

RESOLUTION NO. 2047.2

**RESOLUTION CALLING A MUNICIPAL ELECTION FOR NOVEMBER 5, 2024,
REQUESTING THAT THE COUNTY CONSOLIDATE THE MUNICIPAL ELECTION
WITH THE GENERAL ELECTION ON NOVEMBER 5, 2024 AND SUBMITTING TO
THE QUALIFIED ELECTORS OF THE CITY OF SCOTTS VALLEY AT THE
NOVEMBER 5, 2024 CONSOLIDATED GENERAL ELECTION A MEASURE TO
MODERNIZE THE BUSINESS LICENSE TAX**

WHEREAS, the City's business license tax ordinance was adopted in 1992 and the amount of the tax has not increased since its adoption; and

WHEREAS, the City Council desires to modernize the business license tax to increase revenue to fund critical City services and needs; and

WHEREAS, the proposed ordinance attached hereto and incorporated herein by reference as Attachment "A" ("the ordinance") would amend Chapter 5.04 of Title 5 of the Scotts Valley Municipal Code regarding the business license tax on businesses operating in the City of Scotts Valley; and

WHEREAS, a statewide general election is scheduled for November 5, 2024 and the City Council wishes to call a municipal election for the City to be held on November 5, 2024 and to request the County of Santa Cruz to consolidate the municipal election with the statewide general election and conduct the election to include a ballot measure to modernize the City's business license tax.

NOW, THEREFORE IT IS HEREBY RESOLVED AND ORDERED by the City Council of the City of Scotts Valley, as follows:

Section 1. Findings. The City Council finds and determines that each of the findings set forth above are true and correct.

Section 2. Calling the Election. The City Council calls for a municipal election to be held on November 5, 2024 ("the Election").

Section 3. Measure. Pursuant to Government Code Section 53724 and Elections Code 9222, the City Council hereby submits the Ordinance attached hereto as Attachment A to the voters at the Election and orders the following question to be submitted to the voters at the Election:

<p>City of Scotts Valley Business License Modernization. To maintain city services, such as repairing potholes/streets; wildfire prevention programs, maintaining parks/playfields; and other critical governmental services, shall a measure modernizing Scotts Valley’s 1992 business license ordinance be adopted, until ended by voters, raising the base rate from \$90 to \$150 per business and with rates increasing incrementally for larger businesses based on gross receipts as provided in the ordinance, generating approximately \$1,100,000 annually, and all funds controlled locally?</p>	<p>YES</p>	<p>NO</p>
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This question requires the approval of a majority of those casting votes.

Section 4. Notice of Election. Notice of the time and place of holding the election is hereby given, and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form, and manner as required by law.

Section 5. Impartial Analysis. Pursuant to California Elections Code Section 9280, the City Council hereby directs the City Clerk to transmit a copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and transmit such impartial analysis to the City Clerk on or before 4:00 p.m. on August 13, 2024.

Section 6. Ballot Arguments. Pursuant to Elections Code Section 9286 et. seq., August 13, 2024, at 4:00 p.m. shall be the deadline for submission of arguments in favor of, and arguments against, this measure. Arguments in favor or against the measure shall not exceed 300 words in length. The Mayor, or his designee(s), is hereby authorized to prepare a written argument in favor of the proposed measure on behalf of the City Council. At the Mayor’s discretion, the Argument may also be signed by bona fide associations or by individual voters who are eligible to vote in the City of Scotts Valley. Each argument shall be signed, filed with the City Clerk, and include the printed name(s) and signature(s) of the author(s) submitting the argument. If more than one argument for or against is received, the priorities established by Elections Code Section 9287 shall control.

Section 7. Rebuttal Arguments. Subdivision (a) of section 9285 of the Elections Code shall apply to the Election and shall control the submission of any rebuttal arguments for this measure. If an argument in favor and an argument against the measure have been selected to be printed in the voter information guide, the Clerk shall send a copy of the argument in favor of the measure to the authors of the argument against the measure and a copy of an argument against the measure to the authors of the argument in favor of the measure. The rebuttal authors or persons designated by them may prepare and submit rebuttal arguments not to exceed 250 words in length. Rebuttal arguments must be submitted not later than August 20, 2024, by 4:00 p.m.

Section 8. Consolidation Request. The City Council of the City of Scotts Valley requests that the Board of Supervisors of Santa Cruz County consolidate the municipal election and the election on this measure with the November 5, 2024, statewide general election. The Council further requests that the Board of Supervisors of Santa Cruz County include on the ballots and sample ballots all qualified measures submitted by the City Council to be submitted to the qualified electors of the City of Scotts Valley. The City Council acknowledges that the election will be held and conducted according to procedures in the Elections Code, including Section 10418.

