



staff report

TO: Honorable Mayor and Members of the City Council

ATTENTION: Jeffrey L. Stewart, City Manager

FROM: Art Bashmakian, Director of Planning and Building Services
Jason Friedman, Assistant Planner

SUBJECT: Consideration and possible action to introduce Ordinance No. 13XX
- An Ordinance amending certain sections of Title 5 (Business Licenses and Regulations) of the Bellflower Municipal Code.

DATE: April 25, 2016

EXECUTIVE SUMMARY

Title 5 of the Bellflower Municipal Code (“BMC”) regulates the City’s Business License Tax. The City’s voters previously adopted a ballot measure which approved the Business License Tax. The language the voters adopted states that the tax was intended “to provide revenues to be used by the City for general municipal purposes.”

Certain sections within BMC Title 5 that were not adopted by the voters, but that were instead intended to implement the Business License Tax, contain language that is inconsistent with the intent of the Business License Tax as a revenue-generating tax. It is recommended that the City Council clarify Title 5 by deleting such inconsistent language. This draft ordinance does not impose, extend, or increase the existing tax; it is only intended to achieve internal consistency within the BMC.

RECOMMENDATION TO CITY COUNCIL:

- 1) Read by title only, waive further reading, and introduce Ordinance No. 13XX; or
- 2) Alternatively, discuss and take other action related to this item.

FISCAL IMPACT

None.

CEQA STATUS

This ordinance is exempt from additional environmental review under the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., “CEQA”) and CEQA regulations (14 California Code of Regulations §§ 15000, et seq.) because it consists only of minor revisions and clarifications to existing regulations and specification of procedures related thereto. This ordinance, therefore, does not have the potential to cause significant effects on the environment. Consequently, it is exempt from additional CEQA review under 14 Cal. Code Regs. § 15061(b)(3).

BACKGROUND

On March 4, 1997, the City’s voters adopted a ballot measure which approved the Business License Tax. The language the voters adopted is codified in BMC § 5.04.010, which states that the tax was intended “to provide revenues to be used by the City for general municipal purposes.” Certain sections within BMC Title 5 that were not adopted by the voters, but that were instead intended to implement the Business License Tax, contain language that is inconsistent with the intent of the Business License Tax as a revenue-generating tax.

DISCUSSION

This amendment will clarify Title 5 by deleting language pertaining to regulatory approval for certain activities by the City’s Planning Department, which is inconsistent with the intent of the Business License Tax, and adding language that clarifies that it is revenue-generating and nonregulatory.

This ordinance does not impose, extend, or increase the existing tax that the voters approved in compliance with Proposition 218 (Cal. Const. art. XIII C).

ATTACHMENT

Ordinance No. 13XX 3

CITY OF BELLFLOWER

ORDINANCE NO. 13XX

AN ORDINANCE AMENDING CERTAIN SECTIONS OF TITLE 5 (BUSINESS LICENSES AND REGULATIONS) OF THE BELLFLOWER MUNICIPAL CODE.

THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds and declares that:

- A. California law allows general law cities to levy business license taxes for revenue purposes and business license fees for regulatory purposes (Government Code § 37101; Business & Professions Code § 16000);
- B. Title 5 of the Bellflower Municipal Code (“BMC”) regulates the City’s Business License Tax;
- C. On March 4, 1997, the City’s voters adopted a ballot measure which approved the Business License Tax; the language the voters adopted is codified in BMC § 5.04.010, which states that the tax was intended “to provide revenues to be used by the City for general municipal purposes”;
- D. Certain sections within BMC Title 5 that were not adopted by the voters, but that were instead intended to implement the Business License Tax, contain language that is inconsistent with the intent of the Business License Tax as a revenue-generating tax; and
- E. The City Council desires to clarify Title 5 by deleting such inconsistent language. This ordinance does not impose, extend or increase the existing tax that the voters approved in compliance with Proposition 218 (Cal. Const. art. XIII C).

SECTION 2. *Environmental Findings.* This ordinance is exempt from additional environmental review under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, “CEQA”) and CEQA regulations (14 California Code of Regulations §§ 15000, *et seq.*) because it consists only of minor revisions and clarifications to existing regulations and specification of procedures related thereto. This ordinance, therefore, does not have the potential to cause significant effects on the environment. Consequently, it is exempt from additional CEQA review under 14 Cal. Code Regs. § 15061(b)(3).

SECTION 3. BMC § 5.04.020 is amended as follows:

“5.04.020 Definitions.

Business

“Business” shall include s professions, trades, and occupations and all and every kind of calling whether or not carried on for profit.

Business License

~~“Business license” shall be deemed to mean~~s a nonregulatory business tax certificate whenever this chapter, or any rule, regulation, resolution, ordinance, certificate, or application form provided by the City in relation to this chapter refers to a receipt or other evidence of payment of a tax required by this chapter. ~~In addition, for purposes of this chapter the term business license is intended to refer to evidence of the City’s regulatory approval of a particular activity for which that approval is required pursuant to this chapter.~~

Employee

~~“Employee” shall mean~~s all persons engaged in the operation or conduct of any business in the City, whether as owner, any member of the owner’s family, partner, agent, manager, solicitor, and any and all other persons employed or working in said business.

