

ORDINANCE NO. 27790

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTION 4.76.345 OF CHAPTER 4.76 OF TITLE 4 OF THE SAN JOSE MUNICIPAL CODE TO SIMPLIFY THE BUSINESS TAX HARDSHIP EXEMPTION PROCESS BY ELIMINATING THE REQUIREMENT THAT SOLE PROPRIETORS WHO HAVE CLAIMED THE EXEMPTION FILE WITH THE CITY A STATEMENT OF FINANCIAL HARDSHIP WITH SUPPORTING EVIDENCE BY NOVEMBER 30 OF THE FOLLOWING YEAR

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

Section 4.76.345 of Chapter 4.76 of Title 4 of the San José Municipal Code is amended to read as follows:

4.76.345 Financial Hardship Exemption

- A. A sole proprietorship shall be exempt from the payment of any business tax imposed under the provisions of this Chapter where the gross receipts of the sole proprietorship do not exceed the poverty level for the calendar year in which the business tax is due, and the sole proprietorship satisfies each of the requirements set forth in Subsection C below.
- B. For the purposes of this Section:
 - 1. The term “sole proprietorship” means a business owned and operated by one person or owned and operated jointly by a husband and wife or domestic partners, without other principals or employees. For purposes of this Section, “domestic partners” means two individuals who have a current declaration of domestic partnership on file with the California

Secretary of State pursuant to the Domestic Partner Registration Act, California Family Code Section 297, et. seq., as may be amended, identifying themselves as each other's domestic partner. A "sole proprietorship" does not include a corporation, partnership, or association unless the single business operator or husband and wife or domestic partners are the only employees of the corporation, partnership, or association.

2. The term "employee" has the meaning defined in Section 4.76.060 of Chapter 4.76 of this Title.
 3. The term "poverty level" means the income amount established by the U.S. Department of Health and Human Services as the poverty guideline for a single person multiplied by two (2) for the calendar year in which the business tax is due.
- C. A sole proprietorship is eligible for an exemption in accordance with the provisions of Subsection A, provided that:
1. The exemption request is filed with the Director of Finance on or before the date the business tax is due; and
 2. The exemption request is made upon a form provided therefor by the Director of Finance, stating under penalty of perjury that it is anticipated that the gross receipts of the sole proprietorship will be at or below the poverty level for the income tax reporting year in which the business tax is due.
- D. The Director of Finance shall have the right to examine and audit all the books and records of the sole proprietorship, including either state or federal income tax returns or other documentation of gross receipts deemed adequate by the Director of Finance, in order to determine the eligibility of the sole proprietorship for the exemption. If the Director of Finance determines that the sole

proprietorship was not entitled to an exemption, then the business tax for the previous calendar year shall be due within thirty (30) days of notification by the City. If the business tax is not paid on or before the thirtieth day, penalties and interest shall accrue pursuant to Section 4.76.290.

- E. No exemption shall be allowed if the sole proprietorship refuses to allow examination of its books and records, including either state or federal income tax returns or other documentation of gross receipts deemed adequate by the Director of Finance, after requested by the Director of Finance to do so.

- F. Any decision of the Director of Finance made under this Section shall be final.

PASSED FOR PUBLICATION of title this 20th day of June, 2006, by the following vote:

AYES:	CAMPOS, CHAVEZ, CORTESE, LeZOTTE, NGUYEN, PYLE, REED, WILLIAMS, YEAGER; GONZALES
NOES:	NONE
ABSENT:	CHIRCO
DISQUALIFIED:	NONE

RON GONZALES
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk