

ORDINANCE NO. 0004-2021

AN ORDINANCE OF THE CITY OF MCFARLAND REGARDING VENDING FROM VEHICLES AND LICENSE TAXES – RATES, AND AMENDING AND RESTATING TITLE 5, CHAPTER 5.44 OF THE MCFARLAND MUNICIPAL CODE TO AMEND AND RESTATE SECTIONS 5.48.020, ADOPT AND ENACT 5.48.060, AND AMEND AND RESTATE TITLE 5, CHAPTER 5.04, SECTION 5.04.140, MCFARLAND MUNICIPAL CODE

**Section 1.** Recitals.

**WHEREAS**, The City of McFarland (“City”) desires to amend, clarify and codify its Municipal Code Chapter related to Vending from Vehicles and the License Taxes applicable to Vending from Vehicles;

**WHEREAS**, The Ordinance Amendment updates the Municipal Code to codify the City’s requirements and procedures for residents seeking to obtain a permit for mobile vending and the license taxes applicable thereto;

**WHEREAS**, Adoption of this Ordinance will provide uniform and comprehensive regulations and standards related to Chapter 5.44 and 5.48 of the McFarland Municipal Code.

**WHEREAS**, Adoption of this Ordinance is in furtherance of the City’s goals and objectives while reducing the potentially negative impacts arising from incompatible Municipal Code Chapters.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MCFARLAND DOES ORDAIN AS FOLLOWS:

**Section 2.** Section 5.44.020 of the McFarland Municipal Code is hereby amended and restated to read as follows:

**5.44.020 – Permits.**

Any person wishing to be a vendor in the city must comply with the same conditions as peddlers and solicitors more particularly described in Chapter 5.32 of this code and each of the provisions in Chapter 5.32 are hereby made applicable to vendors. No person may be a vendor in the city without first complying with each and every requirement under Chapter 5.32. Notwithstanding the foregoing, no more than twenty vendors may be licensed in any calendar year. Permits shall be issued first to those vendors with existing permits requesting renewals of same provided the request for renewal is made on or before July 15 following expiration of the permit and, thereafter, on a first - come - first - serve basis for remaining permits, if any; provided, however, that the City may choose not to issue a permit to any applicant who has violated City regulations or the conditions of its license or failed to follow any other regulations of any other governmental jurisdiction."

A. Mobile Non-Food Vending

1. Ten (10) vendor permits are available for sales of non-edible good and services.

B. Mobile Food Vending

1. Ten (10) vendor permits are available for the mobile sales of any type of edible goods or beverages
2. No more than five (5) Mobile Food Vending permits may be for ice cream vendors and no more than two (2) Mobile Vending permits may be taco trucks.

C. Holders of Non-Food or Food Vendor Permits may use such permits for a maximum of two (2) Vehicles and/or self-propelled, or motorized devices.

D. Owner/Vendor shall not obtain more than one (1) Permit within the City to conduct sales of similar goods.

E. Owner/Vendor shall provide a Certificate of Vehicle Insurance, Liability Insurance and Workers Compensation Insurance, where applicable.

**Section 3.** Section 5.44.060 of the McFarland Municipal Code is hereby adopted and enacted to read as follows:

**5.44.060 Operations on Private Property**

A Mobile Vendor may locate its vehicle and/or self-propelled, or motorized devices on Private Property as the Mobile Vendor adheres to the following standards and conditions:

- A. A land use permit has been obtained from the City of McFarland Planning Department;
- B. To provide edible or non-edible goods and/or services for persons employed at the private property for a period of thirty minutes or less; or
- C. A Lease Agreement between property owner of land and vendor is provided to the City of McFarland and the property subject to the Lease Agreement is zoned such that operation of the mobile business is lawful.

