MEASURE U

ORDINANCE NO. 33-20 N.S.

AN ORDINANCE OF THE PEOPLE OF THE CITY OF RICHMOND AS APPROVED BY THE CITY'S QUALIFIED ELECTORS AT THE GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 3, 2020, TO IMPLEMENT A GROSS RECEIPTS TAX STRUCTURE

The People of the City of Richmond do ordain as follows:

SECTION 1. Title and Purpose.

TITLE. This Ordinance may be cited as the **Richmond Business Tax**.

PURPOSE. In Richmond, nearly all businesses regardless of gross receipts, pay a flat tax rate, and very small businesses pay a flat amount. This disproportionately affects small businesses, which contribute a large proportion of Richmond's total business tax revenue. Other major jurisdictions in the Bay Area have implemented progressive gross receipts tax structures, in which businesses with more gross receipts are taxed at a higher rate than smaller businesses.

Richmond's business tax system is complicated and antiquated. By modernizing our tax system, the City can give needed tax relief to small businesses and generate increased revenue needed to protect vital City services that support Richmond residents, including youth, and keep Richmond's neighborhoods clean, well maintained, and safe.

SECTION 2. Findings

This Ordinance is exempt from the California Environmental Quality Act, Public Resources Code section 21000 *et seq.* ("CEQA"), since in accordance with CEQA Guidelines Section 15061, subd. (b)(3), it can be seen with certainty that there is no possibility that the activity authorized herein may have significant effect on the environment. Additionally, CEQA review does not apply when a measure is placed on the ballot and approved by the voters.

SECTION 3. Use of Proceeds.

The tax proceeds raised by the general tax created by this Ordinance may be used for any governmental purpose.

SECTION 4. Conflicting Measures

This measure is intended to be comprehensive. It is the intent of the people of City of Richmond that in the event this measure and one or more measures relating to business taxes appear on the same ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void. If this measure is approved by a majority of the voters but does not receive a greater number of affirmative votes than any other measure appearing on the same ballot regarding the business tax, this measure shall take effect to the extent not in conflict with said other measure or measures.

SECTION 5. Liberal Construction

This measure shall be liberally construed to effectuate its purposes.

SECTION 6. Municipal Affair

The People of City of Richmond declare that the taxation provided for this ordinance constitutes a municipal affair.

SECTION 7. Not a Sales and Use Tax.

The tax imposed by this ordinance is a general tax on the privilege of conducting business within City of Richmond. It is not a sales tax or use tax or other excise tax on the sale, consumption, or use of any products.

SECTION 8. Effective Date.

This ordinance shall be effective only if approved by a majority of the voters at the November 2020 Statewide General Election and shall go into effect ten (10) days after the vote is declared by the City Council. Notwithstanding the effective date provided for by this section, the tax rates imposed by this ordinance shall only be imposed when and as stated in this ordinance.

SECTION 9. Council Amendments.

The City Council of City of Richmond is authorized to amend Chapter 7.04 of the City of Richmond Municipal Code as adopted by this ordinance in any manner that does not increase the business tax or otherwise constitute a tax increase for which voter approval is required by Article XIIIC of the California constitution.

SECTION 10. Savings Clause

If any provision, sentence, clause, section, or part of this ordinance is found to be unconstitutional, illegal, or invalid by a court of competent jurisdiction, such unconstitutionality, illegality, or invalidity shall affect only such provision, sentence, clause, section, or part of this ordinance and shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance. It is declared that this ordinance would have been adopted had such unconstitutional, illegal, or invalid provision, sentence, clause, section, or part not been included.

SECTION 11. Business Tax Code Amendments

Chapter 7.04 of the Richmond Municipal Code is hereby deleted and replaced with the following:

Chapter 7.04.010 Short title.

This chapter shall be known as the **Richmond Business Tax.**

Chapter 7.04.020 Business Tax.

1. *Imposition of Business Tax.* Pursuant to the terms of this Chapter, the city imposes, and every person engaging in business activities within the city shall pay, an annual business tax.
2. *Business Certificate Requirements.* Every person conducting any business activity in the city shall pay the annual business tax and obtain an annual business tax certificate from the city. Except as otherwise specifically provided, the city shall collect business taxes and issue business tax certificates on a calendar year basis.
3. *Use of Funds.* The business tax is a tax imposed upon persons engaging in business within the city for the privilege of engaging in a business or occupation in the city. The business tax is imposed for general governmental purposes. Proceeds from the tax may be deposited in the city's general fund and may be expended for any purposes of the city.
4. *Intent.* This chapter authorizes application of the business tax in the broadest manner consistent with the provisions of this municipal code and the requirements of the California Constitution, the United States Constitution, and any other applicable provision of federal or state law.

7.04.100 Definitions and Classifications.

The carrying on of any business without procuring a certificate shall constitute a violation of this code for every day that such business is carried on. A separate certificate must be obtained for each and every business activity at each and every branch establishment or separate place of business at which business activity takes places, subject to the requirements to obtain a "master certificate" as defined in 7.04.320.

Except where the context otherwise requires, the definitions and classifications in Sections 7.04.110 and 7.04.120 apply to this Chapter 7.04.

7.4.110 General Definitions.

"Business" means any activity, enterprise, profession, trade, or undertaking of any nature conducted or engaged in, with the object of gain, benefit or advantage, whether direct or indirect, to the taxpayer or to another or others. "Business" shall include any transaction which is or which, in effect results in a sale, but shall not include the services rendered by an employee to their employer. "Business" does not include the management of individual or immediate family investments by that individual or a member of that immediate family in securities, mutual funds, deposit accounts, retirement accounts, non-income generating real property, antiques, collectibles or other ordinary investment vehicles.

"Certificate" means a business tax certificate issued to a person pursuant to this chapter evidencing the payment of or declared intent to pay the business tax.

"City" means City of Richmond, California.

"Employee" means either: (1) each and every person engaged in the operation or conduct of any business, whether as owner, member of the owner's family, partner, associate, agent, manager or solicitor, and each and every other person employed or working in such business for a wage, salary, commission or room and board; or (2) any person who is regarded as an employee of a business for purposes of the workers' compensation laws of the State of California (including, without limitation, a real estate agent working for, or engaged by, a real estate broker) and which business is subject to the provisions of this Ordinance.

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

"Firearms" means any device, designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion, or other form of combustion. The term also includes any rocket, rocket-propelled projectile launcher, or similar device containing any explosive or incendiary material and not designed for emergency or distress signaling purposes.

"Firearms ammunition" means any projectiles with their fuses, propelling charges, or primers fired from weapons, and any of the individual components of such projectiles, including, but not limited to, black powder and reloading primers.

"Gross payroll" means and includes the total gross amount of all salaries, wages, commissions, bonuses, or other money payment of any kind that a person received from, or is entitled to receive from or be given credit for by, their employer for any work done or personal service rendered in any trade, occupation, or profession, including any kind of deductions before "take home" pay is received. "Gross payroll" does not mean or include amounts paid to traveling salespersons or other workers as allowance or reimbursement for traveling or other expenses incurred in the business of the employer, except to the extent of the excess of such amounts over such expenses actually incurred and accounted for by the employee to the employer.

"Gross receipts" means the total amount of money, credits, reimbursed expenses, value of any free or reduced rent, or other things of value actually received or receivable in connection with engaging in business in the City of Richmond, including any transfer or sale of any materials, goods, wares, merchandise, or other things of value, or for the performance of any act or service, of any nature, for which a charge is made, credit allowed, or other thing of value received, without any deduction on account of the cost of property sold, cost of materials used, labor or service costs, interest paid or payable, reimbursed or passed through expenses, or losses or other expenses. For the purpose of this definition, "other things of value" includes any discounts, rents, royalties, fees, commissions, dividends, and gains realized from trading in stocks or bonds (except as exempted from the definition of "Business"), or other emoluments, however designated. Gross receipts includes all payments made to a lessor, or paid to third parties on behalf of a lessor as part of a lease agreement, including but not limited to, taxes, business taxes, insurance, mortgage payment, rent, and the cash value of all services rendered to or on behalf of the lessor by a lessee.

Notwithstanding the foregoing, the following shall be excluded from the definition of gross receipts:

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 any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;
5. Receipts of community chest funds, foundations, or corporations organized and operated for religious or charitable purposes, which are not conducted for profit and no part of the net earnings of which inures to the benefits of any private shareholder or individual;
6. Receipts of nonprofit educational institutions of collegiate grade, defined herein to mean institutions incorporated as colleges or seminaries under the laws of the State of California; receipts of nonprofit secondary schools which are duly accredited by the University of California; and receipts of nonprofit elementary schools in which instruction is given to students in the preprimary grades in the several branches or studies required to be taught in the public schools of the State of California;
7. Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved 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;
8. Receipts from services or sales in transactions between related entities, as defined by 7.04.310.

