

CHAPTER 1

BUSINESS TAXES

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3-1.101 Business Tax.

It shall be unlawful for any person, either for themselves or for any other person, to commence on any business taxed pursuant to this Chapter in the City of Emeryville, without having procured a business tax certificate from said City; and the carrying on of any business without first having procured a certificate from said City shall constitute a separate violation of this Code for each and every day that such business is so carried on.

3-1.102 Definitions.

(a) "Business" shall include all activities engaged in or caused to be engaged in within this City with the object of gain, benefit or advantage, whether direct or indirect, to the taxpayer or to another or to others, but shall not include the services rendered by an employee to their employer or to a casual or isolated transaction. Although an activity of a taxpayer may be incidental to another or other of their business activities, each such activity shall be considered to be a business engaged within the meaning of this article.

(b) "Sale," or "sell" shall be deemed to include and refer to: the making of any transfer of title, in any manner or by any means whatsoever, to property for a price, and to the serving, supplying or furnishing, for a price of any property fabricated or made at the special order of consumers who do or do not furnish directly or indirectly the specifications thereof. A transaction whereby the possession of property is transferred, but the seller retains the title as security for the payment of the price, shall likewise be deemed a sale. The foregoing definitions shall not be deemed to exclude any transaction which is or which, in effect, results in a sale within the contemplation of the law.

(c) "Engaging in business" shall mean commencing, conducting, or continuing in business and also the exercise of corporate or franchise powers as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.

(d) "Gross receipts," except as otherwise specifically provided, shall mean the gross receipts of the preceding fiscal year of the taxpayer or part thereof, and is defined as follows:

The total amount actually received or receivable from all sales; the total amount or 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 a part of or in connection with the sale of materials, goods, wares, or merchandise; and gains realized from trading in stocks or bonds, interest, discounts, rents, royalties, fees, commissions, dividends, or other emoluments, however designated. Included in "gross receipts" shall be all receipts, cash and credits, except that the following shall be excluded therefrom:

- (1) Cash discounts allowed and taken on sales;
- (2) Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price shall be included as gross receipts;
- (3) Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- (4) Such part of the sale price of property returned by purchasers upon rescission of a contract of sale as is refunded either in cash or by credit;
- (5) Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded;
- (6) Cash value of sales, trades or transactions between departments or units of the same business;
- (7) Receipts from investments where the holder of the investment receives only interest and/or dividends;
- (8) Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer's business.

(e) "Person" shall mean any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

3-1.103 Separate Certificate for Each Place of Business.

A separate business tax certificate must be obtained for each and every branch establishment or separate place of business at which a business is carried on.

3-1.104 Revenue Measure Only – Does not Permit Business Otherwise Prohibited.

The business taxes prescribed by the provisions of this Chapter constitute a tax for revenue purposes, and are not regulatory permit fees. The payment of a business tax required by this Chapter, and its acceptance by the City, and the issuance of a business tax certificate to any person shall not entitle the holder thereof to carry on any business unless they have complied with all of the requirements of this Code and all other applicable laws, nor to carry on any business in any building or on any premises designated in such business tax certificate in the event that such building or premises is situated in a zone or locality in which the conduct of such business is in violation of any law. Notwithstanding the above, no business tax certificate shall be issued for any use which violates federal, state, or local laws.

3-1.105 Public Inspection.

The following information for each business tax certificate under this Chapter shall be available for inspection by the public during normal working hours in accordance with regulations prescribed by the City:

- (a) The name and address of the business;
- (b) The name in which the certificate is issued;
- (c) The name and address of the owner of the business, if such names and address are shown on the records filed pursuant to this Chapter.

3-1.106 Contents of Certificate.

Every person required to have a business tax certificate under the provisions of this Chapter shall make application for the same to the Finance Department of the City of Emeryville and upon payment of the prescribed business tax, the City shall issue to said person a business tax certificate which shall contain:

- (a) The name of the business;
- (b) The place where the business is to be carried on;
- (c) The type of business;
- (d) The date of the expiration of such business tax certificate; and such other information as the City shall determine.

3-1.107 Annual Certificate.

