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PLEASE NOTE:

This copy of Ordinance No. 76.15 is a “redlined” version for your convenience. Text additions are designated by an underline and text deletions are designated with a strikethrough.

REGULAR

NUMBER: **76.15**

TITLE: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING THE BUSINESS LICENSE ORDINANCE BY AMENDING SECTIONS 16.01 AND 16.03 AND DELETING SECTION 16.02 OF CHAPTER 1, TITLE III OF THE MLPITAS MUNICIPAL CODE**

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of _____, 2012, upon motion by _____ and was adopted (second reading) by the City Council at its meeting of _____, upon motion by _____. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

_____
Mary Lavelle, City Clerk

APPROVED:

_____
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

_____
Michael J. Ogaz, City Attorney

RECITALS AND FINDINGS:

WHEREAS, the City wishes to update the administrative payment receipt and accounting provisions of the business license tax collection; and

WHEREAS, the amendments contained in this ordinance shall not impose or increase any existing business license taxes; and

WHEREAS, the City Council finds, pursuant to Title 14 of the California Code of Regulations, Sections 15061(b)(3), that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project which has the potential for causing a significant effect on the environment.

NOW, THEREFORE, the City Council of the City of Milpitas does ordain as follows:

SECTION 1. RECORD AND BASIS FOR ACTION

The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2. AMENDMENT OF SECTION 16 OF CHAPTER 1 OF TITLE III OF THE MILPITAS MUNICIPAL CODE

Section 16.01 of Chapter 1 of Title III of the Milpitas Municipal Code is hereby amended to read as follows:

III-1-16.01 - How and When Payable

Unless otherwise specifically provided, all annual license taxes under the provisions of this Chapter, shall be due and payable in advance on the first day of ~~July~~ January of each year; provided that license taxes covering new operations or individuals (other than for operations or individuals subject to the license tax rate set forth in Subsection III-1-17-01-2, Subsection III-1-17-01-3, Subsection III-1-17-01-4, Subsection III-1-17.04 ~~and Subsection III-1-17.07~~) may be pro-rated on a quarterly basis as reasonably determined by License Tax Collector, for the balance of the license period. ~~As to operations or individuals subject to the license tax rate set forth in Subsection III-1-17.04 and Subsection III-1-17.07.~~ Notwithstanding the foregoing, any minimum prorated amount shall be no less than thirty-five dollars.

16.01-1 Except for operations or individuals subject to the license tax rate set forh in Subsection III-1-17-01-2, ~~L~~licenses shall be issued on a~~n~~ ~~annual~~ calendar year basis, effective upon the date of issue and (unless sooner terminated pursuant to law) shall expire ~~one year from date of issue~~on December 31 of each year, and

16.01-2 License taxes shall be due and payable in advance upon the date of issue for the full license period and license renewals shall not be subject to proration.

SECTION 3. REPEAL OF AMENDMENT OF SECTION 16.02 OF CHAPTER 1 OF TITLE III OF THE MILPITAS MUNICIPAL CODE

Section 16.02 of Chapter 1 of Title III of the Milpitas Municipal Code is hereby repealed in its entirety:

> ~~**III-1-16.02 - Dates payable**~~
>
> ~~Except as otherwise herein provided license taxes, other than annual, required hereunder shall be due and payable as follows:~~
>
> ~~16.02-1 Semi-annual license taxes on the first day of January and the first day of July of each year;~~
>
> ~~16.02-2 Quarterly license taxes on the first day of January, April, July, and October of each year;~~
>
> ~~16.02-3 Monthly license taxes on the first day of each and every month;~~
>
> ~~16.02-4 Weekly license taxes on Monday of each week in advance;~~
>
> ~~16.02-5 Daily license taxes each day in advance.~~

SECTION 4. AMENDMENT OF SECTION 16.03 OF CHAPTER 1 OF TITLE III OF THE MILPITAS MUNICIPAL CODE

Section 16.03 of Chapter 1 of Title III of the Milpitas Municipal Code is hereby amended to read as follows:

> **III-1-16.03 - Tax ~~Not Paid Again Until~~Paid in Advance of ~~-~~License Expiration**
>
> ~~Where a license for revenue purposes has been issued to any business by t~~The City of Milpitas shall not process license taxes paid for any renewed license more than 30 days in advance of the license expiration date.~~and the tax paid therefor under the provisions of any ordinance heretofore enacted and the term of such license has not expired, then the license tax prescribed for said business by this Chapter shall not be payable until the expiration of the term of such unexpired license~~.