"NAICS" means the numerical classification for business activities established in the North American Industry Classification System used by federal governmental agencies to classify business establishments; references in this Chapter to particular numerical NAICS codes are intended to apply the definitions and descriptions adopted in that system as of the effective date of this Chapter.

"Newly established business" is defined as:

1. A person conducting a particular business activity in the city for the first time; or
2. A business which resumes operation in the city after having been out of operation in the city during the entire previous tax year.

In any case, "newly established business" does not include a person for whom a "related entity" as defined by 7.04.310 is already in operation in the city.

"Person" means any natural person, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, limited liability company, municipal corporation, political subdivision of the state of California, domestic or foreign corporation, association, syndicate, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, and the United States or any instrumentality thereof, and any natural person, who as an individual or with a spouse, owns fifty-one percent (51%) or more of the capital stock of a corporation obligated to file a declaration and pay tax pursuant to this chapter; and in addition, is a person with the power to control the fiscal decision-making process by which the corporation allocates funds to creditors in preference to its tax obligations under the provisions of this chapter. A person as defined herein, who is also an officer or director of a corporation obligated to file declarations and pay tax pursuant to this chapter, shall be presumed to be a person with the power to control the fiscal decision- making process. Whenever the term "person" is used in any clause prescribing and imposing a penalty, the term as applied to any association shall mean the owners or part owners of such association, and as applied to any corporation, shall mean the officers of such association.

"Residential and non-residential rental businesses" means engaging in any of the following business activities, as defined herein: "residential rental" and "non-residential rental."

"Sale" and "sell" means any transfer of title to property for a price by any manner or means, 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 directly or indirectly furnish the specifications for such special order. "Sale" also includes any transaction where the possession of property is transferred, but the seller retains the title as security for the payment of the price.

"Shall" and "may." "Shall" means mandatory and "may" means permissive.

"Tax" or "business tax" means the charge for issuance of a certificate pursuant to chapter 7.04 of the city's municipal code.

7.4.120 Business Activity Definitions.

"Administrative headquarters" means a location where the principal business transacted consists of providing administrative or management related services such as, but not limited to, recordkeeping, data processing, research, advertising, public relations, personnel administration, legal, and corporate headquarters services, to other locations where the operations of the same business are conducted which lead more directly to the production of gross receipts.

"Ambulance service" means either providing transportation of patients by ground or air, along with medical care, in vehicles that are equipped with lifesaving equipment operated by medically trained personnel or otherwise meeting the NAICS classification for "ambulance services" (NAICS 62191).

"Automobile sales" means the selling of new or used motor vehicles at wholesale or retail.

"Business and personal services" means any business providing services such as, but not limited to, website hosting, internet and data exchange, repairs or improvements to or on real and personal property, renting or leasing personal property to businesses or persons, packaging, transhipping, storing, or stevedoring or providing services to persons such as, but not limited to, laundries, cleaning and dyeing, shoe repair, barber and beauty shops, nail and skin care services, photographic studios, parking lots and garages, and title guarantee companies.

"Cannabis business" means any business that involves planting, cultivating, harvesting, transporting, dispensing, delivering, selling at retail or wholesale, manufacturing, compounding, converting, processing, preparing, storing, packaging, or testing any part of the plant Cannabis sativa L. or any of its derivatives.

"Construction contractor" means a person who conducts or carries on a business that is licensed as a contractor by the state of California and who undertakes to, or offers to undertake to, or purports to have the capacity to undertake to, or submits bids to, or does themself or by or through others, 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.

"Non-residential rental" means renting or letting all or a portion of a building, structure, billboard, or other property for commercial, industrial, or advertising purposes, or a portion of such building, structure, billboard or property within the city for a purpose other than dwelling, sleeping, or lodging to a tenant. "Non-residential rental" includes offering, renting, or letting co-working spaces in any building or space, either as individual offices or shared working space, to businesses, independent contractors, or persons regardless of whether the person offering the co-working space owns the building or space or offers other related services, space, or products.

"Firearms and ammunition sales" means the selling, leasing, or transferring of firearms or firearms ammunition, except for wholesale sales. This definition shall not include establishments exclusively involved in the sales of firearms or firearms ammunition to law enforcement officials or any business licensed as a pawnbroker pursuant to Chapter 7.04 of the Code that (1) receives firearms or firearms ammunition as bond or other security for loans, advances, or other forms of compensation, or (2) sells or resells firearms or firearms ammunition wholesale to properly licensed and registered dealers exclusively.

"Hotel" and "motel" means providing short-term lodging in facilities known as hotels, motor hotels, resort hotels, and motels that may offer food and beverage services, recreational services, conference rooms, convention services, laundry services, parking, and other services, or otherwise meeting the NAICS classification for "Hotels (except Casino Hotels) and Motels" (NAICS72111)."Hotel" and "motel" also includes offering all or portion of a residential building or structure for short-term dwelling, sleeping, or lodging, for example, by offering a bedroom, home, or other living space on a third-party platform for short-term residential use.

"Manufacturing" means manufacturing or processing any goods, wares, merchandise, articles, or commodities at a location within or outside of the City of Richmond and selling such items at retail and/or wholesale in the City of Richmond.

"Media firms" means providing published or electronic media, including newspapers, publishing, radio, and broadcast television companies.

"Miscellaneous" means any business activity not otherwise defined in this section.

"Grocers" means a retailing of perishable and non-perishable food type items, such as, but not limited to, meats, fish, poultry, vegetables, fruits, nuts, breads, dairy products, non-alcoholic beverages, etc., from a fixed location.

"Professional/semi-professional service" means any professional services not specifically taxed by other business tax provisions of this chapter. The term includes, but is not limited to: business management services; website development services; finance services; insurance services, real estate services; medical and other health services; educational services, legal services; engineering and architectural services; accounting, auditing, and bookkeeping services; commission merchants; conducting, managing, or carrying on the business of furnishing reports on persons to insurance companies for underwriting purposes; or furnishing reports on persons to mercantile concerns as a basis for extending credit savings and loan and other financial institutions; conducting, managing or carrying on the business of lending money or advancing credit or arranging for the loan of money or the advancing of credit as principal or agent, where the obligation to repay the money lent or debt incurred or to compensate for the advance of credit is secured by a lien on real property, or some interest in real property, unless such business is exempt therefrom by law; software as a service; platform as a service; and infrastructure as a service.

The term "commission merchant" means a person who, for compensation in the form of a commission, engages in selling activities, including the solicitation or negotiation of a sale, or the forwarding of sales orders, which lead to the sale of goods, wares, or merchandise owned by some person other than the commission merchant. The business of a commission merchant shall be deemed to include also the buying and selling of goods, wares, or merchandise by a person to the extent that the person:

(1) Does not engage in the business of manufacturing, refining, fabricating, milling, treating, or other processing of the goods, wares, or merchandise bought and sold, and does not cause said goods, wares, or merchandise to be manufactured, refined, fabricated, milled, treated, or otherwise processed; and

(2) Does not obtain or retain title to said goods, wares, or merchandise except in one or more of the following situations: while such may be in transit or for short periods of time before transportation commences or after it ceases; and

(3) Does not store or warehouse such goods, wares, or merchandise except during one or more of the following situations: while such goods, wares, or merchandise are actually in transit or for short periods of time before transportation commences or after it ceases.

"Recreation and entertainment" means providing entertainment, recreation, or amusement. The business of providing entertainment, recreation, or amusement shall include, but is not limited to, the following: theatrical or musical entertainment, all shows or exhibits, exhibiting motion pictures, athletic clubs, sports and athletic exhibitions or contests, pools or billiard rooms, bowling alleys, golf courses, circuses, or penny arcades.

"Residential rental" means conducting or operating an apartment house, lodging house, and every person engaged in the business of conducting or letting rooms, and/or any building structure, for dwelling, sleeping, or lodging, including, and limited to, a single-family house, duplex, townhouse, condominium, or co-operative.

"Retail sales" means the sale of goods, wares, or merchandise for any purpose other than resale in the regular course of business, including restaurants and peddlers.

"Taxi and limousine service" means providing passenger transportation by automobile or van or providing any specialty or luxury passenger transportation services via limousine or luxury sedan on a reserved or unreserved basis or otherwise meeting the NAICS classification for "taxi and limousine service" (NAICS 4853).

"Transportation" and "trucking" refers to the use of transportation equipment such as airplanes, trains, boats, cars, trucks, vehicles, or pipelines as productive assets to move people and goods and includes businesses engaged in NAICS codes 481 through 487, air transportation, rail transportation, water transportation, truck transportation, transit and ground passenger transportation, pipeline transportation, and scenic and sightseeing transportation.

"Public utility" means conducting or operating a public utility. This section includes, but is not limited to, establishments providing to the general public or to private business sectors the following services: gas, electric, sanitary and garbage, cable television, and P.U.C.-related telephone services.

"Wholesale sales" the sale of goods, wares, or merchandise for the purpose of resale in the regular course of business.

7.04.130 Business Activity Classifications

Class	Industry
A	Retail Sales
B	Grocers
C	Automobile Sales, Manufacturing
D	Recreation and Entertainment
E	Hotel/Motel
F	Construction contractor
G	Business and personal services
H	Professional/semi-professional service

I	Administrative headquarters (payroll based, not gross receipts)
J	Miscellaneous
K	Residential and Commercial Rentals
L	Cannabis
M	Firearms Ammunition
N	Taxi and limousine service
O	Transportation, trucking

7.04.200 Tax Rates

Except as otherwise provided in this Chapter, persons engaged in business activities in the city shall pay the business tax at the rate provided for in Sections 7.04.205 through 7.04.230. All rates stated as an amount per $1,000 shall be paid for each full $1,000 of taxable gross receipts and every fractional part thereof.

7.04.205 Tax Rates for Class A through Class J—Progressive Rates

A. **Class A.** Persons engaged in Class A business activities shall pay a business tax as follows:

If annual gross receipts are:	**Then the business tax is:**
Not over $1,000,000	$1.20 per $1,000 of annual gross receipts
Over $1,000,000 but not over $2,500,000	$1,200, plus $1.60 per $1,000 of annual gross receipts over $1,000,000
Over $2,500,000 but not over $25,000,000	$3,600, plus $2.00 per $1,000 of annual gross receipts over $2,500,000
Over $25,000,000 but not over $50,000,000	$48,600, plus $2.40 per $1,000 of annual gross receipts over $25,000,000
Over $50,000,000	$108,600, plus $3.20 per $1,000 of annual gross receipts over $50,000,000

B. **Class B.** Persons engaged in Class B business activities shall pay a business tax as follows:

If annual gross receipts are:	**Then the business tax is:**
Not over $1,000,000	$0.60 per $1,000 of annual gross receipts
Over $1,000,000 but not over $2,500,000	$600, plus $1.00 per $1,000 of annual gross receipts over $1,000,000
Over $2,500,000 but not over $25,000,000	$2,100 plus $1.30 per $1,000 of annual gross receipts over $2,500,000
Over $25,000,000 but not over $50,000,000	$31,350, plus $1.50 per $1,000 of annual gross receipts over $25,000,000
Over $50,000,000	$68,850 plus $2.00 per $1,000 of annual gross receipts over $50,000,000

C. **Class C.** Persons engaged in Class C business activities shall pay a business tax as follows:

If annual gross receipts are:	**Then the business tax is:**
Not over $1,000,000	$1.20 per $1,000 of annual gross receipts
Over $1,000,000 but not over $2,500,000	$1,200, plus $2.20 per $1,000 of annual gross receipts over $1,000,000
Over $2,500,000 but not over $25,000,000	$4,500, plus $3.10 per $1,000 of annual gross receipts over $2,500,000

Over $25,000,000 but not over $50,000,000	$74,250, plus $4.10 per $1,000 of annual gross receipts over $25,000,000
Over $50,000,000	$176,750, plus $5.00 per $1,000 of annual gross receipts over $50,000,000

D. **Class D.** Persons engaged in Class D business activities shall pay a business tax as follows:

If annual gross receipts are:	**Then the business tax is:**
Not over $1,000,000	$4.50 per $1,000 of annual gross receipts
Over $1,000,000 but not over $2,500,000	$4,500 plus $4.60 per $1,000 of annual gross receipts over $1,000,000
Over $2,500,000 but not over $25,000,000	$11,400, plus $4.70 per $1,000 of annual gross receipts over $2,500,000
Over $25,000,000 but not over $50,000,000	$117,150, plus $4.80 per $1,000 of annual gross receipts over $25,000,00
Over $50,000,000	$237,150, plus $5.00 per $1,000 of annual gross receipts over $50,000,000

E. **Class E.** Persons engaged in Class E business activities shall pay a business tax as follows:

If annual gross receipts are:	**Then the business tax is:**
Not over $1,000,000	$1.80 per $1,000 of annual gross receipts
Over $1,000,000 but not over $2,500,000	$1,800, plus $2.80 per $1,000 of annual gross receipts over $1,000,000
Over $2,500,000 but not over $25,000,000	$6,000, plus $3.80 per $1,000 of annual gross receipts over $2,500,000
Over $25,000,000 but not over $50,000,000	$91,500 plus $4.80 per $1,000 of annual gross receipts over $25,000,000
Over $50,000,000	$211,500, plus $5.00 per $1,000 of annual gross receipts over $50,000,000

F. **Class F.** Persons engaged in Class F business activities shall pay a business tax as follows:

If annual gross receipts are:	**Then the business tax is:**
Not over $1,000,000	$1.80 per $1,000 of annual gross receipts
Over $1,000,000 but not over $2,500,000	$1,800, plus $2.10 per $1,000 of annual gross receipts over $1,000,000
Over $2,500,000 but not over $25,000,000	$4,950, plus $2.40 per $1,000 of annual gross receipts over $2,500,000
Over $25,000,000 but not over $50,000,000	$58,950, plus $2.70 per $1,000 of annual gross receipts over $25,000,000
Over $50,000,000	$126,450, plus $3.00 per $1,000 of annual gross receipts over $50,000,000

G. **Class G.** Persons engaged in Class G business activities shall pay a business tax as follows:

If annual gross receipts are:	**Then the business tax is:**
Not over $1,000,000	$1.80 per $1,000 of annual gross receipts
Over $1,000,000 but not over $2,500,000	$1,800, plus $2.70 per $1,000 of annual gross receipts over $1,000,000
Over $2,500,000 but not over $25,000,000	$5.850, plus $3.60 per $1,000 of annual gross receipts over $2,500,000

Over $25,000,000 but not over $50,000,000	$86,850, plus $5.00 per $1,000 of annual gross receipts over $25,000,000
Over $50,000,000	$211,850, plus $5.40 per $1,000 of annual gross receipts over $50,000,000

H. **Class H**. Persons engaged in Class H business activities shall pay a business tax as follows:

If annual gross receipts are:	**Then the business tax is:**
Not over $1,000,000	$3.60 per $1,000 of annual gross receipts
Over $1,000,000 but not over $2,500,000	$3,600, plus $4.10 per $1,000 of annual gross receipts over $1,000,000
Over $2,500,000 but not over $25,000,000	$9,750, plus $4.50 per $1,000 of annual gross receipts over $2,500,000
Over $25,000,000 but not over $50,000,000	$111,000, plus $5.00 per $1,000 of annual gross receipts over $25,000,000
Over $50,000,000	$236,000, plus $6.80 per $1,000 of annual gross receipts over $50,000,000

I. **Class I**. Persons engaged in Class I business activities shall pay a business tax as follows:

If annual gross payroll are:	**Then the business tax is:**
Not over $1,000,000	$1.20 per $1,000 of annual gross payroll
Over $1,000,000 but not over $2,500,000	$1,200, plus $1.50 per $1,000 of annual gross payroll over $1,000,000
Over $2,500,000 but not over $25,000,000	$3,450, plus $1.90 per $1,000 of annual gross payroll over $2,500,000
Over $25,000,000 but not over $50,000,000	$46,200, plus $2.20 per $1,000 of annual gross payroll over $25,000,000
Over $50,000,000	$101,200, plus $2.40 per $1,000 of annual gross payroll over $50,000,000

J. **Class J**. Persons engaged in Class J business activities shall pay a business tax as follows:

If annual gross receipts are:	**Then the business tax is:**
Not over $1,000,000	$2.40 per $1,000 of annual gross receipts
Over $1,000,000 but not over $2,500,000	$2,400, plus $3.10 per $1,000 of annual gross receipts over $1,000,000
Over $2,500,000 but not over $25,000,000	$7,050, plus $3.80 per $1,000 of annual gross receipts over $2,500,000
Over $25,000,000 but not over $50,000,000	$92,550, plus $4.50 per $1,000 of annual gross receipts over $25,000,000
Over $50,000,000	$205,050, plus $4.80 per $1,000 of annual gross receipts over $50,000,000

7.04.210 Class K: Residential Rental, Non-Residential Rental.
A. Persons engaged in Class K business activities shall pay a business tax of $10.81 for each $1,000 of annual gross receipts if they own 4 units or less. If they own 5 units or more, the rate is $28.80 for each $1,000 of annual gross receipts.

B. A person otherwise subject to the business tax described in subsection A of this section shall not be exempt by reason of the fact that one 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. One-Year Exemption for buildings and major renovations completed before July 1, 2021.

1. All new buildings and those buildings on which major renovations are completed before July 1, 2021 will be eligible for a one-year exemption from the business tax rate described in subsection A of this section.