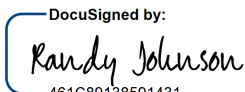
Section 9. Request for County Services. Pursuant to Section 10002 of the California Elections Code, the City Council of the City of Scotts Valley hereby requests the Board of Supervisors of Santa Cruz County to permit the Registrar of Voters to render services to the City of Scotts Valley relating to the conduct of the City’s Municipal and Special Elections which are called to be held on Tuesday, November 5, 2024. The services shall be of the type normally performed by the Registrar of Voters in assisting the clerks of municipalities in the conduct of elections including, but not limited to, checking registrations, mailing ballots, hiring election officers, and arranging for polling places, receiving absentee voter ballot applications, mailing and receiving absent voter ballots, and opening and counting ballots, providing and distributing election supplies, and furnishing voting machines.

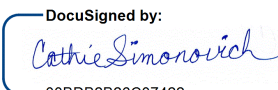
Section 10. Transmittal of Resolution. The City Clerk is hereby directed to submit forthwith an original copy of this resolution including the measure attached hereto as Attachment “A” to the Santa Cruz County Board of Supervisors and a certified copy to the Registrar of Voters.

Section 11. Placement on the Ballot. The City Clerk is hereby authorized and directed to take all steps necessary to place the measure on the ballot and to mail with the sample ballots to the electors printed copies of the full text of the Ordinance, together with the primary arguments and supporters for and against the measure, and to provide absentee voter ballots for the election for use by qualified electors of the City who are entitled thereto in the manner provided by law.

The above and foregoing resolution was duly and regularly adopted by the City Council of the City of Scotts Valley at a regular meeting held on the 7th day of August, 2024, by the following vote:

AYES: JOHNSON, TIMM, DILLES, LIND, TIMMS
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE

Approved: 
461C89138591431
Randy Johnson, Mayor

Attest: 
00BDB2B26C07422...
Cathie Simonovich, City Clerk

Attachment "A"

ORDINANCE NO. 15.13

AN ORDINANCE OF THE CITY OF SCOTTS VALLEY AMENDING CHAPTER 5.04 OF TITLE 5 MODERNIZING THE CITY'S BUSINESS LICENSE PROGRAM

BE IT ORDAINED by the People of the City of Scotts Valley as follows:

SECTION 1. Chapter 5.04 of Title 5 of the Scotts Valley Municipal Code is amended in its entirety to read as follows:

"Chapter 5.04 Business Licenses

Sections:

- 5.04.010 General Provisions- Revenue Measure
- 5.04.020 General Provisions- Chapter Not Exclusive
- 5.04.030 General Provisions- License and Tax Requirements
- 5.04.040 General Provisions- License- Separate for Branch Establishments of Multiple Legal Entities
- 5.04.050 General Provisions- Evidence of Doing Business
- 5.04.060 General Provisions- Issuance of Licenses
- 5.04.070 General Provisions – Constitutional Apportionment
- 5.04.080 General Provisions – Exemptions
- 5.04.090 General Provisions – Effect of Chapter on Past Actions and Unexpired Licenses
- 5.04.100 Definitions
- 5.04.110 Unlawful Business Not Authorized
- 5.04.120 Licenses- Application, Fee, Issuance and Contents
- 5.04.130 Licenses-Term of License
- 5.04.140 Licenses- Application of First License and Contents
- 5.04.150 Licenses- Gross Receipts Estimate for First License Application
- 5.04.160 Licenses- Sworn Statement and Tax Payment Prerequisite to Renewal
- 5.04.170 Licenses- Renewal Application
- 5.04.180 Licenses- License Transferability
- 5.04.190 Licenses- Duplicate Licenses
- 5.04.200 Licenses- Conspicuous Posting of License
- 5.04.210 Statement; Limitations; Verification
- 5.04.220 Records- Requirements
- 5.04.230 Information Confidential
- 5.04.240 Failure to File Statement of Corrected Statement
- 5.04.250 Additional Power of Collector
- 5.04.260 License Tax Payment- How and When Payable
- 5.04.270 License Tax Payment- Delinquency; Penalty
- 5.04.280 License Tax Payment- Delinquency; Issuance Prohibited
- 5.04.290 License Tax Payment – Delinquency; Installment Payment Agreement
- 5.04.300 License Tax Payment- Refunds of Overpayment

5.04.310	Gross Receipts Tax- Rates
5.04.320	Right of Appeal
5.04.330	Enforcement- Rules and Regulations
5.04.340	Enforcement- Officials
5.04.350	Enforcement- Business Premises Inspection Authorization
5.04.360	Enforcement- Business Premises Inspection Entry Right
5.04.370	Enforcement- License Tax a Debt
5.04.380	Enforcement- Remedies Cumulative
5.04.390	Writ of Attachment
5.04.400	Civil Action Not a Bar to Criminal Action
5.04.410	Serving of Notice

5.04.010 – General Provisions – Revenue Measure.

This chapter is enacted solely to raise revenue for municipal purposes and is not intended for regulation.

5.04.020 – General Provisions – Chapter Not Exclusive.

Persons required to pay a license tax for transacting and carrying on any business under this chapter shall not be relieved from the payment of any license tax for the privilege of doing such business required under any other ordinance or provision of this code, and shall remain subject to the regulatory provisions of other ordinances and code provisions.