**Section 4.** Section 5.04.140 of the McFarland Municipal Code is hereby amended and restated to read as follows:

**5.04.140 – License taxes - Rates**

- A. Every person who commences, conducts, engages in or carries on any business listed hereinafter in this subsection shall pay a business license tax comprised of the base, annual, per event, daily, and/or tax plus the unit tax amount times the number of units calculated, respectively, for each such classification of business as hereinafter specified.

Business Type	Annually/Daily/Per Unit Tax Amount	Event/
Administrative office	\$100.00 annually.	
Apartments/rental property	\$65.00 plus \$5.00 for each after 4 units.	
Arts and/or crafts fair	\$10.00 per booth/stall.	
Barber shop/beauty salon	\$65.00 per owner and non-employee operator.	
Billboard Structures within the city	\$150.00 annually per structure.	
Christmas tree lot sales operations	\$40.00 per day All structures and electrical permit requirements are inspected and approval by the building department and all fire code requirements approved by the fire department. Planning department approval requirement.	
Circus/carnival	\$450.00 for 5 days or less.	
Commercial solicitors/peddlers	\$60.00 per person, per day, \$90.00 for background check and live scan required. All solicitors/peddlers must comply with the conditions described in municipal code Chapter 5.32.	
Curb Painters	\$30.00 per day. Requirements: Obtain insurance in the amount of \$100,000.00 for public liability from an insurance company. Obtain a Surety Bond from a bonding company or insurance company in the amount of \$500.00, or cash deposit in that amount can be made to the	

Business Type	Annually/Daily/Per Unit Tax Amount	Event/
	city of McFarland. The permit must be in possession of the person performing the work and available for inspection on demand.	
Exhibitions (i.e. car show)	\$10.00 per vehicle, per day.	
Family child care over 8 children	\$100.00 annually plus home occupation permit required and approved by the planning department and permit from the state of California to operate. See Res. No. 2014-0201 for fee.	
Family child care of 8 or less children	Health and Safety Code Section 1597.45: No local jurisdiction shall impose any business license, fee or tax for the privilege of operating a small daycare home.	
Farmers market	\$10.00 per booth/stall.	
Non-Food Mobile Vendor – Municipal Code Chapter 5.44	\$200.00 Annually, \$90.00 for background check required on owner/operator, \$25.00 for each vehicle inspection, and live scan required on each owner/operator. Liability insurance required, see municipal code Section 5.44.020. Must comply with the additional conditions described in municipal code Chapter 5.32.	
Food vending vehicles — Municipal code Chapter 5.44	\$200.00 Annually, \$90.00 for background check required on owner/operator, \$25.00 for each vehicle inspection, and live scan required on each owner/operator. Must present a valid Kern County Environmental Health Permit. Liability insurance required, see municipal code Section 5.44.020. Must comply with the additional conditions described in municipal code Chapter 5.32.	
Fortunetelling, palmist, clairvoyant	\$500.00 annually, plus investigation filing fee of \$500.00, plus the fee charged by Department of Justice for fingerprint processing. Must comply with additional requirements in municipal code Chapter 5.28.	
Hotel, motel, lodging houses	\$65.00 annually, plus \$5.00 per room after 4.	
Ice cream vending vehicle	\$200.00 Annually, \$90.00 for background check required on owner/operator, \$25.00 for each vehicle inspection, and live scan required on each owner/operator. Must present a valid Kern County Environmental Health Permit. Liability insurance required see municipal code Section 5.44.060. Must comply with additional conditions described in municipal code Chapter 5.32.	
Itinerant vendor	\$60.00 per person, per day, \$90.00 for background check and live scan required. All solicitors/peddlers/itinerant vendors must comply with the conditions described in Municipal Code Chapter 5.32.	
Interpreter	\$65.00 annually.	
Laundromats	\$30.00 for the first machine, \$10.00 for each additional machine per year. Maximum \$200.00 annually.	
Spas-medi/pedi	\$65.00 per owner and non-employee operator.	
Taxi-cab	\$65.00 per vehicle. \$90.00 for background check required on each owner/driver, \$25.00 for each vehicle inspection, and live scan required	