2. A person that qualifies for this exemption shall pay a business tax of sixty dollars ($60.00) per year or fractional part thereof for the first thirty-three thousand three hundred thirty-five dollars ($33,335.00) or less of annual gross receipts, plus one dollar ($1.00) for each additional one thousand dollars ($1,000.00) of annual gross receipts or fractional part thereof in excess of forty-four thousand four hundred forty-five dollars ($44,445.00), during the one-year exemption period.

3. In determining the one-year exemption period:

   a. The one-year exemption shall be deemed to commence in the year in which new buildings and/or major renovations are completed and to end in the first year from the year of completion irrespective of the date on which an application for exemption is filed.

   b. There will be no extensions of the one-year exemption period for subsequent major renovations after the first major renovations are completed.

   c. All lessors are entitled to only one one-year exemption for each business location. The one-year exemption applies to the building or structure and not the lessor.

   d. There will be no proration in applying for the one-year exemption. The year in which new buildings are completed or major renovations are completed shall be considered to be a full year regardless of the date of completion.

4. To qualify for an exemption, the person must file an a exemption application on a form prescribed by the city.

5. Definitions applicable to this subsection are as follows:

   "Major renovation" means any instance where the cost of renovation is equal to or exceeds fifty (50%) percent of the after-renovation appraised value of the building as determined by a certified, independent appraiser.

   "New building" means any newly constructed building completed after July 1, 1981 for which a temporary certificate of occupancy or certificate of occupancy has been issued by the city.

   "New lessor" means any change which results in an eighty (80%) percent or more change of ownership.

6. Notwithstanding any other terms of this Section, the exemption described in this subpart applies only to persons engaged in the business of renting or letting a building, structure, or other property for commercial/industrial purposes, or a portion of such building, structure, or property within the city for a purpose other than dwelling, sleeping, or lodging to a tenant. Notwithstanding any other terms of this Section, the exemption created by this Section 7.04.210(C) shall not apply to any new buildings completed after July 1, 2021 or buildings on which major renovations are completed after July 1, 2021.

D. Tax Exemption/Reduction for Owner-Occupied Rental Property.

1. For the purpose of this subsection D, "Owner" is defined as a natural person, who is an

owner of record holding an interest equal to or greater than thirty- three percent (33%) in the property.

2. For the purposes of this subsection D, "household income" shall not include the income of a person renting a room in a single-family house, townhouse, or condominium unless the person is a member of the Owner's family.

3. An Owner of a single-family house, townhouse, or condominium who offers for rent no more than two (2) rooms in said house, townhouse, or condominium shall be exempt from the business tax described in subsection A of this section if:
   (a) the Owner currently lives in the house, townhouse, or condominium as his or her principal place of residence and has received the homeowner property tax exemption on their County property assessment under California Revenue and Taxation Code section 218; and
   (b) the Owner has owned and lived in the house, townhouse, or condominium as his or her principal place of residence for at least one (1) year immediately preceding the application of this exemption; and
   (c) the Owner's total household income from all sources is less than or equal to 150% of the Area Median Income (AMI); and
   (d) the Owner has no ownership interest in any other residential rental property in the City of Richmond.

4. An Owner of a single-family house, townhouse, or condominium who offers for rent three (3) rooms in said house, townhouse, or condominium shall only be required to pay the business tax described in subsection A of this section on one-third (1/3) of the total annual gross receipts if the Owner satisfies all of the conditions set forth above in subsections D.3.a-d of this section.

5. An Owner of two dwelling units on a parcel, or a single dwelling unit on a parcel with one or two accessory dwelling unit(s) (ADUs) shall be exempt from the business tax described in subsection A of this section if:
   (a) the Owner currently lives in one of the dwelling units as his/her principal place of residence and has received the homeowner property tax exemption on their County property assessment under California Revenue and Taxation Code section 218; and
   (b) the Owner has owned the property and lived in one of the dwelling units as his/her principal place of residence for at least one (1) year immediately preceding the application of this exemption; and
   (c) for duplexes, the rental unit is a "Controlled Rental Unit" as defined in Richmond Municipal Code section 11.100.030.; and
   (d) the Owner's total household income from all sources is less than or equal to 150% of the Area Median Income (AMI); and
   (e) the Owner has no ownership interest in any other residential rental property in the City of Richmond.

6. The exemption and reduction to the business tax described in subsection A provided for in this subsection D shall apply only to rental agreements with a tenancy term of 30 days or more; it shall not apply to Short Term Residential Rentals.

7. The exemption and reduction to the business tax described in subsection A provided for in this subsection D shall not be applied retroactively to taxes paid or due on or before December 31, 2019.

8. The exemption and reduction to the business tax described in subsection A provided for in this subsection D is a provisional adjustment to the business tax and shall be effective from July 1, 2020 through December 31, 2030 ("Effective Term"). On January 1, 2031 and thereafter, the tax rate described in subsection A shall be applied without consideration of subsection D, unless the Effective Term is further extended by the City Council.

9. The City Manager or designee may create regulations to implement this subsection including, but not limited to, documentation requirements to verify Owner occupancy and income requirements set forth in this subsection D, and an administrative option of receiving tax savings pursuant to subsection D through rebate to property owner. Prior to adoption of any regulations pursuant to this section, the City Administration must publicize and hold at least one community meeting for stakeholders and the public.

E. Rental of Five or More Units of Residential Real Property - Exemptions

1. Notwithstanding Section 7.04.210(A), gross receipts from the rental of five or more residential units in the City of Richmond shall not include the following categories of dwelling units:

    (a) dwelling units owned by a nonprofit corporation whose primary purpose is the provision of affordable housing, as described in 7.02.262;

    (b) dwelling units whose rents are controlled under state or federal law, deed restrictions, or agreement with public agencies, at rental rates that are affordable to households earning no more than 80% of AMI and whose tenants are income-qualified;

    (c) any unit subject to rent control under Chapter 11.100; units occupied by tenants receiving monthly rental assistance (such as Section 8 vouchers) from the Richmond Housing Authority or City of Richmond; and

    (d) any dwelling unit during the first 12 years after the issuance of a certificate of occupancy.

2. Any person who would otherwise be subject to the tax imposed under this Section may seek a 1-year hardship exemption due to exceptional circumstances. The City Manager may approve such applications for good cause. Such approvals shall be in writing and specifically state the factors that constitute good cause. Any hardship exemption shall be effective for one tax year only, after which it will expire. Taxpayers who seek hardship exemptions must reapply every year.

7.04.220 Class L: Cannabis Business

a) Every person engaged in a cannabis business shall, in lieu of any license fee otherwise provided by this chapter for that business, pay an annual license tax of fifty dollars ($50.00) for each one thousand dollars ($1,000.00) of gross receipts or fractional part thereof.

b) Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the tax collector, make a return to the tax collector, on forms provided by the City, of the total gross receipts of the business. At the time the return is filed, the full amount of the tax due shall be remitted to the tax collector. The tax collector may establish shorter reporting periods for any certificate holder if the City deems it necessary in order to insure collection of the tax, and the City may require further information in the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the city until payment thereof is made to the tax collector.

c) The exemption contained in Section 7.04.140 for charitable organizations shall not apply to persons engaged in a cannabis business.

7.04.225 Class M: Firearms Ammunition

Persons engaged in Class M business activities shall pay a business tax of $60.00 per year or fractional part thereof for the first $2,500 or less of annual gross receipts, plus $24.00 per year for each additional $1,000 of annual gross receipts in excess of $2,500.

7.04.230 Class N: Taxi and Limousine Service

Persons engaged in Class N business activities shall pay a business tax of $75 for each ambulance or limousine and $180 for each taxicab permit.

7.04.235 Class O: Transportation and Trucking

A. Persons engaged in Class O business activities based upon the average number of persons employed by such business in the City shall pay an annual business tax as follows:

$72 for the first person employed, then:

1. $18 per person for the next 19 persons employed;
2. $9 per person for the next 80 persons employed;
3. $7.50 per person for the next 100 persons employed;
4. $4.50 per person for all other persons employed.

B. "Average number of persons employed" means the average number of persons employed daily in the business for the period of one year, and shall be determined by ascertaining the total number of hours of service performed by all employees during the previous year, and dividing the total number of hours of service thus obtained by the number of hours of service constituting a day's work, according to the custom or laws governing such employments, and by again dividing the sum thus obtained by the number of business days in each year. In computing the "average number of persons employed," fraction of numbers shall be excluded. "Employee," as used in this section, means all persons engaged in the operation or conduct of the business, whether as owner, any member of the owner's family, partner, manager, and any and all other persons employed or working in said business.

7.04.240 "Annual Gross Receipts"—Definition—First Certificate.

"Annual gross receipts" for a newly established business receiving its first business tax certificate shall mean the total gross receipts received from the initiation of any business activities to the expiration of the person's first business tax certificate.