5.04.030 – General Provisions – License and Tax Requirements.

- A. There are imposed upon the businesses, trades, professions, callings and occupations specified in this chapter license taxes in the amounts hereinafter prescribed. It is unlawful for any person to transact or carry on any business, profession, show, exhibition, or game of any type whatsoever in the City without first procuring a license from the City and paying the tax hereinafter prescribed or without complying with any and all applicable provisions of this chapter.
- B. This section shall not be construed to require any person to obtain a license prior to doing business within the City if such requirement conflicts with applicable statutes of the United States or of the State of California. Persons not so required to obtain a license prior to doing business within the City nevertheless shall be liable for payment of the tax imposed by this chapter.

5.04.040 – General Provisions – License – Separate for Branch Establishments or Multiple Legal Entities.

A separate license must be obtained for each legal entity, branch establishment or location of the business transacted and carried on and for each separate type of business at the same location. Each license shall authorize the licensee to transact and carry on only the business licensed thereby at the location or in the manner designated in such license. Warehouses and distributing plants used in connection with and incidental to a

business licensed under the provisions of this chapter shall not be deemed separate places of business or branch establishments. Any person conducting multiple businesses, but for which those businesses use a single set or integrated set of books and records, shall pay only one tax calculated on all gross receipts of the businesses.

5.04.050 – General Provisions – Evidence of Doing Business.

When any person, by use of signs, circulars, cards, telephone books or newspapers, advertises, holds out or represents that they are conducting business in the City, or when any person holds an active license or permit issued by a governmental agency indicating that they are conducting business in the City, and such person fails to declare by a sworn statement given to the Collector that they are not conducting a business in the City, after being requested to do so by the Collector, then these facts shall be considered prima facie evidence that they are conducting a business in the City.

5.04.060 – General Provisions – Issuance of Licenses.

- A. The Collector may refuse to issue a license to any person if, in the opinion of the City Attorney, the business for which a license is being requested is in violation of any law, code, or ordinance of the City or of any law of the State of California or the United States of America.
- B. The Collector may refuse to issue a license to any person who knowingly makes a false statement of fact required to be revealed in an application for a license.

5.04.070 – General Provisions – Constitutional Apportionment.

- A. No Undue Burden. None of the license taxes provided for by this chapter shall be so applied as to occasion an undue burden upon interstate commerce or to violate the equal protection and due process clauses of the Constitutions of the United States and the State of California.
- B. Apportionment Appeal Rights. In any case where a license tax is believed by a licensee or applicant for a license to place an undue burden upon interstate commerce or to violate constitutional nexus requirements or other applicable law, the licensee or applicant may apply to the Collector for an adjustment of the tax. Such application may be made before, at or within six months after payment of the prescribed license tax. The applicant shall, by sworn statement and supporting testimony, show the method of business and the gross volume or estimated gross volume of business and such other information as the Collector may deem necessary to determine the extent, if any, of such undue burden or violation. The Collector shall then conduct an investigation, and, upon the written approval of the City attorney, shall fix as the license tax for the applicant an amount that is reasonable and nondiscriminatory, or, if the license tax has already been paid, shall order a refund of the amount over and above the license tax so fixed. In fixing

the license tax to be charged, the Collector shall have the power to base the license tax upon a percentage of gross receipts or any other measure which will ensure that the license tax assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the license tax as prescribed by this chapter. Should the Collector determine the gross receipts measure of license tax to be the proper basis, they may require the applicant to submit, either at the time of termination of applicant's business in the City or at the end of each three-month period, a sworn statement of the gross receipts and pay the amount of license tax therefor; provided, that no additional license tax during any one calendar year shall be required after the licensee has paid an amount equal to the annual license tax as prescribed in this chapter.

5.04.080 – General Provisions – Exemptions.

- A. Exemptions as Matter of Law. Nothing in this chapter shall be deemed or construed to apply to any person transacting and carrying on any business exempt by virtue of the Constitution or applicable statutes of the United States or of the State of California from the payment of such taxes as are prescribed in this chapter.
- B. Charitable (Nonprofit) Organizations. No business license tax imposed under this chapter shall be deemed or construed to apply to any person transacting and carrying on any business, which business is conducted, managed or carried on wholly as an organization exempt from federal income taxes as defined under Section 501(c) of the United States Internal Revenue Code.
- C. Exhibition/Show/Performance/Arts & Crafts Exhibits Benefitting Charitable Organizations. The provisions of this chapter shall not be applied to any exhibition, show or performance given for the exclusive benefit of any church, school, benevolent or social organization, or for any charitable purpose by any association or society of the City.
- D. Farmers Markets. Nothing in this chapter shall be deemed or construed to apply to any person transacting and carrying on any business, which business is conducted, managed or carried on exclusively in participation with a farmers market approved by the City, whether held on public or private property.
- E. Claiming an Exemption. Any person claiming an exemption pursuant to this section shall file a sworn statement with the Collector stating the facts upon which exemption is claimed, and in the absence of such statement substantiating the claim, such person shall be liable for the payment of the taxes imposed by this Chapter. Businesses claiming an exemption under subsection B of this section shall be required to provide a copy of the Internal Revenue Service determination letter or similar document that certifies the exempt status granted under Section 501(c) of the Internal Revenue Code.
- F. Non-Fee License Issuance. The Collector shall, upon a proper showing contained in the sworn statement, issue a license to such person claiming exemption under

this section without payment to the City of the business license tax required by this Chapter.

- G. Revocation of Exemption. The Collector, after giving notice and a reasonable opportunity for hearing to a licensee, may revoke any license granted pursuant to the provisions of this section upon information that the licensee is not entitled to the exemption as provided in this section.

5.04.090 – General Provisions – Effect of Chapter on Past Actions and Unexpired Licenses.

- A. Neither the adoption of the ordinance codified in this chapter nor its superseding of any portion of any other ordinance of the City shall in any manner be construed to affect prosecution for violation of any other ordinance committed prior to the effective date of the ordinance codified herein, nor be construed to waive any tax or license requirement or any penal provision applicable to any such violation, nor be construed to affect the validity of any bond or cash deposit required by any ordinance to be posted, filed or deposited, and all rights and obligations pertaining thereto shall continue in full force and effect.
- B. Where a license for revenue purposes has been issued to any person by the City and the tax paid for the business for which the license has been issued under the provisions of any ordinance heretofore enacted and the term of such license has not expired, then the license tax prescribed for the business by this Chapter shall not be payable until the expiration of the term of such unexpired license.

5.04.100 - Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- A. "Business" as used in this chapter includes professions, trades and occupations and all and every kind of calling whether or not carried on for profit.
- B. "City" means the City of Scotts Valley, a municipal corporation of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.
- C. "Collector" means the Finance Director, the Administrative Services Director or his/her designee.
- D. "Employee" means any person working in Scotts Valley for any person, business, trade, profession, vocation, calling, exhibition, or game or other endeavor subject to a business license.
- E. "Finance Director" and "Administrative Services Director" means the finance director of the City of Scotts Valley, or an authorized agent or representative as defined in Title 2 "Administration and Personnel", Chapter 2.08 "Director of Finance".

- F. "General contractor" means (1) a general engineering contractor, or (b) a general building contractor, as those terms are defined in Sections 7056 and 7057, respectively, of the Business and Professions Code of the State of California as they now exist or may hereafter be amended.
- G. "Gross receipts" as used in this chapter includes the total actually received or receivable from sales of goods, materials, wares or merchandise, and the total actually received or receivable for the performance of any act or service, of whatever nature, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise. Included in "gross receipts" shall be all receipts, cash, credits, investment income, rental income, and proceeds from the sale of property of any kind or nature, without any deduction on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever. The following are excluded from "gross receipts":
1. Cash discounts allowed and taken on sales;
 2. Credit allowed on property accepted as part of a purchase price and which property may later be sold;
 3. Any tax required by law to be and is included in or added to the purchase price and collected from the consumer or purchaser;
 4. Such part of the sale price of property returned by purchasers upon rescission of a contract of sale as is refunded either in cash or by credit;
 5. Amounts collected for others as an agent or trustee to the extent such amounts are paid to those for whom collected, provided the agent or trustee has furnished the Collector with the names and addresses of the others and the amounts paid to them;
 6. That portion of the receipts of a business related to sales of goods or services to the City of Scotts Valley;
 7. That portion of the receipts of a general contractor which represents payments to subcontractors; provided, that such subcontractors are licensed under this Chapter and provided the general contractor furnishes the Collector with the names and addresses of the subcontractors and the amounts paid each;
 8. Receipts of refundable deposits, except that refundable deposits forfeited and taken into income shall not be excluded;
 9. As to a real estate agent or broker, the sales price of real estate sold for the account of others except that portion which represents commission or other income to the agent or broker
- H. "Peddler" means:
1. Any person who goes from house to house, or from place to place, within the City, selling and making immediate deliveries or offering for sale and immediate delivery to persons other than manufacturers, jobbers, or retailers of such commodities, any goods, wares, merchandise or any other

thing of value in possession of such person, or who offers services to be performed immediately; and shall also include any itinerant vendor who sells merchandise or property from any vehicle by traveling from house to house or place to place within the City; and

2. Peddler excludes any persons who conduct the above-referenced activities from a fixed place of business within the City.
- I. "Person" as used in this chapter includes all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, business or common law trusts, societies and individuals transacting and carrying on any business in the City, other than as an employee.
- J. "Self-service storage facility" means real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to the space for the purpose of storing and removing personal property or for storing individual storage containers provided to occupants who have exclusive use of the container for the purpose of storing and removing personal property, whether or not the individual storage containers are transported pursuant to California Business and Professions Code Section 21701.1. Self-service storage facility does not include a garage or other storage area in a private residence. No occupant may use a self-service storage facility for residential purposes. A self-service storage facility is not a warehouse, nor a public utility, as defined in Section 216 of the Public Utilities Code. If an owner issues a warehouse receipt, bill of lading, or other document of title for the personal property stored, the owner and the occupant are subject to the provisions of other businesses as defined in this chapter.
- K. "Solicitor" means any person who goes from house to house, or from place to place, or in or along the streets within the City, selling or taking orders for, or offering to sell or take orders for goods, wares, merchandise or other things of value for future delivery, or for services to be performed in the future.
- L. "Specialty contractor" as used in this chapter is as defined in Section 7058 of the Business and Professions Code of the state as it now exists or may hereafter be amended.
- M. "Sworn statement" means an affidavit sworn before a person authorized to take oaths, or a declaration or certification made under penalty of perjury.

5.04.110 - Unlawful business not authorized.

No license issued under the provisions of this chapter shall be construed as authorizing the conduct or continuance of any illegal or unlawful business or any business in violation of any code, provisions or other ordinance of the City.

5.04.120 – Licenses – Application, fee, issuance and contents.

Every person required to have a license under the provisions of this Chapter shall apply to the Collector for a license as prescribed below. Upon payment of the required license

application administrative fees as set forth by resolution of the City Council and the prescribed license tax, the Collector shall issue that person a license which shall contain the following information:

- A. The name of the person to whom the license is issued;
- B. The business licensed;
- C. The place where such business is to be carried on;
- D. The expiration date of such license; and
- E. Such other information as may be necessary for the enforcement of this Chapter.

5.04.130 – Licenses – Term of license.

Except as hereinafter provided, all licenses shall be issued on a fiscal year basis from the first day of July to the thirtieth day of the succeeding June, inclusive.

5.04.140 – Licenses – Application of First License and Contents.

Upon application for the first license under this Chapter or for a newly established business, the applicant shall furnish a sworn statement, upon a form provided by the Collector, setting forth the following information:

- A. The exact nature or kind of business for which a license is requested;
- B. The place where such business is to be carried on, and if the same is not to be carried on at any permanent place of business, the places of residences of the owners of same;
- C. If application is made for a license to a person doing business under a fictitious name, the application shall set forth the names and places of residences of those owning the business;
- D. In the event an application is for issuance of a license to a corporation or a partnership, the application shall set forth the names and places of residences of the officers or partners thereof;
- E. If the amount of license tax to be paid is measured by gross receipts, the application shall set forth such information the Collector determines necessary to determine the amount of the license tax to be paid;
- F. Any further information which the Collector may require to enforce this Chapter.

5.04.150 – Licenses – Gross receipts estimate for first license application.

If the amount of the license tax to be paid by a person applying for the first license under this Chapter or for a newly established business is measured by gross receipts, the applicant shall estimate the gross receipts for the period to be covered by the license. Such estimate, if the Collector accepts it as reasonable, shall be used in determining the amount of license tax to be paid; provided, however, the amount so determined shall be tentative only and such person shall, within thirty days after the expiration of the period

for which such license was issued, furnish the Collector with a sworn statement, upon a form furnished by the Collector, showing the gross receipts during the period of such license, and the license tax for such period shall be finally ascertained and paid as provided by this Chapter for the ascertaining and paying of renewal license taxes for other businesses, after deducting from the payment due the amount paid when the first license was issued.

5.04.160 – Licenses – Sworn statement and tax payment prerequisite to renewal.

The Collector shall not renew a license to any person or issue him or her another license for the same or any other business until such person has furnished the sworn statement and paid the license tax required by this Chapter.

5.04.170 – Licenses – Renewal application.

In all cases, the applicant for renewal of a license shall submit to the Collector, for guidance in ascertaining the license tax to be paid, a sworn statement upon a form to be provided by the Collector setting forth such information concerning the applicant's business during the preceding year as the Collector deems necessary to ascertain the license tax to be paid by the applicant pursuant to the provisions of this chapter.

5.04.180 – Licenses – License transferability.

No license issued under the provisions of this chapter shall be transferable; provided, that where a license is issued authorizing a person to transact and carry on a business at a particular place, such licensee may, upon application therefor and payment of the fee established by resolution of the City Council in effect at the time of filing, have the license amended to authorize the transacting and carrying on of such business under the license at some other location; provided further, that transfer, whether by sale or otherwise, to another person under such circumstances that the real or ultimate ownership after the transfer is substantially similar to the ownership existing before the transfer shall not be prohibited by this section. For the purpose of this section, stockholders, bondholders, partnerships or other persons holding an interest in a legal entity are regarded as having the real or ultimate ownership of such entity.

5.04.190 – Licenses – Duplicate licenses.

The Collector may issue a duplicate license to replace any license that has been lost or destroyed upon the licensee filing a statement of such fact and paying a duplicate license fee established by resolution of the City Council in effect at the time of filing.

5.04.200 – Licenses – Conspicuous posting of license.

- A. Every person to whom a license is issued under the provisions of this chapter shall keep it conspicuously posted in or about the place where the licensed business is

conducted, exhibited or carried on and shall, upon demand, exhibit it to the Collector or to any police officer.

- B. Any licensee transacting and carrying on business but not operating at a fixed place of business in the City shall keep the license upon his or her person when transacting and carrying on the business for which it is issued.

5.04.210 – Statement; Limitations; Verification.

No statement shall be conclusive as to the matters set forth therein, nor shall its filing preclude the City from collecting by appropriate action such sum as is actually due and payable under this Chapter. Such statement shall be subject to audit and verification by the Collector, his or her deputies, authorized employees or agents of the City, who are authorized to examine, audit and inspect such books and records of any licensee or applicant for license, as may be necessary in their judgment to verify or ascertain the license fee due.

5.04.220 – Records - Requirements.

All persons subject to this Chapter shall keep complete records of business transactions, including sales, receipts, purchases and other expenditures, and shall retain all such records for examination by the Collector for at least three years. Alternatively, persons may maintain copies of their annual federal income tax returns in lieu of maintaining the aforementioned records. No such person shall refuse to allow authorized representatives of the Collector to examine the records at reasonable times and places.

5.04.230 – Information Confidential.

It is unlawful for the Collector or any employee or agent of the City to make known in any manner whatsoever the business affairs, operations or information obtained by an investigation of records and equipment of any person required to obtain a license or to pay a license tax, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth in any statement or application, or to permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof, to be seen or examined by any person; provided, that nothing in this section shall be construed to prevent:

- A. The disclosure to, or the examination of records and equipment by, another City official, employee or agent for collection of taxes for the sole purpose of administering or enforcing this Chapter or collecting taxes imposed under it;
- B. The disclosure of information to, or the examination of records by, federal or state officials, or the tax officials of another public agency, if a reciprocal arrangement exists, or to a grand jury or court of law, upon subpoena;
- C. The disclosure of information and results of examination of records of particular taxpayers, or relating to particular taxpayers, to a court of law in a proceeding

brought to determine the existence or amount of any license tax liability to the City of those taxpayers;

- D. The disclosure, after the filing of a written request to that effect, to the taxpayer, or to the taxpayer's successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, of information as to the items included in the measure of any paid tax, any unpaid tax or amounts of tax required to be collected, interest and penalties; further provided, however, that the City attorney approves each such disclosure and that the Collector may refuse to make any disclosure referred to in this subsection when in his or her opinion the public interest would suffer thereby;
- E. The disclosure of the names and business addresses of persons to whom licenses have been issued, and the general type or nature of their business;
- F. The disclosure by way of public meeting or otherwise of such information as may be necessary to permit the decision maker to be fully advised as to the facts when a taxpayer files a claim for refund of license taxes, or submits an offer of compromise with regard to a claim asserted against him by the City for license taxes, or when acting upon any other matter;
- G. The disclosure of general statistics regarding taxes collected or business done in the City;
- H. Any other disclosure required by applicable law.

5.04.240 – Failure to File Statement or Corrected Statement.

- A. If any person fails to timely file any required statement, or if after demand therefor made by the Collector any person fails to timely file a corrected statement, or if any person subject to the tax imposed by this Chapter fails to apply for a license, the Collector may determine the amount of license tax due using such information as is available to the Collector.
- B. If the Collector is not satisfied with information supplied in statements or applications filed, they may determine any license tax due using such information as is available to the Collector.
- C. If the Collector makes such a determination, they shall give a notice of the amount assessed by serving it personally or by depositing it with the United States Postal Service or any other carrier or delivery service offering prompt delivery, addressed to the person so assessed at his or her last-known address. Such person may, within fifteen days after the mailing or serving of such notice, apply in writing to the Collector for a hearing. If such application is made, the Collector shall set the matter for hearing within fifteen days. The Collector shall give at least ten days' notice to such person of the time and place of hearing in the manner prescribed above for serving notices of assessment. The City Manager or a hearing officer designated by the City Manager shall consider all evidence produced and shall make findings thereon, which shall be final as to the City, but subject to judicial review pursuant to Code of Civil Procedure Section 1094.5. Notice of such findings

shall be served upon the applicant in the manner prescribed above for serving notices of assessment.

5.04.250 – Additional Power of Collector.

In addition to all other power conferred upon him or her, the Collector shall have the power, for good cause shown, to extend the time for filing any required sworn statement or application for up to thirty days, and in such case to waive any penalty that would otherwise have accrued, except that six percent (6%) simple interest shall be added to any tax determined to be payable.

5.04.260 – License Tax Payment – How and When Payable.

- A. Unless otherwise specifically provided in this Chapter, all annual license taxes shall be due and payable in advance on the first day of July of each year based on gross receipts during the prior calendar year ending December 31; provided, that license taxes covering new operations commenced in the City thereafter may be prorated for the balance of the license period based upon an estimate of the anticipated gross receipts for that year.
- B. Except as otherwise herein provided, license taxes, other than annual, required under this Chapter shall be due and payable as follows: Flat-rate license taxes are payable in advance of the first day of business and thereafter on the first day of any applicable period.

5.04.270 – License Tax Payment – Delinquency; Penalty.

