

Costa Mesa, California, Code of Ordinances >> TITLE 9. - LICENSES AND BUSINESS REGULATIONS
>> CHAPTER I. BUSINESS TAX >>

CHAPTER I. BUSINESS TAX ^[2]

ARTICLE 1. - GENERALLY

ARTICLE 2. - DEFINITIONS

ARTICLE 3. - EXEMPTIONS

ARTICLE 4. - SCHEDULES

ARTICLE 5. - ADMINISTRATION, APPLICATION AND PROCEDURES

ARTICLE 6. - ENFORCEMENT

FOOTNOTE(S):

-- (2) --

Editor's note— Ord. No. 85-8, §§ 2. 3. adopted Apr. 1, 1985, amended the Code by repealing former Chapters I, II, and III, being §§ 9-1—9-102, which contained provisions relative to licenses and business regulations in general, gross receipts tax and flat fee tax rates and enacted in lieu thereof a new Ch. I, §§ 9-1—9-64, to read as herein set out. Secs. 4—8 of such ordinance provided that Chapters IV—VI be renumbered as Chapters II—IV. Prior to repeal, former Chapters I—III were derived from the 1960 Code, §§ 6100—6142, 6144, 6145, 6200—6203, 6205—6209, 6211—6221, 6224—6227 and the following legislation: [\(Back\)](#)

Ord. No.	Date	Sec.
365	6-5-61	
62-32	8-20-62	
67-1	2-6-67	
67-2	3-20-67	
68-12	5-6-68	
68-19	5-20-68	
74-69	1-7-75	1
76-16	4-19-76	2
84-40	10-15-84	2

Costa Mesa, California, Code of Ordinances >> TITLE 9. - LICENSES AND BUSINESS REGULATIONS
>> CHAPTER I. - BUSINESS TAX >> ARTICLE 1. GENERALLY >>

ARTICLE 1. GENERALLY

Sec. 9-1. License required generally.

Sec. 9-1. License required generally.

For the purpose of raising revenue for the city, every person conducting, carrying on, or engaging in any business shall pay a business tax to the city as hereinafter set forth, and any person who conducts, carries on, or engages in any business for which payment of a business tax is required under the provisions of this title, without having paid the required tax, is guilty of a

misdemeanor or infraction. Each day of operation in violation of this section shall constitute a new and separate offense.

(Ord. No. 85-8, § 3, 4-1-85)

**Costa Mesa, California, Code of Ordinances >> TITLE 9. - LICENSES AND BUSINESS REGULATIONS
>> CHAPTER I. - BUSINESS TAX >> ARTICLE 2. DEFINITIONS >>**

ARTICLE 2. DEFINITIONS

Sec. 9-2. Administrative headquarters; administrative offices.

Sec. 9-3. Business.

Sec. 9-4. Business tax.

Sec. 9-5. City.

Sec. 9-6. Contractor.

Sec. 9-7. Council.

Sec. 9-8. Reserved.

Sec. 9-9. Gross receipts.

Sec. 9-10. Person.

Sec. 9-11. Rental units.

Sec. 9-12. Sale, sell.

Sec. 9-13. Show, exhibition.

Sec. 9-14. Swap meet.

Sec. 9-15. Tax collector.

Sec. 9-2. Administrative headquarters; administrative offices.

"Administrative headquarters" shall mean a location where the principal business transacted consists of providing administrative or management-related services, such as, but not limited to, record keeping, data processing, research, advertising, public relations, personnel administration, legal and corporate headquarter services, to other locations of the same business.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-3. Business.

"Business" shall mean any business, commercial enterprise, trade, calling, vocation, profession, or any means of income or livelihood whether or not carried on for gain or profit, and includes the offering of real property containing three (3) or more rental units for rent or lease by the owner of such property.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-4. Business tax.

"Business tax" shall mean the tax imposed upon persons, businesses, trades, professions and occupations for the privilege of engaging in such businesses, trades, professions, or occupations within the City of Costa Mesa.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-5. City.

"City" shall mean the area within the territorial city limits of the City of Costa Mesa.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-6. Contractor.

Any person or company, wherever located, which is or is required to be licensed as a contractor by the State of California; and who undertakes to, offers to, or purports to have the capacity to undertake to or submits a bid to, or does himself 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 within the city, is defined as a "contractor" and comes under this classification. The term contractor includes general engineering contractor, general building contractor, subcontractor and specialty contractor.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-7. Council.