Every person applying for the first business tax certificate for a newly established business shall provide a reasonable estimate of their anticipated gross receipts for the period from the initiation of any business activities to the expiration of its first business tax certificate. The applicant shall pay an initial tax payment based on the estimate.

In a manner and time prescribed by the City Manager, the city shall allow a credit against future taxes for any overpayment in comparison to actual gross receipts and the applicant shall make an additional payment for any undercharge in comparison to actual gross receipts. The true up required by this paragraph shall proceed regardless of whether the person seeks a second business tax certificate.

The City Manager may demand any information necessary to verify any estimate, reject any estimate, or unilaterally amend any estimate to conform to the City Manager's understanding of a reasonable estimate of any person's anticipated gross receipts based on any factual information in the City Manager's possession.

7.04.245 "Annual Gross Receipts"—Definition—Second Certificate.

"Annual gross receipts" for a business receiving its second business tax certificate means the total gross receipts received from January 1 to December 31 of the year for which the business tax certificate is issued.

Every person applying for a second business tax certificate shall provide a reasonable estimate of their anticipated gross receipts for the period from January 1 to December 31 of the year for which the business tax certificate is issued. The applicant shall pay an initial tax payment based on the estimate.

In a manner and time prescribed by the City Manager, the city shall allow a credit against future taxes for any overpayment in comparison to actual gross receipts and the applicant shall make an additional payment for any undercharge in comparison to actual gross receipts. The true up required by this paragraph shall proceed regardless of whether the person seeks a further business tax certificate.

The City Manager may demand any information necessary to verify any estimate, reject any estimate, or unilaterally amend any estimate to conform to the City Manager's understanding of a reasonable estimate of any person's anticipated gross receipts based on any factual information in the City Manager's possession.

7.4.250 "Annual Gross Receipts"—Definition—Third Certificate and Thereafter.

"Annual gross receipts" for a business receiving its third business tax certificate, and for any business tax certificates, means the total gross receipts received from January 1 to December 31 of the year immediately preceding the year for which the business tax certificate is issued.

7.4.251 "Annual Gross Receipts"—Definition—Construction Contractors.

Any person engaging in the business of a construction contractor shall apply the method for determining "annual gross receipts" defined in section 7.04.240 with respect to its first business tax certificate.

Any person engaging in the business of a construction contractor shall apply the method for determining "annual gross receipts" defined in section 7.04.245 with respect to its second business tax certificate and for all business tax certificates applied for thereafter, notwithstanding any terms to contrary in section 7.04.245 or 7.04.250.

7.4.260 Alternative Rate: Small business enterprises.

Notwithstanding any other provisions of this chapter, small business enterprises may elect to pay business tax either at the rates stated herein or, as an alternative, at a flat amount of $100 for each business tax certificate. The City may require any small business enterprise to submit any documentation deemed necessary by the City Manager to monitor the application of this exemption.

Any person electing to pay the alternative rate pursuant to this section shall be required to obtain a business license and timely file for the alternative rate and subsequent renewals before the applicable delinquency date. The failure to timely file or renew prior to the date the taxes would otherwise have been delinquent shall render the alternative rate inapplicable and shall subject the person to the tax that would otherwise be payable as well as to any applicable interest and penalties.

The term "small business enterprise" shall mean and include any person who meets both of the following criteria:

1. Annual gross receipts that do not exceed $250,000; and
2. Business activity is not classified as Class K, residential rental or non- residential rental, or Class L, cannabis businesses.

7.4.261 Exemption: Buildings rented by the city.

A person who rents or leases a building to the city shall be exempt from the business tax to the extent the taxpayer receives gross receipts from the city with respect to the rental or lease of the building, if the city and the person enter into an agreement pursuant to which the city assumes responsibility for payment of the business tax.

7.4.262 Exemption: Affordable housing developments.

A. *General Rule.* A person engaged in residential rental of a property that is eligible for a partial property tax exemption pursuant to Section 214(g) of the California Revenue and Taxation Code shall be exempt from business tax liability with respect to the property through a reduction in the person's total gross receipts in an amount to equal to the gross receipts derived from the property multiplied by the percentage used to calculate the person's partial property tax exemption pursuant to Section 214(g) of the California Revenue and Taxation Code.

B. *Conditions.* Any person entitled to a deduction pursuant to this section shall provide the city with any information deemed necessary by the City Manager to confirm that the property is eligible for a partial property tax exemption pursuant to Section 214(g) of the California Revenue and Taxation Code and the extent to which such property is eligible for such exemption.

C. *Denial of Exemption.* The city may deny the deduction provided for by this section, in part or in whole, to any person who the City Manager reasonably believes does not qualify for, or has miscalculated, the partial property tax exemption created by Section 214(g) of the California Revenue and Taxation Code, regardless of any determinations made or exemptions granted by any other public or private party.

7.4.263 Exemption: Family daycare.

Every person licensed by the State of California Department of Social Services as a family daycare provider, and maintaining a state license permitting up to fourteen (14) children or less per facility, shall be exempt from the business tax imposed under this chapter to the extent that they derive gross receipts from such activity. Persons seeking an exemption pursuant to this section must submit an annual statement, as described in Section 7.04.300, together with a copy of the most current license issued by the State of California Department of Social Services to the city.

7.4.264 Exemption: Franchisees.

The provisions of this Chapter shall not apply to: (1) any public utility paying franchise payments to the City; and (2) any person or business paying sums under a contract with the City for the privilege of collecting sold wastes.

7.4.265 Optional method of determining tax.

When a person engages in two or more business activities, other than manufacturing, 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 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:

1. All businesses must be conducted at the same location; and
2. The gross receipts of all business activities, except the business producing the greatest amount of gross receipts, must not exceed twenty (20%) percent of the total combined gross receipts of all business activities.

Each person required to obtain a business tax certificate for engaging in the business of selling firearms or firearms ammunition shall not be required to obtain a business tax certificate for activities covered by any other section of this chapter and shall pay tax on gross receipts derived from any activity covered by any section of this chapter at the rate prescribed for gross receipts from the sale of firearms or firearms ammunition.

7.4.266 Raw Materials.

Any person engaging in the business activity of a manufacturer may deduct the value of raw materials actually used from their calculation of annual gross receipts. Only the value of raw materials actually used during the same time period as the time period used to calculate the person's annual gross receipts may be deducted.

7.04.270 Constitutional Apportionment.

A. *Right to Apportionment.* No taxes, penalties, fees, or interest provided for by this chapter shall be applied so as to impose an undue burden upon interstate commerce or be violative of the equal protection and due process clauses of the constitutions of the United States and of the State of California.

B. *Submission of Application.* If any person believes that any business tax places an undue burden upon interstate commerce or violates the constitution of the United States or State of California, the person may apply to the City Manager for an adjustment of the tax. Such application must be in writing within one-year after the original deadline to pay the underlying tax. If the person does not make such request within one-year, they shall be conclusively deemed to have waived any adjustment for that year.

Each person submitting an application shall by sworn statement and supporting testimony, show the proposed apportionment method, describe the extent to which the person conducts any business activities within and outside of the city and provide any other information that the City Manager may deem necessary to determine the extent, if any, of the undue burden or violation.

C. *Consideration of Application.* With respect to any application, the City Manager shall conduct an investigation, and shall fix as the tax an amount that is reasonable and nondiscriminatory, or if the tax has already been paid, shall order a refund of the amount over and above the tax so fixed. In fixing the tax to be charged, the City Manager shall have the power to base the tax upon a percentage of gross receipts or any other measure that will assure that the tax assessed is uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the tax as prescribed by this chapter. In no event is any taxpayer entitled to a refund that results in a windfall to such taxpayer. If the City Manager determines no adjustment is necessary, they may require the person to submit a sworn statement of the gross receipts and pay the amount of tax determined by the City Manager.

D. *Guidelines.* The City Manager may issue guidelines to be used to determine the appropriate apportionment method for any given business. Such guidelines may be general or specific to a particular industry or industries.

7.04.300 Certificates—Issuance, Declaration, Content, Due Date

A. *Annual Certificate and Written Declaration.* Every person engaging in business activities in the city shall file with the city an annual written statement setting forth the then applicable factor or factors that constitute the measure of the tax, together with such other information as may be required by the City Manager. Written statements shall include a declaration confirming, under penalty of perjury, that the information contained in the application is true and correct. Each applicant who is subject to the contractor's license law, shall state that they are licensed under such law, that this license is in full force and effect, and the number of the license.

B. *New Business Registration.* Every person applying for a first business tax certificate for a newly established business shall provide any information to the city that the City Manager deems reasonably necessary to properly categorize the person's business activities and pay a registration fee (separate from the business tax) in the amount set forth in the City's master fee schedule (as amended from time to time) within thirty (30) days from the date of commencement of business activity. Failure to register shall subject the taxpayer to penalty and interest.

