

ME ORDINANCE NO. 26-____

THE PEOPLE OF THE CITY OF HAYWARD DO ORDAIN AS FOLLOWS:

Section 1. Definitions—Amendment. Section 8-1.10 of Article 1, Chapter 8 of the Hayward Municipal Code is hereby amended to read as follows, with deleted terms shown in ~~strikeout~~ and added terms underlined:

SEC. 8-1.10 - DEFINITIONS. GENERAL.

~~For the purposes of this Article certain words and phrases are defined and certain provisions shall be construed as herein set out unless it shall be apparent from their context that a different meaning is intended.~~

The definitions in this section apply to the words and phrases used in this Article unless the context clearly indicates otherwise.

- (a) “Business” means any activity, enterprise, profession, trade, or undertaking of any nature conducted or engaged in, with the object of gain, benefit or advantage, whether direct or indirect, to the taxpayer or to another or others. “Business” shall include any transaction which is, or which in effect results in, a sale, but shall not include the services rendered by an employee to their employer.

- (b) “City” means City of Hayward, a California Charter City.

- (c) “Engaging in Business” means commencing, conducting, or continuing in business and also the exercise of corporate or franchise powers as well as liquidating a business when the liquidators hold themselves out to the public as conducting such business.

- (d) “Gross Receipts” means the total amount of the sale price of all sales and the total amount charged or received for the performance of any act, service, or employment of whatever nature it may be, for which a charge is made or credit allowed; and included in Gross Receipts shall be all receipts, cash, credits, and property of any kind or nature and any amount for which credit is allowed by the seller to the purchaser without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid or payable or losses or other expenses whatever. Excluded from Gross Receipts shall be cash discounts allowed and taken on sales, value of property accepted as part of the purchase price and which property will later be sold, any tax which is measured by the sales price or the Gross Receipts from the sale or which is a stated sum per unit of such property sold, included in or added to the purchase price and collected from the consumer or purchaser, and such part of the sale price

of property returned by the purchaser upon revision of the contract of sale as is refunded either in cash or by credit.

(e) “Newly Established Business” means:

(1) A Person conducting any business activity in the City for the first time; or

(2) A Business that resumes operation in the City after having been out of operation in the City during the entire previous tax year.

(f) “Person” means any natural person, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, limited liability company, municipal corporation, political subdivision of the State of California, domestic or foreign corporation, association, syndicate, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, and the United States or any instrumentality thereof, and any natural person, who as an individual or with a spouse, owns more than fifty (50) percent of the capital stock of a corporation obligated to file a declaration and pay tax pursuant to this Article; and in addition, is a person with the power to control the fiscal decision-making process by which the corporation allocates funds to creditors in preference to its tax obligations under the provisions of this Article. A person as defined herein, who is also an officer or director of a corporation obligated to file declarations and pay tax pursuant to this Article, shall be presumed to be a person with the power to control the fiscal decision-making process. Whenever the term “person” is used in any clause prescribing and imposing a penalty, the term as applied to any association shall mean the owners or part owners of such association, and as applied to any corporation, shall mean the officers of such association.

(g) “Sale” and “Sell” means any transfer of title to property for a price by any manner or means, and to the serving, supplying, or furnishing, for a price, of any property fabricated or made at the special order of consumers who do or do not directly or indirectly furnish the specifications for such special order. “Sale” also includes any transaction where the possession of property is transferred, but the seller retains the title as security for the payment of the price.

Section 2. Repeal of Sections 8-1.11 through 8-1.15. Sections 8-1.11 through 8-1.15 of Article 1, Chapter 8 of the Hayward Municipal Code are hereby repealed and reserved to read as follows:

SECS. 8-1.11—8-1.15 - Reserved.

Section 3. Business Activity Definitions—Addition. Section 8-1.16 is hereby added to Article 1, Chapter 8 of the Hayward Municipal Code to read as follows, with added terms underlined:

SEC. 8-1.16 - BUSINESS ACTIVITY DEFINITIONS.

The definitions in this section apply to the words and phrases used in this Article unless the context clearly indicates otherwise. The Tax and License Administrator may issue written determinations classifying specific business activities consistent with the criteria set forth in this section and shall publish a summary of such determinations for public reference.