"Council" shall mean the City Council of the City of Costa Mesa.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-8. Reserved.

Sec. 9-9. Gross receipts.

The term "gross receipts" as used in this title shall mean the gross receipts of the fiscal year for which the tax is due and is defined as follows: The total amount actually received or receivable from all sales; the total amount of compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as part of or in connection with the sale of materials, goods, wares or merchandise; and gains realized from trading in stocks or bonds, interest discounts, rents, royalties, fees, commissions, dividends or other emoluments, however designated. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, without any deduction therefrom 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, except that the following shall be excluded therefrom:

- (a) Cash discounts allowed and taken on sales.
- (b) Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price shall be included as "gross receipts".
- (c) Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser.
- (d) Such part of the sales price of property returned by purchasers upon rescission of a contract of sale as is refunded either in cash or by credit.

- (e) Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded.
- (f) Amounts collected for others where the business is acting as an agent or trustee to the extent that such amounts are paid to those for whom collected. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustee.
- (g) Cash value of sales, trades or transactions between departments or units of the same business.

As to any person engaged in the business of operating an administrative headquarters or of retailing, wholesaling, manufacturing or processing any goods, wares, merchandise, article or commodity at a fixed place of business within the city which does not generate gross receipts as defined herein within the city, gross receipts shall be deemed to include the total of all expenses incurred in the retailing, wholesaling, manufacturing or processing of such goods at the business location within the city for payroll, utilities, depreciation, and/or rent.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-10. Person.

"Person" as used in this title shall include persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts, or corporations, or any officers, agents, employees, factors, or any kind of personal representative of any thereof, in any capacity, acting either for himself, or for any other person, under either personal appointment or pursuant to law.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-11. Rental units.

- (a) "Residential rental units" shall mean three (3) or more residential rooms, suites, apartment units, bungalow units, trailer spaces or houses capable of being rented or leased separately. With respect to condominiums, as defined in Title 13 of the Costa Mesa Municipal Code, rental units shall include three (3) or more units.
- (b) "Nonresidential rental units" shall mean three (3) or more nonresidential rooms, offices, suites or units capable of being rented or leased separately. With respect to condominiums, as defined in Title 13 of the Costa Mesa Municipal Code, rental units shall include three (3) or more units.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-12. Sale, sell.

"Sale", "sell" shall be deemed to include and refer to: The making of any transfer of title, in any manner or by any means whatsoever, to tangible personal property for a price, and to the serving, supplying or furnishing, for a price, of any tangible personal property or other property fabricated or made at the special order of customers who do or who do not furnish directly or indirectly the specifications therefor. A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price shall likewise be deemed a sale. The foregoing definitions shall not be deemed to exclude any transaction which is or which, in effect, results in a sale within the contemplation of law. "Sale" shall include both wholesale and retail and sales by vending machines and other coin-operated devices.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-13. Show, exhibition.

"Show" and "exhibition", as used in this chapter shall mean an activity or event with a duration of less than sixty (60) consecutive or nonconsecutive days, open to the public, wherein one (1) or more persons show, exhibit, sell, trade, or offer to sell or trade any identifiable, tangible personal property or any other goods, items, or services. "Show" and "exhibition" shall not include "garage sale", "sidewalk sale", and "parking lot sale" as defined or provided for in Title 13 of this Code; nor shall "show" and "exhibition" include "swap meet" as defined elsewhere in this Title.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-14. Swap meet.

"Swap meet" shall have the meaning prescribed in Chapter II of this Title.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-15. Tax collector.

"Tax collector" shall mean the development services director or the person or persons designated by him to administer the provisions of this title.

(Ord. No. 85-8, § 3, 4-1-85)

Costa Mesa, California, Code of Ordinances >> TITLE 9. - LICENSES AND BUSINESS REGULATIONS
>> CHAPTER I. - BUSINESS TAX >> ARTICLE 3. EXEMPTIONS >>

ARTICLE 3. EXEMPTIONS

Sec. 9-16. Exemption—Nonprofit organizations.

Sec. 9-17. Same—Artists and art exhibits.

Sec. 9-18. Same—Farmers.

Sec. 9-19. Same—Public utilities.

Sec. 9-20. Same—Professional services.

Sec. 9-21. Exemption—Disabled veterans.