- (a) All annual business tax certificates issued under this Chapter, except the first certificate issued to newly established businesses, shall be considered to be issued on January 1 of each year and shall expire on December 31 of the same year.
- (b) All businesses that are conducting their usual and customary activities as of January 1 of the current tax year are required to pay, in full, for the entire calendar year.

3-1.108 Statement of Renewal of Business Tax Certificate.

- (a) Every person subject to a business tax or registration fee shall, before the business tax or registration fee becomes delinquent, file with the City a written statement setting forth the applicable factor or factors that constitute the measure of the registration fee or business tax, together with such other information as shall be required by the City to enable it to administer the provisions of this Chapter and shall pay at such time the amount of the registration fee or business tax computed thereon.
- (b) The written statement provided for herein shall be on a form prescribed by the Finance Department and shall include a declaration substantially as follows:

“I declare under penalty of perjury that to my knowledge all information contained in this statement is true and correct.”

3-1.109 Initial Registration and Annual Renewal Fees.

Every person wishing to establish a new business within the City of Emeryville shall pay a one-time registration fee as set forth in the City of Emeryville Master Fee Schedule. Thereafter, every person conducting business within the City of Emeryville shall pay an annual renewal fee as set forth in the City of Emeryville Master Fee Schedule.

3-1.110 Declaration – Additional Statement by Contractors.

In addition to the information required to be included in the written statement of the applicant for a first business tax certificate and of the taxpayer for a renewal certificate, as provided in Sections [3-1.108](#) and [3-1.109](#) above, each applicant who is subject to the Contractors License Law shall state that person is licensed under such law, that their license is in full force and effect, and the number thereof.

3-1.111 Declaration not Conclusive.

No statement required by this Chapter shall be conclusive upon the City of Emeryville, or any department, officer or agent thereof. Whenever the Finance Department shall have reason to believe that such statement does not set forth the true facts upon which the issuance of a business tax certificate is required, said Department may withhold the issuance of a business tax certificate therefor until such time as the applicant shall furnish satisfactory evidence of the truth of the statement. If such evidence is not furnished within a reasonable time, or should it any time appear that by reason of error, misrepresentation, fraud, or any other cause whatsoever, the business tax has not been properly fixed for any business tax certificate issued, said Finance Department shall give not less than five (5) business days' written notice to the taxpayer to show cause, at a time and place fixed in said notice, why a business tax to be determined by the Finance Department and specified in said notice, should not be fixed for such business tax certificate. At such hearing the taxpayer shall appear and offer evidence why such specified business tax should not be fixed as the business tax. After such hearing, or in the event the taxpayer fails to appear, the Finance Department shall determine the proper business tax to be charged and shall forthwith give written notice to the taxpayer of such determination and the amount of such business tax.

Any business tax finally determined shall be due and payable as of the date the original business tax was due and payable, together with any penalties that may be due thereon; provided, however, if such business tax shall be fixed in accordance with original statement of the taxpayer, then no penalty shall be attached to such business tax by reason of any delinquency.

3-1.112 Declaration – Confidential Documents.

Except as provided otherwise herein, the statements filed pursuant to the provisions of this Chapter shall be deemed confidential in character and shall not be subject to public inspection, and shall be kept so that the contents thereof shall not become known except to the persons charged with the administration of this Chapter.

Any officer or employee who shall willingly violate any provision of this section shall be deemed guilty of an infraction and such violation shall be cause for discharge from the City's service.

3-1.113 Transfer of Business Tax Certificate Procedure.

No business tax certificate granted or issued under the provisions of this Chapter shall be in any manner transferred or assigned, or authorize any person other than the person named in the business tax certificate to carry on the business therein named or to transact such business in any place other than the place or location therein named without the written consent of the Finance Department endorsed thereon. At the time such business tax certificate is assigned or transferred or the place of location for the carrying on of such business is changed, the person applying for such transfer or change shall pay a fee as set forth in the City of Emeryville Master Fee Schedule for each assignment or transfer.

3-1.114 Business Tax Certificate to be Conspicuously Posted – Exception.

Every person having a business tax certificate and carrying on a business at a fixed place of business shall keep such business tax certificate posted and exhibited while in force in some conspicuous part of said place of business.

Every person having such a business tax certificate and not having a fixed place of business shall carry such business tax certificate with them at all times while carrying on the business for which the same was granted.

3-1.115 Lost Certificate.

The Finance Department shall issue a duplicate business tax certificate to replace any business tax certificate issued under the provisions of this Chapter which has been lost or destroyed at no cost to the taxpayer for the first duplicate business tax certificate. Each replacement business tax certificate issued thereafter will be issued at a cost as set forth in the City of Emeryville Master Fee Schedule.

3-1.116 Penalty for Nonpayment of Business Tax.

Every business tax not paid when due, is hereby declared delinquent, and the Finance Department shall add to said business tax and collect a penalty of five percent (5%) of the delinquent business tax per month, or fraction thereof, up to a maximum penalty of twenty five percent (25%) of the delinquent business tax.

The delinquency date for a business tax varies depending on the frequency of the payment of such business tax.

(1) Business Taxes Paid Annually.

(a) Existing Business. The annual business tax paid by an existing business is hereby declared delinquent if not paid on or before March 1st of each year.

(b) New Businesses. The annual business tax paid by a new business is hereby declared delinquent if not paid within fifteen (15) days after commencing business.

(2) Business Taxes Paid Quarterly.

(a) Existing Businesses. The quarterly business tax paid by an existing business is hereby declared delinquent if not paid within fifteen (15) days after the first day of the quarter.

(b) New Business. The quarterly business tax paid by a new business is hereby declared delinquent if not paid within fifteen (15) days after commencing business.

(3) Business Tax Paid Daily.

(a) A daily business tax is hereby declared delinquent if not paid on or prior to the first day or days for which the business tax applies.

3-1.117 Prior Year Registration Assessments.

If any person has failed to apply for and secure a valid business tax certificate, the business tax due shall be that amount due and payable from the first date on which the person was engaged in business in the City of Emeryville, together with applicable penalties and interest.

3-1.118 Notice not Required.

The Finance Department is not required to send a renewal, delinquency or other notice or bill to any person subject to the provisions of this Chapter and failure to send such notice or bill shall not affect the validity of any business tax or penalty due under the provisions of this Chapter.

3-1.119 Interest.

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

3-1.120 Business Tax a Debt.

The amount of any business tax and penalty imposed by this Chapter shall be deemed a debt to the City of Emeryville, and any person carrying on any business without first having procured a business tax certificate from said City shall be liable to an action in the name of said City, in any court of competent jurisdiction, for the amount of the business tax and penalties imposed on such business.

The amount of business tax, penalty and interest imposed under the provisions of this Chapter is hereby assessed against the business property on which the business tax is imposed in those instances where the owner of the business and the business property are one and the same. If the business tax is not paid when due, such business 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, is paid, or until it is discharged of record.

3-1.121 Notice of Hearing on Lien.

The Chief Financial Officer shall file a written notice of those persons on whom the City will file lien, and 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 Chief Financial Officer shall cause a copy of such resolution and notice to be served upon the owner of the business/business property not less than ten (10) 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 their last known address. Service shall be deemed complete at the time of deposit in the United States mail.

3-1.122 Collection of Delinquent Taxes by Special Tax Roll.

With the confirmation of the report by the City Council, the delinquent business tax charges contained therein which remain unpaid by the owner of the

business/business property shall constitute a special assessment against said business property and shall be collected at such time as established by the County Assessor for inclusion in the next property tax assessment.

The Chief Financial Officer 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, penalties, and interest at the rate of eighteen percent (18%) per annum from the date of recordation to the date of lien, and an administrative charge and a release of lien fee, as such charge and fee are set forth in the City of Emeryville Master Fee Schedule. Thereafter, said assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure of sale as provided for delinquent ordinary municipal taxes. The lien shall continue until the assessment and all interest and charges due and payable thereon are paid. All business taxes applicable to the levy, collection, and enforcement of municipal taxes shall be applicable to said special assessments.

3-1.123 Conviction for Violation Not Waiver of Business Tax.

The conviction and punishment of any person for transacting any business without a business tax certificate shall not excuse or exempt such person from the payment of any business 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.

3-1.124 Annual Business Tax Based on Gross Receipts.

Every person transacting and carrying on any business within the City of Emeryville, other than those enumerated in Sections 3 1.125 and 3 1.126, shall pay an annual business tax equal to the greater of twenty five dollars (\$25.00) or one tenth of one percent (0.10%) of the annual gross receipts of such business.