Business Type	Annually/Daily/Per Unit Tax Amount	Event/
	on each owner/driver. Must also comply with all requirements stated in municipal code Chapter 5.52.	
Duplicate (lost or damaged business license) — Municipal code Section 5.04.100	\$15.00	
Change location of business—Municipal code Section 5.04.090	\$15.00	

B. Every person who engages in any business within the city except those businesses set forth in subsection A of this Section 5.04.140 shall pay an annual business tax based upon gross receipts at the rates to be calculated to the nearest cent as set forth below:

City of McFarland  
License Fee Schedule  
Annual Gross Receipts

1. Base fee on all business license: Fifteen dollars.
2. California state fee on all business license: Four dollars. May be revised by state of California.

For the sales and service or the rendering of any service whatsoever.

FROM	TO	FEE DUE
ZERO	\$30,000	\$65.00
\$30,001.00	\$50,000.00	\$75.00
\$50,001.00	\$75,000.00	\$100.00
\$75,001.00	\$100,000.00	\$125.00
\$100,001.00	\$175,000.00	\$150.00
\$175,001.00	\$250,000.00	\$175.00
\$250,001.00	\$500,000.00	\$225.00
\$500,001.00	\$750,000.00	\$300.00
\$750,001.00	\$1,000,000.00	\$450.00
\$1,000,001.00	\$1,500,000.00	\$500.00
\$1,500,001.00	\$2,000,000.00	\$600.00
\$2,000,001.00	\$3,000,000.00	\$700.00
\$3,000,001.00	\$4,000,000.00	\$800.00
\$4,000,001.00	\$5,000,000.00	\$900.00
\$5,000,001.00	\$10,000,000.00	\$1,000.00

FROM	TO	FEE DUE
\$10,000,001.00	and up	\$2,000.00

Note: You may report your gross receipts on a calendar or fiscal basis as long as it is for a full year. Please report by the same method each year. If you have been doing business in the city of McFarland for less than twelve months, enter an estimate of your gross receipts for twelve months.

C. The business license tax and gross receipts may be modified from time to time by city council resolution.

**Section 5.** The Amended Chapter 5.44 of the McFarland Municipal Code is set forth in Exhibit "A" to this Ordinance and incorporated herein by reference.

**Section 6.** The Amended Chapter 5.04 of the McFarland Municipal Code is set forth in Exhibit "B" to this Ordinance and incorporated herein by reference.

**Section 7. NOTICE.** The City clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be posted within 15 days after its passage, in accordance with Section 36933 of the Government Code.

**Section 8. Severability.** If any section, subsection, sentence, clause, phrase, or word of this Ordinance is, for any reason, deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, or preempted by legislative enactment, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of McFarland hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or word thereof, regardless of the fact that any one or more sections, subsections, clauses, phrases, or word might subsequently be declared invalid or unconstitutional or preempted by subsequent legislation.

**Section 9. Effective Date.** This Ordinance shall take effect thirty days after its adoption pursuant to California Government Code section 36937.

**Section 10. Certification; Publication.** The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

**INTRODUCED, PASSED AND ADOPTED** at a regular meeting of the City Council of the City of McFarland, California on the 10th day of June, 2021, by the following vote:

	Aye	Nae	Abstain	Absent
Sally Gonzalez	√			
Maria T. Perez	√			
Eric Rodriguez				
Saul Ayon	√			
Ricardo Cano	√			

  
Sally Gonzalez, Mayor

I hereby certify that the foregoing Ordinance was duly and regularly adopted by the City Council of the City of McFarland by a regular meeting thereof held on June 10, 2021.

ATTEST:

APPROVED AS TO FORM:

  
Francisca Alvarado, City Clerk  
Posted: June 24, 2021

  
Nathan M. Hodges, City Attorney



**EXHIBIT A**  
**CHAPTER 5.44 MOBILE VENDING**

**5.44.010 – Definitions.**

The following words and terms shall have the following meanings:

“Goods” means items and products of every kind and description including, without limitation, all food, produce and beverage items.

“Vehicle” shall have the same meaning as in the Vehicle Code of the state of California.

“Vendor” means any person who engages in the act of selling or offering for sale any goods from a vehicle or who drives or otherwise uses any such vehicle for the purpose of selling or offering for sale any goods therefrom.

**5.44.020 – Permits.**

Any person wishing to be a vendor in the city must comply with the same conditions as peddlers and solicitors more particularly described in Chapter 5.32 of this code and each of the provisions in Chapter 5.32 are hereby made applicable to vendors. No person may be a vendor in the city without first complying with each and every requirement under Chapter 5.32. Notwithstanding the foregoing, no more than twenty vendors may be licensed in any calendar year. Permits shall be issued first to those vendors with existing permits requesting renewals of same provided the request for renewal is made on or before July 15 following expiration of the permit and, thereafter, on a first – come – first – serve basis for remaining permits, if any; provided, however, that the City may choose not to issue a permit to any applicant who has violated City regulations or the conditions of its license or failed to follow any other regulations of any other governmental jurisdiction.”

- Mobile Non-Food Vending
  - Ten (10) vendor permits are available for sales of non-edible good and services.
  
- Mobile Food Vending
  - Ten (10) vendor permits are available for the mobile sales of any type of edible goods or beverages
  - No more than five (5) Mobile Food Vending permits may be for ice cream vendors and no more than two (2) Mobile Vending permits may be taco trucks.
  
- Holders of Non-Food or Food Vendor Permits may use such permits for a maximum of two (2) Vehicles and/or self-propelled, or motorized devices.
  
- Owner/Vendor shall not obtain more than one (1) Permit within the City to conduct sales of similar goods.
  
- Owner/Vendor shall provide a Certificate of Vehicle Insurance, Liability Insurance and Workers Compensation Insurance, where applicable.

**5.44.030 – Prohibited conduct.**

A. No vendor shall sell or offer for sale any goods within three hundred feet from the exterior boundary of property used or occupied by any of the following:

1. A public or private school during the hours that school is in session;

2. A business establishment which is opened for business and is offering for sale the same or similar product as offered for sale by the vendor;
  3. A restaurant, cafe, or eating establishment which is opened for business;
  4. A public park at such times as a concession stand authorized by the public agency with jurisdiction over the park is operating;
  5. Any city property where a city authorized concession stand is operating;
  6. A church or other place for religious gathering during the hours of church services or church-related activities; and
  7. Any permitted location where the vendor has sold goods or offered same for sale within a period of less than four hours.
- B. No vendor shall sell goods or offer same for sale at any permitted location for a longer consecutive period of time than one hour.
  - C. No vendor shall sell goods or offer same for sale in violation of any of the provisions of this code or of the laws of any other jurisdiction.
  - D. No vendor shall obstruct or cause to be obstructed the passage of a sidewalk, street, or any other public place by causing people to congregate at or near the place where goods are being sold or offered for sale.
  - E. No vendor shall serve customers on the street side of the vehicle and the right wheels of the vehicle shall be parallel to and within twelve inches of the right hand curb or the right hand edge of the roadway.
  - F. No vendor shall sell or offer to sell goods in such a manner as to cause a traffic hazard.
  - G. No music which can be heard outside of the vehicle nor any sound amplification systems shall be used whenever the vehicle is stopped or parked.
  - H. Vendors shall maintain on the vehicle leak-proof, plastic or galvanized refuse receptacles with tight fitting lids. The vendor shall clean all public property surrounding the vehicle of all refuse generated by the vendor's activity. All wastewater must be retained in a spill-proof, leak-proof container maintained on the vehicle with a larger capacity than the water supply available on the vehicle.
  - I. No vendor shall set portable tables or chairs for customer use or promote a sit down dining environment at any location.
  - J. No vendor shall conduct business between the hours of ten p.m. and nine a.m.
  - K. All vendors preparing food in the vehicle by cooking, frying, or other similar means shall be equipped with at least one 2A-40-BC fire extinguisher.