Sec. 9-22. Constitutional exemption.

Sec. 9-23. Exempt business license.

Sec. 9-16. Exemption—Nonprofit organizations.

- (a) The provisions of this title shall not be deemed or construed to require the payment of a tax to conduct, manage, or carry on any business, occupation, event, or activity, which is conducted, managed or carried on by or for the benefit of any religious, charitable, philanthropic or educational purpose, and which is organized on a nonprofit basis. The tax collector may require such information or evidence as is necessary to establish such status.
- (b) Nothing contained in this title shall be deemed to exempt any person from complying with the provisions of any ordinance of this city requiring such person to obtain a permit from the council or proper officers to conduct, manage or carry on any such business, occupation, event or activity.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-17. Same—Artists and art exhibits.

The provisions of this title shall not be deemed or construed to require the payment of a business tax by an individual artist for the exhibition or display of paintings, sculpture, photographs or other fine arts in public buildings, art galleries, or in any business establishment if the exhibition or display is incidental to the primary business conducted on the premises, and is primarily for cultural and educational purposes.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-18. Same—Farmers.

The provisions of this title shall not be deemed or construed to require the payment of a business tax by any person selling, exclusively, any fruits, vegetables, dairy products or livestock or any other products raised upon his land; provided, however, that such person shall furnish conclusive proof to the tax collector that such products were raised by him upon his land.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-19. Same—Public utilities.

The provisions of this title shall not be deemed or construed to require the payment of a business tax by any public utility operating under a franchise granted by the City of Costa Mesa and paying a franchise tax thereunder, except a business tax shall be required for any retail sales or service conducted by such utility in the City of Costa Mesa.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-20. Same—Professional services.

The provisions of this title shall not be deemed or construed to require the payment of a business tax by any doctor, lawyer, architect or other professional person not having a fixed place of business within this city, who is called upon to come and render service.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-21. Exemption—Disabled veterans.

The provisions of this title shall not be deemed or construed to require payment of a business tax by any disabled veteran holding an honorable discharge from any branch of the military service of the United States, if such person furnishes to the tax collector a certificate of physical disability executed by a qualified physician of the United States Armed Services.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-22. Constitutional exemption.

The provisions of this title shall not be deemed or construed to require the payment of a business tax for engaging in a business or the doing of an act when such payment would constitute an unlawful burden upon or an unlawful interference with interstate or foreign commerce, or which

payment would be in violation of the Constitution of the United States or the Constitution of the State of California.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-23. Exempt business license.

The tax collector may, if he deems it necessary or convenient for administrative purposes, issue a business license to persons or businesses not required to pay a business tax under the provisions of this title.

(Ord. No. 85-8, § 3, 4-1-85)

Costa Mesa, California, Code of Ordinances >> TITLE 9. - LICENSES AND BUSINESS REGULATIONS >> CHAPTER I. - BUSINESS TAX >> ARTICLE 4. SCHEDULES >>

ARTICLE 4. SCHEDULES

Sec. 9-24. Business tax registration certificate payment required.

Sec. 9-25. Gross receipts.

Sec. 9-26. Contractors.

Sec. 9-27. Vehicle for hire and bus.

Sec. 9-28. Shows, exhibitions, swap meets.

Sec. 9-24. Business tax registration certificate payment required.

There are hereby imposed upon persons engaged in or conducting business in the City of Costa Mesa, business taxes in the amounts hereinafter prescribed. It shall be unlawful for any person to transact and carry on any business in the City of Costa Mesa without having a current business license issued by the city and paying the tax hereinafter prescribed and without complying with any and all applicable provisions of this title. Such business license shall be renewed annually as provided herein.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-25. Gross receipts.

Every business not otherwise provided for in this article shall pay a business tax based upon the annual gross receipts of the business according to the following schedule:

Gross Receipts	Business Tax
Under \$1,000.00	None
\$1,000.00 to \$25,000.00...	\$25.00
\$25,000.01 to \$40,000.00...	35.00
\$40,000.01 to \$75,000.00...	45.00
\$75,000.01 to \$200,000.00...	60.00
\$200,000.01 to \$500,000.00...	100.00
Over \$500,000.00...	200.00

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-26. Contractors.

Every contractor, as defined in this title, shall pay an annual business tax of fifty dollars (\$50.00).

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-27. Vehicle for hire and bus.

- (a) Every person engaged in, managing, conducting, or carrying on the business of selling from a vehicle (whether at retail or wholesale), delivering, picking-up, or transporting foods, goods, merchandise, freight, machinery, sand, gravel, or other articles or commodities, or operating a bus, or other vehicle transporting passengers for hire, shall pay an annual business tax of twenty-five dollars (\$25.00) per vehicle.
- (b) This section shall not apply if the above activity is merely incidental to the primary business which is taxed under another section of this article.
- (c) Taxicabs are not subject to subsection (a) and are required to pay a fee for a business license set by resolution of city council pursuant to the Orange County Taxi Administration Program.

(Ord. No. 85-8, § 3, 4-1-85; Ord. No. 97-33, § 1, 11-17-97)

Sec. 9-28. Shows, exhibitions, swap meets.

- (a) Every person engaged in operating, managing, conducting, or promoting a show, exhibition, or swap meet, as defined in this title, shall pay an annual business tax based on the gross receipts of the promoter, manager, or operator derived from all such shows, exhibitions, or swap meets conducted in the city. The applicable business tax, as shown in section 9-25 shall be increased by an amount equal to five dollars (\$5.00) for each exhibitor, vendor, or seller participating in the show, exhibition, or swap meet.
- (b) In addition, the promoter, manager, or operator shall submit to the tax collector a full and complete list of exhibitors, vendors, and sellers including their resale numbers assigned by the California State Board of Equalization, and such other evidence as may be deemed necessary by the tax collector to ensure that sales taxes collected will be credited to Costa Mesa.
- (c) The business tax established in subsection (a) shall not apply to any promoter, manager, operator, exhibitor, vendor, or seller which would be otherwise exempt from paying a business tax, as provided elsewhere in this title; but such promoter, manager, or operator shall be responsible for remitting to the tax collector the amount of business tax required by subsection (a) for any nonexempt exhibitor, vendor, or seller.
- (d) A business license issued pursuant to subsection (a) shall be valid for one (1) year from the first day of the month in which it was issued, and no additional tax shall be required for subsequent events or activities of the same nature held within the same year. This provision shall apply only to persons and businesses included in the initial calculation of business tax. The promoter, manager, or operator shall be responsible for paying a five dollar (\$5.00) business tax for exhibitors, vendors, and sellers participating in subsequent shows, exhibitions, or swap meets for which a business tax had not previously been collected during the term of the then-current business license.

(Ord. No. 85-8, § 3, 4-1-85)

Costa Mesa, California, Code of Ordinances >> TITLE 9. - LICENSES AND BUSINESS REGULATIONS
>> **CHAPTER I. - BUSINESS TAX** >> ARTICLE 5. ADMINISTRATION, APPLICATION AND PROCEDURES
>>

ARTICLE 5. ADMINISTRATION, APPLICATION AND PROCEDURES

- Sec. 9-29. Branch establishments and separate businesses.
- Sec. 9-30. Concessions.
- Sec. 9-31. Subcontractor list.
- Sec. 9-32. Unlawful business not authorized.
- Sec. 9-33. Permit prerequisite to issuance of license.
- Sec. 9-34. Compliance with other requirements.
- Sec. 9-35. Contents of business license.
- Sec. 9-36. Application for first business license.
- Sec. 9-37. Processing of application.
- Sec. 9-38. Taxes payable in advance.
- Sec. 9-39. Term of business license.
- Sec. 9-40. Prorating of business taxes; appointment.
- Sec. 9-41. Error in fee nonprejudicial.
- Sec. 9-42. Minor errors in payments.
- Sec. 9-43. Unpaid taxes.
- Sec. 9-44. Business licenses not transferable.
- Sec. 9-45. Duplicate business license.
- Sec. 9-46. Determination of business tax where application was not filed.
- Sec. 9-47. Deficiency determinations.
- Sec. 9-48. Refunds authorized.
- Sec. 9-49. Application for refund.
- Sec. 9-50. Refund barred by fraud.
- Sec. 9-51. Payment prerequisite to refund.
- Sec. 9-52. Renewal of license.
- Sec. 9-53. Penalties for delinquency.
- Sec. 9-54. Payments, etc., made by mail.
- Sec. 9-55. Extensions of time for filing.
- Sec. 9-56. Information confidential.

Sec. 9-29. Branch establishments and separate businesses.

