



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/19/2021

ITEM NO: 9

DATE: October 11, 2021
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Receive the Town Finance Commission Recommendation and Authorize the Town Manager to Issue a Request for Proposals (RFP) for Consultant Services to Evaluate and Recommend Modernization Options for the Town's Business License Tax Program.

RECOMMENDATION:

Receive the Town Finance Commission recommendation and authorize the Town Manager to issue a RFP for consultant services to evaluate and recommend modernization options for the Town's Business License Tax Program.

BACKGROUND:

On September 13, 2021, the Town Finance Commission reviewed the Town's Business License Tax Program. The Town's Business Tax Ordinance was last adopted on June 3, 1991 (Attachment 1). The Town Business License Tax program is governed by Chapter 14 of the Los Gatos Town Code: [Los Gatos Town Code - Business Licenses](#). The Articles I through III of the business license chapter are enacted solely to raise revenue for municipal purposes and are not intended for regulation. The Town currently has 2,557 businesses in active pay status and another 2,577 registered on the books of which it is estimated that a third may still be active in Town. This Tax, which is charged to business owners, currently generates approximately \$1.4 million annually.

DISCUSSION:

Having not been updated in over 30 years, the current rate structure does not take into account shifts in business models and delivery over the decades. In addition, the current ordinance does not contemplate inflation adjustments or other predetermined structural rate changes, therefore leaving the rates unchanged for 30 years.

PREPARED BY: Arn Andrews
Assistant Town Manager

Reviewed by: Town Manager, Town Attorney, and Finance Director

DISCUSSION (continued):

The Town issues different types of business licenses based on the type of activity. The amount of business license tax paid by each business is also based on its business activity because the purpose of the tax is to cover municipal services and infrastructure utilized by the business, its employees, and customers. Fees for activities such as wholesales and manufacturing are charged on a sliding scale based on gross receipts, as is retail, with retail being capped at \$975. These gross receipt activities account for approximately 25% of annual business licenses, while the remaining 75% are flat fee businesses. While the Town Code list different license types, the most common ones are listed below with the appropriate business license tax and fees.

Typical Business License Taxes and Fees			
Business License Processing Fee (Annual)	\$40 at the Time of Establishment/ \$30 at Renewal - Located In Los Gatos \$20 - Not Located in Los Gatos		
Planning Fees - Businesses Located in Los Gatos (One-time)	\$161.20 Home Occupancy Permit - Home Based Businesses \$176.70 Change of Occupancy / \$262.20 Change of Use - Commercial Zoning		
State Mandated Fee (Annual)	\$4		
Type of Business License	Business License Tax - Without Penalty Minimum (Annual)	Business License Tax - Without Penalty Maximum (Annual)	Typical Businesses
Retail (Based on Gross Receipt)	\$75	\$975	Restaurant, Grocery Store , Gas Station, Hair Salon
Wholesale/Manufacturee/Wholesale/Ecommerce (Based on Gross Receipt)	\$150	Based on sliding scale \$4,837.50 for \$12,000,000 in gross receipt plus \$75 for each \$550,000 or fraction thereof in excess of \$12,000,000	Netflix, Manufacturers
Professional/Semiprofessional (per employee)	\$200	\$200	Medical Doctor, Attorney, Tutor, Massage Therapist, Broker
Support Staff - Professional/Semiprofessional (per employee)	\$15	\$15	Real Estate Agent
Service (per business)	\$100	\$100	Gardeners, Repair Service, Hair Stylist, Janitorial service
Contractor (per business)	\$224	\$224	Licensed California State Contractor

Most cities in the Bay Area and throughout California have either updated their tax structure through local ballot measures or enacted a tax if they previously didn't have one. In California, all taxes imposed by local governments are classified as either general or special taxes and must be put before voters as a local ballot measure for approval. Recent examples of general business tax ballot measures include:

- Daly City – Measure BB 2018 (approved 80.64%)
- Mountain View – Measure P 2018 (approved 71.05%)
- Sausalito – Measure M 2018 (approved 65.42%)
- Berkley – Measure U1 2016 (approved 74.93%)
- Monterey – Measure H 2016 (approved 73.86%)
- San Jose – Measure G 2016 (approved 65.59%)
- Foster City – Measure U 2013 (approved 73.2%)
- Campbell – Measure M 2010 (approved 69.59%)

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SUBJECT: Business Tax Modernization

DATE: October 11, 2021

CONCLUSION:

The Finance Commission has recommended that the Town Council consider pursuing the modernization of the Business license Tax schedule adopted in 1991. To better understand the Town's Business License Tax program, the Council should authorize the Town Manager to issue a RFP for the review and recommendation of modernization options for the program.