3-1.125 Certain Enumerated Businesses.

Every person transacting and carrying on the businesses herein enumerated shall pay a business tax as follows:

Advertising. Distributing, advertising, samples, handbills, dodgers or printed advertisements of any kind, forty dollars (\$40.00) per day per person.

Alcohol Sales. All persons primarily engaged within the City of Emeryville in the retail sale of alcoholic beverages, not for consumption on the premises of the

sale, pursuant to an off sale general license issued in accordance with Section 23394 of the California Business and Professions Code or any successor provision, shall pay a business tax of five hundred dollars (\$500.00) per quarter. Said business tax shall not be applicable to persons engaged in the retail sale of alcoholic beverages which is limited to beer and/or wine pursuant to a retail package off sale beer and wine license issued in accordance with Section 23393 of the California Business and Professions Code or any successor provision.

Auctioneer. Sale or auction of any real or personal property, one hundred ten dollars (\$110.00) per day, or one thousand three hundred twenty dollars (\$1,320.00) per quarter, unless exception is claimed pursuant to California Business and Professions Code Section 5714(c) or any successor provision.

Barbershop and Beauty Shop. Owner or management operated shops, shall pay a business tax based on their annual gross receipts pursuant to Section [3-1.124](#). Independent barbershop and beauty shop operators within owner or management operated shops (if applicable), fifty dollars (\$50.00) per quarter.

Billiards Establishment or Poolroom. Poolrooms, billiards establishments, or other commercial establishments which provide pool tables used to play pool, billiards, snooker or any other such games, shall pay a business tax based on their annual gross receipts pursuant to Section [3-1.124](#).

Boxing. Boxing or wrestling exhibition where a fee or admission is charged, four hundred forty dollars (\$440.00) for each exhibition.

Cabaret. One thousand three hundred twenty dollars (\$1,320.00) per quarter, except that where the only entertainment furnished by or for any patron or guest consists of the playing of a piano, organ or other single musical instrument by a musician and no dancing provisions are afforded in connection therewith, the business tax shall be the sum of two hundred twenty dollars (\$220.00) per quarter.

Provided, however, that before the granting of any business tax certificate, a permit to operate a cabaret must be obtained from the City Council pursuant to Chapter 4 of Title 5 of the Emeryville Municipal Code.

Card Room. Carrying on the business of operating, conducting or managing a card room or card game in any public place or to which an admission fee is charged within the City of Emeryville, the business tax shall be as follows:

Card room businesses shall pay, monthly, to the City, a business tax of ten percent (10%) of the monthly gross receipts of such business, or shall pay,

monthly, a business tax of one thousand dollars (\$1,000.00) per table, per month, whichever of these two tax amounts is greater.

Before the granting of any business tax certificate by the Finance Department, a permit to conduct the card room or card game must be obtained from the City Council, as required by the provisions of Chapter 5 of Title 5 of the Emeryville Municipal Code. Each business tax certificate issued hereunder shall designate the number of card tables which the card room business is authorized to operate at the premises licensed.

Catering Truck, Food/Refreshment Stand. The sale of prepared lunches (commonly known as “box lunches”), food, and beverages intended for human consumption, made available to the consumer by means of a fixed or moveable stand, pushcart, wagon, truck or other vehicle, whether upon public or private property, seventy dollars (\$70.00) per stand/vehicle, per quarter.

Check Casher. A person that for compensation engages within the City of Emeryville, in whole or in part, in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose, shall pay a business tax of five hundred dollars (\$500.00) per quarter.

Said business tax shall not be applicable to a state or federally chartered bank, savings association, credit union, or industrial loan company, nor to a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail buyers and that cashes checks or issues money orders for a minimum flat fee not exceeding two dollars (\$2.00) as a service to its customers that is incidental to its main purpose or business.

Circuses, Carnivals, Fairs or Similar Exhibitions or Amusement Centers. As follows:

- (a) Two hundred dollars (\$200.00) for the first day of operation and two hundred dollars (\$200.00) per day for each day of operation thereafter.
- (b) Mechanical amusement centers including merry-go-round, Ferris wheels, recreation swings or similar amusement devices, two hundred twenty dollars (\$220.00) per quarter.