SECTION 5. REPEAL OF AMENDMENT OF SECTION 17.07 OF CHAPTER 1 OF TITLE III OF THE MILPITAS MUNICIPAL CODE

Section 17.07 of Chapter 1 of Title III of the Milpitas Municipal Code is hereby repealed in its entirety:

> ~~III-1-17.07 - Palmists, Astrologers, Fortune Tellers~~
>
> ~~Every palmist, astrologer or fortune teller or every person conducting a palmistry, astrology or fortune-telling studio or parlor, shall pay a license fee of $600 per year.~~
>
> ~~17.07-1 The license tax imposed under this Section III-1-17.07 is a license tax upon individuals, and each individual subject to the provisions of this Section III-1-17.07 must have a separate license and pay the annual license tax required by this Section III-1-17.07 regardless of whether he is an employee of another.~~

SECTION 6. SEVERABILITY

In the event any section or portion of this Ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

SECTION 6. EFFECTIVE DATE AND POSTING

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance

City of Milpitas, California

BUDGET CHANGE FORM

Type of Change	From		To	
	Account	Amount	Account	Amount
Check one:				
☒ **Budget Appropriation**	100-3692	$ 6,000	100-310-4237	$ 6,000
☐ **Budget Transfer**				

Explain the reason for the budget change:

Background: The Business License Ordinance has been effective since 1959 with the current tax rates established in 1976. A majority of the business license tax revenue is generated from businesses that have physical addresses in Milpitas. However, the Ordinance also allows the City to collect from any businesses or persons that conduct businesses, trades, or professions in Milpitas, including transient vendors. Staff proposes to perform a review of the Business License Ordinance including the tax rates, methodology of collection and procedures in order to bring the Business License Ordinance up to date so that the business license tax is comparable with other cities in the region and the methods of collection is cost beneficial.

Staff proposes the review to be conducted in two phases. The immediate change that staff proposes in Phase 1 is to amend the license tax payment date from fiscal year to calendar year to combine the billing of business license tax and annual Fire Permit fees on one invoice (with itemization). The annual Fire Permit fees are invoiced on a calendar year basis and business license is invoiced on a fiscal year basis. The proposed change will benefit local businesses as they will receive only one invoice instead of two invoices from the City; one in May for business license tax and another in November for annual Fire Permit fees. The change will also streamline the collection of both revenues for the City by improving efficiency on processing time and saving postage. Phase 2 of the review will analyze the collection procedures, tax rates and ultimately who should pay for business license tax. It will take longer time to complete as it will require comparison with other cities and fiscal impact analysis. It is anticipated that staff will report to the City Council and provide recommendations later on this fiscal year on Phase 2. There are other minor language changes in Section 16.03 to clarify the provision of issuance of renewed licenses. Section 16.02 is deleted to eliminate confusion of the business license tax proration dates. Section 17.07 is deleted to remove outdated provision of the Business License Ordinance. All proposed Phase 1 ordinance changes merely update administrative payment receipt and invoicing procedures and do not raise or impose any new license taxes. Accordingly, no voter approval or other special steps beyond the normal ordinance adoption steps are required.

If the City Council approves these changes, businesses that have paid for annual license tax in FY 12-13 will receive six months credit for the licenses that will be renewed in calendar year 2013.

Some programming changes are needed in the Business License system to reprogram the business license tax due date and add billing of the annual Fire Permit fees in the System. The estimated cost of the programming change is about $6,000 and will necessitate a budget appropriation. The cost will be offset by Fire Automation fee collected.

Recommendation:
Approve a budget appropriation of $6,000 for the Business License System reprogramming cost.

☒ **Check if City Council Approval required.** **Meeting Date:** October 2, 2012

Requested by:	**Emma C. Karlen, Finance Department**	**Date:** September 21, 2012
Reviewed by:	**Finance Director:** Emma Karlen	**Date:** 9/21/12
Approved by:	**City Manager:**	**Date:**

Date approved by City Council, if required: **Confirmed by:**