- (a) “Business and Personal Services” means any Business primarily engaged in providing administrative support, operational support, or personal care services to other businesses or to individuals, where the service does not primarily involve the exercise of professional advice or specialized technical expertise of the kind described in the definition of “Professional/Semi-Professional Services” in this section. “Business and Personal Services” includes, but is not limited to:
- (1) Administrative and business support services, including office administrative services; facilities support services; employment placement and staffing agencies (except those placing licensed or credentialed professionals); document preparation and copying services; mail, courier, and messenger services; call center and telemarketing services; collection agencies; credit reporting services; travel arrangement and reservation services; investigation and security guard services; janitorial, landscaping, pest control, and other services to buildings and dwellings; packaging and labeling services; convention and trade show organizing services; and other similar administrative and support activities;
 - (2) Personal and laundry services, including laundries and dry cleaners; linen supply services; coin-operated laundry; cosmetologists, estheticians, barbers, nail technicians, and other personal appearance services requiring a California Board of Barbering and Cosmetology license or equivalent state license; massage therapists and bodywork practitioners; diet and weight-reducing centers; funeral homes and crematories; shoe repair; pet grooming and boarding; tattoo and body piercing studios; and other personal care and service activities not elsewhere classified.
- (b) “Construction Contractor” means a Person who conducts or carries on a Business that is licensed as a contractor by the State of California and who undertakes to, or

offers to undertake to, or purports to have the capacity to undertake to, or submits bids to, or does themselves or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, excavation, or other structure project, development, or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith.

- (c) “Data Center” means any Business that primarily operates or provides facilities for the housing or operation of computer systems, servers, and associated equipment used to manage, process, store, distribute, or share data, including, but not limited to, colocation services, cloud computing, data hosting, and managed information technology services.
- (d) “Hotel” and “Motel” means providing short-term lodging in facilities known as hotels, motor hotels, inns, resort hotels, and motels that may offer food and beverage services, recreational services, conference rooms, convention services, laundry services, and other services. “Hotel” and “Motel” also include offering all or a portion of a residential building or structure for short-term dwelling, sleeping, or lodging, for example, by offering a bedroom, home, or other living space on a third-party platform for short-term residential use. As used in this definition, “short-term” means for 30 consecutive days or less.
- (e) “Manufacturing” means manufacturing or processing any goods, wares, merchandise, articles, or commodities at a location within or outside of the City and selling such items at retail and/or wholesale inside or outside the City.
- (f) “Miscellaneous” means any business activity not otherwise defined in this section.
- (g) “Nonresidential Rental” means renting or letting all or a portion of a building, structure, billboard, or other property for commercial, industrial, or advertising purposes, or a portion of such building, structure, billboard, or property within the City for a purpose other than dwelling, sleeping, or lodging to a tenant. “Nonresidential Rental” includes offering, renting, or letting co-working spaces in any building or space, either as individual offices or shared working space, to businesses, independent contractors, or persons regardless of whether the person offering the co-working space owns the building or space or offers other related services, space, or products. “Nonresidential Rental” includes renting parking spaces in a parking lot or parking structure or any other rental of parking spaces.

- (h) “Professional/Semi-Professional Services” means any Business providing services or information products where the primary activity involves the application of advanced specialized knowledge, skill, or judgment that typically requires formal post-secondary education, professional training, or a license or credential whose issuance is conditioned on demonstrated competency in a field of intellectual, scientific, technical, financial, or healthcare practice. “Professional/Semi-Professional Services” includes, but is not limited to:
- (1) Legal services, including attorneys, law firms, title companies, and abstractors;
 - (2) Accounting, tax preparation, bookkeeping, payroll, and auditing services;
 - (3) Architectural, engineering, land surveying, and related technical services;
 - (4) Specialized design services, including graphic design, industrial design, interior design, and fashion design;
 - (5) Computer systems design, software development, information technology consulting, and related services, including software-as-a-service, platform-as-a-service, and infrastructure-as-a-service; where a Business both operates Data Center infrastructure and provides software, consulting, or other professional services, it shall be classified as a Data Center if the primary activity at its location within the City is the physical housing and operation of computing infrastructure; otherwise, it shall be classified by the nature of the services it primarily provides;
 - (6) Management consulting, business process consulting, and other scientific and technical consulting services;
 - (7) Scientific research and development services;
 - (8) Advertising, public relations, market research, media buying, and related communications services;
 - (9) Veterinary services;
 - (10) Photography when conducted as a specialized commercial or artistic profession, translation and interpretation services, and other professional, scientific, or technical services not elsewhere classified;