The above shall not apply to a merry-go-round, Ferris or other similar wheel maintained in a park or other enclosure where a business tax for the other businesses maintained in the park or enclosure, inclusive of the merry-go-round, Ferris or other similar wheel, is paid by the owner or lessee.

Collection. Collecting debts, claims on demands, commonly known as a collecting agency, one hundred ten dollars (\$110.00) per quarter.

Commission Merchant/Manufacturer's Representative. Buying and selling any products for a commission or fee for any other person, firm or corporation, commonly known as a commission merchant or broker, one hundred fifty dollars (\$150.00) per quarter.

Contractors. Every person conducting or carrying on a business who is licensed as a contractor by the State of California and who undertakes to, or offers to undertake to, or submits bids to construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, excavation, or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith, is defined as a contractor. The term "contract" as used in the section also includes specialty contractors. All contractors, or handyperson and odd-jobbers working on a subcontractor basis, shall pay an annual business tax of two hundred dollars (\$200.00) (fifty dollars (\$50.00) per quarter) or one dollar (\$1.00) for each one thousand dollars (\$1,000.00) of gross receipts on work engaged in Emeryville, whichever is greater.

Dance or Dance Hall. A public dance, whether or not for profit, to which people are admitted with or without charge, or at which people are allowed to participate in dancing, either with or without a charge, one thousand and three hundred twenty dollars (\$1,320.00) per quarter; provided, however, that where dances are held less than once a month, the business tax shall be one hundred ten dollars (\$110.00) per day for each day such dance is conducted.

Delivery by Vehicle, Optional Rate. Every person not having a fixed place of business within the City of Emeryville who delivers goods, wares or merchandise by use of any kind by vehicle or provides any service by the use of vehicles in the City of Emeryville, except for those persons licensed under the paragraph entitled "Catering Truck, Food/Refreshment Stand" of this section, shall pay a business tax of fifty dollars (\$50.00) per quarter.

Dog Kennels. Conducting or maintaining a dog kennel for each year or fraction of a year, commencing on the first day of January thereof, a business tax as follows:

1 to 10 dogs, inclusive	\$440.00
11 to 15 dogs, inclusive	\$500.00
16 or more dogs	\$550.00

Hospital. Hospital or rest home, sanitarium or maternity or lying-in asylum, two hundred twenty dollars (\$220.00) per quarter.

House Mover. Moving houses, two hundred dollars (\$200.00) per house. House mover must post a bond in the sum of twenty-five thousand dollars (\$25,000.00) to indemnify the City for any damage done to streets in moving a house.

Laundry. Shop with a fixed place of business in the City of Emeryville, pickup and delivery of laundry, dyeing and cleaning, supplying towels, etc., shall pay a business tax based on their annual gross receipts pursuant to Section [3-1.124](#). Delivery vehicles without a fixed place of business in the City of Emeryville, shall pay a business tax of fifty dollars (\$50.00) per quarter.

Lodging Services. Carrying on the business of primarily providing commercial lodging to the general public, such as hotels and motels. Lodging service businesses shall pay, quarterly, to the City, a business tax of one-tenth of one percent (0.10%) of all gross receipts defined in Section [3-1.102](#) of this Chapter, excluding gross receipts attributable to rent collected from a transient upon which the lodging service business also collects from the transient and pays to the City of Emeryville a tax in accordance with the Uniform Transient Occupancy Tax Law of the City of Emeryville.

Massage Parlor (nonconforming adult entertainment). Massage parlors operating as non-conforming establishments under Adult Entertainment Ordinance 90-10 shall pay a business tax of two hundred dollars (\$200.00) per year for establishments with three (3) or fewer employees, four hundred dollars (\$400.00) per year for establishments with four (4) to six (6) employees, or eight hundred dollars (\$800.00) per year for establishments with seven (7) or more employees. Provided, however, that before the granting of any business tax certificate, a permit to operate a massage parlor must be obtained from the Chief of Police pursuant to Chapter 11 of Title 5 of the Emeryville Municipal Code.

Mechanical Amusement Devices. Operating and/or permitting the operation of any mechanical amusement device in any restaurant, store, cocktail lounge, resort, hall or other public place, shall pay a business tax of twenty-five dollars (\$25.00) per machine, per quarter.