C. *Due Date - Rental Businesses.* With respect to any persons engaging in residential and non-residential rental businesses activities, annual declarations and business tax payments shall be due by or before March 1 of each calendar year for which a person is issued a business tax certificate, unless the city council, in its discretion, declares a different due date.

D. *Due Date - All Other Businesses.* With respect to any persons engaging in any business activities other than residential and non-residential rental businesses activities, annual declarations and business tax payments shall be due by or before July 1 of each calendar year for which a person is issued a business tax certificate, unless the city council, in its discretion, declares a different due date.

E. *Estimates.* Persons who are unable to provide final figures before the due date for annual declarations and business tax payments shall provide estimates following procedures established by City Manager.

F. *Holidays and Weekends.* To the extent any deadlines in this section fall on holidays or weekends, such deadlines shall be extended to the next business day.

G. *Certificate Contents.* Certificates shall contain the name of the business, the place where the business is to be carried on, the business activity, the date of the expiration of such business tax certificate, and such other information as the City Manager may deem appropriate.

H. *Refusal to Issue Certificate.* The City Manager may refuse to issue any person a business tax certificate for the same or any other business if such person has outstanding and unpaid liabilities pursuant to this chapter.

7.4.310 Related Entities

A. *Definition.* "Related entities" means any business units that are commonly owned and integrated in a way that transfers value among the business units and includes any business units that comprise part of a "unitary business" as defined by California law and any business units that are required to, actually do, or may, file a combined report pursuant to California Revenue & Taxation Code section 25102, or any statute or law that amends or supersedes that section.

B. *Indicia of Related Entities.* The City Manager may presume that entities with common ultimate ownership and any of the following indicia, as determined by the City Manager, are related entities:
   1. *Same type of business*: Entities that engage in the same general line of business activity.
   2. *Steps in a vertical process*: Entities that engage in different steps in a large, vertically structured enterprise.
   3. *Strong centralized management*: Entities with strong central management, coupled with the existence of centralized departments for such functions as financing, advertising, research, or purchasing.

7.4.320 Master Certificates—Aggregation of gross receipts

A. *Applicability.* The following persons shall apply for a collective master certificate and any appropriate subsidiary certificates pursuant to the terms of this section:
   1. All persons and their related entities that generate gross receipts attributable to the City by engaging in similarly categorized business activities from separate branch establishments or places of business; and
   2. All persons who receive goods, wares, merchandise, services, or similar advantages in exchange for compensation that is excluded from the definition of "gross receipts" pursuant to exception 8 in section 7.04.110 and the person who provided such goods, wares, merchandise, services, or similar advantages.

B. *Effect of Master Certificate--Aggregation of Gross Receipts.* For the purpose of determining the business tax due for any master certificate, all persons and related entities conducting business activities pursuant to a master certificate shall aggregate the applicable annual gross receipts from all persons and related entities subject to the master certificate before applying the rates described in this chapter. Other subsidiary certificates shall not be subject to further tax.

With respect to any master certificate issued pursuant to subsection (A)(2) of this section, "annual gross receipts" shall include any gross receipts received on account of any goods, wares, merchandise, services, or similar advantages received in exchange for compensation that was excluded from the definition of "gross receipts" pursuant to exception 8 in section 7.04.110, in addition to any other applicable annual gross receipts.

C. *Maintenance of Master Certificate*. All persons required to apply for a master certificate pursuant to subsection (A)(1) of this section shall maintain such master certificate for at least as long as the persons or related entities generate gross receipts attributable to the city by engaging in similarly categorized business activities from separate branch establishments or places of business.

All persons required to apply for a master certificate pursuant to subsection (A)(2) of this section shall maintain such master certificate at least until:

1. They receive gross receipts on account of all goods, wares, merchandise, services, or similar advantages received in exchange for compensation that was excluded from the definition of "gross receipts" pursuant to the exclusion for "transactions between related entities" in section 7.04.110; or

2. Demonstrate, to the satisfaction of the City Manager, that they will never generate gross receipts on account of such goods, wares, merchandise, services, or similar advantages.

7.04.340 Public inspection.
A. The following information for each business tax certificate under this chapter shall be available for inspection by the public during normal working hours:

1. The name and address of the business;
2. The name of the owner of the business, if such name is shown on the records filed pursuant to this chapter;
3. Industrial classification;
4. Expiration date;
5. Account number.

B. The City Manager may enact such regulations as are necessary to permit reasonable public access to the information. Such regulations may prescribe the time and manner in which to receive and act upon requests for such information.

No business tax certificate may be transferred or assigned or authorize any person other than the person named in the business tax certificate to carry on the business named or to transact such business in any place other than the place or location named without the written consent of the city. Any time the place of location for the carrying on of such business or the business name is changed, the person applying for such change shall pay a fee in the amount set forth in the city's master fee schedule.

7.04.350 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 the business tax certificate conspicuously posted and exhibited while in force in a part of said place of business accessible to the view of the public.

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

The City Manager may designate appropriate staff who shall have the right to enter, free of charge and during business hours, any place of business for which a business tax certificate is required, for the sole purpose of verifying the existence of and to demand the exhibition of such tax business tax certificates for the current term from any person engaged or employed in the transaction of such business.

7.04.360 Lost certificate.

The city shall issue a duplicate business tax certificate to replace any business tax certificate issued under the provisions of this chapter that 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 for the amount set forth in the city's master fee schedule (as amended from time-to-time).

7.04.370 Notice of business termination.

Any business that ceases their normal and customary business activities within the city must notify the city within thirty (30) days of cessation of business activities. This notification must be in writing and signed by the registered business owner or authorized agent. Failure to file a timely notification will be subject to a late filing fee.

7.04.400 Penalty for nonpayment.

A. The following non-payments are declared delinquent:

1. Every annual business tax or portion thereof that is not paid on or before the deadline to make such payment;
2. Every registration fee and portion thereof for a newly established business, that is not paid within thirty (30) days after commencing business; and
3. Any other tax, penalty, fee, or interest, or portion thereof, that is not paid by any date and time established or declared pursuant to this chapter.
4. Any person whose non-payments are declared delinquent shall pay a penalty as follows:

    (a) Ten percent (10%) of the total amount that remains delinquent as of the expiration of the deadline to make such payment; *plus*
    (b) Twenty-five percent (25%) of the total amount that remains delinquent as of the expiration of sixty (60) days after the deadline to make such payment, not including any penalty amount. For the purpose of this subsection, any partial payments shall be first credited against any outstanding penalties and then against the principal delinquent amount.

5. Proof of payment of Business Tax or Registration Fee. If a dispute arises regarding the date a payment was received by the city, the burden of proof is on the taxpayer to demonstrate that the taxpayer made and the city received timely payment.

7.04.405 Timely Payment

Payment is considered timely made and received if it is either actually received by the city or deposited in the United States mail on or before the date the payment is due. The following shall be considered proof of timely payments:

1. Cash register or electronic receipt issued by the city through an authorized employee, or through an online transaction, to those taxpayers making payment;
2. Certificate of mailing issued by the U.S. Post Office;
3. Certificate of registered or certified mail issued by the U.S. Post Office;
4. Receipt of delivery to private mail services; or
5. Postmark issued by the U.S. Post Office.
6.

7.04.406 Interest.

In addition to the penalties imposed, any person whose non-payments are declared delinquent shall pay interest at the rate of one percent (1%) per month or fraction thereof, on the amount of the non-payment inclusive of penalties from the date on which the non-payment first became delinquent until paid. Interest is not a penalty. Interest is charged in order to compensate the city for the loss of the use of revenue after the due date of the tax.

7.04.410 Business tax a debt—Liens.

The amount of any business tax and penalty imposed by this chapter shall be deemed a debt to the city; and any person carrying on any business without first having procured a business tax certificate from the city, or without having paid all appropriate and due taxes, penalties, interest, and fees city shall be liable to an action in the name of the city in any court of competent jurisdiction, for the amount of taxes, penalties, interest, and fees imposed on such person.

The city must commence an action to collect any tax, penalty, or interest within the time required by California law and subject to any applicable tolling periods. To the extent allowed by California law "applicable tolling periods" includes, but is not limited to, any period during which the city is unaware of the existence of a business or the ongoing activities of a business due to the taxpayer's failure to obtain a business license or failure to comply with annual reporting requirements, the time during which a taxpayer pursues any administrative review or appeals, and the time during which the city pursues any lawful audit. (See *City of Los Angeles v. Centex Telemanagement, Inc.* (1994) 29 Cal.App.4th 1384.)

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

7.04.415 Notice of hearing on lien.

The City Manager shall prepare a written notice of those persons against whose property the city will file liens and submit that notice to the city council. The city council shall forthwith fix a time and place for a public hearing on such notice.

The City Manager shall cause a copy of such notice to be served upon the owner of the business/business property not less than ten days prior to the time fixed for such hearing. Mailing a copy of such notice to the owner of the business/business property at the address listed in the most recent property ownership records provided to the city by the County Assessor as of the date that the City Manager causes notice to be mailed shall comprise proper service. Service shall be deemed complete at the time of deposit in the United States mail.