- (11) Finance and insurance services, including banking and credit intermediation; securities, commodities, and investment services; insurance carriers, agencies, and brokers; financial planning and investment advisory services; and fund, trust, and portfolio management;
- (12) Real estate services, including real estate agents and brokers, real estate managers and operators acting as agents, property appraisers, and title abstract and settlement services;
- (13) Information services, including newspaper, magazine, book, music, and software publishing; motion picture and sound recording production; and other information services;
- (14) Healthcare and social assistance services, including offices of physicians, dentists, optometrists, chiropractors, and other licensed health practitioners; outpatient care centers; medical and diagnostic laboratories; home health care services; hospitals; nursing and residential care facilities; individual and family social services; and other health and social assistance activities;
- (15) Management of companies and enterprises, including holding companies, corporate headquarters, and central administrative offices whose primary activity is directing and coordinating the activities of subsidiaries or affiliates.

An activity shall be classified as Professional/Semi-Professional Services if it primarily involves any of the activities described above, regardless of how the Business describes itself or its services. Where an activity falls within this definition or the definition of Business and Personal Services, the activity shall be classified as Professional/Semi-Professional Services.

- (i) “Residential Rental” means conducting or operating an apartment house or lodging house and every Person engaged in the business of conducting or letting rooms, and/or any building structure, for dwelling, sleeping, or lodging, including, but not limited to, a single-family house, duplex, triplex, townhouse, condominium, or co-operative. “Residential Rental” does not include rentals with an occupancy of 30 consecutive days or less.

- (j) “Retail Sales” means the sale of goods, wares, or merchandise for any purpose other than resale in the regular course of business, including restaurants, the selling of new or used motor vehicles at retail, and the sale of groceries at retail. Arts, entertainment, and other performances or recreation activities for which admission is charged to the public shall also be Retail Sales.

- (k) “Transportation” refers to the use of transportation equipment such as airplanes, trains, boats, cars, trucks, vehicles, pipelines, or other conveyances as productive assets to move people and goods and includes air transportation, rail transportation, water transportation, truck transportation, transit and ground passenger transportation, pipeline transportation, and scenic and sightseeing transportation.

- (l) “Utility” means conducting or operating a public or private utility. This definition includes, but is not limited to, businesses providing to the general public or to private businesses utility services such as gas, electric, sanitary, or garbage services; video services, no matter how provided, including cable television, streaming services, satellite television, and other similar services; and telephone, audio or video telecommunications, or unified communication services. “Utility” also includes generating or selling electricity for either wholesale or retail, but does not include generating electricity from a clean energy source such as solar or wind when the generated electricity is primarily used on the premises where it is generated.

- (m) “Warehousing” means any business operation where the principal business activity involves the storage and warehousing of goods, merchandise, packages, mail, or household furniture or goods in the City, including the temporary storage or processing of mail or packages for purposes of sorting or preparing for redelivery. A Business engaged in warehousing activities whose principal business activity within the City is Retail Sales shall be classified as Retail Sales.

- (n) “Wholesale Sales” means the sale of goods, wares, or merchandise for the purpose of resale in the regular course of business.

Section 4. Business Activity Classifications—Addition. Section 8-1.17 is hereby added to Article 1, Chapter 8 of the Hayward Municipal Code to read as follows, with added terms underlined:

SEC. 8-1.17 - BUSINESS ACTIVITY CLASSIFICATIONS.

<u>Class A</u>	<u>Retail Sales and Utility</u>
<u>Class B</u>	<u>Wholesale Sales, Transportation, and Warehousing</u>
<u>Class C</u>	<u>Manufacturing</u>
<u>Class D</u>	<u>Business and Personal Services</u>
<u>Class E</u>	<u>Professional/Semi-Professional Services</u>
<u>Class F</u>	<u>Construction Contractor</u>
<u>Class G</u>	<u>Hotel and Motel</u>
<u>Class H</u>	<u>Data Center</u>
<u>Class I</u>	<u>Miscellaneous</u>
<u>Class J</u>	<u>Residential Rental and Nonresidential Rental</u>

Section 5. License Tax; Tax Rates—Addition. Section 8-1.18 is hereby added to Article 1, Chapter 8 of the Hayward Municipal Code to read as follows, with added terms underlined:

SEC. 8-1.18 - LICENSE TAX. TAX RATES.