A separate business license shall be obtained for each branch establishment or location of the business and each license shall authorize the license holder to transact and carry on only the business authorized thereby at the location designated in such license provided that warehouses and distributing plants used in connection with and incidental to a business holding a license under the provisions of this title shall not be deemed to be separate places of business or branch establishments.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-30. Concessions.

Every person who operates any business, whether upon a cost, rental or commission basis, as a concession or upon rented floor space in or upon the premises of any person taxed under any provision of this title shall be required to pay a business tax and obtain a separate and independent business license pursuant to the appropriate provisions hereof and shall be subject to all the provisions of this title.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-31. Subcontractor list.

Every person acting as a general contractor shall, subsequent to obtaining a building permit, provide to the tax collector a list of subcontractors which have worked or will work on the construction or remodeling of the building or project for which the building permit was issued. The list shall include the name, address, telephone number and state license number of each subcontractor. It shall be the responsibility of the person acting as general contractor to ensure that each subcontractor is duly registered with the city. No certificate of occupancy shall be issued, or final inspection provided, until all subcontractors hold a current business license.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-32. Unlawful business not authorized.

No business license or permit issued under the provisions of this title, nor the payment of any tax required under the provisions of this title shall be construed as authorizing the conduct or continuance of any illegal business or a legal business in an illegal manner.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-33. Permit prerequisite to issuance of license.

No business license shall be issued pursuant to this title when the provisions of this title or of some other ordinance of the city require a permit to be obtained as a prerequisite to engage in or conduct such business, until such permit is first applied for and obtained. Any business license issued in violation of the provisions of this section shall be void.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-34. Compliance with other requirements.

The payment of any business tax required by this title, its acceptance by the city, and the issuance of such business license to any person shall not entitle the holder thereof to carry on any business called for by the business license unless he has complied with all requirements of this Code, or to carry on any business at any location contrary to the city's zoning regulations.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-35. Contents of business license.

Every person required to pay a business tax under the provisions of this title shall make an application for a business license as hereinafter prescribed to the tax collector of the city, and upon

the payment of the prescribed tax, the tax collector shall issue to such person a business license which shall contain the following information:

- (a) The name and title of the person to whom the business license is issued;
- (b) The name of the business taxed;
- (c) The address where such business is to be transacted and carried on and, where it is different, the mailing address of the business being taxed;
- (d) The date of the expiration of such business license;
- (e) The classification of the business and the section of the Municipal Code which sets the measure of the business tax;
- (f) The amount of tax paid by the business;
- (g) Such other information as may be necessary for the enforcement of the provisions of this title.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-36. Application for first business license.

A person making application for the first business license to be issued hereunder or for a newly established business shall furnish to the tax collector a completed application, upon a form provided by the tax collector. The tax collector may require such information as is necessary to identify the business and its principals, the business location and type of business, and to determine the applicable business tax and to determine whether the appropriate resale number has been obtained from the California State Board of Equalization to ensure that sales taxes collected will be credited to Costa Mesa.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-37. Processing of application.

Upon receipt of a completed application, and when the applicant has tendered the business tax required, the tax collector shall process the application. If it is an application for a business license for a new business or if it is deemed necessary, the tax collector may submit the application to other departments as necessary, including the health officer, if health and sanitation may be affected, to determine whether the business and premises to be occupied meet the requirements of state law and city ordinances.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-38. Taxes payable in advance.

All taxes shall be paid in advance to the tax collector in lawful money of the United States. The amount to be paid shall be determined in accordance with the terms and provisions of this title.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-39. Term of business license.

Except as otherwise provided in this title, the business license shall be valid for a term of one (1) year commencing the first day of the month that application was made.

- (a)

The tax collector, if he deems it necessary or convenient for administrative purposes, may establish fixed terms on a fiscal year, calendar year, or other basis for certain classes of businesses.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-40. Prorating of business taxes; appointment.

- (a) No greater or lesser amount of money shall be charged or received for any business license issued pursuant to this title than is specified therefor in this title, and, except as otherwise provided, no business license shall be granted or issued for any period of time other than the full then-current tax period provided herein for such tax; provided, however, that in cases where a portion of an annual tax period has elapsed prior to the time application is made for a business license, the amount of the tax payable shall, in such cases, be apportioned on a quarterly basis, and the applicant for a business license shall pay the full tax, or three (3) quarters, two (2) quarters or one (1) quarter, as the case may be, of the total tax.
- (b) The finance director or designee has the authority to apportion the business tax obligation under section 9-25 for any business that provides written proof that the business has paid and continues to pay business taxes on annual gross receipts of that portion of the business conducted outside of the City of Costa Mesa. A request for apportionment shall be made in writing to the finance director or designee, and a decision on the request shall be made within a reasonable time after a complete application is received by the director. Such decision is appealable to city council pursuant to Title 2 of this Code upon payment of a fee set by resolution of city council.

