RESOLUTION NO. 26-65

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EMERYVILLE ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF EMERYVILLE AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2026 AS CALLED BY RESOLUTION NO. 26-58, A PROPOSED ORDINANCE AMENDING EMERYVILLE MUNICIPAL CODE CHAPTER 1 BUSINESS TAXES OF TITLE 3 FINANCE; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS; AND AUTHORIZING THE FILING OF DIRECT ARGUMENT FOR OR AGAINST THE MEASURE AND REBUTTAL ARGUMENTS

WHEREAS, on December 18, 1984 the City Council of the City of Emeryville adopted Ordinance No. 84-011 Repealing Section 6 of Ordinance 397 of the Town of Emeryville Thereafter Codified in Section 12.1, Emeryville Municipal Code as Chapter 1 of Title 3; Repealing Ordinance 83-013 and All Ordinances and Code Sections in Conflict adopted on December 18, 1984 and subsequently adopted Ordinance No. 85-05(A) An Ordinance of the City of Emeryville Amending Ordinance No. 84-011, Relative to Business License Taxes on May 7, 1985; and

WHEREAS, the Emeryville electorate approved Measure C and Measure D on November 8, 2011, to increase the business tax rate from 0.08% to 0.10% of gross receipts and to increase the maximum total amount a business could pay each year to $300,000 a year which was codified within City of Emeryville Ordinance No.11-013 and No.11-014 respectively and certified by the City of Emeryville Resolution No.11-231 and No.11-232 adopted by the Emeryville City Council on December 6, 2011; and

WHEREAS, notwithstanding the changes from 2011, the majority of Emeryville's Business License ordinance is nearly 42 years old, with 56 business categories, including references to outdated business activities, and is primarily based on a single rate model whereby most businesses pay the same tax rate; and

WHEREAS, the City Council desires to submit to the Emeryville electorate a measure to update and simplify Emeryville's existing Business License ordinance; and

WHEREAS, the measure's intention is that large businesses pay their fair share and that small businesses are not unfairly shouldering the tax burden by establishing taxes based on business types; increasing the minimum gross receipts amount that pays a flat rate; and increasing the amount of the taxation cap; and

WHEREAS, said measure will not increase taxes for Emeryville residents or homeowners, and only applies to businesses; and

WHEREAS, the City of Emeryville seeks to continue providing excellent local services, and updating the Business License ordinance would provide an estimated additional $5.9 million per year in local revenue to protect Emeryville's core services, safety, and quality of life; and

WHEREAS, additional local funding would help maintain rapid 911 emergency services in case of an accident, disaster, or medical emergency; and

WHEREAS, funds from this measure would address other community priorities, such as keeping parks and playgrounds safe and clean for kids; repairing potholes and maintaining streets; improving crime prevention and reducing property/retail crime, and auto burglaries; maintaining senior and youth services; and maintaining emergency and disaster preparedness programs; and

WHEREAS, all funds generated by this measure are locally controlled, cannot be taken by the State, and are subject to accountability requirements including public spending disclosure, independent citizens' oversight, and annual reports to the community; and

WHEREAS, the proposed "ORDINANCE OF THE CITY OF EMERYVILLE AMENDING CHAPER 1 OF TITLE 3 OF THE EMERYVILLE MUNICIPAL CODE" attached hereto and incorporated herein by reference as Exhibit "A" (the "Ordinance"), would amend or repeal sections of the ordinance pertaining to business taxes; and

WHEREAS, on July 7, 2026, the City Council adopted Resolution No. 26-58 calling for a general municipal election to be held on Tuesday, November 3, 2026; and

WHEREAS, pursuant to Government Code Section 53724 and Elections Code Section 9222, the City Council desires to submit the Ordinance to the qualified electors of the City of Emeryville at the election; now, therefore, be it

RESOLVED, by the City Council of the City of Emeryville finds and determines the forgoing recitals are true and correct and hereby adopts and incorporates them into this Resolution; and, be it, further

RESOLVED, by the City Council of the City of Emeryville does hereby declare, determine, and order as follows:

MEASURE TO BE SUBMITTED TO THE VOTERS

Section 2(b) of Article XIIIC of the California Constitution (Proposition 218) requires that a general tax submitted to the voters for approval shall be submitted in an election that is consolidated with a regularly scheduled general municipal election for members of the City Council, unless a fiscal emergency is declared by a unanimous vote of the City Council. A consolidated general municipal election for Emeryville City Council seats has been called for Tuesday, November 3, 2026, by City of Emeryville Resolution No. 26-58, adopted July 7, 2026. The City Council desires that the Ordinance amending the City of Emeryville's business taxes be submitted to the voters for approval at the same election.

