ORDINANCE NO. 2013

AN ORDINANCE OF THE PEOPLE OF THE CITY OF UPLAND, CALIFORNIA, AMENDING VARIOUS SECTIONS OF CHAPTER 5.04 OF TITLE 5 OF THE UPLAND MUNICIPAL CODE AS IT RELATES TO ADJUSTING THE RATES OF BUSINESS LICENSE TAXES WITHIN THE CITY AND MAKING OTHER TECHNICAL UPDATES.

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

SECTION 1. Subject to the approval of a majority of the voters of the City of Upland at the General Municipal Election so designated by the City Council in a separate resolution placing the proposal on the ballot for such election, the following sections of Chapter 5.04 of the Upland Municipal Code are hereby amended to read as follows:

"Title 5. Business Licenses and Regulations

Chapter 5.04. BUSINESS LICENSES GENERALLY

§ 5.04.010. License tax bureau created.

There is created a license tax bureau of the city and the office of license tax official of the city. The finance director or designee shall serve as license tax official; however, in no event shall the city manager be designated as license tax official. The license tax official shall be charged with the duty of carrying out the provisions of this title and the enforcement thereof. The words "license official", "license collector" or "tax collector," as used elsewhere in the Upland Municipal Code, means license tax official, when such pertains to municipal licensing and taxing activities.

§ 5.04.020. Duties of license tax official.

The duties of the license tax official shall include, but not be limited to the following:

A. The license tax official shall prepare and issue all tax certificates mentioned herein, and collect the charges therefore, including delinquent business taxes and penalties.

B. The license tax official may require such confidential information from the applicant which will explain and describe the business in question, assisting in the administration of this title.

C. In no case shall any error made by the license tax official, or deputies, in preparing a tax certificate, stating the amount of the charge therefore or in determining the proper applicability of this title prejudice the collection by the city the amounts actually due under this title.

D. The license tax official shall keep such records and make such reports as the city council or city manager may demand.

§ 5.04.030. Bond of license tax official.

The license tax official shall furnish a bond for the faithful performance of his or her office, the penal sum of which shall be fixed by motion of the city council from time to time.

§ 5.04.040. License tax review.

A. The position of license tax reviewer is created to expedite and relieve the city council of certain administrative problems pursuant to the interpretation and enforcement of this title.

B. License tax review shall be performed by the city manager's designee.

C. The license tax reviewer shall review and make a finding on such matters covered by the provisions of this title, which in the opinion of the license official require interpretation and action. Such matters shall include but not be limited to the following:

   1. Requests for tax certificate exemptions as provided for in this title;

   2. Determination of branch establishments as provided for in this title;

   3. Failure to file an application for, or a renewal of, a tax certificate as provided for in this title;

   4. In any case, the license tax reviewer may desire to refer other such matters to the city council for determination, however no such determination by the license tax reviewer or city council shall in any way conflict with the provisions of this title.

§ 5.04.050. Revenue measure.

This title, and the ordinance adopting such, is enacted solely to raise revenue for municipal purposes, and is not intended for regulation unless otherwise stated.

§ 5.04.060. Substitute for other revenue ordinance.

Persons required to pay a business tax for conducting or carrying on any business under the provisions of this title shall not be relieved from the payment of any other tax, assessment or fee for the privilege of doing such business required under any other ordinance of the city as contained in the Upland Municipal Code and shall remain subject to the regulatory provisions of all such other ordinances and provisions of this code.

§ 5.04.070. Effect on past actions and obligations previously accrued.

Neither the adoption of the ordinance codified in this title nor its superseding of any portion of any other provision of the Upland Municipal Code shall in any manner be construed to affect prosecution for violation of any other ordinance committed prior to the effective date of the ordinance codified in this title, nor be construed as a waiver of any license or any penal provision applicable to any such violation, nor be construed to affect the validity of any bond or cash deposit required by any ordinance to be posted, filed, or deposited, and all rights and obligations thereunto appertaining shall continue in full force and effect.

§ 5.04.080. Definitions.

As used in this title:

"Apartment " means a building or buildings, or portion of a building, each of which is designed, built, rented, leased, let or hired out to be occupied or which is occupied as the home or residence living independently of each other and doing their cooking in such building or buildings.

"Business" means and includes professions, trades and occupations, and all and every kind of calling carried on for profit or livelihood.

"Conduct or carry on" means and includes the engaging in, carrying on or operating of any business, trade, art, profession, calling, employment, occupation, or any commercial, industrial or professional pursuit or vocation.

“Contractor” means every person, firm or corporation conducting, managing or carrying on the business of contractor, subcontractor or builder; or engaging in the construction or repair of any buildings; or engaged in any engineering, construction, or operating whatever, or advertising as such, or representing themselves as such, and regularly employing help for building construction, sewer construction, plumbing construction or general construction. Examples include but are not limited to construction, plumbing, HVAC, and other contractors required to be licensed by the State Contractors Licensing Board.

"Fixed place of business" means a location in the city at which is kept a substantial stock of merchandise or equipment and/or occupied with a competent person in attendance in connection with business of like nature or character and upon which city and county taxes are assessed and paid.

“General Service” means any services, as that term is ordinarily and commonly used and understood, wherein individuals are engaged in the business of offering to the public services for compensation, and which is not a professional or semiprofessional service/calling or not otherwise specifically covered under any other part, chapter or section of this chapter. Examples include but are not limited to hair stylists, gardeners, nail salons, etc.

"Gross receipts" means and includes, whether designated as sales price, royalty, rent, slotting fee, commission, dividend, or other designation, the total amount of the sale price of all sales and the total amount charged or received for the performance of any act or service, of whatever nature it may be, for which act or service a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of material, goods, wares or merchandise. 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 the materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever.

Where the gross receipts are less than the cost of maintaining the operations of the Licensee, then the Licensee shall be deemed to produce gross receipts in an amount at least equal to the cost of operations plus 10% of the costs of operations. The “cost of operations” means the cost of maintaining the operations of the business and includes, but is not limited to, rent, utilities, depreciation, salaries, wages, fixed charges, and other expenses.

Excluded from gross receipts shall be:

1. Cash discounts allowed and taken on sales;
2. Credit allowed on property accepted as part of the purchase price and which property may later be sold;
3. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
4. Such part of the sale price of property returned by purchasers upon rescission of the contract of sale as is refunded either in cash or by credit;
5. Amounts collected for others where the business is acting as agent or trustee to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the license official with the names and addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustee;
6. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded;
7. For all businesses operating under Regulation 1599 of the California Tax and Fee Administration, the amount of sales exempt from sales and use taxation under Regulation 1599.

"Hotel, motel or roominghouse" means any lodginghouse, motel, hotel, rooming house, or public or private club containing guest rooms or units, and which is occupied or is intended or designed for transient occupancy by guests, whether rent is paid in money, goods, labor or otherwise and which is maintained, advertised or held out to the public as a place where sleeping or rooming accommodations are furnished to the whole or any part of the public whether with or without meals.

"Person" means and includes all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, Massachusetts business or common law trusts, societies and individuals transacting and carrying on any business in the city, other than as an employee.