(Ord. No. 85-8, § 3, 4-1-85; Ord. No. 95-2, §§ 1, 2, 2-6-95)

Sec. 9-41. Error in fee nonprejudicial.

In no case shall any mistake by any officer or employee of the city in stating the amount of a certificate prevent or prejudice the collection by the city of what should be actually due from any person carrying on a business subject to a certificate under the provisions of this title.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-42. Minor errors in payments.

In the event a discrepancy exists between the amount of tax paid and the amount of tax due under this title, resulting in an underpayment or overpayment of the tax in an amount of five dollars (\$5.00) or less, the tax collector may accept and record such underpayment or overpayment without other notification to the taxpayer.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-43. Unpaid taxes.

No business license for any succeeding, current or unexpired period shall knowingly be issued to any person who, at the time of making application for any business license, is indebted to the city for any unpaid business tax.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-44. Business licenses not transferable.

No business license issued pursuant to this title shall be transferred or assigned or authorize any person other than the person named in the license to carry on the business described therein; provided that where a certificate is issued authorizing a person to conduct business at a particular location, such certificate holder may upon application therefor and paying a fee of two dollars (\$2.00) have the certificate previously issued amended so as to authorize the conduct of such business from another location.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-45. Duplicate business license.

Duplicate business licenses may be issued by the tax collector to replace any certificate previously issued which has been lost or destroyed, upon applicant therefor filing an affidavit attesting to such fact and at the time of filing such affidavit paying to the tax collector a fee of two dollars (\$2.00) therefor.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-46. Determination of business tax where application was not filed.

If any person fails to file a complete application as required by this title within the time prescribed hereby, or after demand therefor, made by the tax collector, fails to file a corrected application, such person shall be liable for the maximum business tax prescribed in this chapter for the type of business carried on by such person. In such a case the tax collector shall give notice of the amount so assessed by serving the same personally or by depositing the same in the United States Post Office in the City of Costa Mesa, California, with postage prepaid thereon, addressed to the person so assessed at his last known address. The amount herein set forth, plus any applicable penalties, shall be assessed as of that date and shall be due and owing as of the first time said amount would have been due and owing under this title.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-47. Deficiency determinations.

If the tax collector is not satisfied that any statement filed as required under the provisions of this title is correct, or that the amount of tax is correctly computed, he may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his possession or that may come into his possession. One (1) or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person discontinues engaging in a business, a deficiency determination may be made at any time within three (3) years thereafter as to any liability arising from engaging in such business whether or not a deficiency determination was issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is made, a notice shall be mailed to the last known address of the owner of the business.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-48. Refunds authorized.

On order of the city council any business tax or penalties or portion thereof, may be refunded, if they were:

- (a) Paid more than once;
- (b) Erroneously or illegally collected;
- (c) Paid in an amount in excess of the correct amount due;
- (d) Issued for a business which becomes prohibited or illegal under some law. In such case, the amount to be refunded shall be prorated on the basis of the proportion which the number of days remaining in the period for which the business tax was paid bears to the number of days in the whole period.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-49. Application for refund.

- (a) Any person entitled to a refund of any business tax shall file an application therefor with the tax collector. Such application may be made only by the person who made the payment, his guardian, executor, administrator or heir. Refunds shall not be made to an assignee of the applicant.
- (b) No person shall be entitled to any such refund of tax payment unless application is made within six (6) months from the date such tax was paid or the tax became refundable under subsection (d) of section 9-48. The failure to file such application within the time prescribed above shall bar any right of recovery.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-50. Refund barred by fraud.

No refund shall be made where the business license was issued under a misrepresentation of fact by the applicant and such applicant actually engaged in the conduct of the business for which the business license was granted.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-51. Payment prerequisite to refund.

In all cases, the correct amount due for a business license shall be paid before any refund is made.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-52. Renewal of license.