A “mechanical amusement device” is hereby defined as a machine which upon the insertion of a coin or slug operates, or may be operated, for use as a game, contest, or amusement of any description, or which may be used for any such

game, contest, or amusement, and which contains no automatic payoff device for the return of slugs, money, coins, tokens or merchandise.

An application for a license for operating a mechanical amusement device shall state that such device will be operated for amusement only.

Miniature Golf. So-called miniature golf course or games, two hundred twenty dollars (\$220.00) per quarter.

Moving Picture Theater. Moving picture theater, where moving or motion pictures are exhibited, where an admission is charged, shall pay a business tax based on their annual gross receipts pursuant to Section [3-1.124](#).

Newsstand. Newsstand for the sale of foreign or domestic newspapers, periodicals or commodities whatsoever not herein otherwise designated, fifty dollars (\$50.00) per quarter.

On-Location Movie/Television Production Company. Persons engaged in the production of a movie, television program, video, commercial, advertisement or other such medium on location within the City of Emeryville, two hundred dollars (\$200.00) per day.

Parking Lots. Parking automobiles or trucks for a fee, shall pay a business tax based on their annual gross receipts pursuant to Section [3-1.124](#).

Pawnbroker. One thousand three hundred twenty dollars (\$1,320.00) per quarter.

Peddlers.

(a) Flags, banners, balloons, canes, horns, trumpets, musical or noise making instruments of any kind, toys, badges, buttons, shoestrings, hairpins, lead pencils, combs, or souvenirs of any kind, one hundred dollars (\$100.00) per quarter.

(b) Meats, game, poultry, fish, fruits, vegetables, wood, butter, eggs, buttermilk, milk, ice cream, bread, crackers, cakes, pies or other foodstuffs, confections, or other edibles intended for human consumption, one hundred dollars (\$100.00) per quarter.

Roominghouse or Lodging House. Fifty dollars (\$50.00) per quarter.

Security/Patrol Service. Three hundred dollars (\$300.00) per year.

Shooting Gallery. Shooting gallery or range, two hundred twenty dollars (\$220.00) per quarter.

Skating. Ice or roller skating rink, two hundred twenty dollars (\$220.00) per quarter.

Soliciting or Canvassing. Soliciting or canvassing or taking orders for any goods, wares or merchandise or business and not having a regular place of business in the City of Emeryville, or who is not an agent or representative of a regular established place of business in the City of Emeryville, one hundred fifty dollars (\$150.00) per quarter.

Storage of Petroleum. Storing petroleum or products of petroleum with a storage capacity of less than one thousand (1,000) barrels, two hundred twenty dollars (\$220.00) per quarter. Where the storage capacity is one thousand (1,000) barrels or more, the tax shall be four hundred forty dollars (\$440.00) per quarter.

Storehouse or Warehouse. Storehouse or warehouse for the storage of goods, merchandise, baggage, or household furniture or goods, whether for the purpose of storing the operator's own goods or otherwise, where the operator does not have any other place of business in the City of Emeryville, five hundred dollars (\$500.00) per year for the first ten thousand square feet (10,000 sq. ft.) or fraction thereof of storehouse or warehouse space, plus two hundred fifty dollars (\$250.00) per year for each additional five thousand square feet (5,000 sq. ft.) or fraction thereof of storehouse or warehouse space.

Taxicabs or Limousines. Any entity engaged in the business of carrying passengers for hire, as permitted in Section 4-8.1.3 of this Code or any "owner" of a "limousine" as these terms are defined in Section 4-8.2.1 of this Code, shall pay a business tax of two hundred dollars (\$200.00) per year.

Temporary or Transient Business. A temporary or transient place of business engaged in the sale of goods, wares or merchandise shall pay a business tax equal to the lesser of twenty-five dollars (\$25.00) per day or one hundred ten dollars (\$110.00) per quarter.

Undertakers. Undertaker, embalmer or funeral director, six hundred sixty dollars (\$660.00) per quarter.

Used Merchandise/Secondhand Goods.

- (a) Collecting, buying or selling, either at wholesale or retail, used merchandise or other articles commonly known as junk, from a fixed place of business in the City of Emeryville, one hundred fifty dollars (\$150.00).
- (b) Secondhand goods, dealing in second-hand goods, wares or merchandise, two hundred twenty dollars (\$220.00) per quarter.

3-1.126 Professional and Semiprofessional Connected Business.

- (a) Every person engaged in the business of providing professional services not specifically taxed by other business tax provisions of this Chapter shall pay a business tax based on their annual gross receipts pursuant to Section [3-1.124](#) for services performed within the City of Emeryville.
- (b) Providing professional services shall include, but not be limited, to the following:

Finance, insurance services, real estate services, medical and other health services; educational services; legal services; engineering and architectural services; accounting, auditing and bookkeeping services; savings and loan and other financial institutions.

3-1.127 Certain Businesses Not Having Gross Receipts.

- (a) Whenever there are no gross receipts within the City of Emeryville, the business shall pay an business tax pursuant to the tax rate set forth in Section [3-1.124](#), computed on all expenses incurred on an annual basis at the business location or administrative office within the City of Emeryville for payroll, utilities, depreciation and/or rent.
- (b) A business taxed under this section shall not be considered either a retailer or wholesaler with respect to the sale of goods manufactured by such business within the City of Emeryville.
- (c) When a person engages in two (2) or more businesses, one or more having gross receipts and one or more not having gross receipts, such person shall combine the annual gross receipts of the business(es) having gross receipts with the annual payroll, utilities, depreciation and/or rent of the business(es) not having gross receipts, and pay a business tax on the combined sum pursuant to the tax rate set forth in Section [3-1.124](#) , provided that all businesses are being conducted at the same location.

3-1.128 Rental of Commercial Property.

(a) Every person engaged in the business of renting or letting a building, structure, or other property, or portion thereof for commercial purposes, including the business of renting or letting advertising displays, advertising structures, or signs of any kind or character, erected or maintained for outdoor advertising purposes, within the City of Emeryville for a purpose other than dwelling, sleeping, or lodging to a tenant, shall pay an annual business tax of three and one half tenths of one percent (0.35%) of the annual gross receipts of such business.

(b) A lessor otherwise subject to the business tax described in subsection (a) shall not be exempt therefrom by reason of the fact that one (1) or more persons may reside within a building or structure where the primary purpose of the particular tenancy or the primary use or right to use by the tenant is for some purpose other than dwelling, sleeping, or lodging.

(c) A lessor may exclude from gross receipts any receipts received which represent rent for the use of space by the lessor, a partner, when the lessor is a partnership, or by an affiliated corporation as defined in Section [3-1.102](#)(d).

(d) Upon payment of the annual business tax as set forth in subsection (a) of this section, the building owner shall provide the Finance Department with a list of the names of all current tenants, date of commencement of lease, length of lease term or termination date of lease, option terms, and tenancies terminated during the prior year.

3-1.129 Reserved.

3-1.130 Reserved.

3-1.131 Optional Method of Determining Tax.

When a person engages in two (2) or more businesses which are taxed on the basis of gross receipts under different provisions of this Chapter, such person may elect to combine all such gross receipts and pay a business tax determined by applying the rate of tax applicable to that business activity producing the greatest amount of gross receipts, subject to the following provisions:

(a) All businesses must be conducted at the same location; and

(b) The gross receipts of all businesses, except the business producing the greatest amount of gross receipts, must not exceed twenty percent (20%) of the total combined gross receipts of all businesses.

3-1.132 Maximum Annual Business Tax.

Every person transacting and carrying on any business within the City of Emeryville that pays an annual business tax pursuant to Section 3-1.124 shall pay an annual business tax no greater than three hundred thousand dollars (\$300,000.00) as adjusted annually upward or downward by the change in the Bay Area Consumer Price Index starting July 1, 2012.

3-1.133 Provision for Bad Debts.

Whenever there are included within the gross receipts used to determine the business tax of a business under this Chapter, amounts which reflect sales for which credit is extended and such amounts prove uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected, they shall be included in the amount of gross receipts for the period when they are recovered.

3-1.134 Duties of the Chief Financial Officer: Notice of Decisions.

It shall be the duty of the Chief Financial Officer to collect and receive all business taxes imposed by this Chapter and to keep an accurate record thereof.