- (a) Except as otherwise provided in this Article, the City imposes, and every Person Engaging in Business within the City shall pay, an annual license tax.
- (b) Persons engaged in business activities within the City shall pay the license tax at the rates provided in Section 8-1.19. All rates stated as an amount per one thousand dollars (\$1,000.00) shall be paid for each full one thousand dollars (\$1,000.00) of taxable Gross Receipts and every fractional part thereof.
- (c) Notwithstanding subsection (b), every Person Engaging in Business within the City shall pay an annual minimum license tax of sixty dollars (\$60.00).

Section 6. Tax Rates by Classification—Addition. Section 8-1.19 is hereby added to Article 1, Chapter 8 of the Hayward Municipal Code to read as follows, with added terms underlined:

SEC. 8-1.19 - TAX RATES FOR CLASS A THROUGH CLASS J.

(a) Class A (Retail Sales and Utility). Persons engaged in Class A business activities shall pay a license tax as follows:

<u>If annual Gross Receipts are:</u>	<u>Then the license tax is:</u>
Not over \$5,000,000	\$0.30 per \$1,000
Over \$5,000,000 but not over \$10,000,000	\$1,500, plus \$0.40 per \$1,000 over \$5,000,000
Over \$10,000,000 but not over \$25,000,000	\$3,500, plus \$0.50 per \$1,000 over \$10,000,000
Over \$25,000,000 but not over \$50,000,000	\$11,000, plus \$0.75 per \$1,000 over \$25,000,000
Over \$50,000,000	\$29,750, plus \$1.00 per \$1,000 over \$50,000,000

(b) Class B (Wholesale Sales, Transportation, and Warehousing). Persons engaged in Class B business activities shall pay a license tax as follows:

<u>If annual Gross Receipts are:</u>	<u>Then the license tax is:</u>
Not over \$5,000,000	\$0.50 per \$1,000
Over \$5,000,000 but not over \$10,000,000	\$2,500, plus \$0.60 per \$1,000 over \$5,000,000
Over \$10,000,000 but not over \$25,000,000	\$5,500, plus \$0.70 per \$1,000 over \$10,000,000
Over \$25,000,000 but not over \$50,000,000	\$16,000, plus \$0.80 per \$1,000 over \$25,000,000
Over \$50,000,000	\$36,000, plus \$1.00 per \$1,000 over \$50,000,000

(c) Class C (Manufacturing). Persons engaged in Class C business activities shall pay a license tax as follows:

<u>If annual Gross Receipts are:</u>	<u>Then the license tax is:</u>
Not over \$5,000,000	\$0.60 per \$1,000
Over \$5,000,000 but not over \$10,000,000	\$3,000, plus \$0.80 per \$1,000 over \$5,000,000
Over \$10,000,000 but not over \$25,000,000	\$7,000, plus \$0.90 per \$1,000 over \$10,000,000
Over \$25,000,000 but not over \$50,000,000	\$20,500, plus \$1.00 per \$1,000 over \$25,000,000
Over \$50,000,000	\$45,500, plus \$1.10 per \$1,000 over \$50,000,000

(d) Class D (Business and Personal Services). Persons engaged in Class D business activities shall pay a license tax as follows:

<u>If annual Gross Receipts are:</u>	<u>Then the license tax is:</u>
Not over \$5,000,000	\$0.50 per \$1,000
Over \$5,000,000 but not over \$10,000,000	\$2,500, plus \$1.00 per \$1,000 over \$5,000,000
Over \$10,000,000 but not over \$25,000,000	\$7,500, plus \$1.25 per \$1,000 over \$10,000,000
Over \$25,000,000 but not over \$50,000,000	\$26,250, plus \$1.50 per \$1,000 over \$25,000,000
Over \$50,000,000	\$63,750, plus \$1.75 per \$1,000 over \$50,000,000

(e) Class E (Professional/Semi-Professional Services). Persons engaged in Class E business activities shall pay a license tax as follows:

<u>If annual Gross Receipts are:</u>	<u>Then the license tax is:</u>
Not over \$5,000,000	\$1.50 per \$1,000
Over \$5,000,000 but not over \$10,000,000	\$7,500, plus \$1.50 per \$1,000 over \$5,000,000
Over \$10,000,000 but not over \$25,000,000	\$15,000, plus \$1.50 per \$1,000 over \$10,000,000
Over \$25,000,000 but not over \$50,000,000	\$37,500, plus \$1.50 per \$1,000 over \$25,000,000
Over \$50,000,000	\$75,000, plus \$1.75 per \$1,000 over \$50,000,000

(f) Class F (Construction Contractor). Persons engaged in Class F business activities shall pay a license tax as follows:

<u>If annual Gross Receipts are:</u>	<u>Then the license tax is:</u>
Not over \$5,000,000	\$0.50 per \$1,000
Over \$5,000,000 but not over \$10,000,000	\$2,500, plus \$0.90 per \$1,000 over \$5,000,000
Over \$10,000,000 but not over \$25,000,000	\$7,000, plus \$1.15 per \$1,000 over \$10,000,000
Over \$25,000,000 but not over \$50,000,000	\$24,250, plus \$1.25 per \$1,000 over \$25,000,000
Over \$50,000,000	\$55,500, plus \$1.50 per \$1,000 over \$50,000,000

(g) Class G (Hotel and Motel). Persons engaged in Class G business activities shall pay a license tax as follows:

<u>If annual Gross Receipts are:</u>	<u>Then the license tax is:</u>
Not over \$5,000,000	\$0.30 per \$1,000
Over \$5,000,000 but not over \$10,000,000	\$1,500, plus \$0.40 per \$1,000 over \$5,000,000
Over \$10,000,000 but not over \$25,000,000	\$3,500, plus \$0.50 per \$1,000 over \$10,000,000
Over \$25,000,000 but not over \$50,000,000	\$11,000, plus \$0.60 per \$1,000 over \$25,000,000
Over \$50,000,000	\$26,000, plus \$1.00 per \$1,000 over \$50,000,000

(h) Class H (Data Center). Persons engaged in Class H business activities shall pay a license tax as follows:

<u>If annual Gross Receipts are:</u>	<u>Then the license tax is:</u>
Not over \$5,000,000	\$3.00 per \$1,000
Over \$5,000,000 but not over \$10,000,000	\$15,000, plus \$3.00 per \$1,000 over \$5,000,000
Over \$10,000,000 but not over \$25,000,000	\$30,000, plus \$3.00 per \$1,000 over \$10,000,000
Over \$25,000,000 but not over \$50,000,000	\$75,000, plus \$3.00 per \$1,000 over \$25,000,000
Over \$50,000,000	\$150,000, plus \$3.00 per \$1,000 over \$50,000,000

(i) **Class I (Miscellaneous).** Persons engaged in Class I business activities shall pay a license tax as follows:

<u>If annual Gross Receipts are:</u>	<u>Then the license tax is:</u>
Not over \$5,000,000	\$1.50 per \$1,000
Over \$5,000,000 but not over \$10,000,000	\$7,500, plus \$2.00 per \$1,000 over \$5,000,000
Over \$10,000,000 but not over \$25,000,000	\$17,500, plus \$2.50 per \$1,000 over \$10,000,000
Over \$25,000,000 but not over \$50,000,000	\$55,000, plus \$2.50 per \$1,000 over \$25,000,000
Over \$50,000,000	\$117,500, plus \$2.50 per \$1,000 over \$50,000,000

(j) **Class J (Residential Rental and Nonresidential Rental).** Persons engaged in Class J business activities shall pay a license tax of three dollars and seventy-five cents (\$3.75) for each one thousand dollars (\$1,000.00) of annual Gross Receipts.

Section 7. Licenses; Duration and Payment—Amendment. Section 8-1.24 of Article 1, Chapter 8 of the Hayward Municipal Code is hereby amended to read as follows, with deleted terms shown in strikethrough and added terms underlined:

SEC. 8-1.24 - LICENSES. DURATION AND MANNER OF PAYMENT.

No license shall be issued for a period of more than twelve (12) months. ~~Commencing January 1, 1975 the~~ The annual license period shall be on a calendar year basis. ~~No license shall be issued for any period extending beyond the 31st day of December of the calendar year in which such license is issued.~~

~~Notwithstanding the provisions of Section 8-1.25 hereof, for the license period of July 1, 1974 through December 31, 1974 all licenses classified as annual shall be issued on a semi-annual basis at a fee of one-half of the annual tax specified herein.~~

All licenses due hereunder shall be payable in advance as follows:

- (a) ~~Daily License. Due on its effective date and delinquent at 5:00 o'clock P.M. on due date.~~
- (b) ~~Monthly License. Due on the first day of each month for which license is sought and delinquent at 5:00 o'clock P.M. on the tenth day of the month.~~

