

ORDINANCE NO. 1918

AN ORDINANCE OF THE CITY OF SAN RAFAEL AMENDING SAN RAFAEL MUNICIPAL CODE TITLE 10, CHAPTER 10.04 BUSINESS LICENSE, BY AMENDMENTS TO THE TITLE OF THE CHAPTER; TO SECTION 10.04.010 – DEFINITIONS: SUBSECTION X, PROFESSIONAL SERVICES AND SUBSECTION Y, GROSS RECEIPTS; TO SECTION 10.04.020 - BUSINESS LICENSE-GENERALLY; TO SECTION 10.04.070 – HOW AND WHEN PAYABLE; TO SECTION 10.04.105 – LICENSE TAXES; TO SECTION 10.04.118 - FAILURE TO COMPLY WITH OTHER CITY ORDINANCES; TO SECTION 10.04.130 – PENAL PROVISIONS; TO SECTION 10.04.190 – UNLAWFUL BUSINESS; TO SECTION 10.04.200 – PURPOSE OF ORDINANCE; AND TO SECTION 10.04.210 - LICENSE REQUIRED; AND REPEALING SECTIONS 10.04.100 - LICENSE FEES PAID IN ADVANCE AND 10.04.160 – STICKERS

WHEREAS, the City last revised the Business License Tax Ordinance in November 1991; and

WHEREAS, City staff has reviewed the language of the Ordinance for clarity as well as for consistency with current City practices and the current business environment; and

WHEREAS, City staff has submitted a report to the City Council with proposed changes to the Ordinance along with the corresponding justifications for those changes which the City Council has duly considered; and

WHEREAS, none of the proposed changes has the effect of increasing the business license tax paid by any business or category of businesses.

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

DIVISION 1. The title of Chapter 10.04 of the San Rafael Municipal Code is hereby amended to read “**Chapter 10.04 – BUSINESS LICENSE TAX.**”

DIVISION 2. The definition of “Professional services” in subsection X of Section 10.04.010 of the San Rafael Municipal Code is hereby amended to read as follows:

"Professional services" means any professional services, as that term is ordinarily and commonly used and understood, wherein individuals are engaged in the business of offering to the public professional or semiprofessional services for compensation, and not specifically covered under any other part, chapter or section of this chapter, and shall include those professions generally requiring governmental certification or a professional degree, but not be limited to, the services rendered by a person engaged in the practice or profession of law, medicine, surgery, dentistry, ophthalmologist, optometry, chiropractics, osteopathy, chiropody, dental technician, laboratory technician, physical therapist, mortician, undertaker, psychologist, psychotherapy, radiologist, speech therapist, veterinary, licensed financial planner, licensed investment counselor, real estate agent, real estate broker, stock/bond or security agent or broker, civil, mechanical, electrical, industrial, or other class of engineer, surveyor, geologist, appraiser, architect, accountant, real

estate management, property management, income tax preparers, bookkeepers, income tax consultants, developer, or marriage counselors.

DIVISION 3. The definition of “Gross receipts” in subsection Y of Section 10.04.010 of the San Rafael Municipal Code is hereby amended to add the following two additional exclusions to the end of the definition:

“11. Income received solely from the lease or rental of land and buildings used for other than residential or transient occupancy purposes.

12. Income received from retail sales at fairs, farmers markets and other similar events that are authorized to be conducted on public property.”

DIVISION 4. Section 10.04.020 of the San Rafael Municipal Code is amended as follows:

To change the title to “**Business License Tax-Generally**”;

To change the phrase “license fee” wherever it appears in subsections “B”, “C”, “E”, “G”, “H” and “I” to the phrase “license tax”;

To change subsection “A” to read as follows:

“A.Contents of License. Every person required to have a license under the provisions of this chapter shall make application for same to the city. Upon the payment of the prescribed license taxes and applicable fees and completion of any actions the city may take to verify compliance with other applicable city ordinances, the city shall issue to such person a license which shall contain:

1. The name of the business to which it is issued;
2. The kind of business licensed;
3. The location of such business; and
4. The date of expiration of such license;”

and,

to add the following additional subdivision to subsection “F”:

“8. The sharing of non-proprietary information with City personnel for their use in the course of carrying out their city-related duties.”

DIVISION 5. Section 10.04.070 of the San Rafael Municipal Code is hereby amended to read:

“10.04.070. Business license taxes—how and when payable.