COORDINATION:

This staff report was coordinated with the Town manager, Town Attorney, and Director of Finance.

FISCAL IMPACT:

There is no cost associated with issuing the RFP. Based on the results of the RFP, staff will return to Council with budget recommendations based on the successful RFP response.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:

1. 1991 Business Tax Ordinance

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ORDINANCE 1857

ORDINANCE OF THE TOWN OF LOS GATOS AMENDING CHAPTER 15, ARTICLE II OF THE TOWN CODE

THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES HEREBY ORDAIN:

SECTION I

Article II of Chapter 15 of the Town Code is hereby repealed in its entirety.

SECTION II

Article II of Chapter 15 of the Town Code is hereby enacted to read as follows:

ARTICLE II

SCHEDULE

Section 15-27. Gross Receipts Tax

Every person doing business in the Town, except those persons whose business is taxed under the terms of Section 15-28 shall pay an annual license tax based on the gross receipts of the business. The tax is levied according to one or both of the following schedules. When the business activities of one person, taxable under the provisions of this section, involve both retail and manufacturing, wholesaling or jobbing transactions, the total gross income is apportioned between the two schedules, according to its source.

Retailing

At Least	But Less Than	Tax
\$ 0	\$ 50,000	\$ 75.00
50,000	100,000	112.50
100,000	150,000	150.00
150,000	200,000	187.50
200,000	250,000	225.00
250,000	300,000	262.50
300,000	350,000	300.00
350,000	400,000	337.50
400,000	450,000	375.00
450,000	500,000	412.50
500,000	600,000	450.00
600,000	700,000	487.50
700,000	800,000	525.00
800,000	900,000	562.50
900,000	1,000,000	600.00
1,000,000	1,100,000	637.50
1,100,000	1,200,000	675.00
1,200,000	1,300,000	712.50
1,300,000	1,400,000	750.00
1,400,000	1,500,000	787.50
1,500,000	1,600,000	825.00
1,600,000	1,700,000	862.50
1,700,000	1,800,000	900.00
1,800,000	1,900,000	937.50
1,900,000	2,000,000	975.00
	(and above)	

Manufacturing, Wholesaling and Jobbing

At Least	But Less Than	Tax
\$ 0	\$ 200,000	\$ 150.00
200,000	300,000	187.50
300,000	400,000	262.50
400,000	500,000	337.50
500,000	600,000	450.00
600,000	800,000	562.50
800,000	1,000,000	675.00
1,000,000	1,200,000	787.50
1,200,000	1,400,000	900.00
1,400,000	1,600,000	1,012.50
1,600,000	1,800,000	1,125.00
1,800,000	2,000,000	1,237.50
2,000,000	2,500,000	1,350.00
2,500,000	3,000,000	1,462.50
3,000,000	3,500,000	1,575.00
3,500,000	4,000,000	1,687.50
4,000,000	4,500,000	1,800.00
4,500,000	5,000,000	1,912.50
5,000,000	5,500,000	2,025.00
5,500,000	6,000,000	2,137.50
6,000,000	6,500,000	2,250.00
6,500,000	7,000,000	2,362.50
7,000,000	7,500,000	2,475.00
7,500,000	8,000,000	2,587.50
8,000,000	8,500,000	2,700.00
8,500,000	9,000,000	2,812.50
9,000,000	9,500,000	2,925.00
9,500,000	10,000,000	3,037.50
10,000,000	10,500,000	4,500.00
10,500,000	11,000,000	4,612.50
11,000,000	11,500,000	4,725.00
11,500,000	12,000,000	4,837.50
12,000,000		4,837.50
		plus \$75.00
		for each \$550,000 or
		fraction thereof in
		excess of \$12,000,000

Section 15-28. License Taxes for Specified Businesses

Every person doing any of the kinds of business specified in the subdivisions of this Section 15-28 shall pay the business license tax specified in such subdivision. The fees are annual unless otherwise specified.