In all cases, the applicant for the renewal of a business license shall submit to the tax collector for his guidance in ascertaining the amount of the business tax to be paid by the applicant, a sworn statement, upon a form to be provided by the tax collector, setting forth such information concerning the applicant's business during the preceding year as may be required by the tax collector to enable him to ascertain the amount of the business tax to be paid by said applicant pursuant to the provisions of this title. The applicant shall also advise the tax collector if the resale number in effect during the previous year has been terminated or changed.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-53. Penalties for delinquency.

For failure to pay a business tax when due, the tax collector shall add a penalty of ten (10) percent of said business tax on the last day of each month after the due date thereof, providing that the amount of such penalty to be added shall in no event exceed fifty (50) percent of the amount of the business tax due. No license or sticker, tag, plate or symbol shall be issued, nor shall one which has been suspended or revoked be reinstated or reissued, to any person who, at the time of applying therefor, is indebted to the city for any delinquent business tax, unless such person, with the consent of the tax collector, enters into a written agreement with the city, through the tax collector, to pay such delinquent taxes, plus ten (10) percent simple annual interest upon the unpaid balance, in monthly installments, or oftener, extending over a period not exceeding one (1) year. In any agreement so entered into, such person shall acknowledge the obligation owed to the city and agree that, in the event of failure to make timely payment of any installment, the whole amount unpaid shall become immediately due and payable and that his current business license shall be revoked by the tax collector after thirty (30) days. In the event legal action is brought by the city to enforce collection of any amount included in the agreement, such person shall pay all costs of suit incurred by the city or its assignee, including a reasonable attorney's fee. The execution of such an agreement shall not prevent the prior accrual of penalties on unpaid balances at the rate provided hereinabove, 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 shall not be in breach of the agreement.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-54. Payments, etc., made by mail.

Whenever any payment, statement, report, request or other communication received by the tax collector is received after the time prescribed by this title for the receipt thereof, but is in an envelope bearing a postmark showing that it was mailed prior to the time prescribed in this title for the receipt thereof, or whenever the tax collector is furnished substantial proof that the payment, statement, report, request or other communication was in fact deposited in the United States mail prior to the time prescribed for receipt thereof, the tax collector may regard such payment, statement, report, request or other communication as having been timely received.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-55. Extensions of time for filing.

The tax collector may, upon receipt of the written request of a taxpayer, and for good cause, extend the time for filing any statement required under the provisions of this title for a period not to exceed thirty (30) days, provided that the time for filing the required statement has not already passed when the request is received. No penalty for delinquent payment shall accrue by reason of such extension. Interest shall accrue during said extension in the manner provided elsewhere in this chapter.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-56. Information confidential.

It shall be unlawful for the tax collector or any person having an administrative duty under the provisions of this title to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person required to obtain a business license or pay a 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 by, another city official, employee, or agent if the information contained in such records is needed by such official, employee or agent in the performance of his duties;
- (b) The disclosure of information to, or the examination of records by, federal or state officials, or the tax officials of another city or county or city and county, 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 business tax liability of the particular taxpayers to the city;
- (d) The disclosure, after the filing of a written request to that effect, to the taxpayer himself, or to his 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 tax collector may refuse to make any disclosure referred to in this paragraph when in his opinion the public interest would suffer thereby;
- (e) The disclosure of the names and business addresses of persons to whom business 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 the city council in order to permit it to be fully advised as to the facts when a taxpayer files a claim for refund of business tax, or submits an offer of compromise with regard to a claim asserted against him by the city for business taxes or when acting upon any other matter;
- (g) The disclosure of general statistics regarding taxes collected or business done in the city.

(Ord. No. 85-8, § 3, 4-1-85)

**Costa Mesa, California, Code of Ordinances >> TITLE 9. - LICENSES AND BUSINESS REGULATIONS
>> CHAPTER I. - BUSINESS TAX >> ARTICLE 6. ENFORCEMENT >>**

ARTICLE 6. ENFORCEMENT

Sec. 9-57. Posting and keeping business license.

Sec. 9-58. Entry to inspect; exhibition of business license.

Sec. 9-59. Audit and verification of taxes.

Sec. 9-60. Records retention.

Sec. 9-61. Violations of this code a misdemeanor.

Sec. 9-62. Conviction not waiver of tax.

Sec. 9-63. Appeal.

Sec. 9-64. Severability.

