

Resolution No. 2016-118

RESOLUTION ORDERING THAT A BUSINESS LICENSE TAX MEASURE BE SUBMITTED TO THE VOTERS AT THE NOVEMBER 8, 2016 ELECTION, REQUESTING COUNTY ELECTIONS OFFICIALS TO CONDUCT THE ELECTION, AND REQUESTING CONSOLIDATION OF THE ELECTION

City of Marina

WHEREAS, the City of Marina relies on its general fund to provides vital services within its boundaries; and

WHEREAS, the City needs locally-controlled revenues to fund general fund services, such as police patrols, improving 911 emergency medical fire response times, repairing potholes, maintaining neighborhood streets and parks, youth and senior services; and

WHEREAS, the City Council desires to place before the voters an ordinance that would update the rate of the City's Business License Ordinance that has not been updated in 38 years; and

WHEREAS, because the ordinance is outdated, 80% of local businesses pay under \$50 annually; and

WHEREAS, as a result of the outdated nature of the Business License Ordinance, the City is likely not receiving appropriate revenue for business activities within the City and certain corporate industries are likely not paying their fair share; and

WHEREAS, updating the City's 38 year old outdated Business License Ordinance will help to maintain vital community services including police patrols, youth and senior services, 911 emergency medical, fire and police response times, streets, parks, and public facilities; and

WHEREAS, updating the ordinance is fair and equitable for our community's small businesses, while ensuring that larger corporations pay their fair share; and;

WHEREAS, updating the ordinance ensures small businesses pay a lower amount than larger corporations; and

WHEREAS, the measure will continue our City's fiscally prudent management approach by requiring mandatory independent financial audits, public reports to the community, and all funds controlled locally; and

WHEREAS, by prior action, the City Council of the City of Marina has called a general municipal election of the City for November 8, 2016; and

WHEREAS, the November 8, 2016 general municipal election is a regularly scheduled general election for members of the City Council; and

WHEREAS, Government Code Section 53724 and Elections Code Section 9222, authorize the City Council to submit general tax ordinances to the voters; and

WHEREAS, pursuant to Elections Code Section 10002, the City Council may, by resolution, request the Monterey County Board of Supervisors to permit the county elections official to render specified services to the City relating to the conduct of an election; and

WHEREAS, the resolution of the City Council must specify the services requested; and

WHEREAS, pursuant to Elections Code Section 10002, the City must reimburse the County in full for the services performed upon presentation of a bill to the City; and

WHEREAS, pursuant to Elections Code Section 10400, whenever two or more elections, including bond elections, of any legislative or congressional district, public district, city, county, or other political subdivision are called to be held on the same day, in the same territory, or in territory that is in part the same, they may be consolidated upon the order of the governing body or bodies or officer or officers calling the elections; and

WHEREAS, pursuant to Elections Code Section 10400, such election for cities and special districts may be either completely or partially consolidated; and

WHEREAS, pursuant to Elections Code Section 10403, whenever an election called by a district, city or other political subdivision for the submission of any question, proposition, or office to be filled is to be consolidated with a statewide election, and the question, proposition, or office to be filled is to appear upon the same ballot as that provided for that statewide election, the district, city or other political subdivision shall, at least 88 days prior to the date of the election, file with the board of supervisors, and a copy with the elections official, a resolution of its governing board requesting the consolidation, and setting forth the exact form of any question, proposition, or office to be voted upon at the election, as it is to appear on the ballot. Upon such request, the Board of Supervisors may order the consolidation; and

WHEREAS, the resolution requesting the consolidation shall be adopted and filed at the same time as the adoption of the ordinance, resolution, or order calling the election; and

WHEREAS, various district, county, state and other political subdivision elections may be or have been called to be held on November 8, 2016;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED THAT THE City Council hereby orders an election be called and consolidated with the City's general municipal election and any and all elections also called to be held on November 8, 2016, insofar as said elections are to be held in the same territory or in territory that is in part the same as the territory of the City of Marina, and the City of Marina requests the Board of Supervisors of the County of Monterey to order such consolidation under Elections Code Section 10400 and 10403

BE IT FURTHER RESOLVED AND ORDERED that pursuant to Elections Code 10002, the City Council hereby requests the Board of Supervisors to permit the Monterey County Elections Department to provide any and all services necessary for conducting an election and agrees to pay for said services in full, and

BE IT FURTHER RESOLVED AND ORDERED that Monterey County Elections Department shall conduct the election for the following measure to be voted on at the November 8, 2016 election:

Marina Business License Update Measure: To provide general city services such as: street and facility maintenance and fire, police, youth and senior services; shall the City of Marina update its 38 year old business license tax rates to 0.2% of gross receipts, so small businesses pay lower amounts than larger businesses; generating approximately \$900,000 annually; continuing until ended by voters or reduced by City Council; and all funds controlled locally?

YES _____

NO _____

BE IT FURTHER RESOLVED AND ORDERED THAT Monterey County Elections Department is requested to print the full measure text (**Exhibit A**) exactly as filed or indicated on the filed document in the Voter Guide for the November 8, 2016 election. Cost of printing and distribution of the measure text will be paid for by the City of Marina.

In addition, the full measure text will be available at the following web site address: www.ci.marina.ca.us.

BE IT FURTHER RESOLVED AND ORDERED THAT

1. Voter approval requirement is a majority. In the event a majority of the electors voting on the measure vote in favor, the ordinance set forth in Exhibit A is, by such vote, adopted by the people of the City of Marina.
2. Arguments for and against the ballot measure may be filed consistent with Elections Code Section 9282, *et seq.* The last day for submission of direct arguments for or against the ballot measure shall be by 5:00 P.M. on August 18, 2016. Direct arguments shall not exceed three hundred words and shall be signed by not more than five persons.
3. Rebuttals to arguments for and against the ballot measure may be filed. The last day for submission of rebuttal arguments for or against the ballot measure shall be by 5:00 P.M. on August 25, 2016. Rebuttal arguments shall not exceed two hundred-fifty words and shall be signed by not more than five persons; those persons may be different persons than the persons who signed the direct arguments.
4. Pursuant to Election Code Section 9280, the City Council hereby directs the City Attorney to prepare by August 18, 2016, an impartial analysis of the ballot measure
5. Council Member David W. Brown is hereby authorized to prepare written arguments in favor of the ballot measure, not to exceed three hundred words, on behalf of the City Council. At Council Member David W. Brown's discretion, the argument may also be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote. In the event an argument is filed against the ballot measure, Council Member David W. Brown is also authorized to prepare a rebuttal argument on behalf of the City Council, which may also be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote.

6. The Deputy City Clerk hereby is designated as the Elections Official and is directed to do all things required by law to effectuate the General Municipal Election and to present the ballot measure submitted herein to the electorate, including, but not limited to, required publications, postings, noticing and filings. Further, the Deputy City Clerk is hereby directed to forward a copy of this resolution to the City Attorney for preparation of impartial analyses of the ballot measure submitted. Pursuant to Election Code section 9285, when the Deputy City Clerk has selected the arguments for and against the ballot measure, which will be printed and distributed to voters, the Deputy City Clerk shall send copies of the arguments in favor of the ballot measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

7. The Deputy City Clerk is hereby directed to submit forthwith a certified copy of this resolution to the Board of Supervisors, to the Registrar of Voters and to the County Clerk of the County of Monterey. The Deputy City Clerk shall certify as to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

8. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Sections 15061(b)(3) and 15378(a), that this resolution 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. This action is further exempt under the definition of "Project" in Section 15378(b)(3) in that it concerns general policy and procedure making. The Council therefore directs that a Notice of Exemption be filed.

PASSED AND ADOPTED by the City Council of the City of Marina this 26th day of July 2016, by the following vote:

AYES: Amadeo, Brown, Morton, O'Connell, Delgado

NOES: None

ABSTENTIONS: None

ABSENT: None

SIGNED: _____
Bruce C. Delgado, Mayor

ATTEST: _____
Anita Shepherd-Sharp, Deputy City Clerk

ORDINANCE NO. 2016-__

AN ORDINANCE OF THE PEOPLE OF THE CITY OF MARINA
AMENDING CHAPTER 5.20 OF THE MUNICIPAL CODE, RELATING TO
THE RATES OF THE BUSINESS LICENCE TAX

THE PEOPLE OF THE CITY OF MARINA DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter 5.20 -Amended. Chapter 5.20 of the City of Marina Municipal Code is hereby amended to read as follows:

Chapter 5.20

RATES

Sections:

5.20.010 Tax Rate For All Businesses

5.20.010 Tax Rate For All Businesses.

The tax rate shall be 0.2% of gross receipts for any person engaging in any business. The minimum annual tax for this category shall be \$100.

* * *

Section 2. Amendment. Any provision added to the Municipal Code by this Ordinance may be repealed or amended by the city council without a vote of the people. However, as required by Article XIII C of the California Constitution, voter approval is required in order to further increase the rate of any tax with respect to any taxpayer.

Section 3. Use of Proceeds. Proceeds of the tax imposed by this chapter shall be deposited in the general fund of the City and be available for any municipal purpose.

Section 4. Intent. It is the intent of the People that, except to the extent exempted by applicable ordinance, law or constitutional provision, the business license tax apply to all persons who engage in any business of any kind in the City. This includes, but is not limited to, the business of renting, leasing, subleasing, licensing or having available for rent, lease, sublease or license, (i) any single family home, dwelling unit, room, or other accommodation or (ii) any space for commercial, institutional or industrial use.

Section 5. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The People of the City of Marina hereby declare that they would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid or unenforceable.

Section 6. Effective Date. This ordinance shall be effective July 1, 2017.

Section 6. Publication. Within fifteen days after the passage of this ordinance the City Clerk shall cause this ordinance or a summary thereof to be published or to be posted in at least three places in the City of Marina in accordance with the requirements of Government Code section 36933.

The foregoing ordinance was adopted by the People of the City of Marina at an election held on November 8, 2016.

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Acting Deputy City Clerk

APPROVED BY THE FOLLOWING VOTE of the People of the City of Marina on November 8, 2016.

YES: _____

NO: _____

ADOPTED BY DECLARATION OF THE VOTE by the City Council of the City of Marina on _____ 2016.

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of July 26, 2016

CITY COUNCIL CONSIDER THE FOLLOWING IN REGARDS TO CALLING FOR A GENERAL MUNICIPAL ELECTION AND CONSIDERING CERTAIN BALLOT MEASURE: CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2016-, SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2016 AN ORDINANCE AMENDING CHAPTER 5.20 OF THE MUNICIPAL CODE, RELATING TO THE RATES OF THE BUSINESS LICENSE TAX AND PROVIDE STAFF ANY FURTHER DIRECTION IN THE MATTER

REQUEST:

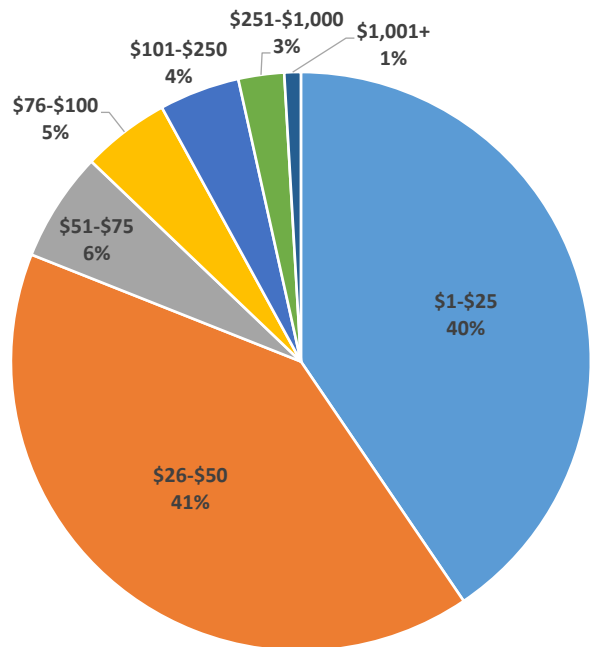
It is requested that the City Council consider the following in regards to calling for a general municipal election and considering certain ballot measure:

1. Adopting Resolution No. 2016-, submitting to the qualified electors of the City at the general municipal election to be held on Tuesday, November 8, 2016 an ordinance amending chapter 5.20 of the municipal code relating to the rates of the business license tax; and
2. Provide Staff with further direction in the matter.

BACKGROUND:

During April through July 2016, the City Council received information regarding the City business license tax (“BLT”). Specifically, the Marina business license has not been updated for 38 years. The current business license tax has remained the same since 1978. At a summary level, the City annual BLT revenue is \$120,000 (tax approx. \$75k and processing fee approx. \$45k).

This chart shows the current Marina BLT paid by businesses. **Specifically, 80% of the businesses pay less than \$50 per year. --with 40% paying \$1-\$25 per year and 41% paying \$26-\$50 per year.**



ANALYSIS:

On July 20, 2016, the City Council directed staff to bring back at our next meeting the information with going forward on the business license tax solely for the November 2016 election. Provided below are three tax rate structures and estimated revenues by Hinderliter, de Llamas & Associates (“HDL”). The Council is requested to provide direction on the tax structure and adopt the resolution thereby placing this tax measure before the voters. Approval of the resolution requires a 2/3 vote (at least four “yes” votes) of the Council as it pertains to a general tax.

Tax Rate Structure A – This is a 3-rate structure ranging from 0.1 – 0.2% of gross receipts and estimated to generate \$600,000 annually.

Tax Rate Structure B – This is a 2-rate structure ranging from 0.15 – 0.2% of gross receipts and estimated to generate \$700,000 annually.

Tax Rate Structure C – This is a 1-rate structure of 0.2% of gross receipts and estimated to generate \$900,000 annually.

The tax rate structure C would enable the City to generate more tax revenues from the new development as those future business types are primarily general or retail, at higher annual gross receipts. This illustration shows two general businesses under the various tax rate structures:

		Tax Rate	Tax Rate	Tax Rate
General Business Type		Structure A	Structure B	Structure C
Gross Receipts		0.1%	0.15%	0.2%
Business 1	\$ 100,000	\$ 100	\$ 150	\$ 200
Business 2	\$ 8,000,000	\$ 8,000	\$ 12,000	\$ 16,000

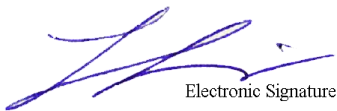
The additional revenues will fund general fund services, such as police patrols, improving 911 emergency medical fire response times, youth and senior services, repairing potholes, maintaining neighborhood streets and City parks.

The ballot question is pending necessary reviews and will be provided on Monday.

FISCAL IMPACT:

Should the City Council and voters approve this updated business license tax rate the estimated annual revenues may range from \$600,000 to \$900,000, dependent upon the specific structure. Actual revenues may vary based upon level of compliance, variance to estimates and/or number of business licenses issued.

CONCLUSION: This request is submitted for City Council consideration and possible action.


Electronic Signature

Lauren Lai, CPA
Finance Director
City of Marina

REVIEWED/CONCUR:

Layne P. Long
City Manager
City of Marina