In determining the number of employees for the purpose of fixing the license due under this title, the employer ~~shall~~ **must** take the number of employees as defined above, employed within the City earning wages during pay period nearest the fifteenth day of each month as reported to the State Department of Employment on forms which are used for reporting payments due under the Unemployment Insurance Act, for each month of the previous calendar year, adding the same and dividing by twelve (12). If the employer has been in business less than one (1) year, he or she may use the average number of employees who ~~shall~~ **will** be employed by him or her during the remainder of the calendar year.

Person

~~“Person” shall include~~s all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, Massachusetts, business or common law trusts, societies, and individuals transacting and carrying on any business in the City, other than as an employee.

Tax Collector

~~“Tax collector” shall mean~~s the officer or person appointed by the City Council by resolution or ordinance to perform the duties of tax collector as set forth in this title.”

SECTION 4. BMC § 5.04.100 is amended as follows:

“5.04.100 Investigations and Inspection of Applications.

~~The Tax Collector, from time to time, with the approval of the City Manager, shall designate the investigations and inspections required for particular businesses substantially in accordance with the following general guides:~~

~~A. The Planning Department and Code Enforcement Officer shall be required to review all applications, other than renewal applications, for compliance with the zoning, subdivision and like provisions of this Code.~~

~~B. The Building Department shall review applications involving a change of occupancy of any portion of a building, and in such other circumstances as may involve questions of compliance with City building, electrical, plumbing and other construction codes.~~

C.——The Sheriff’s Department ~~shall~~ **must** obtain fingerprints from the applicant and all employees of the following businesses, **and such** ~~which~~ fingerprints ~~shall~~ **must** be processed through the Department of Justice:

1. All owners, managers or persons of businesses serving alcohol (e.g., bars, restaurants);
2. Used car dealers;
3. Tow companies;
4. Taxi companies or other transportation services;
5. Carnivals;
6. Adult entertainment businesses;
7. Auto repossessions;
8. Bingo establishments;
9. Dance and entertainment permits;
10. Ice cream trucks;
11. Massage establishments;
12. Pawnshops;
13. Solicitors;
14. Second-hand dealers, other than those required to obtain a Department of Justice license;
15. Check cashing advancement establishments; and
16. Any other business where fingerprint review is required by a subsequently enacted ordinance or as deemed necessary by the City Attorney.

The Tax Collector with the approval of the City Manager may, by written directive, grant exceptions from the requirements of such order, when, in his/her opinion, its literal application is not required to accomplish the objectives of such requirement and this section.”

SECTION 5. BMC § 5.04.110 is deleted in its entirety.

SECTION 6. BMC § 5.04.220 is amended as follows:

“5.04.220 License Tax—Method and Time of Payment.

Unless otherwise specifically provided, all annual business license taxes/~~or fees~~, under the provisions of this title, ~~shall be~~ **are** due and payable on the anniversary date of issuance of each year and ~~shall~~ **will** be deemed delinquent thirty (30) days after the due date if not so paid.”

SECTION 7. BMC Chapter 5.08 is amended as follows:

The title of the chapter is amended to read “Business License Tax Schedule.” In addition, in §§ 5.08.010; 5.08.040; 5.08.070; 5.08.120, subdivision (A); 5.08.180; 5.08.230; 5.08.300; 5.08.330; 5.08.360; 5.08.380; 5.08.390; 5.08.400; 5.08.410; 5.08.420; 5.08.450; and 5.08.460 the word “fee” appearing in the titles or texts of such sections is replaced with the word “tax” and the word “fees” appearing in the texts of such sections is replaced with the word “taxes.”

SECTION 8. *Construction.* This Ordinance must be broadly construed in order to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

SECTION 9. *Enforceability.* Repeal or supersession of any provision of the BMC does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance's effective date. Any such repealed or superseded part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

SECTION 10. *Validity of Previous Code Sections.* If this entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal or amendment of the BMC or other ordinance by this Ordinance will be rendered void and cause such previous BMC provision or other the city ordinance to remain in full force and effect for all purposes.

SECTION 11. *Severability.* If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 12. The City Clerk, or her duly appointed deputy, is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Bellflower's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 13. This Ordinance will take effect on the 31st day following its final passage and adoption.

ORDINANCE NO. 13XX HAD ITS FIRST READING ON _____, ITS SECOND READING ON _____, AND WAS DULY PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF BELLFLOWER AT ITS REGULAR MEETING OF _____, 2016.

Dan Koops, Mayor

ATTEST:

Mayra Ochiqui, City Clerk

APPROVED AS TO FORM:

Karl H. Berger, City Attorney