The full text of the Ordinance, attached to this Resolution as Exhibit A, shall be printed in the voter pamphlet. Pursuant to Government Code Section 53724, Elections Code Section 9222, and Elections Code Section 13119, the City Council hereby submits the Ordinance to the voters at the Election and orders the following question to be submitted to the voters on the ballot:

City Services/ Business License Reform Measure. To protect City of Emeryville services/ ensure smaller businesses pay less than larger businesses, shall the measure be adopted to:

- keep parks/ playgrounds safe;
- repair potholes/ maintain streets;
- maintain 9-1-1 response;
- improve crime prevention;
- maintain senior/ youth services;
- general government use;

by updating/ simplifying Emeryville's 42 year old business license rates up to 0.4% of gross receipts (described in the ordinance) until ended by voters, providing $12,400,000 annually, requiring independent oversight?

Yes No

This question requires the approval of a majority of those casting votes; and, be it, further

RESOLVED, by the City Council of the City of Emeryville that pursuant to Elections Code section 9280 the City Council directs the City Clerk to submit to the City Attorney a copy of the measure, and the City Attorney is hereby authorized and directed to prepare an impartial analysis of the ballot measure showing the effect of the measure on the existing law and operation of the measure. The impartial analysis shall be submitted by the City Attorney to the City Clerk on or before August 6, 2026, at 4:00 p.m., shall not exceed 500 words in length, and otherwise shall comply in all respects with the applicable provisions of the Elections Code of the State of California; and, be it, further

RESOLVED, by the City Council of the City of Emeryville that the last day for filing rebuttal arguments for or against the ballot measure shall be August 17, 2026, at 5:00 p.m. and all such arguments shall be filed with the Emeryville City Clerk, 1333 Park Avenue, Emeryville, California and shall not exceed 250 words in length. Arguments received prior to the deadline are confidential until the deadline; and, be it, further

RESOLVED, by the City Council of the City of Emeryville that pursuant to Elections Code § 9295, the ten (10) day public review period for the impartial analysis shall open at 4:01

p.m. on August 6, 2026, and shall close at 4:01 p.m. on August 16, 2026; the ten (10) day public review period for direct arguments for and against the measure submitted pursuant to the section above, shall open at 5:01 p.m. on August 12, 2026, and shall close at 5:01 p.m. on August 22, 2026 (10 days hence). If a rebuttal argument is submitted pursuant to the section above, the ten (10) day public review period shall open at 5:01 p.m. on August 17, 2026, and shall close at 5:01 p.m. on August 27, 2026, (10 days hence); and, be it, further

RESOLVED, by the City Council of the City of Emeryville, in accordance with California Elections Code Section 9282, does resolve, declare, determine, and order that the City Council of the City of Emeryville is authorized to file a written argument in favor of the City measure as specified above, 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 by the City Clerk after which no arguments for or against the City measure may be submitted to the City Clerk; and, be it, further

RESOLVED, by the City Council of the City of Emeryville, that in accordance with California Elections Code Section 10400 *et seq*., the election for this measure shall be consolidated with the General Municipal Election to be conducted on November 3, 2026, and that the City Council of the City of Emeryville acknowledges that the consolidated election will be held and conducted in the manner prescribed in Elections Code Section 10418; and, be it, further

RESOLVED, by the City Council of the City of Emeryville to authorize the City Clerk to work with the Alameda County Elections Official to ensure that the November 3, 2026, consolidated election is properly and lawfully conducted as provided by law; and, be it, further

RESOLVED, by the City Council of the City of Emeryville that in accordance with California Elections Code Section 10002, the City Council of the City of Emeryville requests that the Board of Supervisors of Alameda County to permit the Alameda County Elections Official to provide such services as may be necessary for the holding of the consolidated election, which shall be held in all respects as if there were only one election; and, be it, further

RESOLVED, by the City Council of the City of Emeryville that in all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections and that the City Clerk is authorized to transmit a certified copy of this resolution to the Alameda County Board of Supervisors and the Alameda County Registrar of Voters; and, be it, further