- A. Except as provided by the business license administrator by regulation, all annual business license taxes shall be due and payable in advance on the first day of January of each year; provided, that business license taxes covering a new business, commenced after the due date, shall be due and payable at the time the business license is issued and may be prorated for the balance of the license period where a flat fee is applicable;
- B. All semiannual license taxes shall be due and payable on the first day of January and the first day of July of each year;
- C. All quarterly license taxes shall be due and payable on the first day of January, April, July and October of each year;
- D. All monthly license taxes shall be due and payable on the first day of each month;
- E. All weekly license taxes shall be due and payable on Monday of each week;
- F. All daily license taxes shall be payable each day in advance;
- G. All license taxes not paid within forty-five (45) days after the due date shall be considered delinquent.”

DIVISION 6. Section 10.04.105 of the San Rafael Municipal Code is hereby amended to delete the categories “Athletic contest”, “Fire or wreck sale/Going out of business sale,” and “Bingo” under Flat Rate/Specific Businesses, and to change the “”Arcade” category to read as follows:

“Arcade \$5.00/\$1,000 gross receipts/machine”

DIVISION 7. Section 10.04.118 of the San Rafael Municipal Code is hereby amended to read as follows:

“10.04.118 Compliance with other city ordinances.

The issuance of a business license may be withheld pending verification that the applicant has complied with other applicable city ordinances. However, the issuance of a license does not constitute the city’s confirmation that the applicant is in compliance with other applicable city ordinances and does not relieve the applicant from ensuring such compliance is achieved and maintained.”

DIVISION 8. Section 10.04.130 of the San Rafael Municipal Code is hereby amended to read as follows:

“10.04.130 Enforcement and Penalties

A. In addition to the enforcement powers and/or remedies provided in this chapter, the business license administrator shall have the power to enforce the provisions of this chapter as provided in Chapters 1.40, 1.42, 1.44 and 1.46.

B. Violations of the provisions of this chapter are misdemeanors/infractions and are subject to the penalties set forth in Section 1.42.020 of the San Rafael Municipal Code.”

DIVISION 9. Section 10.04.190 of the San Rafael Municipal Code is hereby amended to change the title to “**Unlawful burden.**”

DIVISION 10. Section 10.04.200 of the San Rafael Municipal Code is hereby amended to read as follows:

“10.04.200 - Purpose of ordinance.

The ordinance codified in this chapter is enacted solely for the purpose of raising revenue for municipal purposes, and not for the purpose of regulation.”

DIVISION 11. Section 10.04.210 of the San Rafael Municipal Code is hereby amended to read as follows:

“Section 10.04.210 – License required

It is unlawful for any person to transact or carry on any business, trade, profession, calling or occupation without first having procured a license from the business license administrator so to do, or without complying with any and all of the applicable provisions of this chapter. Persons providing classes or instruction as part of city-sponsored programs for which fees are collected directly by the city are exempt from the requirement to obtain a license provided that they are not required to obtain a license under any other provision of this chapter as a result of their other business activities.”

DIVISION 12. Sections 10.04.100 and 10.04.160 of the San Rafael Municipal Code are hereby repealed.

DIVISION 13. The City Council finds that adoption of this Ordinance is exempt from the California Environmental Quality Act (CEQA), pursuant to 14 CCR Section 15061(b)(3), since it can be seen with certainty that there is no possibility that the adoption of this Ordinance may have a significant effect on the environment

DIVISION 14. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

DIVISION 15. This Ordinance shall be published once, in full or in summary form, before its final passage, in a newspaper of general circulation, published and circulated in the City of San Rafael and shall be in full force and effect thirty (30) days after its final passage. If published in summary form, the summary shall also be published within fifteen (15) days after the adoption, together with the names of those Council members voting for or against same, in a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California. Within fifteen (15) days after adoption, the City Clerk shall also post in the office of the City Clerk, a certified copy of the full text of this Ordinance along with the names of those Councilmembers voting for and against the Ordinance.

/s/ Damon Connolly, Vice-Mayor
DAMON CONNOLLY, Vice-Mayor

ATTEST:

/s/ Esther C. Beirne, City Clerk
ESTHER C. BEIRNE, City Clerk

The foregoing Ordinance No 1918 was read and introduced at a Regular Meeting of the City Council of the City of San Rafael, California, held on the 16th day of December, 2013 and ordered passed to print by the following vote, to wit:

AYES: Councilmembers: Bushey, Colin, McCullough & Vice-Mayor Connolly

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Phillips

and will come up for adoption as an Ordinance of the City of San Rafael at a Regular Meeting of the Council to be held on the 21st day of January, 2014.

/s/ Esther C. Beirne, City Clerk
ESTHER C. BEIRNE, City Clerk