Sec. 15-28.02. Advertising Signs

Signposting and painting 420.00

Section 15-28.04. Amusements

Shows, concerts, et cetera (per day)	42.00
Circuses, menageries, et cetera:	
Less than 2,000 seating capacity	
First day	420.00
Each succeeding day	52.50
More than 2,000 seating capacity	
First day	630.00
Each succeeding day	105.00
Side shows (per day):	
Entrance fee not exceeding \$.10	21.00
Entrance fee exceeding \$.10	42.00
Circus procession or parade (each)	210.00
Carnivals (per day)	42.00
Ferris Wheels, merry-go-rounds, et cetera (per month)	210.00
Public dances (per dance)	21.00

Section 15-28.05. Apartment Rentals and Mobilehome Parks.

The term "apartment" includes all buildings or groups of buildings on the same premises, composed of a total of three or more dwelling units (per unit) 7.50

Section 15-28.06. Auctioneers 112.50

Section 15-28.08. Billiard and Pool Rooms (per table) 52.50

Section 15-28.10. Boardinghouses.

Boardinghouses licensed by the State or County as boardinghouses for pensioners, and who board pensioners exclusively, are exempt from the business license tax.

For first four boarders 21.00

For each person over four 4.50

Section 15-28.12. Cleaning and Dyeing Laundry Delivery.

Vehicles (annual, per vehicle) 168.00

The tax applies to those who have no fixed place of business in the Town.

Section 15-28.14. Contractors (annual).

A separate fee for each type of work activity, such as general engineering, building, plumbing, plastering, painting, masonry, termite, service, installation or other specialty, in addition to any sales or jobbing license fee 224.00

Section 15-28.15. Day Care Facilities.

Day Care Facilities provide day care for children under 18 years of age who are unrelated to the licensee.

Small Family Day Care Home - a facility providing day care for six (6) children or less. (Including resident children) No Fee

Large Family Day Care Home - a facility providing day care for 7 to 12 children (including resident children) No Fee

Nursery School - a facility providing day care for 13 or more children No Fee

Section 15-28.16. Hospitals, Rest Homes, Etc

Annual, or 140.00
Per bed, if that is larger 10.00

Section 15-28.18. Hotels and Motels (annual, per guest room) 7.50

Business activities other than renting rooms, conducted in connection with a hotel, are taxed separately.

Section 15-28.20. House Movers.

Annual license 105.00
Additional per structure moved 84.00

Section 15-28.22. Itinerant Photographers (annual) 210.00

Section 15-28.24. Itinerant Vendors (daily) 105.00

The words "itinerant vendor" mean any person, both principal and agent, who engages in a temporary and transient business in the Town selling goods, wares and merchandise with the intention of continuing such business in the town for a period of not more than ninety days, and who, for the purpose of carrying on such business, hires, leases or occupies any room, building or structure for the exhibition or sale of such goods, wares, or merchandise, or from which room, building or structure the sales shall be made or business solicited by means of samples or delivery from house to house. The person so engaged is not relieved from the provisions of this section by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting temporary or transient business in connection with, or as a part of, or in the name of any local dealer, trader, merchant or auctioneer. The provisions of this section do not apply to commercial travelers or selling agents selling their goods to dealers, whether selling for present or future deliveries, by sample or otherwise, nor to hawkers on the street, nor peddlers from vehicles, nor to persons selling fruit, vegetables, butter, eggs, or other fruit or ranch products.

Section 15-28.28. Junk Dealers (annual) 420.00

"Junk dealer" means any person who has a fixed place of business in the Town, and who engages in or carries on the business of buying or selling, either at wholesale or retail, any old rages, sacks, bottles, cans, papers, metals or other articles of junk.

Section 15-28.30. Junk Collectors (annual, per vehicle) 84.00

"Junk collector" means any person who has not fixed place of business in the Town and who engages in or carries on the business of collecting, buying or selling any old rags, sacks, bottles, cans, papers, metals or other articles of junk.

Section 15-28.36. Peddlers.

Peddlers of wares other than food, per person:

Daily 21.00

Peddlers of food, except lunch wagon operators:

Using a vehicle, per vehicle, annual 210.00
Not using a vehicle, carrying wares by hand 42.00
Lunch wagon operators (per vehicle, annual) 210.00

Peddlers engaged in the business of selling any personal property at a sale conducted by an organization exempt from the business license tax under the provisions of Section 15-5 of this chapter shall pay a license tax of seven dollars and fifty cents per day. This rule applies only when all fees, commissions or other remuneration of any kind paid by the peddler to the organization conducting, sponsoring or promoting the sale is devoted exclusively to the business license tax-exempt purposes of the organization and the organization has obtained prior approval from the Town Council to conduct the sale.