“Professional or semiprofessional service/calling” means any service, as that term is ordinarily and commonly used and understood wherein individuals are engaged in the business of offering to the public professional or semiprofessional services for compensation, and not specifically covered under any other part, chapter or section of this chapter, and shall include those professions generally requiring governmental certification or a professional degree. These shall include, but not be limited to the following: accountant, advertising agent (except outdoor advertising), appraiser, architect, artist, attorney-at-law, biologist, certified public accountant, chemist, chiropractor, collection agent, consulting or design engineer, credit counselor, credit rater, dentist, designer, illustrator, doctor of medicine, draftsman, engraver, engineer—civil, chemical, structural or hydraulic—entomologist, geologist, insurance claims adjuster, laboratory, landscape architect, lithographer, massage therapist/technician, mechanical engineer, optometrist, orthodontist, osteopathic physician, personnel consultant, physician, real estate agent or broker— including salespersons—surgeon, surveyor and veterinarian.

“Rental, commercial or residential” means the business of leasing, renting, letting or otherwise hiring out for rent any apartment, single-family or multiple-family dwelling unit in the City as the home or residence for a tenant, or the business of leasing, renting, letting or otherwise hiring out for rent any real property within the City that is used for commercial, industrial, institutional or other non-residential purposes within the City. Examples include but are not limited to commercial leasing, residential rental, parcel leasing, and short-term rentals, hotels, motels, and roominghouses, etc.

“Retail/General Commercial” means any establishment or business that conducts retail (the sale of goods to ultimate consumers, usually in small quantities), or wholesale (the sale of goods in quantity, as to retailers or jobbers, for resale), or restaurant (an establishment where meals, prepared food, and/or beverages are served to customers). Manufacturers and processors are also included in this classification, including every person conducting or carrying on a business consisting of manufacturing, packing, or processing any goods, wares, merchandise or commodities at a fixed place of business within the City or conducting or carrying on a business of cold storage or refrigeration. Warehouses are also included in this classification, including establishments primarily engaged in operating merchandise warehousing and storage facilities. Examples include but are not limited to: retailers, wholesalers, hotels, restaurants, manufacturers, and public utilities.

"Solicitors, canvassers and peddlers" as used herein and for the purposes of this title, are defined to be and to include any person not having a fixed place of business in the city, who for him or herself, or as agent, or representative for or of another, goes from place to place, and from house to house, in the city offering to sell intangibles, such as bonds or stocks, or oil or mining shares or units, or articles, goods, wares or merchandise, or soliciting orders for future delivery, or taking orders, or subscriptions, or selling or disposing of any such articles or services inclusive of newspapers, magazines, periodicals, books and all other publications, and whether collecting advance payments or not, and inclusive of all persons who thus go from place to place, and from house to house within the city, in any like or analogous activities, including those who solicit funds or articles for charitable purposes, and inclusive of any and all such persons who may or may not engage in any actual or purported interstate commerce. The terms solicitors, canvassers or peddlers shall not apply to sidewalk vendors operating in compliance with Chapter 5.76, or to commercial salesmen, agents and the like who sell or take orders for goods at wholesale.

§ **5.04.090. Imposition of taxes-License required-Compliance with chapter.**

A. There are imposed upon the businesses, trades, professions, callings and occupations specified in this title business taxes in the amounts hereinafter prescribed. It is unlawful for any person to transact and carry on any business, trade, profession, calling or occupation in the city without first having procured a license from the city so to do or without complying with any and all applicable provisions of this title and the Upland Municipal Code.

B. This section shall not be construed to require any person to pay the business tax prior to doing business within the city if such requirement conflicts with applicable statutes of the United States or of the state of California.

C. Persons not required to pay the business tax prior to doing business within the city because of conflict with applicable statutes of the United States or of the state of California shall not be liable for payment of the tax imposed by this title.

D. In any trade or profession where a state license is required, such license shall first be exhibited to the license tax official upon request before a city tax certificate will be issued.

§ **5.04.095. Penalty.**

Any person violating any of the provisions of the herein title or knowingly or intentionally misrepresenting to any officer or employee of this city any material fact in paying the business tax provided for in this chapter shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished as provided in Section **1.16.010.** All remedies prescribed herein shall be cumulative, and the use of one or more remedies by the city shall not bar the use of any other remedy for the purpose of enforcing the provisions of this code.

§ **5.04.100. Tax certificate a receipt, not a permit.**

The tax certificate issued pursuant to the provisions of this title constitutes a receipt for the business tax paid and shall have no other legal effect. A tax certificate is a requirement, not a permit, to conduct, manage or carry on any business activity within the city.

§ **5.04.110. Branch establishments.**

A separate tax certificate must be obtained for each branch establishment or location of the business transacted and carried on and for each separate type of business at the same location; provided that warehouses and distribution plants or lots used in connection with, and incidental to a business that has a tax certificate under the provisions of this title shall not be deemed to be separate places of business or branch establishments. Each establishment must pay the business tax for each location.

§ 5.04.120. Subleases

Regardless of business type, functional, or operational usage, all business owners are required to obtain a separate tax certificate for each business or entity. This includes any lessee or sub-lessee of the business and/or property owner.

§ 5.04.130. Interstate commerce-Filing statement.

A. Every peddler, solicitor or other person claiming to be entitled to exemption from the payment of any business tax provided for in this title upon the ground that such license casts a burden upon his or her right to engage in commerce with foreign nations or among the several states, or conflicts with the regulations of the United States Congress respecting interstate commerce, shall file a verified statement with the license tax official, disclosing the interstate or other character of his or her business entitling such exemption. Such statement shall contain:

   1. The name and location of the company or firm for which the orders are to be solicited or secured;
   2. The name of the nearest local or state manager, if any, and his or her address;
   3. The kind of goods, wares or merchandise to be delivered;
   4. The place from which the same are to be shipped or forwarded;
   5. The method of solicitation or taking orders;
   6. The location of any warehouse, factory or plant within the state of California;
   7. The method of delivery;
   8. The name and location of the residence of the applicant;
   9. Any other facts necessary to establish such claim of exemption.

B. A copy of the order blank, contract form or other papers used by such person in taking orders shall be attached to the affidavit for the information of the license tax official.

§ 5.04.140. Apportionment.

A. None of the business taxes provided for by this title 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 Constitutions of the United States and the state.

B. If the holder of or applicant for a tax certificate (the taxable entity) believes that the business tax places an undue burden upon interstate commerce or would be violative of such constitutional clauses, the taxable entity may apply to the license tax official for an adjustment of the tax (the apportionment application). The taxable entity may make an apportionment application within six months after payment of the prescribed business tax. The taxable entity shall, by sworn statement and supporting testimony, show its method of business, its cost of operations for all locations in the City, and such other information as the license tax official may deem necessary to determine the extent, if any, of such undue burden on interstate commerce or other violation of constitutional protection.

C. The license tax official shall then conduct an investigation, which may include but is not limited to inspecting the taxable entity's books and records and other tax filings, and, after having first obtained the written approval of the city attorney, shall fix as the business tax for the taxable entity, an amount that is reasonable and nondiscriminatory, or if the business tax has already been paid, shall order a refund of the amount over and above the business tax so fixed.