~~(c) *Quarterly License.* Due on the first day of January, April, July and October. Delinquent at 5:00 o'clock P.M. of the twentieth day of the first month in which the quarterly license is due.~~

~~(d) *Annual License.* Due on the first day of January and delinquent at 5:00 o'clock P.M. on February 28.~~

~~To all delinquent licenses there shall be added a penalty of ten percent (10%) of the amount of the tax due and an additional ten percent (10%) each month the tax remains unpaid after the delinquency date, provided, however, that the amount of such penalty to be added shall in no event exceed fifty percent (50%) of the amount of the license tax due.~~

~~No greater or less amount of money shall be charged or received for any license than is provided in this Article and no license shall be sold or issued for any period of time other than is provided in this Article.~~

- (a) A Newly Established Business shall register and pay the license tax imposed by this Article within three (3) months after commencing operations within the City. The license tax shall become delinquent if not paid within that three-month period.
- (b) After the first year of operation and for each calendar year thereafter, the annual license tax shall be due on January 1 and shall become delinquent at 5:00 p.m. on February 28 if not paid.
- (c) When a license tax becomes delinquent, a penalty of ten percent (10%) of the amount of the delinquent license tax shall be added to the amount due. If the license tax remains unpaid sixty (60) days after becoming delinquent, an additional penalty of ten percent (10%) of the amount of the delinquent license tax, excluding the initial penalty, shall be added to the amount due.
- (d) On the first day of each month that a license tax is delinquent, interest at the rate of one and one-half percent (1.5%) of the delinquent amount, excluding penalties and interest, shall be added to the amount due.

Section 8. Definitions—Amendment. Section 8-1.26 of Article 1, Chapter 8 of the Hayward Municipal Code is hereby amended to read as follows, with deleted terms shown in strikeout and added terms underlined:

SEC. 8-1.26 - LICENSE TAX. MANNER OF COMPUTATION.

~~The license tax for a person required to pay a license hereunder who is commencing operation shall be computed in the following manner:~~

~~When the tax to be paid is based upon gross receipts, the minimum annual license tax for the classification shall be paid prior to issuance of such license. The licensee shall at the expiration of the annual licensing period for which the business license tax was paid provide the Tax and License Administrator with a statement upon a form provided showing thereon the actual gross receipts applicable to such person's business during the period for which the first license was issued. The business license tax based upon such actual data shall be then finally ascertained and, if the tax due is greater than the amount actually paid, the licensee shall pay the difference between the two (2) amounts.~~

~~The average monthly receipts as determined from the statement described above, when multiplied by twelve (12), shall be the basis of the license tax for the following license period. For the purposes of this section, a fractional part of a month shall be considered a full month.~~

~~When the license tax to be paid is based on the number of persons employed, vehicles used, admissions charged, seating capacity, number of units or like measure, the applicant shall file with the Tax and License Administrator an estimate of the average number of vehicles, or other unit used in the business monthly and shall pay a license tax based thereon for the portion of the calendar year remaining prior to issuance of such license, but not less than the quarterly, or annual license tax that would be applicable in each case. The licensee shall at the expiration of the licensing period for which such license tax was paid provide the Tax and License Administrator with a statement upon a form provided showing thereon the actual monthly average number of persons used in the business or the actual average number of vehicles or other unit used in the business during the period for which such first license was issued. If the business license tax based upon such data is greater than the amounts actually paid, the difference between the amounts shall be paid.~~

~~The Tax and License Administrator shall use these data as the basis for the license tax of the following license period.~~

- (a) Except as otherwise provided in this Article, the license tax imposed by this Article shall be measured by the Business's Gross Receipts apportioned to the City during the preceding calendar year.
- (b) A Newly Established Business shall pay the license tax based upon its estimated Gross Receipts apportioned to the City for the remainder of the calendar year in which the Business commences operations. If a Business did not operate within the City for the entirety of the preceding calendar year, the license tax shall be based upon its estimated Gross Receipts apportioned to the City for the current calendar year.

- (c) A Business paying tax based upon estimated Gross Receipts shall, when renewing its license, provide the Tax and License Administrator with a statement of the Business's actual Gross Receipts apportioned to the City for the applicable calendar year, together with supporting records as required by the Tax and License Administrator. If the Business's actual Gross Receipts apportioned to the City exceed the estimated Gross Receipts upon which the license tax was calculated and paid, an additional amount of tax based upon the additional Gross Receipts shall be due with the business license renewal. If the Business's actual Gross Receipts apportioned to the City are less than the estimated Gross Receipts upon which the license tax was calculated and paid, the excess amount of tax paid shall at the discretion of the Tax and License Administrator either be refunded or credited towards future license taxes owed by the Business under this Article.