RESOLVED, by the City Council of the City of Emeryville that should any section, subsection, clause or provision of this Resolution for any reason be held to be invalid, then the remainder of the Resolution shall be deemed valid, it being expressly declared that this Resolution, and each and every section, subsection, clause and phrase hereof would have been prepared, proposed, approved, adopted and/or ratified even if any other section, subsection, sentence, clause or phrase of this Resolution were declared invalid; and, be it, further

RESOLVED, by the City Council of the City of Emeryville that the proposed tax Ordinance does not involve any commitment to any specific project that may result in a potentially significant impact on the environment and thus is not a project subject to the requirements of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.) ("CEQA") pursuant to CEQA Guidelines Section 15378(b)(4); additionally, it can be seen with certainty that there is no possibility the adoption and implementation of the ordinance may have a significant effect on the environment, and accordingly the adoption of the Ordinance is exempt from the provisions of CEQA pursuant to the "common sense rule" at CEQA Guidelines Section 15061(b)(3); and, be it, further

RESOLVED, by the City Council of the City of Emeryville that this Resolution, and the full text of the ballot measure, attached to this Resolution as Exhibit A, shall be made available in print and for public examination by the City Clerk, in accordance with California Elections Code § 9223 and §9295.

ADOPTED, by the City Council of the City of Emeryville at a Regular Meeting held July 21, 2026, by the following vote:

AYES:	5	Mayor Kaur, Vice Mayor Solomon and Council Members Mourra, Priforce and Welch
NOES:	0	
ABSTAIN:	0	
ABSENT:	0	

Signed by:

28C06179D66146F...

MAYOR

ATTEST:

Signed by:
April Foran
9AF9F67CE0284D8...

CITY CLERK

APPROVED AS TO FORM:

Signed by:
Christie Crowl
5F6E58613741458...

SPECIAL COUNSEL

ATTACHMENTS

- Exhibit A - Ordinance

ORDINANCE NO. 26-XXX

THE PEOPLE OF THE CITY OF EMERYVILLE DO ORDAIN AS FOLLOWS:

SECTION ONE. AMENDMENT TO SECTION 3-1.102 — DEFINITIONS

Section 3-1.102 of Chapter 1 of Title 3 of the Emeryville Municipal Code is hereby amended to read as follows, with deleted terms shown in strikeout and added terms underlined:

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 his employer or to a casual or isolated transaction. Although an activity of a taxpayer may be incidental to another or other of his business activities, each such activity shall be considered to be a business engaged within the meaning of this chapter.

(b) "City"

shall mean the City of Emeryville.

~~**(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 therefor. 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) “Newly Established Business” shall mean:

(1) A person conducting any business activity in the City for the first time; or

(2) A business that resumes operation in the City after having been out of operation in the City during the entire previous tax year.

~~(e)~~(f) "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, limited liability company, municipal corporation, political subdivision of the State of California, or any other group or combination acting as a unit.

(g) "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 therefor. 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.

(h) For purposes of classifying a business under this chapter, the following definitions apply unless the context clearly indicates otherwise. The Finance Director may issue written determinations classifying specific business activities consistent with the criteria set forth in this subsection and shall publish a summary of such determinations for public reference:

(1) "Contractor" shall mean any person or business carrying on the business of a contractor, subcontractor, or builder, including any person who undertakes to, offers to undertake to, purports to have the capacity to undertake to, submits bids to, or does themselves or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, structure, highway, road, excavation, project, development, or improvement, or any part thereof. Contractor includes, but is not limited to, general contractors, electrical contractors, plumbing contractors, heating, ventilation, and air conditioning contractors, roofing contractors, landscape contractors, masonry contractors, sign contractors, and specialty contractors.

(2) "General Commerce/Retail" shall mean any business primarily engaged in retail sales, restaurants, wholesale trade, manufacturing, service stations, lodging services, or similar general commercial activities.

General Commerce/Retail includes, but is not limited to, retail stores, restaurants, wholesalers, manufacturers, service stations, convenience stores, grocery stores, hardware stores, hotels, motels, and short-term rentals. General Commerce/Retail also includes hairstylists, beauty parlors, salons, artists, photographers, and childcare centers. For purposes of this paragraph, “short-term rental” shall mean the occupancy of a home, house, a room in a home or house, or other lodging for a period of thirty (30) consecutive days or less, whether arranged directly by the operator or facilitated through a short-term rental platform or facilitator.