D. In fixing the amount of the business tax, the license tax official shall take the cost of operations for the locations in the City as the minimum amount owed in tax (absent extraordinary evidence to the contrary).

E. The license tax official shall, upon a proper showing contained in the verified statement, issue a tax certificate to such person claiming apportionment under this section without payment to the city of the full business tax required by this title.

F. The license tax official, after giving notice and a reasonable opportunity for hearing to a tax certificate holder, may revoke any apportionment granted pursuant to the provisions of this section upon information that the tax certificate holder is not entitled to the apportionment as provided herein.

§ **5.04.150. Public sale exempted.**

No business tax license shall be required for the selling of goods at public sale, such goods belonging to the United States of America or to the state of California, or for sale of property by virtue of any process issued by any state or federal court, or for the sale of any property of an estate by the legally appointed guardian thereof.

§ **5.04.160. Veterans.**

A. Every peddler, solicitor or other person claiming to be entitled to exemption from the payment of any license provided for in this title upon the ground that he or she is an honorably discharged or released member of the armed forces of the United States who is physically unable to obtain a livelihood by manual labor and who shall be a qualified elector of the state of California, as provided by the laws of this state, shall, prior to being issued a free license, and in addition to any other information required by this title, also file with the license official a certificate of a regularly licensed and practicing physician dated within a month of the application, to the effect that the applicant is physically unable to obtain a livelihood by manual labor, and stating the nature of the incapacitation.

B. Every peddler, solicitor or other person claiming to be entitled to exemption from the payment of any business tax provided for in this title upon the ground that he or she is an honorably discharged or released member of any branch of the United States military, shall not be changed the business license application fee, and will also receive a $100,000.00 credit towards the calculation of the business tax based on gross receipts, or a $108.00 credit towards the calculation of the business tax based on

Sections 5.04.410, if the following condition is met:

1. Proof that he or she was honorably discharged or released member of the military.

This applies to all ownership types and business license types. The city is unable to waive any state fees, such as the Certified Access Specialist (CASp) fee.

§ 5.04.170. Exemptions.

The following businesses are exempt from the business tax imposed by this chapter:

A. Any business exempt from the tax by the laws of the United States or the State of California. The CASp fee is a state requirement and cannot be waived by the city.

B. Upon approval of the license tax official, any person that has been issued a permit to operate at a special event and that does not have a fixed place of business in the city and is not otherwise engaged in business within the city, shall be exempt from the provisions of this title.

§ 5.04.180. Filing application-Contents of license.

Every person required to have a license under the provisions of this title shall make application for the same to the license tax official of the city, and upon the payment of the prescribed business tax and submission of all other required documents, the license tax official shall issue to such person a tax certificate which shall contain:

A. The name of the person to whom the tax certificate is issued;

B. The name of the business to be taxed;

C. The place where such business is to be transacted and carried on;

D. The date of the expiration of such tax certificate;

E. Such other information as may be necessary for the enforcement of the provisions of this title.

§ 5.04.190. Affidavit for first tax certificate.

A. Upon a person making application for the first tax certificate to be issued hereunder or for a newly established business, and in all cases where the amount of business tax to be paid is measured by gross receipts, such person shall furnish to the license tax official for guidance in ascertaining the amount of business tax to be paid by the applicant, a written statement, upon a form provided by the license tax official, sworn to before a person authorized to administer oaths, or sworn to under penalty of perjury, setting forth such information as may be therein required and may be necessary to determine the amount of the business tax to be paid by the applicant.

B. When a taxpayer applies for a business tax certificate, they must pay based on their estimated gross receipts from the start date of business in the City through the remainder of the current license period. Then, when the taxpayer applies for their first renewal, they must take the following steps in calculating its tax.

1. True-up. The taxpayer should take the actual gross receipts for that period and subtract the estimated gross receipts reported. If the remainder is positive, the taxpayer must report the additional amount of the tax on their first renewal. If the remainder is negative, then the taxpayer will receive a credit equal to the amount of the remainder multiplied by the applicable rate, which credit will first be applied to the amount owed for their first renewal period and then, if there is any amount of the credit remaining, the remaining credit will be either refunded to the taxpayer or remain on the account for future use, per the instructions of the taxpayer. If the amount is zero, the true-up is zero and no further action is necessary.

2. Annualized estimate. The taxpayer will take the actual gross receipts for the initial period and divide it by the number of days in that actual period. That gives the daily estimated gross receipts. The taxpayer will multiply that by 365 days and use that as the gross receipts for the first year's renewal.

In the second-year renewal and other subsequent renewals, the taxpayer will report the gross receipts of the preceding year of operation as the gross receipts for the upcoming license period.

C. The license tax official shall not issue to any such person another tax certificate for the same or any other business, until such person shall have furnished to the license tax official the written statement and paid the business tax as herein required.

§ 5.04.200. Affidavit for renewal of tax certificate.

In all cases, the applicant for the renewal of a tax certificate shall submit to the license tax official for guidance in ascertaining the amount of the business tax to be paid by the applicant, a written statement, upon a form to be provided by the license tax official, written under penalty of perjury, or sworn to before a person authorized to administer oaths, setting forth such information concerning the applicant's business during the preceding year as may be required by the license tax official to enable him or her to ascertain the amount of business tax to be paid by the applicant pursuant to the provisions of this title.

§ 5.04.210. Statements not conclusive; confidential information.

A. No statements shall be conclusive as to the matters set forth therein, nor shall the filing of the same preclude the city from collecting by appropriate action such sum as is actually due and payable hereunder. Such statement and each of the several items therein contained shall be subject to audit and verification by the license tax official, deputies, or authorized employees of the city, who are authorized to examine, audit, and inspect such books and records of any tax certificate holders, applicants for a tax certificate, as may be necessary in their judgment to verify or ascertain the amount of business tax due.

B. All tax certificate holders, applicants for tax certificates, and persons engaged in business in the city are required to permit an examination of such books and records for the purposes aforesaid.

C. The information furnished or secured pursuant to this section or Sections **5.04.190 or 5.04.200** of this title shall be confidential. Any unauthorized disclosure or use of such information by any officer or employee of the city shall constitute a misdemeanor, and such officer or employee shall be subject to the penalty provisions of the Upland Municipal Code, in addition to any other penalties provided by law.

§ 5.04.220. Failure to file statement or corrected statement- Determination of amount of business tax.

A. If any person fails to file any required statement within the time prescribed, or if after demand therefor made by the license tax official, such person fails to file a corrected statement, the license tax official may determine the amount of business tax due from such person on the basis of the facts contained in the statement, any information in his or her possession and/or such information as he or she obtains.

B. If such a determination is made, the license tax official shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States post office at Upland, California, postage prepaid, addressed to the person so assessed at his or her last known address.

§ 5.04.230. Appeal.

A. A final determination of the license tax official can be appealed to the city manager or designee by filing a written notice of appeal with the license tax reviewer within 15 days of service of the notice of the final determination being appealed.

B. Only a tax certificate holder, or their representative, who can file an appeal under this section.

C. If a timely appeal is filed, the city manager, or designee, must set a hearing within 60 days of the filing of the appeal, which may be extended by the city manager for an additional 60 days. Notice of the hearing must be served on the appellant either personally or by U.S. mail to the most recent address for the challenger in the license tax official's records.

D. At the hearing the appellant and the license tax official may present evidence and argument regarding the decision being appealed to show why the decision is correct or incorrect and to show what it should be. Within 60 days after the close of the hearing, which the city manager may extend for an additional 60 days, the city manager must serve a written decision, setting forth the resolution of the appeal. The decision must be served on the appellant either personally or by U.S. mail to the most recent address for the appellant in the license tax official's records. Service is effective upon deposit of the decision in the U.S. Mail.

E. A decision of the city manager, or the city manager's designee, served under subsection D of this section is subject to judicial review under sections 1094.5 and 1094.6 of the Code of Civil Procedure with a writ petition filed in the appropriate court within 90 days of the service of the written decision. Any tax, penalties, or interest determined by the decision to be owed to the city by the appellant must be paid to the city as a precondition to filing a writ petition challenging the decision.

§ **5.04.240. Fictitious name-Affidavit to be filed.**

No tax certificate shall be issued to any person, firm or corporation or partnership conducting or carrying on any business, show, exhibition, game, occupation, profession or enterprise under a fictitious name, unless an affidavit be filed in the office of the license tax official of the city, showing the true name of the owners of such business, exhibition, game, occupation, profession or enterprise; provided, however, that such tax certificate may be issued in the true name or names of the owners of business, show, exhibition or game without the filing of such affidavit.

§ **5.04.250. Additional power of license tax official as to sworn statements and compromising claims.**

In addition to all other power conferred upon him or her, the license tax official shall have the power, for good cause shown, to extend the time for filing any required sworn statement for a period not exceeding 30 days, and in such case to waive any penalty that would otherwise have accrued; and shall have the further power, with the consent of the city manager, to compromise any claim as to amount of business tax due.

§ 5.04.260. No tax certificate transferable-Amended tax certificate for changed location.

No tax certificate issued pursuant to this title shall be transferable.

§ 5.04.265. New business tax certificate - existing business.

A. Business owners who have obtained a tax certificate for their existing business in the City are not required to obtain a new tax certificate that would result in a new tax number under the following circumstances:
    1. The physical location of the business has changed within the City. This does not exempt the business owner from obtaining any applicable new zoning approvals, certificate of occupancy or the certificate of inspection.

B. Business owners who have obtained a tax certificate for their existing business in the City of Upland are required to obtain a new tax certificate that will result in a new business license tax number being issued under the following circumstances:
    1. The ownership has changed from one person to another person.
    2. The business is acquiring an additional location within the City.
    3. The nature of the business has changed resulting in the change to the license description and SIC code, and/or FEIN number.
    4. The business status is closed by the license tax official, business owner, business applicant, city manager or designee.
    5. Reinstatement following revocation under Section 05.04.280.

§ 5.04.270. Duplicate tax certificate.

A duplicate tax certificate may be issued by the license tax official to replace any license previously issued hereunder which has been lost or destroyed upon the tax certificate holder filing statement of such fact.

§ 5.04.280. Revocation of tax certificate.

A. Any tax certificate issued under the provisions of this title may be revoked by the license tax official upon the failure on the part of the licensee to pay the charges imposed by this title or to file reports as required by this title within 60 days after such charges or reports become delinquent.

B. Whenever the license tax official receives sufficient evidence, in the license tax official's sole discretion, that the tax certificate holder, or any person hired, retained, controlled, or employed by the tax certificate holder, has violated Section **8.44.120** of the Upland Municipal Code or any provision of state law related to the purchase and sale of detached catalytic converters (including, but not limited to, SB 1087 or AB 1740), the license official shall have the authority, pursuant to this section, to summarily suspend or terminate any tax certificate held by the tax certificate holder issued under the provisions of this title and order in writing to the tax certificate holder that they immediately cease and desist any further activity under any such tax certificate for such period of time as set forth in this section.

C. For a first offense under subsection **B** above, the remedy shall be a suspension of any such tax certificate for a period not to exceed 90 days.

D. For a second offense under subsection **B** above, the remedy shall be a suspension of any such tax certificate for a period not to exceed 180 days.

E. For a third or subsequent offense under subsection **B** above, the remedy shall be permanent revocation of any such tax certificate.

F. Any person who continues to engage in any activity for which a tax certificate is required and which such tax certificate is currently suspended or revoked pursuant to this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding $1,000.00, or by imprisonment in jail for a period not exceeding six months, or by both such fine and imprisonment. Each and every day in which any person continues to engage in such activity shall constitute a separate offense.

G. The order issued under subsection A of this section shall also notify the tax certificate holder that it shall have seven working days from the date of such order to request a hearing to determine whether such tax certificate shall be suspended or revoked. Failure to request, in writing, such hearing before the license tax official within the seven-day period shall result in the suspension or revocation of the tax certificate pursuant to the terms of this section.

H. Upon such request by the tax certificate holder whose tax certificate has been suspended or revoked under this section, for a hearing to determine whether such license shall be suspended or revoked, the license tax official shall provide such hearing within 15 calendar days after receipt by the license tax official of such request, at which hearing the tax certificate holder may appear before the license tax official for the purpose of presenting evidence why the tax certificate should not be suspended or revoked. No tax certificate shall be suspended or revoked under this section unless notice of the time and place of such hearing shall have first been given at least five calendar days before the hearing thereof by depositing in the United States mail a notice directed to the tax certificate holder at the address given in the application. The notice shall set forth a summary of the grounds advanced as the basis of the suspension or revocation.

I. Any tax certificate holder whose tax certificate is suspended or revoked under this section shall not engage in any activity for which such tax certificate is required until either authorized to do so by the license tax official or the city manager or its designee, on appeal, determines to overrule the decision of the license tax official.

J. The remedies provided herein are not to be construed as exclusive remedies. The city is authorized to pursue any proceedings or remedies provided by law.

§ 5.04.290. Posting and keeping tax certificates.

All tax certificate holders must be kept and posted in the following manner and shall be exhibited to the license tax official upon request:

A. Any tax certificate holder transacting and carrying on business at a fixed place of business in the city shall keep the tax certificate posted in a conspicuous place upon the premises where such business is carried on.

B. Any tax certificate holder transacting and carrying on business but not operating at a fixed place of business in the city shall keep the tax certificate upon his or her person or, if the business tax is based on a vehicle, upon such vehicle, at all times while transacting business within the city.

C. All businesses using vehicles in connection therewith, shall be furnished an annual vehicle tag or sticker for identification purposes.

§ 5.04.300. Business tax-How and when payable.

A. Unless otherwise specifically provided, all business taxes for tax certificates issued between January 1st and June 30th under the provisions of this title shall be due and payable in advance on the first day of January each year; all business taxes for licenses issued between July 1st and December 31st under the provisions of this title shall be due and payable in advance on the first day of July each year.

B. In all cases, the applicant shall, upon filing his or her application, pay the prescribed business tax in advance.

C. Unless otherwise provided for in this title, where any person who is engaged in business ceases business and surrenders his or her tax certificate after having exercised the privilege granted pursuant to this title, such person shall not be entitled to a refund for any business tax paid in advance or any portion thereof.

§ 5.04.305 Audits

A. The license tax official may conduct an audit of any tax certificate holder to ensure proper compliance with the requirements of this chapter.

B. To initiate an audit, the license tax official must provide written notice to the tax certificate holder that is the subject of the audit by serving the notice personally or by U.S. mail to the most recent address for the tax certificate holder in the license tax official's records. The notice must state the period of time subject to the audit.

C. Notice of the initiation of an audit for a tax year must be served within three (3) years of the last day of the tax year to be audited.

D. Upon completion of an audit, the license tax official may make an initial determination of any taxes, penalties, and interest determined to be owed and not paid for the audit period. If a tax certificate holder subject to audit is unable or unwilling to provide sufficient records to enable the license tax official to verify compliance with this chapter, the license tax official is authorized to make a reasonable estimate of the amount of tax due and the reasonable estimate shall be entitled to a rebuttable presumption of correctness.

§ 5.04.310. Penalties for failure to pay tax when due.

A. A penalty of 10 percent of the business tax due shall be added to the amount of such business tax payable by all new businesses operating in the city which fail to obtain a business license within 30 days of opening for business and all existing businesses failing to renew a tax certificate within 30 days of the due date set forth in Section **5.04.300.** An additional penalty of 20 percent of the original business tax shall be added for each month or portion thereof, that such business tax remains unpaid. In no case, however, shall such penalty exceed 100 percent of the original business tax due.

B. Interest. In addition to the penalties imposed by this section, any business tax that remains unpaid after it becomes delinquent shall bear interest at the rate of one percent (1%) per month, or such other rate as the city council may establish by resolution, computed from the first day the business tax became delinquent until the date the business tax is paid in full. Interest shall not be subject to the maximum penalty limitation set forth above.

C. The city shall collect, in addition to the penalty due, any costs incurred by the necessity to collect any delinquent payment or pursuing the compliance of non-compliant businesses, including but not limited to collection costs, discovery fees, or filing suit for collection in the courts (or any combination of such costs).

§ 5.04.320. Enforcement of title.

A. It shall be the duty of the license tax official, and he or she is directed to enforce each and all of the provisions of this title. The chief of police shall render such assistance in the enforcement hereof as may from time to time be required by the license tax official or the city manager.

B. The license tax official in the exercise of the duties imposed upon him or her hereunder, and acting through his or her deputies or duly authorized assistants, may examine or cause to be examined all places of business in the city to ascertain whether the provisions of the title have been complied with.

C. The license tax official and each and all of his or her assistants and any police officer shall have the power and authority to enter, free of charge, and at any reasonable time, any place of business required to be licensed herein, and demand an exhibition of its tax certificate. Any person having such tax certificate theretofore issued, in his or her possession or under his or her control, who fails to exhibit the same on demand, shall be guilty of a misdemeanor and subject to the penalties provided for by the Upland Municipal Code.

§ 5.04.330. Business tax a debt.

The amount of any business tax and penalty imposed by the provisions of this title shall be deemed a debt to the city. An action may be commenced in the city in any court of competent jurisdiction, for the amount of any delinquent business tax and penalties.

§ 5.04.340. Remedies cumulative.

All remedies prescribed hereunder shall be cumulative and the use of one or more remedies by the city shall not bar the use of any other remedy for the purpose of enforcing the provisions hereof.

§ 5.04.350. Business classifications schedule-Business taxes generally.

A. Every person who engages in any business, whether or not at a fixed place of business within the city, shall pay a business tax based upon a classification in one of the following sections.

B. The determination of the class of business in which an applicant for a tax certificate is deemed to be engaged under this section shall be a ministerial task of the license official.

C. If a tax certificate holder or applicant disagrees with the determination of the license tax official as to the class of business in which the tax certificate holder or applicant is engaged, the tax certificate holder or applicant may apply to the license tax official for reclassification. This application shall set forth with specificity the facts upon which it is based. Upon receipt of a reclassification application, the license tax official shall investigate and review the matter and shall either affirm the original classification or assign a new classification and shall notify the tax certificate holder or applicant of the decision in writing.

D. The license tax official may refuse to accept an application for reclassification from a tax certificate holder or applicant who has applied for reclassification within the previous 12 months if the application fails to state material and relevant facts which were not and could not have been presented in the previous reclassification application.

E. The decision of the license tax official on an application for reclassification may be appealed in accordance with Section 5.04.230.

§ 5.04.360. Retail, manufacturing, processing, professional and semiprofessional services/callings or other business- Business taxes-Gross receipts.

A. Every person engaged in any retail, general commercial, contracting, professional or semiprofessional service/calling, non-professional or non-semiprofessional servicing business activity or the rental of residential or nonresidential property, whether or not at a fixed place of business within the city, and not otherwise classified herein, shall pay an annual business tax based upon annual gross receipts as set forth below; but in no event shall such person pay less than the minimum business tax herein specified:

For the first $100,000 of gross annual receipts, only the minimum business license tax set forth in subsection C shall be due. For all gross annual receipts above $100,000, the business license tax rates shall be as follows:

Retail/General Commercial	0.065% of gross annual receipts
Contractor	0.150% of gross annual receipts
Rental, Commercial or Residential	0.200% of gross annual receipts
General Service (nonprofessional or non-semiprofessional) (e.g. hair and nail salons)	0.125% of gross annual receipts
Professional or semiprofessional service/calling	0.125% of gross annual receipts

B. In addition to the taxes imposed above, self-storage facilities must also pay $50 per unit.

C. Notwithstanding subsections A and B above, regardless of gross annual receipts, every such person shall pay a minimum business license tax of $75.00 per year and no such person shall be required to pay a business license tax of greater than $28,000 for any particular year. The minimum and maximum amount of the tax and the per unit tax for self-storage facilities shall be subject to an annual increase each January 1 in an amount equivalent to increase in the Consumer Price Index (CPI) applicable to this statistical area.

§ 5.04.370. [Reserved]

§ 5.04.380. [Reserved]

§ 5.04.390. [Reserved]

§ 5.04.400. [Reserved]

§ 5.04.410. Solicitors, peddlers and canvassers and other business not specified.

Any solicitor, peddler and canvasser and any other business not otherwise specified or provided for in this title shall pay a business tax based upon gross receipts at the rate set forth above for general service businesses.

§ 5.04.420. Rock, sand and gravel extraction tax.

A. Every person who engages in the principal business of extracting and/or processing rock, sand or gravel from or on any real property located within the city, for the purpose of commercial use shall pay a general business tax on each ton of material excavated and/or processed according to the following schedule:

1. July 1, 1990 to June 30, 1991, six cents per ton;
2. July 1, 1991 to June 30, 1992, nine cents per ton.
3. July 1, 1992 to June 30, 1993, ten cents per ton.
4. July 1, 1993 to June 30, 1994, eleven cents per ton.
5. July 1, 1994 to June 30, 1995, twelve cents per ton.

B. The rate of tax on or after July 1, 1995, shall be established by the city council at not more than fourteen cents per ton and may be established by resolution.

C. The tax on the processing and/or excavation of rock, sand and gravel shall begin on July 1, 1990, and shall be paid and collected by the city quarterly, beginning October 1, 1990. The returns for the tax shall be submitted by the persons engaged in the principal business and the tax shall be paid on October 1st, January 1st, April 1st, and July 1st of each calendar year subject to the penalties for failure to pay the tax as set forth in Section **5.04.310** of the Upland Municipal Code.

D. The license tax official shall provide each person in the principal business with a quarterly return. Such returns shall indicate the tonnage of rock, sand and gravel extracted and/or processed during the prior calendar quarter from property located within the city; the current tax rate imposed by the city; the tonnage of rock, sand and gravel extracted during the prior calendar quarter from property located outside the city, and processed within the city, and which is taxed by another city or county; and the rate of which materials have been taxed by another city or county.

E. Exemption. In the event that the extraction of any of the rock, sand and gravel processed by the person paying the tax is in fact taxed by any other city or county, then the tax so paid on the materials so processed shall be reduced by the amount paid to the other city or county but in no event shall the reduction be more than one-half of the rate charged by the city.

F. Information provided on the return shall not be considered conclusive as to the information it contains and will not prevent the city from collecting the appropriate amount which is actually due and payable, and shall be subject to audit and verification. The license official shall have the authority to examine or cause to examine, audit, and inspect such books and records as may be necessary to determine the amount of tax due and payable, and shall have the authority to enforce all provisions of this section as set forth in Section **5.04.320** of the Upland Municipal Code.

§ 5.04.425. Repeal or Amendment of Chapter 5.04.

Chapter 5.04 may be repealed or amended by the City Council without a vote of the People of the City of Upland. However, as required by California Constitution Article XIIIC (Proposition 218), voter approval is required for any amendment or provision that would increase the maximum rate or methodology of any tax levied pursuant to these chapters. The People of the City of Upland affirm that the following actions shall not constitute an increase of the rate or methodology of the business license tax requiring subsequent voter approval:

A. The reduction of the rate of the tax, and the restoration of the rate of the tax to a rate that is no higher than the maximum set by this voter-approved chapter, if the city council has previously acted to reduce the rate of the tax;

B. An ordinance amending the procedural provisions of chapter 5.04 including, but not limited to, the application process for business tax certificate issuance and renewal, the application process for business tax exemptions, collection procedures for business tax, hearing and appeal procedure, and penalties for non-compliance, so long as such ordinance does not increase the maximum rate or methodology of any tax levied pursuant to this chapter;

C. An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this chapter;

D. The establishment of a class of person or service that is exempt or excepted from the tax or the discontinuation of any such exemption or exception (other than the discontinuation of an exemption or exception explicitly set forth in this chapter); and

E. Resuming collection of the tax imposed by this chapter, even if the City had, for some period of time, either suspended collection of the tax or otherwise failed to collect the tax, in whole or in part.

§ 5.04.430. Parking and business improvement area-Creation- Business license for.

Pursuant to the Parking and Business Improvement Act law of 1965, being Part 5 of Division 18 of the **Streets and Highways Code,** Sections 36000 through 36081, there is established a business license for the parking and business improvement area, which is hereinafter in this chapter referred to simply as "said area".
(Prior code § 6430.1)

§ 5.04.440. Parking and business improvement area-Boundaries and assessment zones.

The boundaries of the proposed area are formed by two assessment zones:

Zone "A"

All of the area within the following boundaries: Beginning at a point where the centerline of

Euclid Avenue intersects the centerline of "D" Street; thence easterly along the centerline of "D" Street to the centerline of Third Avenue; thence southerly along the centerline of Third Avenue to the centerline of AT & SF Railroad right-of-way; thence westerly along the AT & SF Railroad right-of-way to the center- line of Second Avenue; thence northerly along the centerline of Second Avenue to the centerline of "A" Street; thence westerly along the centerline of "A" Street to the centerline of Euclid Avenue; thence northerly along the centerline of Euclid Avenue to the point of beginning.

Zone "B"

All of the area within the following boundaries:

Area 1:

Beginning at a point where the centerline of Euclid Avenue intersects the centerline of "D" Street; thence northerly along the centerline of Euclid Avenue to the centerline of "F" Street, thence easterly to the centerline of First Avenue, thence southerly 283.00 feet to the northern property line of Parcel 13 of Block 20, of the Town of Magnolia, as recorded in Book 9, Page 15, of maps as recorded in the County of San Bernardino, State of California; thence easterly along the north property line of Parcels 13 and 6 of Block 20, and Parcels 13 and 6 of Block 19, of the Town of Magnolia, as recorded in Book 9, Page 15, of maps as recorded in the County of San Bernardino, State of California, to the centerline of Third Avenue; thence southerly 133 feet to the centerline of Arrow Highway; thence easterly to a point 305 feet east of the centerline of Third Avenue; thence southerly 311 feet to the north line of Lot 1 of Tract No. 10407 as recorded in Map Book 149, Pages 77 and 78 of maps as recorded in the County of San Bernardino, State of California; thence westerly 305 feet to the centerline of Third Avenue; thence southerly along the centerline of Third Avenue to the centerline of "D" Street; thence westerly along the centerline of "D" Street to the point of beginning.

Area 2:

Beginning at a point where the centerline of Third Avenue intersects the centerline of Southern Pacific Railroad right-of-way; thence easterly along the centerline of the Southern Pacific Railroad right-of-way to the centerline of Sixth Avenue; thence southerly along the centerline of Sixth Avenue to the center- line of Ninth Street; thence westerly along the centerline of Ninth Street to the centerline of Sixth Avenue; thence southerly along the centerline of Sixth Avenue to the centerline of the AT & SF Railroad right-of-way; thence westerly along the centerline of the AT & SF Railroad right-of-way 281.75 feet; thence southerly along the east property line of Parcel 2 of Parcel Map No. 3741, as recorded in Map Book 37, Page 44, of maps as recorded in the County of San Bernardino, State of California, to the centerline of Eighth Street; thence westerly along the centerline of Eighth Street to a point 225 feet west of the centerline of Euclid Avenue; thence northerly along the west property line of Lots 14 through 22 of Clubine and Oakley's Subdivision as recorded in Map Book 5, Page 17, of maps as recorded in the County of San Bernardino, State of California, to the southern property line of Lot 3, Block 2, of a portion of the Euclid Subdivision, as recorded in Map Book 18, Page 57, of maps as recorded in the County of San Bernardino, State of California; thence 17.5 feet west along said prop- erty line; thence north to the centerline of the alley running north and south between Palm Avenue and Euclid Avenue; thence northerly along the centerline of said alley to the centerline of Euclid Place; thence westerly along the centerline of Euclid Place to the west property line of Parcel 1 of Tract 8529, as recorded in Map Book 89, Pages 68 and 69 of maps as recorded in the

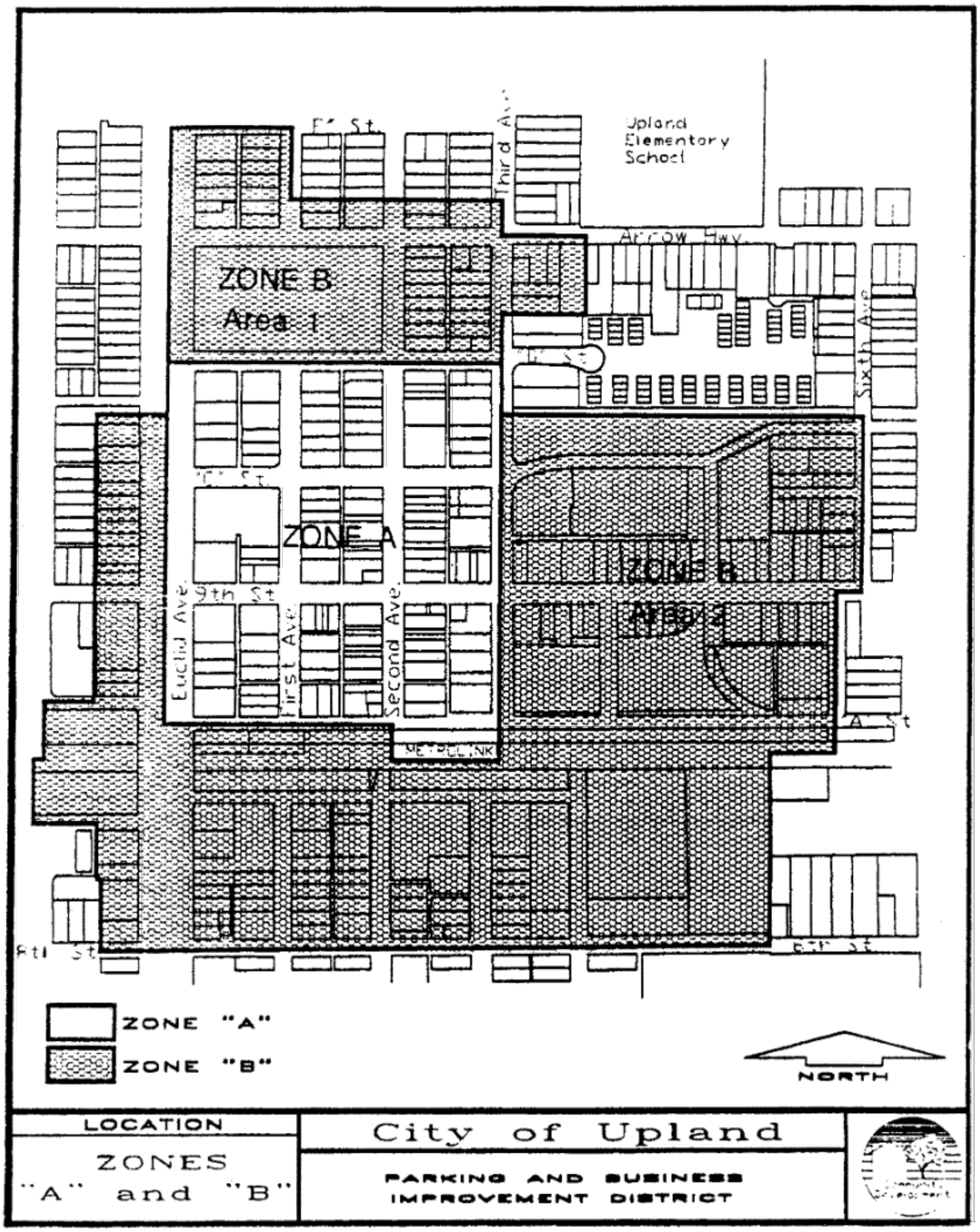
County of San Bernardino, State of California; thence northerly along said property line to the centerline of the AT & SF Railroad right-of-way; thence easterly 122.96 feet; thence northerly to the centerline of "A" Street; thence east- erly along the centerline of "A" Street to the center of the alley running north and south between Laurel Avenue and Euclid Avenue; thence northerly along the centerline of said alley to the centerline of Southern Pacific Railroad right-of-way; thence easterly 256 feet to the centerline of Euclid Avenue; thence southerly along the centerline of Euclid Avenue to the centerline of "A" Street; thence easterly along the centerline of "A" Street to the centerline of Second Avenue; thence southerly to the centerline of AT & SF Railroad right-of-way; thence easterly along the centerline of AT & SF Railroad right-of-way to the centerline of Third Avenue; thence north to the point of beginning.

(Prior code § 6430.2)

§ 5.04.450. Parking and business improvement area- Delineation.

For purposes of graphic illustration, the boundaries of said area as described in Section **5.04.430** are delineated on the following map of the area:

Map Delineating Boundaries and Assessment Zones of Parking and Business Improvement Area



(Prior code § 6430.3)

§ 5.04.460. Parking and business improvement area-Uses and purposes.

The uses and purposes to which the additional revenue emanating from said area pursuant to and as a result of this chapter shall be used for any one or more of the following:

A. The acquisition, construction or maintenance of parking facilities for the benefit of the area;
B. Decoration of any public place in the area;
C. Promotion of public events which are to take place on or in public places in the area;
D. Furnishing of music in any public place in the area;
E. The general promotion of retail trade activities in the area;
F. The general promotion of service-oriented businesses in the area. For purposes of this chapter, "service-oriented businesses" means and includes, but is not limited to, businesses engaged in commercial, light industrial and mixed uses;
G. Providing administrative and financial support to the designated organization(s) fulfilling the goals and objectives of the area.

(Prior code § 6430.4)

§ 5.04.470. Parking and business improvement area-Business classification and rate of levy.

The additional levy of the general business tax imposed upon businesses within the said area over and above the general business tax imposed on such businesses commencing with January 1, 1967, with the breakdown by class of business and assessment zone are fixed, levied, determined and established as follows:

AMOUNT OF ADDITIONAL BUSINESS LICENSE TAX FOR THOSE BUSINESSES LOCATED IN ZONES A AND B OF THE PARKING AND BUSINESS IMPROVEMENT AREA		
CLASSIFICATION OF BUSINESS	ZONE A	ZONE B
Class A		
Business of selling at wholesale Mail order/catalog stores Manufacturing and processing Medical, dental and optical laboratories Newspapers and magazine agencies Undertaking establishments	An additional tax equal to 61.11 percent of the business license tax applicable to each such respective business	An additional tax equal to 20.36 percent of the business license tax applicable to each such respective business
Class B		
Advertising agencies Apartments, hotels, motels, etc. Attorneys Auto dealers Automotive repair Contractors and engineers Doctors and dentists Newspaper publishers Printers Psychoanalysts, chiropractors, optometrists Public bookkeeping, accounting Public utilities Real estate offices Retail sales of newspapers, magazines, tobacco and other items incidental thereto. Service stations	An additional tax equal to 122.24 percent of the business license tax applicable to each such respective business	An additional tax equal to 40.73 percent of the business license tax applicable to each such respective business

AMOUNT OF ADDITIONAL BUSINESS LICENSE TAX FOR THOSE BUSINESSES LOCATED IN ZONES A AND B OF THE PARKING AND BUSINESS IMPROVEMENT AREA		
CLASSIFICATION OF BUSINESS	**ZONE A**	**ZONE B**
Veterinarians		
All other professionals licensed and regulated by the state of California and not specifically otherwise classified herein		
Class C		
All other businesses not otherwise provided for in Classes A, B or D, including, but not limited to, the following:	An additional tax equal to 183.37 percent of the business license tax applicable to each such respective business	An additional tax equal to 61.11% of the business license tax applicable to each such respective business
Appliance service		
Bakeries		
Barbershops		
Bars		
Beauty shops		
Cleaners and cleaners agents and agencies		
Department and dry goods		
Drug stores		
Furniture stores		
General merchandise stores		
Grocery and food stores		
Jewelry		
Laundry agents and agencies		
Laundromats and self-service laundries and cleaners		
Liquor stores		
Lumber and building materials		
Massage parlors		
Miscellaneous services		

AMOUNT OF ADDITIONAL BUSINESS LICENSE TAX FOR THOSE BUSINESSES LOCATED IN ZONES A AND B OF THE PARKING AND BUSINESS IMPROVEMENT AREA		
CLASSIFICATION OF BUSINESS	ZONE A	ZONE B
Nurseries and flower shops		
Nursing homes		
Personal and real estate loan agents and agencies		
Photo studios		
Rental agents and agencies		
Rental leasing companies		
Restaurants and eating places		
Secondhand dealers and stores		
Shoe repair shops		
Sign service		
Sporting goods stores		
Tailors and tailor shops		
Theaters		
Trade schools		
Trading stamp agencies and redemption centers		
TV and radio repair		
Class D		
Master operators/merchants who lease space or otherwise permit the use of space to a minimum of 5 independent contractors, or individual operators, booths, stations, offices, desks including, but not limited to, legal real estate, grooming and mortgage services	An additional tax equal to 244.66 percent of the business license tax applicable to each such respective business	An additional tax equal to 122.32 percent of the business license tax applicable to each such respective business

(Prior code § 6430.5)

For purposes of determining the additional levy applicable under this Section, the base business license tax used for the calculation in the above tables shall be determined using the business license tax formula in existence on August 3, 2026, a copy of which shall be on file with the license tax official, though shall be based on current receipts.

§ 5.04.480. Parking and business improvement area-Multiple businesses.

Whenever a business is susceptible to more than one business classification under this title of the Upland Municipal Code or under any of the classifications hereinabove set forth, the highest business tax applicable under the Upland Municipal Code and the classifications hereinabove set forth which produces the greatest additional tax shall be used and applied to such businesses.

§ 5.04.490. Parking and business improvement area-Payment of tax.

The additional tax levied shall be due and payable and shall be paid at the same time and in the same manner that the business tax imposed by this chapter is due and payable in accordance with the terms of this chapter.

§ 5.04.500. Parking and business improvement area- Applicability of general business license provisions.

A. The provisions of this title relating to business licenses, permits, and regulations shall be applicable to all businesses in the area described in Section 5.04.440. The additional parking assessment levy of the general business tax imposed by Section 5.04.470 shall also apply to all such businesses except as set forth in this section. In each case where more than one person or entity is subject to the requirement of a business license for the same business premises, the additional parking assessment levy set forth in section 5.04.470 shall be applicable only to the principal business operator provided that each other person subject to the business license requirements for that business premises is engaged in either:
   1. The same business classification and type as the principal business operator, such as beauticians in a beauty salon, barbers in a barbershop or antique dealers doing business cooperatively in one business premises; or
   2. A business classification and type commonly accepted as incidental to that of the principal business operator, such as shoe shine service in a barbershop or a manicurist in a beauty salon.

B. The examples provided in this section are by way of illustration, not limitation.

C. For purposes of this section:

   "Business premises" means the smallest division, or subdivision of a parcel, lot and/or building held out to the public, by means of signage, physical segregation or otherwise, to be one store, shop or other place of business.

"Principal business operator" means the owner of or other person or entity having primary rights of management and control over business conducted on the business premises, whether or not such rights be delegated or shared. Each business premises must have a principal business operator. In the event that no person or entity can be determined to be the principal business operator after reasonable inquiry, the finance director shall designate the principal business operator from among the persons and/or entities known to be doing business at the business premises based upon a reasonable inference from the known facts concerning such primary rights of management and control.

D. Any person subject to business license requirements other than one described in subsection A of this section, doing business at a business premises shall be subject to the additional parking assessment levy.

§ 5.04.510. Parking and business improvement area-Payment prerequisite to license.

No business license shall be issued pursuant to this title unless the additional business license imposed by Section **5.04.470** is paid together with the business license pursuant to and imposed by this title. (Prior code § 6430.9)

§ 5.04.520. Parking and business improvement area-Refusal to pay tax.

No person shall fail or refuse to pay the additional business tax imposed by Section 5.04.470.

§ 5.04.530. Accountability.

The City shall conduct an annual, independent financial audit of the proceeds from Chapter 5.04 during the lifetime of the tax. The audit shall be performed in accordance with Generally Accepted Accounting Principles and all Governmental Accounting Standards Board pronouncements. In addition, the City shall post the audit results on the City's website or by other local means that are easily accessible to the public as required by law. Nothing herein shall prohibit the City from incorporating this audit as part of any required annual audit that the City prepares."

SECTION 2. The License Tax set forth herein shall be collected and administered in the manner set forth in Chapter 5.04 of the Upland Municipal Code.

SECTION 3. Pursuant to Article XIIIB of the California Constitution, the appropriation limit for the City of Upland will be increased by the maximum projected aggregate collection authorized by the levy of this general tax, as indicated in Section 1, in each of the years covered by this Ordinance plus the amount, if any, by which the appropriation limit is decreased by law as a result of the levy of the general tax set forth in this Ordinance.

SECTION 4. If any portion of this Ordinance is declared invalid by a court of law or other legal body with applicable authority, the invalidity shall not affect or prohibit the force and effect of any other provision or application of the Ordinance that is not deemed invalid. The voters of the City hereby declare that they would have circulated for qualification and/or voted for the adoption of this Section, and each portion thereof, regardless of the fact that any portion of the initiative may be subsequently deemed invalid.

SECTION 5. Pursuant to California Constitution Article XIIIC §(2)(b) and California Elections Code §9217, this Ordinance shall take effect only if approved by a majority of the eligible voters of the City of Upland voting at the General Municipal Election to be held on November 3, 2026. The new taxing rate shall go into effect on January 1, 2027. However, until January 1, 2028, the following table shall be used in place of the table in Section 5.04.360 subsection A for the purposes of determining the applicable business license tax:

Retail/General Commercial	0.060% of gross annual receipts
Contractor	0.100% of gross annual receipts
Rental, Commercial or Residential	0.125% of gross annual receipts
General Service (nonprofessional or non-semiprofessional) (e.g. hair and nail salons)	0.090% of gross annual receipts
Professional or semiprofessional service/calling	0.090% of gross annual receipts

SECTION 6. The Mayor is hereby authorized to attest to the adoption of this Ordinance by the People voting thereon on November 3, 2026, by signing where indicated below.

I hereby certify that the foregoing Ordinance was PASSED, APPROVED AND ADOPTED by the People of the City of Upland on the 3rd day of November, 2026.

____
Bill Velto, Mayor

ATTEST:______________________________
Keri Johnson, City Clerk