Secs. 9-65—9-113. Reserved.

Sec. 9-57. Posting and keeping business license.

Except as otherwise specifically provided by the provisions of this title all business licenses must be kept and posted in the following manner:

- (a) Subject to other provisions of this title, any business license holder engaged in business at a fixed place of business shall keep the license posted in a conspicuous place visible to the view of the public.
- (b) Any person engaged in business in the city, but not operating from a fixed place of business, shall keep the license issued to him upon his person at all times while engaged in such business.
- (c) Vehicles, carts, baskets. As directed by the tax collector, each person driving, operating, or having control of any wagon, cart, or other vehicle, or using or controlling, possessing, or operating any machine, device, or equipment, including vending machines, where a business license is required under the provisions of this title, shall fix thereon a license, tag, plate or decal as issued by the tax collector and at the place directed by the tax collector, or if the tax collector shall so direct, shall procure a license container and fix thereon for the purpose of holding the business license, or, if the tax collector shall so direct shall carry a business license or identification card as directed by the tax collector upon his person. Any license, tag or decal shall be placed so that it is always plainly visible. No person shall keep any license, plate, tag, decal or identification card longer than thirty (30) days after the expiration of the term for which the license is issued, and no person, except the business license holder or his authorized agent, shall take or remove any license, plate, tag or identification card from the person lawfully entitled to the same or remove from the place where posted or fixed.
- (d) Identification cards. All junk dealers, junk collectors, secondhand dealers and collectors, solicitors, peddlers, hawkers, vendors, and employees of the foregoing, engaged in business with the city other than at a fixed place of business shall at all times while so engaged in said business within the city carry upon their person an identification card issued by the tax collector setting forth the name and address of the license holder as well as the name and address of the employee if the person so engaged in said business is one other than the license holder, and in addition setting forth such other identification matter deemed necessary by the tax collector.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-58. Entry to inspect; exhibition of business license.

The tax collector, in the exercise of the duties imposed upon him under this title, and any police officer shall have the power and authority to enter free of charge, at any reasonable time, any place of business for which a business license is required under this title and to demand the exhibition of such business license for the current term by any person in charge of such place of business. If such person shall then and there fail to exhibit the business license upon demand, then the person carrying on or engaging in such business shall be liable to the penalty provided for the violation of any of the provisions of this Code.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-59. Audit and verification of taxes.

The tax collector, director of finance, or their authorized deputies may examine any place of business in the city to ascertain whether or not the provisions of this title have been complied with. Said officers shall have the power to examine all necessary books and records of all persons doing business in the city required to be taxed by the terms of this title for the purpose of ascertaining the amount of tax required to be paid by the provisions hereof. Said officers shall have the power and authority to enter free of charge, at any reasonable time, any place of business required to be taxed by the provisions of this title and to demand an exhibition of such business license, books or other matters of record. For the purpose of the enforcement of this title, the tax collector or director of finance may, with the prior consent of the city council, deputize a qualified accountant to examine the necessary books and records of any person doing business in the city. Any failure on the part of any person taxed under this title to exhibit to and allow examination by said accountant so deputized shall constitute a violation of this Code.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-60. Records retention.

All persons subject to the provisions of this title shall keep complete records of business transactions, including sales, receipts, purchases, and other expenditures, and shall retain all such records for examination by the tax collector, director of finance or their authorized deputies. Such records shall be maintained for a period of at least three (3) years. No person required to keep records, under this subsection shall refuse to allow authorized representatives of the city to examine said records at reasonable times and places.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-61. Violations of this code a misdemeanor.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this title. Any person violating any of the provisions or failing to comply with any of the requirements of this title, shall be guilty of a misdemeanor or infraction.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-62. Conviction not waiver of tax.

The conviction and punishment of any person for transacting any business without a business license shall not excuse or exempt such person from the payment of any tax due or unpaid at the time of such conviction, and nothing herein shall prevent a criminal prosecution for any violation of the provisions of this title.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-63. Appeal.

Any person aggrieved by any decision of the tax collector may appeal said decision in accordance with procedures provided elsewhere in this Code.

(Ord. No. 85-8, § 3, 4-1-85)

Sec. 9-64. Severability.

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The city council of this city hereby declares that it would have adopted this chapter and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one (1) or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

(Ord. No. 85-8, § 3, 4-1-85)

Secs. 9-65—9-113. Reserved.