(3) “Professional and Advanced” shall mean any business primarily engaged in providing services requiring rigorous training through higher education, vocational institutions, certification, licensing, or specialized professional skill. Professional and Advanced includes, but is not limited to, doctor’s offices, law offices, consulting firms, accounting firms, engineering firms, architectural firms, software development, research and development, scientific services, technical services, financial advisory services, medical offices, dental offices, finance and insurance services, banking and credit intermediation, securities services, commodities services, investment services, insurance carriers, insurance agencies and brokers, veterinary services, real estate services, real estate developers and brokers, property appraisers, title services, educational services, ambulance or emergency medical service providers, advertising agencies, animation studios, visual effects studios, digital media production, motion picture production, television production, sound recording production, information services, publishing, administrative headquarters, corporate headquarters, healthcare and social assistance services, residential care facilities for the elderly, home health care services, assisted living facilities, and rehabilitation facilities.

(4) “Real Property Rental” shall mean any person or business engaged in leasing, renting, or otherwise providing the use of real property, or any portion thereof, to another individual or entity for compensation. Real Property Rental includes, but is not limited to, commercial leasing, residential rental, parcel leasing, apartment rental, office space rental, advertising billboard or reader board space, co-working spaces, shared offices, parking lots, and parking structures.

(5) “Services” shall mean any business primarily engaged in providing service-based activities that generally require minimal to no higher education, formal training, certification, or professional licensing. Services includes, but is not limited to, administrative office services, automotive repair and maintenance services, dry cleaning services, laundry services, gardeners, janitorial services, security and patrol services, data centers, transportation businesses (including trucking, delivery, rail, air, water, pipeline, transit, and passenger transportation), and warehousing businesses (including warehouses, storehouses, logistics facilities, and package or mail processing facilities). Services shall not include any business activity expressly classified under another classification.

(6) "Unclassified" shall mean any business not otherwise classified.

(7) "Utility" shall mean conducting or operating a public or private utility. Utility includes, but is not limited to, businesses providing to the general public or to private businesses utility services such as gas, electric, sanitary, or garbage services; video services, no matter how provided, including cable television, streaming services, satellite television, and other similar services; and telephone, audio or video telecommunications, or unified communication services. Utility also includes generating or selling electricity for either wholesale or retail, but does not include generating electricity from a clean energy source such as solar or wind when the generated electricity is primarily used on the premises where it is generated.

SECTION TWO. AMENDMENT TO SECTION 3-1.107 — ANNUAL CERTIFICATE

Section 3-1.107 of Chapter 1 of Title 3 of the Emeryville Municipal Code is hereby amended to read as follows, with deleted terms shown in strikeout and added terms underlined:

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.~~ Except as otherwise provided in this chapter, the business tax imposed by this chapter shall be measured by the business's gross receipts apportioned to the City during the preceding calendar year.

(c) 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.

(d) A newly established business shall pay the business tax based upon its estimated gross receipts apportioned to the City for the remainder of the calendar year in which the business commences operations. If a business did not operate within the City for the entirety of the preceding calendar year, the business tax shall be based upon its estimated gross receipts apportioned to the City for the current calendar year.

(e) A business paying tax based upon estimated gross receipts shall, when renewing its business tax certificate, provide the Finance Department with a statement of the business's actual gross receipts apportioned to the City for the applicable calendar year, together with supporting records as required by the Finance Department. If the business's actual gross receipts apportioned to the City exceed the estimated gross receipts upon which the business tax was calculated and paid, an additional amount of tax based upon the additional gross receipts shall be due with the business tax certificate renewal. If the business's actual gross receipts apportioned to the City are less than the estimated gross receipts upon which the business tax was calculated and paid, the excess amount of tax paid shall, at the discretion of the Finance Department, either be refunded or credited toward future business taxes owed by the business under this chapter.

SECTION THREE. AMENDMENT TO SECTION 3-1.124 — ANNUAL BUSINESS TAX BASED ON GROSS RECEIPTS

Section 3-1.124 of Chapter 1 of Title 3 of the Emeryville Municipal Code is hereby amended to read as follows, with deleted terms shown in strikeout and added terms underlined:

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, 3-1.126, 3-1.127, 3-1.128** and **3-1.129**, 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.~~

(a) Except as otherwise provided in this chapter, every person engaging in business within the City shall pay an annual business tax based on the business's classification and gross receipts.

