they have a fixed place of business within the City; and

WHEREAS, Chapter 5.04 imposes upon each such person a business license tax; and

WHEREAS, the purpose of Chapter 5.04 is to raise revenue for the City and not for regulation; and

WHEREAS, the City Council desires to simplify the process by which vendors at farmers markets, fairs, and similar events may obtain such a license; and

WHEREAS, the City Council desires to clarify the interaction of Chapter 5.04 with state and federal law.

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

SECTION 1: Section 5.04.140 is hereby added to Article III (“Licensing Requirements”) of Chapter 5.04 (“Business Licenses”) of Title 5 (“Business Taxes, Licenses and Regulations”) of the Nevada City Municipal Code as follows:

“5.04.140. Events.

- A. For purposes of this Section, “event” means a farmers’ market, fair, swap meet, or other similar event at which vendors sell goods or services. This section does not apply to events that operate more than twice a week.
- B. The operator of an event subject to this Section may elect to serve as an intermediary collector of business license taxes by requesting and obtaining from the city an intermediary collector certificate.
- C. An intermediary collector shall not allow any vendor to sell goods or services at their event unless either (i) that vendor has obtained a valid business license from the City or (ii) the intermediary collector issues the vendor an event vendor certificate in a form that has been approved by the City.
- D. For each year, the intermediary collector shall maintain a list of the vendors operating at the event, and whether that vendor has a business license issued by the City or has been issued an event vendor certificate.
- E. Each month, the intermediary collector shall file with the city tax collector a form indicating the number of event vendor certificates issued by the intermediary collector, the names of the persons issued certificates, and such other information as may be required by the city tax

collector. The intermediary collector shall remit to the city tax collector \$20 for each event vendor certificate issued.

- F. The event vendor certificate shall have a validity of not more than one year and shall have the same expiration date as a one-year business license issued by the City.
- G. The intermediary collector shall collect from a vendor not more than \$20 for the event vendor certificate. Any money so collected is considered held in trust by the intermediary collector for the city.
- H. Possession of a valid event vendor certificate by a vendor substitutes, with respect to vending activities at the event, for any requirement that the vendor obtain a certificate pursuant to this chapter.
- I. In addition to the \$20 event vendor certificate amount, the intermediary collector shall remit to the city and may collect from the vendor any supplementary fee or tax generally required to be collected for the state by a city issuing a business license.”

SECTION 2: Section 5.04.350 is hereby added to Article IV (“Enforcement”) of Chapter 5.04 (“Business Licenses”) of Title 5 (“Business Taxes, Licenses and Regulations”) of the Nevada City Municipal Code as follows:

“5.04.350 Impermissible Taxes

Nothing contained in this chapter shall be deemed or construed to require the payment of any business license tax by any person transacting, engaging in or carrying on any business which is exempt from the payment of such taxes under the Constitution or statutes of the state of California of the United States. Furthermore, nothing contained in this title shall be construed to require the payment of a business license tax in an amount that is impermissible under the Constitution or statutes of the state of California of the United States. In the event a tax would otherwise exceed such permissible amount, it is reduced to the highest legally permissible amount under the Constitution or statutes of the state of California of the United States.”

SECTION 3: Nothing in this Ordinance is intended to require any person to pay a tax that is higher than that currently required by existing law.

SECTION 4: This Ordinance relates to the method of collection of the City’s business license tax. Nothing in this Ordinance shall be interpreted to authorize the conduct of any business that is otherwise prohibited by this code or by applicable law nor shall the issuance of a certificate pursuant to this Ordinance be deemed evidence that a business is operating in a legal manner.

SECTION 5: Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable. The City Council of the City of Nevada City declares that it would have adopted all the provisions of this ordinance that remain valid if any provisions of this ordinance are declared invalid.

SECTION 6: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect 30 days after its final passage.

APPROVED FOR INTRODUCTION AT A REGULAR MEETING on the 22nd day of February 2023, by the following vote:

AYES: FLEMING, FERNÁNDEZ, PETERSEN, KLINE, CECI

NOES:

ABSENT:

PASSED, APPROVED, AND ADOPTED this 8th day of March 2023, by the following vote:

AYES: FERNÁNDEZ, PETERSEN, KLINE, CECI

NOES:

ABSENT: FLEMING

Doug Fleming, Mayor

ATTEST:

APPROVED AS TO FORM:

Niel Locke, City Clerk

Dean Pucci, City Attorney

STATE OF CALIFORNIA)
COUNTY OF NEVADA) ss.
CITY OF NEVADA CITY)

I, _____, City Clerk of Nevada City, do hereby certify that the foregoing ordinance was introduced on the _____th day of _____, 2023, was regularly adopted at a meeting thereof on the _____th day of _____, 2023 and was published/posted pursuant to law.

_____, City Clerk