Section 9. Exemptions; Apportionment—Amendment. Section 8-1.30 of Article 1, Chapter 8 of the Hayward Municipal Code is hereby amended to read as follows, with deleted terms shown in strikeout and added terms underlined:

SEC. 8-1.30 - LICENSES-EXEMPTIONS, APPORTIONMENT.

~~No license payable hereunder shall be payable by:~~

- (a) ~~Any charitable institution, organization or association, organized for charitable purposes and conducting or staging for charitable purposes only, any concert, exhibition, lecture or entertainment within the City of Hayward where no admission is charged or where the receipts from admissions charged are used exclusively for charitable or benevolent purposes and no part thereof is used for the purpose of private gain of any individual.~~
- (b) ~~Any organization conducting or staging any concert, exhibition, lecture or entertainment, where the proceeds from admissions charged are used for the furtherance of education, are or music within the City of Hayward and where no part of the profits derived therefrom is used for the purpose of private gain of any individual.~~
- (c) ~~Any news publishing business on its revenues from sale of advertising space or from subscriptions. This exemption does not apply to revenues from job printing businesses which are licensed in Section 8-1.88 hereof.~~

~~No license payable under CANVASSING AND SOLICITING or PEDDLERS shall be payable by:~~

- (a) ~~Any person who has received an honorable discharge or release from active duty in one (1) of the United States armed services.~~

~~(b) Any blind person or indigent person who by reason of the infirmities of age, loss of limb, or other disabling cause is unable to obtain livelihood by other means than street vending or entertaining or house-to-house selling. Exemption granted hereunder shall not exceed two (2) days in any one (1) month.~~

~~(c) Any person while acting as representative of a church or other recognized religious organization.~~

~~No exemption provided herein shall be granted unless approval first be obtained from the Police Chief.~~

(a) Any Business fully or partially exempt by the laws of the United States or the laws of the State of California from the tax imposed by this Article is not required to pay the tax imposed by Section 8-1.18 to the extent of such exemption, but is required to demonstrate that the Business is exempt and obtain a license.

(b) No tax imposed by this Article shall be applied to a licensee so as to constitute an undue burden on interstate commerce or intercity commerce in violation of the Commerce Clause of the United States Constitution or the Equal Protection and Due Process clauses of the California Constitution. To this end, the Tax and License Administrator may adopt rules, regulations, and procedures for apportioning the tax imposed by this Article.

(c) The City Council may adopt full or partial exemptions from the tax imposed by this Article.

Section 10. Multiple Business Activities; Method of Determining Tax—Addition. Section 8-1.34 is hereby added to Article 1, Chapter 8 of the Hayward Municipal Code to read as follows, with added terms underlined:

SEC. 8-1.34 – MULTIPLE BUSINESS ACTIVITIES. METHOD OF DETERMINING TAX.

When a Person engages in two (2) or more business activities that are taxed on the basis of Gross Receipts under different provisions of this Article or engages in related business activities at two or more locations within the City, the tax imposed by Section 8-1.18 shall be determined in accordance with this section, including Businesses under Common Ownership or Control treated as a single Person pursuant to subsection (b).

(a) Gross Receipts from the same business activity classification conducted at multiple locations within the City shall be aggregated for purposes of calculating the tax imposed by Section 8-1.18.