(b) A business with annual gross receipts not exceeding the annual tax threshold, which shall be one hundred thousand dollars ($100,000.00) for the 2027 tax year, shall pay an annual business tax of twenty-five dollars ($25.00). Beginning January 1, 2028, and each January 1 thereafter, the annual tax threshold shall be adjusted by the percentage change for the preceding year in the Consumer Price Index for All Urban Consumers (CPI-U) for San Francisco-Oakland-Hayward, or any successor index designated by the Finance Director.

(c) A business with annual gross receipts exceeding the annual tax threshold in subsection (b) shall pay an annual business tax based on its classification as follows:

Classification	**Annual Business Tax**
General Commerce/Retail or Utility	$1.00 per $1,000 of annual gross receipts
Contractor, Services, or Unclassified	$3.00 per $1,000 of annual gross receipts
Real Property Rental or Professional and Advanced	$4.00 per $1,000 of annual gross receipts

SECTION FOUR. AMENDMENT TO SECTION 3-1.125 — CERTAIN ENUMERATED BUSINESSES

Section 3-1.125 of Chapter 1 of Title 3 of the Emeryville Municipal Code is hereby amended to read as follows, with deleted terms shown in strikeout and added terms underlined:

3-1.125 **Certain Enumerated Businesses.**

Notwithstanding Section 3-1.124, ~~Every~~ every person ~~transacting and carrying on the~~ engaging in business ~~businesses herein~~ in any activity enumerated in this section shall pay ~~a~~ the business tax ~~as follows~~ set forth in this section for that business activity:

~~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.~~

~~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.~~

(a) Cannabis Businesses. Every person engaged in cannabis business in the City shall pay the business tax provided in Section **3-1.129**.

(b) 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. 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 movable~~

~~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 handymen 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 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, 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.~~

(c) Massage Parlor (Nonconforming Adult Entertainment). Massage parlors operating as nonconforming 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.

~~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.~~

~~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 (10,000) square feet or fraction thereof of storehouse or warehouse space, plus two hundred fifty dollars~~

~~($250.00) per year for each additional five thousand (5,000) square feet 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, or any "owner" of a "limousine" as these terms are defined in Section 4-8.2.1 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.~~

SECTION FIVE. REPEAL AND RESERVATION OF SECTION 3-1.126 — PROFESSIONAL AND SEMIPROFESSIONAL CONNECTED BUSINESS

Section 3-1.126 of Chapter 1 of Title 3 of the Emeryville Municipal Code is hereby repealed and reserved to read as follows, with deleted terms shown in strikeout and added terms underlined:

~~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.~~

3-1.126 **Reserved.**

SECTION SIX. AMENDMENT TO SECTION 3-1.127 — ALTERNATIVE MEASURE OF GROSS RECEIPTS

Section 3-1.127 of Chapter 1 of Title 3 of the Emeryville Municipal Code is hereby amended to read as follows, with deleted terms shown in strikeout and added terms underlined:

3-1.127 **~~Certain Businesses Not Having~~ Alternative Measure of Gross Receipts.**

(a) Whenever ~~there are~~ a person engaging in business within the City has no gross receipts or has gross receipts apportioned to the City that are less than one hundred percent (100%) of the cost of maintaining operations within the City ~~of Emeryville~~, ~~the business shall pay a 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~~ gross receipts shall be deemed to be equal to one hundred percent (100%) of the cost of maintaining operations within the City, as provided in this section.

(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~~. As used in this section, the “cost of maintaining operations” includes, but is not limited to, payroll, utilities, rent, insurance, depreciation, and other ordinary and necessary business expenses incurred in the operation of the business within the City.

(c) ~~When a person engages in two (2) or more businesses, one (1) or more having gross receipts and one (1) 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.~~ When calculating payroll costs for this method of measuring tax, employees working from remote offices, including working from home, must be assigned to an official work location of the business. In determining where an employee should be assigned, the City shall consider whether the business has a business tax certificate for a designated work location, whether a designated work location is covered by workers’ compensation or other workplace insurance, and whether an employee is reimbursed for travel when traveling to a work location.

SECTION SEVEN. REPEAL AND RESERVATION OF SECTION 3-1.128 — RENTAL OF COMMERCIAL PROPERTY

Section 3-1.128 of Chapter 1 of Title 3 of the Emeryville Municipal Code is hereby repealed and reserved to read as follows, with deleted terms shown in strikeout and added terms underlined:

~~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)** of this section 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.~~

3-1.128 **Reserved.**

SECTION EIGHT. AMENDMENT TO SECTION 3-1.132 — MAXIMUM ANNUAL BUSINESS TAX

Section 3-1.132 of Chapter 1 of Title 3 of the Emeryville Municipal Code is hereby amended to read as follows, with deleted terms shown in strikeout and added terms underlined:

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~~ eight hundred thousand dollars (~~$300,000.00~~$800,000.00). Beginning January 1, 2028, and each January 1 thereafter, the maximum annual business license tax amount in this section shall be adjusted by the percentage change for the preceding year in the Consumer Price Index for All Urban Consumers (CPI-U) for San Francisco-Oakland-Hayward, or any successor index designated by the Finance Director.~~as adjusted annually upward or downward by the change in the Bay Area Consumer Price Index starting July 1, 2012~~.

SECTION NINE. AMENDMENT TO SECTION 3-1.134 — DUTIES OF THE FINANCE DIRECTOR

Section 3-1.134 of Chapter 1 of Title 3 of the Emeryville Municipal Code is hereby amended to read as follows, with deleted terms shown in strikeout and added terms underlined:

3-1.134 **Duties of the Finance Director ~~Chief Financial Officer – Notice of Decisions~~.**

It shall be the duty of the Finance Director ~~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~~ The Finance Director 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 Finance Director ~~Chief Financial Officer~~ may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

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

SECTION TEN. AMENDMENT TO SECTION 3-1.139 — EXEMPTIONS; APPORTIONMENT

Section 3-1.139 of Chapter 1 of Title 3 of the Emeryville Municipal Code is hereby amended to read as follows, with deleted terms shown in strikeout and added terms underlined:

3-1.139 **Exemptions; Apportionment ~~for Nonprofit Corporations, Associations, Etc.~~**

(a) ~~A tax-exempt institution, corporation or association organized or conducted for nonprofit 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 (1) time initial registration fee pursuant to Section **3-1.109** and shall not pay any business tax. This exemption shall not apply to promoters employed by such nonprofit institutions, corporations or associations.~~ Any business fully or partially exempt by the Constitution or laws of the United States or the Constitution or laws of the State of California from the business tax imposed by this chapter is not required to pay the business tax imposed by this chapter to the extent of such exemption, but is required to demonstrate that the business is exempt and obtain a business tax certificate.

(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.~~ No business tax imposed by this chapter shall be applied to a person or business so as to constitute an undue burden on interstate commerce or intercity commerce in violation of the Commerce Clause of the United States Constitution or the Equal Protection or Due Process clauses of the California Constitution. To this end, the Finance Director may adopt rules, regulations, and procedures for apportioning the business tax imposed by this chapter.

(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.

(d) The City Council may adopt full or partial exemptions from the business tax imposed by this chapter.

SECTION ELEVEN. REPEAL AND RESERVATION OF SECTION 3-1.140 — A BUSINESS WITH ADMINISTRATIVE OFFICES AND ADDITIONAL WAREHOUSES WITHIN THE CITY

Section 3-1.140 of Chapter 1 of Title 3 of the Emeryville Municipal Code is hereby repealed and reserved to read as follows, with deleted terms shown in strikeout and added terms underlined:

~~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.~~

3-1.140 **Reserved.**

SECTION TWELVE. COUNCIL AMENDMENTS

The City Council may amend the terms of this chapter in any manner that does not increase the business tax or otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution.

SECTION THIRTEEN. SEVERABILITY

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.

SECTION FOURTEEN. LIBERAL CONSTRUCTION

This measure shall be liberally construed to effectuate its purposes.

SECTION FIFTEEN. EFFECTIVE DATE

This Ordinance relates to the levying and collecting of the City business tax and will be in full force and effect ten (10) days after the certification by the City Council of the election returns indicating passage of the ordinance in the election of November 3, 2026, by the margin of votes required by California Constitution Article XIII C, Section 2(b) for general tax measures.

SECTION SIXTEEN. APPLICATION OF TAX

The business tax rates adopted pursuant to this Ordinance shall apply beginning January 1, 2027. The business tax due for calendar year 2027 shall be calculated based on gross receipts for calendar year 2026 in accordance with Chapter 1 of Title 3 of the Emeryville Municipal Code, as amended by this Ordinance.