Said Chief Financial Officer is hereby charged with the enforcement of this Chapter, except as otherwise provided herein, and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this Chapter, including provisions for the reexamination and correction of returns and payments. The Chief Financial Officer may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

For good cause, the Chief Financial Officer may extend for not more than thirty (30) days the time for making any return payment of business tax.

3-1.135 Refund of Tax, Penalty or Interest Paid More Than Once or Erroneously or Illegally Collected.

(a) No business tax collected under the provisions of this Chapter shall be refundable or prorated in any manner, unless the business subject to the business tax:

- (1) Establishes that it has paid the business tax more than once, the business tax was erroneously or illegally collected, or it has paid in excess of the correct amount, and;

(2) Files a claim with the City within one (1) year from the date of the payment in accordance with all applicable statutes, regulations and ordinances.

(b) If the claim for a refund is accepted by the City Council, the City may remit the entire amount to the business or credit the refund against any amounts then due and payable to the City from the business.

(c) No refund of any business tax or registration fee paid under this Chapter shall be made by virtue of the discontinuance, dissolution, or other termination of a business.

3-1.136 Saving Clause.

The provisions of the ordinance codified in this Chapter shall not apply to any person, association, corporation, or to any property, as to whom or which it is beyond the power of the City Council to impose the business tax herein provided. If any sentence, clause, section or part of this article, or any business tax against any individual or any of the several groups specified herein is found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this Chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Chapter. It is hereby declared that this Chapter of the Emeryville Municipal Code would have been adopted had such unconstitutional, illegal, or invalid sentence clause, section or part thereof not been included.

3-1.137 Examination of Books, Records, Witnesses: Information Confidential: Penalty.

The Chief Financial Officer or their authorized representative is hereby authorized to examine the books, papers and records of any person subject to this Chapter for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the business tax due.

Every taxpayer or supposed taxpayer is hereby directed and required to furnish to the Chief Financial Officer, or their duly authorized representative, the means, facilities and opportunity for making such examination and investigations as are hereby authorized. The Chief Financial Officer is hereby authorized to examine any person, under oath, for the purpose of verifying the accuracy of any return made, or if no return was made, to ascertain the business tax or registration fees due under this Chapter; and for this purpose may compel the production of books, papers and records and the attendance of all persons

before them, whether as parties or witnesses, whenever the person believes such persons have knowledge of such matters.

The refusal of such examination by an employer, or by a person subject or presumed to be subject to the provisions of this Chapter, shall be deemed a violation of this Chapter.

3-1.138 Violations, Infractions.

In the exercise of the duties imposed upon a person hereunder, and acting through their deputies or duly authorized representatives, the Chief Financial Officer shall examine or cause to be examined all places of business in the City of Emeryville to ascertain whether the provisions of this Chapter have been complied with.

Any person so violating any provision of this Chapter or knowingly or intentionally misrepresenting to any officer or employee of the City of Emeryville, any material fact in procuring the certificate herein provided for, shall be guilty of an infraction.

3-1.139 Exemption for Nonprofit Corporations, Associations, Etc.

(a) A tax-exempt institution, corporation or association organized or conducted for non-profit purposes only, whose receipts are used solely for the benefit of such organization and not in whole or in part for the private gain of any person, shall pay a one-time initial registration fee pursuant to Section [3-1.109](#) of this Code and shall not pay any business tax. This exemption shall not apply to promoters employed by such nonprofit institutions, corporations or associations.

(b) Every institution, corporation, organization or association seeking an exemption pursuant to this section shall provide the Finance Department copies of forms submitted with the United States Internal Revenue Service and/or the State Franchise Tax Board, establishing their tax-exempt status.

(c) Any person claiming an exemption from the business tax imposed by this Chapter by virtue of this section, shall submit to the Finance Department a statement signed under penalty of perjury setting forth the facts necessary to establish such claim of exemption.

3-1.140 A Business with Administrative Offices and Additional Warehouses Within the City.

A business with administrative offices and additional warehouses within the City shall pay a business tax based on the annual gross receipts of such business from all locations within the City pursuant to the tax rate set forth in Section [3-](#)

1.124, or based on the annual gross payroll, utilities, including PG&E and telecommunications, and depreciation and/or rent incurred at all office and warehouse locations within the City pursuant to tax rate set forth in Section 3-1.124, whichever is greater.