- (b) For purposes of this section, Businesses under Common Ownership or Control shall be treated as a single Person. “Common Ownership or Control” means two (2) or more Businesses in which at least fifty percent (50%) of the ownership interests are directly or indirectly owned or controlled by the same Person or Persons, including through corporations, limited liability companies, partnerships, parent entities, subsidiaries, or other business entities.
- (c) Where Businesses with Common Ownership or Control operating in different classifications constitute a single integrated business enterprise — based on shared management, shared facilities, shared employees, shared customers, or functional interdependence of operations — the Gross Receipts of such Businesses shall be treated as Gross Receipts of a single Person for purposes of determining the amount of license taxes owed.
- For any Person engaged in business activities described in more than one classification but that constitute a single integrated business enterprise, the progressive tax rate applicable to each classification shall be determined on an aggregate basis as follows:
- (1) The tax for the largest classification measured in terms of Gross Receipts shall be calculated by applying the rate schedule for that classification to the Gross Receipts of that classification.
 - (2) The tax for each subsequent classification in descending order of the amount of Gross Receipts shall be determined by adding together the Gross Receipts from all prior classifications, and applying the rate schedule for the current classification commencing at the bracket level corresponding to the next dollar above that cumulative total.
- (d) Anti-fragmentation. A Person may not divide a single integrated business operation among multiple legal entities or tax rate classifications for the primary purpose of obtaining separate rate bracket calculations for what constitutes a single enterprise. The Tax and License Administrator may determine that two or more entities constitute a single business operation and require combined reporting across classifications or rate brackets. The burden shall be on the taxpayer to demonstrate by a preponderance of the evidence that the separate entity structure serves a legitimate, non-tax business purpose.
- (e) The rules described in this section ensure that a single business operation may not reduce its effective tax rate by dividing revenues among multiple classifications, each of which would otherwise restart the rate schedule at the lowest bracket.

Section 11. Raw Materials Deduction—Addition. Section 8-1.35 is hereby added to Article 1, Chapter 8 of the Hayward Municipal Code to read as follows, with added terms underlined:

SEC. 8-1.35 - RAW MATERIALS.

Notwithstanding the definition of “Gross Receipts” in Section 8-1.10(d), any Person engaged in Manufacturing may deduct the value of raw materials actually used in Manufacturing from the calculation of annual Gross Receipts. Only the value of raw materials actually used during the same time period as the time period used to calculate the Person’s annual Gross Receipts may be deducted.

Section 12. Cannabis Businesses—Addition. Section 8-1.36 is hereby added to Article 1, Chapter 8 of the Hayward Municipal Code to read as follows, with added terms underlined:

SEC. 8-1.36 - APPLICABILITY. CANNABIS BUSINESSES.

Any cannabis business subject to taxation under Article 21 of Chapter 8 of the Hayward Municipal Code (Commercial Cannabis Tax) shall also be subject to the license tax imposed by this Article.

Section 13. Alternative Measure of Gross Receipts—Addition. Section 8-1.37 is hereby added to Article 1, Chapter 8 of the Hayward Municipal Code to read as follows, with added terms underlined:

SEC. 8-1.37 - ALTERNATIVE MEASURE OF GROSS RECEIPTS.

- (a) Whenever a Person Engaging in Business within the City has no Gross Receipts or has Gross Receipts apportioned to the City that are less than one hundred percent (100%) of the Cost of Maintaining Operations within the City, Gross Receipts shall be deemed to be equal to one hundred percent (100%) of the Cost of Maintaining Operations within the City, as provided in this section.
- (b) As used in this section, the “Cost of Maintaining Operations” includes, but is not limited to, payroll, utilities, rent, insurance, depreciation, and other ordinary and necessary business expenses incurred in the operation of the Business within the City.
- (c) When calculating payroll costs for this method of measuring tax, employees working from remote offices, including working from home, shall be assigned to an official work location of the Business. In determining where an employee should be assigned, the City shall consider whether the Business has a business license for a designated work location, whether a designated work location is covered by workers’ compensation or other workplace insurance, and whether an employee is reimbursed for travel when traveling to a work location.

Section 14. Repeal of Sections 8-1.40 through 8-1.96. Sections 8-1.40 through 8-1.96 of Article 1, Chapter 8 of the Hayward Municipal Code are hereby repealed and reserved to read as follows:

SECS. 8-1.40—8-1.96 - Reserved.

Section 15. Council Amendments. The City Council may amend the terms of this Article in any manner that does not increase the license tax or otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution.

Section 16. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable, or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

Section 17. Liberal Construction. This measure shall be liberally construed to effectuate its purposes.

Section 18. Effective Date. This Ordinance relates to the levying and collecting of the City business license tax and will be in full force and effect ten (10) days after the certification by the City Council of the election returns indicating passage of the ordinance in the election of November 3, 2026, by the margin of votes required by California Constitution Article XIII C, Section 2(b) for general tax measures.

Section 19. Application of Tax. The license tax rates adopted pursuant to this Ordinance shall apply beginning January 1, 2027. The license tax due for calendar year 2027 shall be calculated based on Gross Receipts for calendar year 2026 in accordance with Article 1, Chapter 8 of the Hayward Municipal Code, as amended by this Ordinance.