For failure to pay a license tax when due, the Collector shall add a penalty of ten percent (10%) of the license tax at 5:00 p.m. on the sixtieth (60th) day after the due date thereof, and an additional ten percent (10%) at 5:00 p.m. on the last day of each month thereafter. The amount of such cumulative penalty to be added shall in no event exceed one hundred percent (100%) of the license tax due.

5.04.280 – License Tax Payment – Delinquency; Issuance Prohibited.

No license shall be issued, nor one which has been suspended or revoked shall be reinstated or reissued, to any person who, at the time of applying therefor, is indebted to the City for any delinquent license taxes, unless such person, with the consent of the Collector, enters into a written agreement with the City, through the Collector, to pay such delinquent taxes, plus ten percent (10%) annual interest upon the unpaid balance, in monthly installments, or more often, extending over a period of up to a year.

5.04.290 – License Tax Payment – Delinquency; Installment Payment Agreement.

In any agreement entered into under Section 5.04.280, the licensee shall acknowledge the obligation owed to the City and agree that, in the event of failure to timely pay any installment, the whole amount unpaid shall become immediately due and payable and that the current license shall be revocable by the Collector upon thirty days' notice. In the event legal action is brought by the City to collect any amount included in the agreement, such person shall pay all costs of suit incurred by the City or its assignee, including reasonable attorneys fees. The execution of such an agreement shall not prevent the prior accrual of penalties on unpaid balances at the rate provided in this Chapter, but no penalties shall accrue on account of taxes included in the agreement after the execution of the agreement and the payment of the first installment and during such time as such person is not in breach of the agreement

5.04.300 – License Tax Payment – Refunds of Overpayments.

No refund of an overpayment of taxes imposed by this Chapter shall be allowed in whole or in part unless a claim for refund is filed with the Collector within a period of one year from the last day of the calendar month following the period for which the overpayment was made, and all such claims for refund of the amount of the overpayment must be filed with the Collector on forms furnished by him or her and in the manner prescribed by him or her. Upon the filing of such a claim and a determination that an overpayment has been made, the Collector may refund the amount overpaid. No interest shall be paid on overpayment amounts refunded.

5.04.310 – Gross Receipts Tax – Rates.

Every person who engages in business within the City shall pay a license tax based on annual gross receipts, subject to the following:

A. Minimum Tax. The minimum tax shall be \$150 subject to the calculation of the tax amount calculated using the Tax Rate table in section B herein.

B. Tax Rate. The tax rate applicable to annual gross receipts shall be as follows:

Business Type	Annual Gross Receipts Tier	Base Tax Amount	Tax Rate
Self-service storage facility	N/A	N/A	\$5.00 per \$1,000
All other businesses	Less than or equal to \$500,000	\$-	\$0.50 per \$1,000
	Above \$500,000 to \$1 million	\$250	\$1.00 per \$1,000
	Above \$1 million to \$5 million	\$750	\$1.40 per \$1,000
	Above \$5 million	\$6,350	\$1.80 per \$1,000

C. Phase In. In Fiscal Year 2025-2026, the license tax owed shall be limited to 50% of the increase from the prior fiscal year. In the event the license tax owed for Fiscal Year 2025-2026 is less than the prior fiscal year, the license tax owed shall be the amount calculated in accordance with Sections A and B above. Beginning Fiscal Year 2026-2027, the license tax owed shall be the amount calculated in accordance with Sections A and B above.

D. Gross Receipts Limit.

1. The maximum taxable gross receipts for purposes this Chapter shall be \$50,000,000.00 annually.

2. Effective March 1, 2027 and every March 1st thereafter, the gross receipts limit shall be increased annually based on the change in the Consumer Price Index for All Urban Consumers (CPI-U) for the San Francisco-Oakland-Hayward (or any successor to that index) for the month of December immediately preceding and published by the US Bureau of Labor Statistics or any such federal agency as may publish the CPI-U in the future. The limit shall be rounded to the nearest ten thousand dollars.

3. Gross Receipts for Corporate/Administrative Headquarters and Research & Development Businesses. For purposes of businesses that are corporate or administrative headquarters or research and development companies that generate no apportionable sales in the City, the business shall pay a license tax based upon gross receipts specifically defined herein equal to the costs of operations of such corporate/administrative headquarter or research and development activities. Costs of operations shall be equal to the total of the following items:

- a. Annual payroll of all employees based in the City;
- b. The annual non-payroll or facility operating costs associated with all activities conducted in the City, including the cost of all utilities related to the operation of all activities;
- c. Annual fair rental value of all real property located in the City and used for such purposes, if applicable.

5.04.320 - Right of Appeal.

Any person aggrieved by any final decision of the Collector with respect to the issuance or refusal to issue a business license, the classification of a business, or any other matter under this Chapter may appeal by submitting a letter and the basis upon which an appeal should be granted with the City Clerk. The City Manager or a hearing officer designated by the City Manager shall thereupon fix a time and place for hearing such appeal. The City Clerk shall give notice to such person of the time and place of hearing in the manner specified in Section 5.04.430. The City Manager or hearing officer shall have authority to determine all questions raised on such appeal. No such determination shall conflict with any substantive provision of this Chapter or other applicable law. The written decision of

the City Manager or hearing officer shall be final as to the City and subject to judicial review pursuant to Code of Civil Procedure Section 1094.5.

5.04.330 – Enforcement – Rules and Regulations.

The Collector may make rules and regulations not inconsistent with the provisions of this Chapter as may be necessary or desirable to aid in the enforcement of the provisions of this Chapter.

5.04.340 – Enforcement – Officials.

The Collector shall enforce this Chapter, and the Chief of Police shall render such assistance in the enforcement of this Chapter as may be required by the Collector or the City Manager or a hearing officer.

5.04.350 – Enforcement – Business Premises Inspection Authorization.

The Collector, in the exercise of the duties imposed upon him or her under this Chapter and acting through his or her deputies or duly authorized assistants, may examine or cause to be examined all places of business in the City to ensure compliance with this Chapter.

5.04.360 – Enforcement – Business Premises Inspection Entry Right.

The Collector and his/her assistants and any police or code enforcement officer of the City shall have the power and authority (upon obtaining an inspection warrant therefor if required by law) to enter, free of charge and at any reasonable time, any place of business required to be licensed under this Chapter, and demand an exhibition of the license. Any licensee who willfully fails to exhibit the same on demand is guilty of a misdemeanor and shall be punished to the maximum extent permissible.

5.04.370 – Enforcement - License Tax a Debt.

The license fee imposed by the provisions of this chapter shall be due and payable and shall constitute a debt owing to the City immediately upon the commencement of any kind of business or game engaged in or carried on, or of any show or exhibitions. An action may be commenced in the name of the City, in any court of competent jurisdiction, for the amount of any delinquent license tax and penalties.

5.04.380 – Enforcement – Remedies Cumulative.

All remedies prescribed under this chapter shall be cumulative and the use of one or more remedies by the City shall not bar the use of any other remedy to enforce this Chapter.

5.04.390 - Writ of Attachment.

In all suits instituted by the City as provided in this chapter, for the collection or recovery of any license fee imposed, the Collector or the City attorney may make the necessary

affidavit for a writ of attachment against the property of the defendant therein, and such writ shall thereupon be issued without any undertaking or other security being given by or on behalf of the City.

5.04.400 - Civil Action Not a Bar to Criminal Action.

No action for a recovery of judgement in any civil action for the collection or recovery of any license fee imposed shall be a bar to any criminal prosecution under the provisions of this chapter, nor shall any such prosecution or conviction be a bar to any such civil action.

5.04.410 - Serving of Notice.

Any notice herein required shall be deemed to have been served when the same is posted in the United States mail enclosed in a sealed envelope, postage prepaid, addressed to the addresses at the addressee's place of business as the address of the same appears on the records of the Collector.”

SECTION 2. AMENDMENTS. The City Council may amend this Ordinance without voter approval consistent with its purposes provided that such amendments do not impose, extend, or increase a tax.

SECTION 3. SEVERABILITY, If any section, subsection, sentence, clause, phrase, portion of the application thereof, to any person or circumstance of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct, and independent provision of such ordinance and shall not affect the validity of the remaining portions thereof.

SECTION 4. REPEALS AND CONFLICTING ORDINANCES. All other ordinances of the City of Scotts Valley or provisions of the Scotts Valley Municipal Code which are in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 5. CEQA COMPLIANCE. The City Council finds and determines that the enactment of this Ordinance is not a project as defined by the California Environmental Quality Act (CEQA)(CCR, Title 14, Chapter 3 (“CEQA Guidelines”), Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines Section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects that may be funded using sales tax revenue received from the referenced special transactions and use tax resulting from this action will be assessed for

CEQA applicability. Lastly, CEQA Guidelines Section 15378 (b) (4) specifically states that the creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project as 'not a project.'

SECTION 6. EFFECTIVE DATE. This ordinance relates to the levying and collecting of the City business license tax and will be in full force and effect 10 days after the certification by the City Council of the election returns indicating passage of the ordinance in the election of November 5, 2024, by the margin of votes required by California Constitution Article XIII C, Section 2(b) for general tax measures.

SECTION 7. OPERATIVE DATE. The operative date of this ordinance shall be July 1, 2025.

SECTION 8. CODIFICATION. Upon adoption of this Ordinance pursuant to voter approval, the City Clerk, in consultation with the City Attorney, is hereby authorized and directed to codify this Ordinance in the Scotts Valley Municipal Code.

SECTION 9. CITY COUNCIL APPROVAL. The City Council of the City of Scotts Valley approved this ordinance for placement on the November 5, 2024 ballot by Resolution No. 2047.2 adopted by a two-thirds vote of all members.

This ordinance was submitted to the People of the City of Scotts Valley at the November 5, 2024 election and was adopted by the following vote of the People:

YES:

NO:

Approved: _____
Randy Johnson, Mayor

Attest: _____
Cathie Simonovich, City Clerk