TO: Honorable Mayor and City Council
FROM: Mark Moses, Director of Administrative Services

SUBJECT: ADOPT AN ORDINANCE AMENDING THE STOCKTON MUNICIPAL BUSINESS LICENSE CODE AND APPROVING A RESOLUTION ESTABLISHING RULES AND REGULATIONS FOR BUSINESS LICENSE EXPIRATION AND RENEWAL SCHEDULES

RECOMMENDATION

It is recommended that the Council take the following actions:

1) Adopt an ordinance amending Stockton Municipal Code, Sections 6-001 through 6-105.1 revising the expiration/renewal dates of business licenses and also updating some of the language.

2) Adopt a resolution in accordance with SMC section 6-027 establishing rules and regulations pertaining to business license expiration and renewal schedules.

SUMMARY

In order to improve the service provided to businesses, the Administrative Services Department is proposing an ordinance change to spread the business license expiration and renewal dates throughout the year. The Rules and Regulations support the new ordinance.

DISCUSSION

Background

The current Stockton Municipal Code establishes the annual expiration of all business licenses on December 31st. This causes long waits for customers in line and on the phone at renewal time, and increases the amount of time it takes City staff to process the renewals.

AGENDA ITEM 6.09
To provide a higher level of customer service, reduce the wait time in lines and on the phone, and reduce the time it takes to issue license renewals, Administrative Services is proposing modifications to the existing ordinance. The changes proposed represent a comprehensive rewrite of the business license expiration and renewal schedules. The proposed ordinance modifications will spread the business license expiration and renewal dates throughout the year. Instead of all business licenses expiring on December 31st, new licenses’ expiration and renewal will coincide with the month of issuance unless the license requires other certification, such as police clearance. In those cases the renewal date will coincide with the expiration of the certification/clearance.

Renewal dates for existing licenses will be staggered according to the license classification. These changes affect only the time periods for which business licenses are issued and all business license tax rates will remain unchanged. As time progresses and new licenses are issued with varying expiration dates, the renewal workload will be more evenly distributed throughout the year. This will allow Administrative Services to improve the timeliness of services provided to business license customers.

Also, in accordance with SMC section 6-027, a resolution has been presented that will define the rules and regulations relating to business license expiration and renewal schedules.

FINANCIAL SUMMARY

This ordinance revision does not change the business tax rates for registered businesses.

Respectfully submitted,

MARK MOSES
DIRECTOR OF ADMINISTRATIVE SERVICES

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APPROVED BY THE CITY MANAGER

MARK LEWIS, CITY MANAGER
Ordinance No. ____________

AN ORDINANCE AMENDING THE STOCKTON MUNICIPAL CODE BY AMENDING CHAPTER 6, LICENSES AND PERMITS, PART I, BUSINESS LICENSES, DIVISION 2, LICENSES, SECTIONS 6-007, 6-008, AND 6-009; DIVISION 3, PROCEDURE FOR LICENSE, SECTIONS 6-021 AND 6-022; DIVISION 5, LICENSE TAXES, SECTIONS 6-029, 6-029.1, AND 6-034.1; DIVISION 7, MISCELLANEOUS AND ENFORCEMENT, SECTION 6-039; AND REPEALING SECTION 6-010, ALL RELATING TO BUSINESS LICENSES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS.

SECTION I. AMENDMENT OF CODE.

Chapter 6 of the Stockton Municipal Code is hereby amended by amending Sections 6-007, 6-008, 6-009, 6-021, 6-022, 6-029, 6-029.1, 6-034.1 and 6-039 to read as follows:

Part I
BUSINESS LICENSES

Division 2
LICENSES

SEC. 6-007. TERMS OF LICENSES — DELINQUENCY:

All license taxes due hereunder shall be due and payable, and delinquent as follows:

1. Daily License. Due on its effective date and delinquent at 5:00 p.m. on due date.

2. Monthly License. Due on the first day of each month for which license is sought and delinquent at 5:00 p.m. on the tenth day of the month.

3. Quarterly License. Due on the first day of January, April, July, and October. Delinquent at 5:00 p.m. on the last day of the first month in which the quarterly license is due.

4. Semi-annual License. Due on the first day of January and July. Delinquent at 5:00 p.m. on the last day of the first month in which the semi-annual license is due.
5. Annual License. Due on the first day of January. Delinquent at 5:00 p.m. on January 31st. Due on the first day of the month following the expiration date and delinquent at 5:00 p.m. on the last day of that month.