Daily 7.50

A "peddler" is every person not having a regularly established place of business in the Town who travels from place to place, or has a stand upon any public street, alley or other public place, doorway or any building, unenclosed or vacant lot, or parcel of land, who sells, offers for sale, any goods, wares or merchandise in his possession.

Section 15-28.38. Professional and Semiprofessional Occupations.

Per professional or semiprofessional person 200.00
Additional per employee 15.00

Professional or semiprofessional business or service occupations include, but are not limited to, the following:

Accountant
Advertising counsel
Appraiser
Architect
Artist
Assayer
Attorney-at-law
Auditor
Bacteriologist
Broker, stock or bond
Chemist
Chiropodist
Chiropractor
Dentist
Designer or decorator

Detective or investigative personnel
 Draftsperson
 Drugless practitioner
 Electrologist
 Engineer: civil, mining, electrical, construction
 Engineer: structural, consulting, mechanical, hydraulic
 Engraver
 Feed, grain and fruit broker
 Geologist
 Illustrator or showcard writer
 Landscape architect
 Lapidary
 Lithographer
 Masseuse or masseur
 Oculist, optician or optometrist
 Osteopath
 Physician
 Real estate brokers
 Surgeon
 Surveyor
 Taxidermist
 Veterinarian
 X-ray, dental or medical laboratory

Section 15-28.40. Service Occupations 100.00

"Service occupations" means appliance, home furnishing or radio and television installation, maintenance and repair, janitorial and building maintenance, or landscape installation and maintenance.

Section 15-28.42. Shooting Galleries 105.00

Section 15-28.44. Solicitors (per business) 210.00

A "solicitor" is one who engages in the business of going from house to house, place to place or in or along the streets within the Town selling or taking orders for, or offering to sell or take orders for, goods, wares, merchandise, advertising or other things of value for future delivery, or for services to be performed in the future.

Section 15-28.46. Taxicabs.

Per business 150.00

Additional per taxi 22.50

Section 15-28.48. Theaters and Concert Halls 105.00

Section 15-28.50. Trucking (annual)

Persons other than peddlers who sell or deliver food or any other goods by means of a vehicle, and who have no fixed place of business in Town, per vehicle 140.00

Persons who make no more than two deliveries or sales per quarter are exempt from the foregoing tax. All other motor vehicle delivery business, whether the business operates on a regular route or between fixed termini or not:

For one vehicle	45.00
For each additional vehicle	22.50

Section 15-29. Credit for Businesses in Business Improvement Area

a. Any business located and operating within a parking and business improvement area established pursuant to Streets and Highways Code §§ 36500 et seq. shall receive a credit on the annual license tax as set forth in this section.

b. Each person doing any of the kinds of business specified in subdivisions 15-28.14, 15-28.16, 15-28.38, 15-28.40, and 15-28.50 shall receive a credit equal to 50% (one-half) of the annual business license tax.

c. Every person doing any other kind of business shall receive a credit equal to 33-1/3% (one-third) of the annual business license tax.

SECTION III

Any judicial action or proceeding to attack, review, set aside, void or annul this ordinance shall be commenced within 120 days after adoption of this ordinance.

SECTION IV

A. This ordinance shall take effect July 1, 1991. Within 15 days after this ordinance is adopted the Town Clerk shall cause it to be published once in a newspaper of general circulation published and circulated in the Town.

B. In establishing the effective date, the Town Council finds that this ordinance relates to taxes for the usual and current expenses of the Town within the meaning of Government Code Section 36937, and must be effective July 1, 1991, so that business license fees will be paid at higher rates commencing with the beginning of the 1991-92 fiscal year.

This ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on May 28, 1991 and adopted by the following vote as an ordinance of the Town of Los Gatos at a meeting of the Town Council of the Town of Los Gatos on June 3, 1991.

COUNCIL MEMBERS:

AYES: Joanne Benjamin, Randy Attaway, Eric D. Carlson, Steven Blanton

NAYS: None

ABSENT: Mayor Brent N. Ventura

ABSTAIN:

SIGNED:


VICE- MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:


CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA