RESOLUTION NO. 2017-79

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA RECEIVING ADDITIONAL INFORMATION REGARDING THE BUSINESS LICENSE TAX FOR THE CITY OF MARINA AND PROVIDING FURTHER DIRECTION TO CITY STAFF

WHEREAS, on November 8, 2016, the voters approved Business License Tax Measure U by 83%; and

WHEREAS, the effective date of the new Business License is July 1, 2017; and

WHEREAS, the City Council has requested information and clarification regarding the new adopted Business License Tax; and

WHEREAS, the draft Ordinance is provided for City Council consideration **[EXHIBIT A]**.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Marina does hereby:

1. Adopt Resolution No. 2017-, receiving additional information regarding Business License Tax for the City of Marina and to provide staff with further direction as follows:
    a. To come back as soon as possible with a proposed ordinance that is the equivalent of all the proposed municipal code sections in Exhibit A with the following exceptions:
        i. That on Section 5.12.070 (a)(1) be deleted
        ii. That Subdivision (a)(2) remain, the only change being “owner-occupant” be changed to “occupant”; and
    b. 60 additional days to file without penalties

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 2nd day of August 2017 by the following vote:

AYES, COUNCIL MEMBERS: Amadeo, Brown, Delgado
NOES, COUNCIL MEMBERS: Morton, O’Connell
ABSTAIN, COUNCIL MEMBERS: None
ABSENT, COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

EXHIBIT A

ORDINANCE NO. 2017-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARINA AMENDING ARTICLE 1 OF TITLE 5 OF THE MUNICIPAL CODE, RELATING TO THE BUSINESS LICENSE TAX

WHEREAS, the City's Business License Tax is administered pursuant to Article 1of Title 5 of the Municipal Code; and

WHEREAS, staff has recommended certain changes to Article 1 of Title 5 intended to clarify the application of the Business License Tax; and

WHEREAS, none of the recommended changes will increase the rate of the tax.

THE CITY COUNCIL OF THE CITY OF MARINA HEREBY ORDAINS AS FOLLOWS:

Section 1. Section 5.08.020 -Amended. Section 5.08.020 of the City of Marina Municipal Code is hereby amended to read as follows:

5.08.020 Branch Establishment and Separate Business.

A. General Rule: A separate license must be obtained for each branch establishment or location of the business transacted and carried on and for each separate type of business at the same location, and 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.

B. Special Rule for Certain Lessors: A person in the business of leasing detached single-family residential dwelling units may include all such units in the City on a single license and pay a tax based on the combined gross receipts from all such leasing activities.

Section 2. Section 5.12.070 -Added. Section 5.12.070 is added to the City of Marina Municipal Code to read as follows:

5.12.070 Residential Rentals.

A. For the purposes of this Article, the following activities shall not be deemed to constitute "engaging in business", and no business license shall be required for such activity:

1. ~~The rental by an owner of one residential dwelling unit in the City that he or she does not occupy. This exemption does not apply if the owner rents (to the same tenant or to different tenants) more than one dwelling unit in the City that is not occupied by the owner~~.

~~2.~~1.The rental by an ~~owner~~-occupant to tenant(s) of one or more rooms of the ~~owner-~~occupant's primary residence or of shared use with the ~~owner~~ occupant of his or her primary residence.

B. This Section shall not apply to any residential rental that is offered for tenancies that are shorter than thirty days.

Section 3. Section 5.12.080 -Added. Section 5.12.080 is added to the City of Marina Municipal Code to read as follows:

5.12.080 Real Estate Salespeople.

A real estate salesperson shall not be required to obtain a license under this Article or pay a tax under this Article with respect to his or her activity as a real estate salesperson, so long as he or she is employed (as that term is used in Business & Professions Code Section 10132) by a licensed real estate broker who (i) has obtained a license under this Article and (ii) treats the salesperson's activities as the broker's own activities for purposes calculating taxes owed by the Broker pursuant to this Article.