To all delinquent licenses there shall be added a penalty of fifteen percent (15%) of the amount of the tax due for the period, and an additional fifteen percent (15%) for each month delinquent thereafter, providing that the amount of such penalty to be added shall in no event exceed sixty percent (60%) of the amount of the license tax due.

The Director of Finance for good cause may extend for more than thirty (30) days the time for paying any sum required to be paid hereunder provided a written request therefor is filed with the Director of Finance prior to the delinquency date.

SEC. 6-008. PRORATION:

Proration of any license tax due hereunder shall be made for any portion of the period for which a license tax is payable. Any portion of a month will be considered a full month for prorating license tax due, except in the case of a first annual license tax based upon a method other than gross receipts, the tax may be prorated as follows:

a) If application is made during the quarter beginning January first, one hundred percent (100%) of such fee shall be paid;

b) if application is made during the quarter beginning April first, seventy-five percent (75%) of such fee shall be paid;

c) if application is made during the quarter beginning July first, fifty percent (50%) of such fee shall be paid;

d) if application is made during the quarter beginning October first, twenty-five percent (25%) of such fee shall be paid.

SEC. 6-009. DURATION OF LICENSE:

No license shall be issued for a period of more than twelve (12) months. No license shall be issued for any period extending beyond the 31st day of December. Licenses will be issued according to the rules and regulations approved by resolution of the City Council. The expiration date will be printed on each business license.
SEC. 6-021. APPLICATION FOR FIRST LICENSE:

Every person making application for a first license shall estimate the gross receipts, the number of tables, alleys, machines, devices or other applicable basis for the period to be covered by the license to be issued. Such estimate, if accepted by the Director of Finance as being reasonable, shall be used in determining the amount of license tax to be paid by the applicant; provided, however, the amount of the license tax so determined shall be tentative only, and such person shall, within thirty (30) days after the expiration of the period for which such license was issued, furnish the Director of Finance with a sworn statement upon a form, to be provided by such the Director of Finance, setting forth such information as may be therein required and showing, during the period of such license, the gross receipts, the number of tables, alleys, machines, devices, or other applicable basis. The license tax shall be ascertained and paid upon such applicable basis, credit being given for the tentative license tax previously paid.

SEC. 6-022. APPLICATION FOR RENEWAL OF LICENSE:

In all cases, the applicant for the renewal of a license shall submit to the Director of Finance for his guidance in ascertaining the amount of the license tax to be paid by the applicant, a written statement upon a form to be provided by such the Director of Finance, written under penalty of perjury, or sworn to before a person authorized to administer oaths. Said form shall set forth such information concerning the type of the applicant's business and the gross receipts derived therein or other applicable basis during the preceding licensing period as may be required by the Director of Finance to enable him to ascertain the amount of the license tax to be paid by said applicant pursuant to the provisions of this Part.

The Director of Finance shall determine the average monthly gross receipts, the number of tables, alleys, machines, devices or other applicable basis and compute the license fee payable for twelve (12) months the next license period. The license fee payable for the next period shall be the amount based upon the computed twelve (12) months of applicable base. For the purpose of this Section a fractional part of a month shall be considered as a full month.
Division 5
LICENSE TAXES

SEC. 6-029. LICENSE TAX:

The amount of license taxes to be paid to the City of Stockton by any person engaged in or carrying on any profession, trade, calling, occupation or business hereinafter designated is hereby fixed and established as hereinafter in this Part provided. Such license tax shall be paid by every person engaged in carrying on or maintaining any such profession, trade, occupation, calling or business in the City of Stockton.

For every person engaged in carrying on or maintaining any profession, trade, occupation, calling or business, the license tax shall be as set forth in the following Sections.

SEC. 6-029.1. ANNUAL REGISTRATION TAX:

Any person engaged in or carrying on any profession, trade, calling, occupation or business hereinafter designated shall pay an annual registration tax of twenty-four dollars ($24.00). All license taxes provided for herein for the privilege of engaging or carrying on any profession, trade, calling, occupation or business are imposed in addition to the annual registration tax. The annual registration tax shall be non-refundable but shall be prorated for that portion of a license period to which the tax applies. The annual registration tax is due and payable at the same time as the license taxes. The application described in Sections 6-020, 6-021 and 6-022 is made to the Director of Finance.

Notwithstanding other provisions of this Part, an annual registration tax shall not be charged for branch establishments of licensed businesses as set forth in Section 6-011, provided the business transacted by said branch is classified hereunder in the same category as the primary or principal licensed business.

SEC. 6-034.1. GENERAL CONTRACTORS, SUBCONTRACTORS AND SPECIALTY CONTRACTORS:

(a) Every person conducting or carrying on the business of house moving, grading, paving, wrecking, sewer, pipeline, trenching, excavating contractor or conducting or carrying on the business of general contractor constructing, altering, repairing, wrecking or salvaging buildings, highways, roads, railroads, excavations or other structures, projects or improvements shall pay a license tax of seventy-five dollars ($75.00) per annum plus one-half (1/2) of one (1) mill for each dollar of gross receipts or twenty-five dollars ($25.00) per quarter plus one-half (1/2) of one (1) mill for each dollar of gross receipts.
(b) Every person conducting or carrying on the business of electrical, plumbing, painting, masonry, glazier, cement, floor, heating, plastering, roofing, sash, sheet metal, tile, lathing and any other contractor or subcontractor not specifically mentioned in this Section, shall pay a license tax of forty-five dollars ($45.00) per annum plus one-half (1/2) of one (1) mill for each dollar of gross receipts or twenty dollars ($20.00) per quarter plus one-half (1/2) of one (1) mill for each dollar of gross receipts.

The election to obtain an annual license or a quarterly license shall be at the sole discretion of the applicant and shall be exercised upon application for a first license as described in Section 6-018. Upon application for a renewal license an applicant shall elect to obtain either an annual license or a quarterly license. No license shall be issued for any period extending beyond December 31 of the current calendar year as provided in Section 6-009.

This Section shall apply to any person who for himself shall engage in the business of erecting or constructing houses for the purpose of leasing, renting, or selling the same, and who does not employ a contractor who shall act as superintendent.

Any contractor conducting or carrying on the business of selling goods, wares, or merchandise as a retailer in addition to his contracting business shall in addition to the contractor's license provided therein, secure a license for each retail business as required under this Part.

Division 7
MISCELLANEOUS AND ENFORCEMENT

SEC. 6-039. CONSTITUTIONAL APPORTIONMENT:

None of the license taxes provided for by this Part shall be so applied as to occasion an undue burden upon interstate commerce or be violative of the equal protection and due process clauses of the Constitution of the United States and the State of California.

In any case where a license tax is believed by a licensee or applicant for a license to place an undue burden upon interstate commerce or be violative of such constitutional clauses, he may apply to the Director of Finance for an adjustment of the tax. Such application may be made before, or within six (6) months after payment of the prescribed license tax. The applicant shall, by sworn statement and supporting testimony, show this method of business and the gross volume or estimated gross volume of business and such other information as the Director of Finance may deem necessary in order to determine the extent if any, of such undue burden or violation.
The Director of Finance shall then conduct an investigation, and, after having first obtained the written approval of the City Attorney, shall fix as the license tax for the applicant, an amount that is reasonable and non-discriminatory, or if the license tax has already been paid, shall order a refund of the amount over and above the license tax so fixed. In fixing the license tax to be charged, the Director of Finance shall have the power to base the license tax upon a percentage of gross receipts or any other measure which will assure that the license tax assessed shall be uniform with that assessed on business of like nature, so long as the amount assessed does not exceed the license tax as prescribed by this Part.

Should the Director of Finance determine the gross receipts measure of license tax to be the proper basis, he may require the applicant to submit, either at the time of termination of applicant's business in the City, or at the end of each three (3)-month license period, a sworn statement of the gross receipts and pay the amount of license tax therefor, provided that no additional license tax during any one (1) calendar year shall be required after the licensee shall have paid an amount equal to the annual license tax as prescribed in this Part.

SECTION II. AMENDMENT OF CODE.
Chapter 6 of the Stockton Municipal Code is hereby amended by repealing Section 6-010, Limitations.

SEC. 6-010. LIMITATIONS:

——— No greater or lesser amount of money shall be charged or received for any license tax than provided for in this Part, and no license shall be sold or issued for any period of time other than provided for in this Part, provided that this Section shall not refer to such penalties as are herein provided for.

SECTION III. SEVERABILITY.

If the event any section or portion of this Section shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

SECTION IV. EFFECTIVE DATE.

This Ordinance shall become effective and be in full force from and after thirty (30) days from its passage.