7.04.420 Collection of delinquent taxes by special tax roll assessment.

With the confirmation of the report by the City Council, the listed delinquent business tax charges that 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 is established by the County Assessor for inclusion in the next property tax assessment.

The City Manager shall turn over to the County Assessor for inclusion in the next property tax assessment the total sum of unpaid delinquent business tax charges consisting of the delinquent business taxes, penalties, interest at the rate of one percent per month or fraction thereof from the date of recordation to the date of lien, an administrative charge in the amount set forth in the City of Richmond master fee schedule (as amended from time-to-time) and a release of lien filing fee in an amount equal to the amount charged by the Contra Costa County Recorder's Office.

Thereafter, said assessment may be collected at the same time and in the same manner as ordinary property taxes are collected, and shall be subject to the same penalties and the same procedure of sale as provided for delinquent ordinary property taxes. The assessment liens shall be subordinate to health and safety liens except for those of state, county, and municipal taxes with which it shall be upon parity. The lien shall continue until the assessment and all interest and charges due and payable thereon are paid. All laws applicable to the levy, collection, and enforcement of municipal taxes shall be applicable to said special assessments.

7.04.425 Recordation of lien for delinquent charges.

Upon confirmation of the report of delinquent business tax charges by the City Council, a lien on the real property for delinquent business tax charges which were assessed will be recorded with the Recorder of the County of Contra Costa.

7.04.430 Audit—Examination of books, records, witnesses.

The city may conduct audits and examinations pursuant to the terms of this section. The City Manager or any authorized employee is authorized to examine the books, papers, tax returns, and records of any person subject to this chapter for the purpose of verifying the accuracy of any declaration made, or if no declaration was made, to ascertain the business tax due.

Every person subject to the provisions of this chapter is directed and required to furnish to the City Manager, the means, facilities, and opportunity for making such examination and investigations. The City Manager is authorized to examine a person under oath, for the purpose of verifying the accuracy of any declaration made, or if no declaration was made, to ascertain the business tax or registration fees due under this chapter. In order to ascertain the business tax or registration fees due under this chapter, the City Manager may compel, by administrative subpoena, the production of relevant books, papers and records and the attendance of all persons as parties or witnesses.

The refusal to submit to such examination or production by any employer or person subject to the provisions of this chapter shall be deemed a violation of this chapter, and administrative subpoenas shall be enforced pursuant to applicable state law.

7.04.435 Results of audit—Reclassification Determination

1. *Notice of Determination.* If, pursuant to an audit or examination conducted pursuant to Section 7.04.430, the city determines that a person's business activity should be reclassified, the city may issue a notice of determination ordering such reclassification.
2. *Reclassification-Prospective Only.* If an audit or examination results in reclassification, not made necessary by earlier misclassification based upon incorrect and/or incomplete information supplied by a taxpayer to the city, the reclassification shall be effective in the current year only and shall not be retroactive.
3. *Reclassification-Retroactive.* If an audit or examination results in reclassification made necessary by earlier misclassification based upon incorrect or incomplete information supplied by a taxpayer to the city, penalties and interest pursuant to Sections 7.04.400 and 7.04.405 shall be retroactively assessed upon amounts underpaid from the date the correct taxes would have been due.

7.04.440 Results of Audit—Deficiency determination.

1. *Notice of Determination.* If, pursuant to an audit or examination conducted pursuant to Section 7.04.430, the city determines that a person's has not properly completed any declaration, has failed to make a declaration, has improperly calculated the amount of business tax owed, or made some similar error or omission, the city may issue a notice of determination ordering an appropriate correction.
2. *Recomputation of Tax—Authority to Make—Basis of Recomputation.* If the City Manager, in the exercise of reasonable discretion, is not satisfied with the declaration or declarations of the tax or the amount of tax computed, the City Manager may compute and determine the amount required to be paid upon the basis of the facts contained in the declaration or declarations or upon the basis of any factual information within the City Manager's possession or that may come into the City

Manager's possession. One or more deficiency determination may be made of the amount due for one or for more than one period.

7.04.445 Determination if no declaration filed—Penalty

1. *Notice of Determination.* If any person fails to file a declaration as required by this chapter, the City Manager may issue a notice of determination imposing a penalty pursuant to the terms of this Section.
2. *Estimate, Computation, Penalty.* If any person fails to file a declaration as required by this chapter, the City Manager may, in the exercise of reasonable discretion, make an estimate of the amount of the gross receipts or other measure of tax applicable to the person or persons subject to the tax. The estimate shall be made for the period or periods for which the person failed to file a declaration and shall be based upon any factual information in the city's possession or which may come into the city's possession. Upon the basis of this estimate, the City Manager may impose a penalty of up to ten percent (10%) of the tax estimated to be owed, in addition to any penalties and interest that may be due pursuant to Section 7.04.400 and Section 7.04.405.

7.04.450 Notice of determination—Service of—Finalization—Payment.

Any notice of determination issued by the city pursuant to this Chapter shall be served personally or mailed to the taxpayer at the taxpayer's last address shown on the city's records. If served personally, such service is deemed complete at the time of personal service. If mailed, such service is deemed complete at the time of deposit in the United States mail. All notices of determination shall state any related penalties or interest.

Notices of determination shall become final twenty (20) after service is deemed complete, unless an extension is granted by the city or the taxpayer files a timely petition for redetermination pursuant to section 7.04.500.

The taxpayer shall have twenty (20) days after a notice of determination becomes final to pay any additional tax liability described in the notice of determination. If full payment is not timely received, the unpaid amount is deemed to be delinquent. Interest pursuant to Section 7.04.405
shall begin accruing upon delinquent amounts and penalties shall be assessed upon delinquent amounts pursuant to Section 7.04.400.

7.04.500 Redetermination.

1. *Right of Petition For—Time to File Petition.* Any person issued a notice of determination under this chapter, or any person directly interested, may file a petition for a redetermination within twenty (20) days after service of the notice of determination. The City Manager in individual cases may, in the exercise of reasonable discretion in administering the provisions of this chapter, extend the twenty (20) day period. If a petition for redetermination is not filed within the twenty (20) day period, or within the extension period granted by the City Manager, the determination becomes final at the expiration of the twenty (20) day period. The City Manager's decisions on applications for extension of time in which to file petitions for redetermination must be served in the manner provided in Section 7.04.450.
2. *Grant of Oral Hearing—Notice—Continuances.* If a petition for redetermination is timely filed, the City Manager shall reconsider the determination and, if the petition includes a request for hearing, shall grant the person an oral hearing, giving the person ten days' notice of the time and place thereof. The City Manager may continue the hearing from time to time as may be necessary. The City Manager shall exercise reasonable discretion in the decision on redetermination.
3. *Alteration of Determination—Limitation on Right to Increase Amount.* Once a petition for reconsideration has been filed, the City Manager may amend the notice of determination until the notice of determination becomes final; however, the City

Manager must assert any claim for increasing any liability owed by the taxpayer at or before the hearing, if a hearing has been requested. If no hearing has been requested, or if the City Manager asserts a claim before the hearing without reasserting it at the hearing, notice of the increase must be served on the person in the manner provided in Section 7.04.450.

4. *Finality of Order on Petition.* The order or decision of the City Manager upon a petition for redetermination becomes final twenty (20) days after service upon the petitioner of notice thereof in the manner provided in Section 7.04.450, unless appeal of such order or decision is timely filed with the City Manager pursuant to Section 7.04.520.
5. *Time for Payment of Amounts Found Due—Penalty for Delinquency.* All determinations made by the City Manager or Hearing Officer are due and payable at the time they become final.

7.04.510 Refund of tax, penalty or interest.

A. *Illegally or Erroneously Collected Tax.* Any person who alleges that any tax, penalty, or interest has been illegally or erroneously paid to, collected by, or received by the city may file a claim with the city, executed under penalty of perjury and stating the specific grounds upon which the claim is founded. If the City Manager finds, in their reasonable discretion, that claim is valid or partially valid and that the claim was filed within one (1) year of the payment, collection, or receipt of the tax, the city shall compensate the taxpayer to the extent of the illegally or erroneously collected tax.

B. *Submission of Claim.* A claim made pursuant to this section shall be on a form furnished by the City Manager. A claim for refund may only be signed by the taxpayer, the taxpayer's authorized agent, or other person determined to be liable for the tax or said person's guardian or conservator. Class claims for refunds shall not be permitted. If the claim is approved by the City Manager, the excess amount collected may be refunded or may be credited on any amount due and payable from the person from whom it was collected, or by whom paid, and the balance may be refunded to such person, his or her administrators or executors.

C. *Termination of Business.* No refund of any tax or registration fee paid under this chapter shall be made by virtue of the discontinuance, dissolution, or other termination of a business.

D. *Offsetting of Overpayments.* In making a determination, the City Manager may offset overpayments for a period or periods against underpayments for any period or periods, and against any city debt.

7.04.520 Appeal to Hearing Officer.

A. *Hearing Officer.* Appeals to redetermination decisions made by the City Manager shall be heard by a hearing officer appointed by the City Manager or his or her designee to hear administrative appeals. City staff shall implement regulations governing the appointment of the hearing officer and any additional appeal hearing procedures.

B. *Right to Appeal.* Any person whose petition for redetermination pursuant to 7.04.500 is denied in whole or in part, and any person granted a waiver by the City Manager, may file an appeal with the City Manager to request an appeal to the City's business tax hearing officer.

C. *Appeals.* Any person entitled to file an appeal pursuant to this Section may file an appeal in writing to the City Manager within twenty (20) days from the date of service of the denial of a petition for redetermination or the waiver giving rise to the person's right to appeal. The city may waive or extend the deadline to file an appeal. The hearing officer shall make findings of fact in support of its decision(s) on appeal. The hearing officer shall exercise his or her reasonable discretion in administering the provisions of this chapter in rendering a decision on appealed rulings and findings. The hearing officer's decision on appeal becomes final upon giving notice of the decision to the appellant in the manner provided in Section 7.04.450. Any tax, penalty, or interest found to be owing is due and payable at the time the hearing officer's decision becomes final.

D. *Exhaustion of Remedies*. Any person whose case may be resolved by employing the administrative remedies provided by this section, or in section 7.04.500, must exhaust those remedies before filing suit for refund, rebate, exemption, cancellation, amendment, adjustment, or modification of tax, interest, or penalty.

The statements filed pursuant to the provisions of this chapter are presumed to be confidential in character and will not be subject to public inspection to the fullest extent allowed by law, and shall be kept so that the contents of such statements will not become known except to the persons charged with the administration of this chapter.

Any officer or employee who willfully violates any provision of this section shall be deemed guilty of an infraction, and such violation may be cause for discharge from the city's service.

7.04.605 Disclosure of business taxpayers, etc. limitation on rule.

Notwithstanding any other provision of any city ordinance, the City Manager is authorized to enter into agreements with the California Franchise Tax Board, the State Board of Equalization, or the Internal Revenue Service providing for the exchange of information for official purposes of said agencies, and to implement any such agreement through the exchange of information.

7.04.610 Return check penalty.

Whenever a person submits a check for payment of a business tax and said check is subsequently returned unpaid by the bank upon which said check is drawn, and the check is not redeemed prior to the expiration of the renewal or registration due date, the person's non-payment will be declared delinquent and the person will be liable for the tax amount due plus penalties and interest.

7.04.615 Prior year registration assessments.

If any person fails to apply for and secure a 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, together with applicable penalties and interest.

7.04.620 Notice not required.

The city is not required to send any renewal, delinquency, or other notices or bills to any person subject to the provisions of this chapter, except as explicitly provided. Failure to send such notices or bills will not affect the validity of any tax, penalty, or interest due under the provisions of this chapter.

7.04.625 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.

7.04.630 Duties of the City Manager—Notice of decisions.

It shall be the duty of the City Manager to collect and receive and keep an accurate record of all taxes imposed by this chapter. The City Manager is charged with the enforcement of this chapter, except as otherwise provided, and may prescribe, adopt, and enforce those rules and regulations necessary or advisable to effectuate the purposes of this chapter, including provisions for the re- examination and correction of declarations and payments; the exclusive discretionary authority to waive penalties; and the authority to defer the payment due dates as prescribed by Section

7.04.300 by up to 45 days. In individual cases, the City Manager may make findings of fact in support of decisions, determinations, and rulings enforcing this chapter.

The City Manager may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

7.04.640 Savings clause.

A. The provisions of this chapter shall not apply to any person, association, or corporation or to any property, as to whom or which it is beyond the power of the city to impose the business tax. If any sentence, clause, section, or part of this chapter, 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 declared to be the intention of the city and voters that this chapter would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.
B. Any person claiming an exemption from the business tax imposed by this chapter by virtue of this section, shall submit to the city a statement signed under penalty of perjury setting forth the facts necessary to establish such claim of exemption.

7.04.645 Late Penalty—Declaration and Renewal Filing.

Every person who, without an extension authorized by the City Manager, fails to timely file any business tax declaration or statement of renewal shall pay a late filing fee of fifty dollars ($50.00) or in the amount set forth in the City of Richmond master fee schedule (as amended from time-to-time), in addition to any other taxes, penalties, fees, or interest that may due under this chapter.

7.04.650 Violations, infraction, misdemeanor.

In the exercise of the duties imposed upon the City Manager, and acting through deputies or duly authorized representatives, the City Manager shall examine or cause to be examined all places of business in the city to ascertain whether the provisions of this chapter have been complied with. For the purposes of this paragraph, in the case of a person coming into the city to do business from a location outside the city, the "place of business" shall be deemed to be the place where such person is engaging in business or offering to engage in business in the city.

Any person violating any provision of this chapter shall be guilty of an infraction. Any person knowingly or intentionally misrepresenting to any officer or employee of this city any material fact in procuring the business tax certificate herein provided for shall be guilty of a misdemeanor, and conviction thereof shall be punishable by a fine of not more than five hundred dollars ($500.00) or imprisonment in the county jail for a period of not more than six months or by both fine and imprisonment.

7.04.655 Records required from taxpayers.

Every person required to obtain a business tax certificate shall keep and preserve for a period of three years such records as may be necessary to determine the amount of tax for which the person is liable.

7.04.660 No enjoinment of collection

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against the city or any officer thereof, to prevent or enjoin the collection of business taxes sought to be collected.

7.04.665 Revenue measure does not permit business otherwise prohibited

The taxes prescribed by the provisions of this chapter constitute a tax for revenue purposes and are not regulatory permit fees.

Persons holding business tax certificates pursuant to this chapter shall comply with all requirements of the City of Richmond Municipal Code and all other applicable laws and shall not carry on any business activity that violates of any law.

7.04.670 Implementation and Delegation

The City Manager may adopt rules and regulations consistent with this chapter as needed to implement this chapter, subject to the review and approval of the city attorney, and to develop all related forms or other materials, and to take other steps needed to implement this chapter.

The City Manager may delegate any duties, rights, powers, or privileges granted by this chapter to any appropriate subordinate officer, including the director of finance.

7.04.675 Amendment by City Council

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 XIIIC of the California constitution. The City Council may reduce any of the tax rates set forth herein, and may terminate any such reductions, without voter approval.

7.04.680 Effective Date and Transition

A. *Rates Effective as of July 1, 2021.* The rates provided in this chapter shall be effective with respect to any business tax certificates issued beginning July 1, 2021 and for each following year. Any business tax certificates issued to a newly established business for operation prior to July 1, 2021 shall pay business tax pursuant to the rates that were effective at the time the person seeking the certificate submitted their initial application.

B. *Delay.* Notwithstanding section 7.04.680(A), if the city council elects to exercise its authority to delay enactment of this chapter to sometime after July 1, 2021, then the rates provided in this chapter shall be effective with respect to any 2022 business tax certificate

and for each following year, and any business tax certificates issued to a newly established business for operation in 2022 shall pay business tax pursuant to the rates that were effective at the time the person seeking the certificate submitted their initial application.

C. *Previous Liabilities.* Any taxes, penalties, fees, interest, liens, or debts imposed pursuant to any previous versions of this chapter remain equally collectible and enforceable, notwithstanding any amendments. The city may pursue such taxes, penalties, fees, interest, liens, or debts in any manner allowed by law and the most current version of this chapter.

Passed by the voters at the November 3, 2020, General Election and certified at a regular meeting of the Council of the City of Richmond held December 15, 2020, by the following vote:

AYES:	Councilmembers Choi, Johnson III, Martinez, Myrick, Willis, Vice Mayor Bates, and Mayor Butt.
NOES:	None.
ABSTENTIONS:	None.
ABSENT:	None.

PAMELA CHRISTIAN
CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:
TOM BUTT
Mayor

Approved as to form:
TERESA STRICKER
City Attorney

Certified as a True Copy
PAMELA CHRISTIAN
CLERK OF THE CITY OF RICHMOND, CALIFORNIA
BY
~~ASSISTANT~~ Deputy

State of California }
County of Contra Costa : ss.
City of Richmond }

RICHMOND CALIFORNIA
AUGUST 7TH 1905

I certify that the foregoing is a true copy of **Ordinance No. 33-20 N.S. (Measure U)**, passed by the voters at the General Election on November 3, 2020, and certified by the City Council of the City of Richmond at a regular meeting held on December 15, 2020.

Pamela Christian

Pamela Christian, City Clerk of the City of Richmond