Section 4. Section 5.12.090 -Added. Section 5.12.080 is added to the City of Marina Municipal Code to read as follows:

5.12.090 Participation in Public Proceedings.

For the purposes of this Article, a person shall not be deemed to be engaging in business in the City if the person, in the course of business, is present in the City solely to appear at, present testimony at, or attend a session or meeting of any court, administrative agency, or local government legislative body located in the City. This exemption shall not apply if the person is appearing, testifying, or attending on the City's behalf or in fulfillment of a contract with the City.

Section 5. Effect on 2017 Licenses. The provisions of this Ordinance shall govern all licenses issued for the licensing period beginning July 1, 2017 and all subsequent periods. In the event a business license tax for the licensing period beginning July 1, 2017 has been collected that would no longer be required as a result of this Ordinance, the Finance Director is authorized to refund such tax.

Section 6. Delay of Penalties. With respect only to taxes due on July 1, 2017, the following shall apply instead of the provisions of Section 5.16.110 of the City of Marina Municipal Code:

> For failure to pay a license tax when due, the finance officer shall add a penalty of ten percent of said license tax to delinquent licenses on October 1, 2017, and an additional penalty of twenty-five percent shall be added thereto on the first day of each succeeding month thereafter; provided, that the total amount of penalties imposed pursuant to this sentence shall not exceed fifty percent of the license tax due.

Section 7. No Increase. This Ordinance is not intended to increase the rate of the City's business license tax. In the event the provisions of this Ordinance would inadvertently cause the tax upon any taxpayer to "increase", as such term is defined in Section 53750(h) of the California Government Code, that taxpayer may pay the tax in the amount and that would have been required had this Ordinance not been adopted.

Section 8. Posting of Ordinance. Within fifteen (15) days after the passage of this ordinance, the City Clerk shall cause it to be posted in three (3) public places designated by resolution of the City Council

The forgoing ordinance was introduced at a regular meeting of the City Council of the City of Marina duly held on __________________, 2017, and was passed and adopted at a regular meeting duly held on __________________, 2017, by the following votes:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

____
Bruce C. Delgado, Mayor

ATTEST:

____
Anita Sharp, Deputy City Clerk

July 27, 2017
Honorable Mayor and Members
of the Marina City Council

Item No. **11b**
City Council Meeting
of August 2, 2017

RECOMMENDATION TO CONSIDER ADOPTING RESOLUTION NO. 2017-, RECEIVING ADDITIONAL INFORMATION REGARDING BUSINESS LICNESE TAX AND PROVIDING FURTHER DIRECTION TO CITY STAFF

RECOMMENDATION:
It is recommended that the City Council:

1. Consider adopting Resolution No. 2017-, receiving additional information regarding business license tax and providing staff with further direction.

BACKGROUND:
At the meeting of June 20, 2017, the City Council received a business license implementation informational report and presentation. At that meeting, additional questions were posed and Council requested that Staff return at a later date with responses. Then, at the meeting of July 18, 2017, Council received Staff responses to the additional questions and further deliberated on the matter.

The new Business License Ordinance allows the City Council without voter approval to exempt or lower the tax rate for any business so long as it doesn't increase the rate of any tax with respect to any taxpayer. Any such amendment would require Council approval of an ordinance introduction and second reading.

ANALYSIS:
Based upon the City Council and public deliberations of June 20 and July 18th, Staff is providing a draft ordinance **("EXHIBIT A")** for Council consideration. In summary, the text addresses:

- residential rentals (section 5.12.070)
- real estate salespeople (section 5.12.080)
- branch establishment and separate business (section 5.08.020)
- participation in public proceedings (section 5.12.090)
- effective date of amendment – effect for licenses for July 1, 2017 and all subsequent periods
- delay of penalties with respect only to taxes due on July 1, 2017 (provides an additional 60 days of grace period)

Staff is requesting further direction on the matter.

FISCAL IMPACT:
The fiscal impact will depend upon City Council direction. Any exemption will reduce the General Fund revenues to provide City services.

CONCLUSION:
This information is submitted to the City Council consideration and direction.

Respectfully submitted,

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Lauren Lai, CPA
Finance Director
City of Marina

REVIEWED/CONCUR:

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Layne Long
City Manager
City of Marina