

ORDINANCE 5-11

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE AMENDING TITLE 5 OF THE ORANGE MUNICIPAL CODE RELATING TO BUSINESS LICENSES.

WHEREAS, pursuant to Title 5 of the Orange Municipal Code the City regulates and taxes the carrying on of businesses, trades and professions in the City; and

WHEREAS, the requirement that all businesses have a business license and pay business taxes raises revenue for the City that in part offsets impacts from the businesses on City provided services, facilities and programs; and

WHEREAS, the requirement to have a business license furthers important regulatory powers of the City in that the application appraises the City about the nature of any business proposing to open in the City and the possibility that additional permits and review may be required by the Community Development, Fire, Public Works and/or Police departments or; and

WHEREAS, the majority of business licenses are reviewed, at a minimum, by the Community Development Department to help ensure that the business is a permitted use, is located in the appropriate zoning designation and obtains all necessary permits prior to opening; and

WHEREAS, this initial review assists the business owner in finding out whether the business is permitted in the City, whether there are moratoriums on such businesses, whether it is located in the appropriate zoning and whether there are additional zoning and permit requirements prior to committing significant resources to the opening of the business; and

WHEREAS, a business license may be denied or issuance withheld if an applicant does not, in some instances, show proof that he or she possesses a required County or State license; and

WHEREAS, requiring an applicant to provide proof that he or she possesses a required County or State license promotes the public health and safety and protects consumers; and

WHEREAS, there have been several instances in which the business license requirement has proved to be a useful tool in enforcement of the Orange Municipal Code; and

WHEREAS, certain provisions contained in the business license regulations require amendment to make the regulations internally consistent and to clearly define and distinguish the regulatory aspects of requiring and issuing a business license from the revenue aspects of the business tax; and

WHEREAS, this Ordinance does not enact any new or increased fees or taxes.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE DOES ORDAIN AS FOLLOWS:

SECTION I:

In all cases in which the term “Business Tax Certificate” or “Business Tax Certificates” or “Certificate” is used in this Title 5, such term shall be amended to read “Business License” or “Business Licenses” or “License”, respectively.

SECTION II:

Chapter 5.02 of the Orange Municipal Code (hereafter “Code”) entitled “General Provisions” shall be amended as set forth below.

- a. Section 5.02.010 of the Code is deleted in its entirety and replaced with the following:

“5.02.010 Purpose of Chapter.

“The business tax rates set forth in this title are enacted solely to raise revenue for municipal purposes and are not intended for regulation.”

- b. Section 5.02.020 of the Code is hereby amended to delete the word “article” and replace with the word “title” in both the title and body of the section.
- c. Section 5.02.030 of the Code shall be deleted in its entirety and replaced with the following:

“5.02.030 Collection of Correct Amount When Mistake Made.

“In no case shall any mistake of the Business Services Coordinator in stating the amount of the tax prohibit or prejudice the collection by the City of the amount of the tax that was actually due.”

- d. Section 5.02.040 of the Code shall be deleted in its entirety and amended to read as follows:

“5.02.040 Obligation to Pay Business Tax.

“There are imposed upon the businesses, trades, professions, callings and occupations specified in this title, business taxes in the amount prescribed in this title. Persons not required to obtain a Business License because of a conflict with State or Federal law shall remain liable for the payment of the tax imposed by this title.”

- e. Section 5.02.050 of the Code shall be deleted in its entirety.
- f. Sections 5.02.060, 5.02.065, 5.02.070, 5.02.080, 5.02.090 and 5.02.100 respectively, shall be renumbered as follows: 5.02.050, 5.02.055, 5.02.060. 5.02.070, 5.02.080 and 5.02.090.

SECTION III:

- a. Section 5.06.010 of the Code shall be deleted in its entirety and replaced with the following:

“5.06.010 Application.

“Before any Business License is issued to any person a written application shall be made by the business owner to the Business Services Coordinator. Such application shall be made under penalty of perjury and any material misrepresentations shall constitute a violation of this code. The application shall contain the following information:

- A. The exact nature or kind of business for which the Business License is requested.
- B. The place where such business is to be carried on and if there is no permanent place of business, the residential address of the business owner.
- C. Businesses that are required to be licensed by the County or State must provide verification of a current valid license.
- D. Any further information which the Finance Department may require to issue the appropriate business license and to apprise other City departments whether the business is permitted in the City, whether it is permitted in the proposed location and whether any additional permits or licenses are required.
- E. No Business License shall be issued until the application has been reviewed by the Community Development Department, unless the Finance Department can determine from the face of the application that it requires no additional review.
- F. In the event that the application for a Business License is for a person doing business under a fictitious name, the application shall set forth the names and place of residence of those owning the business.”

- b. A new Section 5.06.015 shall be added to the Code to read as follows:

“5.06.015 Business License Required.

“It is unlawful for any person to transact and carry on any business, trade, profession, calling or occupation in the City without first having procured a Business License from the City to do so and without complying with any and all applicable provisions of this title. This section shall not be construed to require any person to obtain a Business License if such requirement conflicts with State or Federal law.”

- c. A new Section 5.06.025 shall be added to the Code to read as follows:

“Section 5.06.025 Business License–Compliance with Other Regulations.

“A Business License shall not be issued and may be revoked if the Business Services Coordinator has reason to believe that: (1) the applicant has not obtained all necessary land use approvals or permits; or (2) has failed to comply with any other regulations of this code having to do with the operation of the business for which the application has been made; or (3) is not authorized by this code, state or federal law to conduct the business for which application has been made; or (4) has reason to believe that the applicant has made a misrepresentation on the application. The issuance of a Business License does not constitute a waiver of any other licensing, permit, zoning or other requirement contained in this code and does not entitle any person to conduct a trade, business or occupation in lieu of complying with any such requirements.”

d. Section 5.06.030 shall be deleted in its entirety.

e. Section 5.06.080 of the Code shall be deleted in its entirety and be replaced with the following:

“Section 5.06.080 Change of Location—Amendment to Business License.

“A Business License issued to conduct business at a particular place may, upon application and paying a fee in such amount established by resolution of the City Council, be amended to conduct such business at a new location.”

SECTION IV:

The City Council finds that this Ordinance is not a project and is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Title 14, California Code of Regulations, Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because it has no potential for resulting in physical change to the environment.

SECTION V:

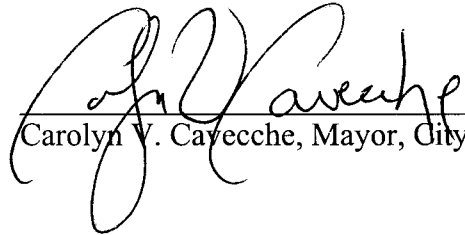
If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION VI:

A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. A summary of this Ordinance shall also be published once within fifteen (15) days after this Ordinance's passage

in a newspaper of general circulation, published, and circulated in the City of Orange. The City Clerk shall post in the Office of the City Clerk a certified copy of the full text of such adopted Ordinance along with the names of those City Council members voting for and against the Ordinance in accordance with Government Code Section 36933. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

ADOPTED this 28th day of June, 2011.



Carolyn V. Cavecche, Mayor, City of Orange

ATTEST:



Mary E. Murphy, City Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, MARY E. MURPHY, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the 14th day of June, 2011, and thereafter at the regular meeting of said City Council duly held on the 28th day of June, 2011, was duly passed and adopted by the following vote, to wit:

AYES: COUNCILMEMBERS: Smith, Cavecche, Dumitru, Bilodeau
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: Whitaker
ABSTAIN: COUNCILMEMBERS: None



Mary E. Murphy, City Clerk, City of Orange