ADOPTED:

EFFECTIVE:

ATTEST:  

EDWARD J. CHAVEZ, Mayor

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KATHERINE GONG MEISSNER
City Clerk of the City of Stockton

of the City of Stockton

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Resolution No. ________

STOCKTON CITY COUNCIL

RESOLUTION ADOPTING RULES AND REGULATIONS RELATING TO THE ISSUANCE, EXPIRATION DATE AND RENEWALS OF BUSINESS LICENSES

WHEREAS, Stockton Municipal Code (SMC), Chapter 6, "Licenses and Permits," requires a business license and payment of tax liabilities for businesses that operate within the City limits; and

WHEREAS, the City deems it desirable to license businesses and process the tax payments in the most efficient manner possible; and

WHEREAS, the City Council may establish rules and regulations supplementing Chapter 6, Part 1; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

1. That the Issuance, Expiration and Renewal of Business licenses be done in accordance with the attached Rules and Regulations dated June 28, 2005

2. This resolution will become effective upon the effective date of Ordinance No. ________, passed on June 28, 2005, and effective on ____________________

3. The City Manager is authorized and directed on behalf of the City to take and/or authorized such other actions as deemed necessary to carry out the purpose and intent of this resolution.

PASSED, APPROVED AND ADOPTED __________________________

ATTEST: __________________________
EDWARD J. CHAVEZ, Mayor
of the City of Stockton

KATHERINE GONG MEISSNER
City Clerk of the City of Stockton

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CITY ATTY REVIEW __________________________

DATE 11/2, 2005
RULES AND REGULATIONS FOR THE ISSUANCE, EXPIRATION AND RENEWAL OF CITY OF STOCKTON BUSINESS LICENSES

New Business Licenses issued after the effective date of Council Resolution No. ________

- All licenses, except those listed below, will be issued for a twelve month period beginning on the 1st of the month in which the business opened. Succeeding renewals will be for the same 12 month period. Renewal License taxes will be due on the first day of the month following the expiration date and delinquent on the first day of the following month.

- Contractors, Sub-Contractors and Developers who do not have a physical office or location in Stockton will be licensed for the duration of the project or for 12 months from the date of application, whichever is shorter. Renewals will be issued on the same criteria. Renewal license taxes will be due on the first day of the month following the expiration date and delinquent on the first day of the following month.

- Contractors, Sub-Contractors and Developers with a physical office or location within Stockton will be required to have an annual license will be issued for a twelve month period beginning on the 1st of the month in which the business opened. Renewal license taxes will be due on the first day of the month following the expiration date and delinquent on the first day of the following month.

- Licenses that require police clearances or other certification will be issued with an expiration date that coincides with that of the certification/clearances. Renewal license taxes will be due on the first day of the month following the expiration date and delinquent on the first day of the following month.

Unexpired Business Licenses issued prior to Council Resolution No. ________ will be issued as follows:

- Tax exempt licenses (non-profit and owner occupied commercial rental) will expire on June 30, 2005. The renewal will be issued for July 1, 2005 through June 30, 2006. Thereafter, the licenses will expire each June 30th and will be renewed for the period July 1 through June 30.

- Licenses that have a flat tax rate and do not require a police clearance or other certification will expire September 30, 2005. License taxes will be due on October 1, 2005 and will be delinquent on October 31, 2005. The renewal will be issued for October 1, 2005 through September 30, 2006. The tax for this renewal only
will be prorated because taxes for October through December 2005 have already been paid. Thereafter, the licenses will expire each September 30th and will be renewed for the period October 1 through September 30. Renewal license taxes will be due on the first day of the month following the expiration date and delinquent on the first day of the following month.

- Licenses that require police clearances or other certification will be renewed at their next expiration date to coincide with the expiration of the certification/clearance. Renewal license taxes will be due on the first day of the month following the expiration date and delinquent on the first day of the following month.

- Multi and Commercial Rental licenses will expire December 31st of each year. Renewal license taxes will be due on January 1st and will be delinquent on the following February 16th.

- Contractors, Sub-Contractors and Developers who do not have a physical office or location in Stockton whose licenses expire before December 31, 2005 will be renewed for the duration of the project or for 12 months from the renewal date, whichever is shorter. Those Contractors, Sub-Contractors and Developers with a physical office or location within Stockton will be required to have annual license which expires on December 31st of each year. Renewal license taxes will be due on the first day of the month following the expiration date and delinquent on the first day of the following month.

- The remaining classifications of licenses with an expiration date of December 31, 2005, will be renewed from January 1, 2006 through March 31, 2007. The taxes will be calculated for 15 months (1.25 X the annual tax amount) only for this renewal. Thereafter the renewal will be for April 1 through March 31 and taxes will be calculated for 12 months. Renewal license taxes will be due on the first day of the month following the expiration date and delinquent on the first day of the following month.

Dated: June 28, 2005