**5.44.040 – Applicability of regulations to existing business.**

The provisions of this chapter shall be applicable to all persons and businesses described herein whether established before or after the effective date of the ordinance enacting this chapter into law.

**5.44.050 – Violation—Penalty.**

Every person violating or failing or neglecting or refusing to comply with any of the provisions of this chapter shall be guilty of a misdemeanor and, upon violation thereof, shall be punishable as provided for in Chapter 1.20 of this code. Each day any violation of any provision of this chapter shall continue shall constitute a separate offense.

#### **5.44.060 – Operations on Private Property**

A Mobile Vendor may locate its vehicle and/or self-propelled, or motorized devices on Private Property as the Mobile Vendor adheres to the following standards and conditions:

- A. A land use permit has been obtained from the City of McFarland Planning Department;
- B. To provide edible or non-edible goods and/or services for persons employed at the private property for a period of thirty minutes or less; or
- C. A Lease Agreement between property owner of land and vendor is provided to the City of McFarland and the property subject to the Lease Agreement is zoned such that operation of the mobile business is lawful.

**EXHIBIT "B"**  
**CHAPTER 5.04 BUSINESS LICENSE**

**5.04.010 - Revenue measure.**

The ordinance codified in this chapter is enacted solely to raise revenue for municipal purposes and is not intended for regulation.

**5.04.020 - Definitions.**

As used in this chapter, the following terms and phrases shall have the meanings ascribed to them in this section:

- A. "Amusement machine" means any mechanical, electrical, electronic or other machine, apparatus, contrivance or device, which may be operated or played by the placing or deposit therein of a coin, check, slug, ball, token, card or other article, or by paying for the use thereof in advance or after use, involving in its operation or play either skill or chance, including but not limited to pinball machines, bowling game machines, shuffleboard machines, marble game machines, video game machines, or any other similar machine or device. The term "amusement machine" does not include phonographs, jukeboxes or other music machines.
- B. "Arcade" means any business with a fixed place of business which maintains on the premises four or more amusement machines available for use and play by the public generally or by patrons of such business, whether the business of arcade is conducted as a single business or in conjunction with another business.
- C. "Business" includes professions, trades and occupations and all and every kind of calling whether or not carried on for profit.
- D. "Distributor" means any person engaged in the business of selling, renting or placing on consignment or on commission basis or otherwise with any person any amusement machine in or at any place of business in the city.
- E. "Gross receipts" includes the total of amounts actually received or receivable from sales and the total amounts actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, 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 materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever. Excluded from "gross receipts" shall be the following:
  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 an agent or trustee to the extent that such amounts are paid to those for whom collected, provided the

- agent or trustee has furnish the collector with the names and addresses of the others and the amounts paid to them;
6. As to a prime contractor or subcontractor to which Section 7108.5 of the California Business and Professions Code applies, the amounts received on account of the work performed by subcontractors, to the extent of each subcontractor's interest within.
  7. As to a real estate agent or broker, the sales price of real estate sold for the account of others except that portion which represents commission or other income to the agent or broker;
  8. As to a retail gasoline dealer, a portion of his receipts from the sale of motor vehicle fuels equal to the motor vehicle fuel license tax imposed by and previously paid under the provisions Part 2 of the Division 2 of the Revenue and Taxation Code of the State of California;
  9. As to a retail gasoline dealer, the special motor fuel tax imposed by Section 4041 of Title 26 of the United States Code if paid by the dealer or collected by him from the consumer or purchaser;
  10. Receipts of refundable deposits, except that refundable deposits forfeited and taken into income of the business shall not be excluded;
  11. As to a public utility operating in the city under a franchise or franchises from the city and which makes franchise payments to the city, that portion of gross receipts used in calculating the franchise fees.
- F. "Person" 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.
- G. "Residential property rental" means the business of managing, operating or renting any apartment house, duplex, hotel, motel, mobile home park, rooming or boardinghouse with two or more residential units. For purpose hereof, the number of residential units aforesaid shall exclude that unit, if any, occupied by the applicant; provide, however, that the management, operation or rental of three or less residential units shall not be deemed a residential property rental for the purposes of this chapter.

**5.04.030 - Other ordinances not affected.**

Persons required to pay a license tax for transacting and carrying on any business under this chapter shall not be relieved from the payment of any license tax for the privilege of doing such business required under any other ordinance of the city, and shall remain subject to the regulatory provisions of other ordinances.

**5.04.040 - License required.**

There are imposed upon the businesses, trades, professions, callings and occupations specified in this chapter license taxes in the amounts hereinafter prescribed. It shall be unlawful for any person to transact and carry on any business, profession, trade, calling or occupation in the city without first having procured a license from the city so to do or without complying with any of the applicable provisions of this chapter. This section shall not be construed to require any person to obtain a license prior to doing business within the city if such requirement conflicts with applicable statutes of the United States or the state. Persons not required to obtain a license

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

**5.04.045 - Commercial cannabis.**

- A. Commercial cannabis activity, whether or not for profit, is prohibited in the city. No person shall establish, operate, maintain, conduct, allow, or engage in commercial cannabis activity anywhere within the city.
- B. No license shall be issued for any commercial cannabis activity in the city. The city shall also not issue any business license for any activity for which a state license is required under the MAUCRSA. The city shall also not issue any local license to a non-profit entity pursuant to California Business and Professions Code Section 26070.5.
- C. To the extent not already prohibited by subsection A above, all deliveries of cannabis or cannabis products to or from any location are expressly prohibited. No person shall conduct or perform any delivery of any cannabis or cannabis products, which delivery either originates or terminates within the city. Nothing in this section shall prohibit any person from transporting cannabis through the jurisdictional limits of the city for delivery or distribution to a person located outside the city, where such transport does not involve delivery or distribution within the jurisdictional limits of the city.

**5.04.050 - Branch establishments.**

A separate license must be obtained for each branch establishment or location of the business transacted and carried on. Each license shall authorize the licensee to transact and carry on any business or businesses at said location.

**5.04.060 - Exemptions.**

- A. Nothing in this chapter shall be deemed or construed to apply to any person transacting and carrying on any business exempt by virtue of the constitution or applicable statutes of the United States or of the state from the payment of such taxes as are prescribed in this chapter.
- B. None of the license taxes provided for by this chapter shall be so applied as to occasion an undue burden on interstate commerce. In any case where a license tax is believed by a licensee or applicant for a license to place an undue burden upon such commerce, he may apply to the city clerk for an adjustment of the tax so that it will not be discriminatory or unreasonable as to such commerce. Such application may be made before, at, or within six months after payment of the prescribed license tax. The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume or estimated gross volume of business and such other information as the city clerk may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The city clerk 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 nondiscriminatory, 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 city clerk shall have the power to base the license tax upon any measure which will assure that the license tax assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the license tax as prescribed by this chapter.

Any person claiming an exemption pursuant to this section shall file a verified statement with the city clerk stating the facts upon which the exemption is claimed. The city clerk shall, upon a proper showing contained in the verified statement, issue a license to such person claiming exemption under this section without payment to the city of the license tax required by this chapter. The city clerk, after giving notice and a reasonable opportunity for hearing to a licensee, may revoke any license granted pursuant to the provisions of this section upon information that the licensee is not entitled to the exemption as provided in this section.

**5.04.070 - Application, approval and contents of license.**

- A. Every person required to have a license under the provisions of this chapter shall make application for the same to the city clerk of the city. Such application shall be made upon a form provided by the city clerk and shall set forth such information as may be required by the city clerk as necessary to determine properly the amount of the license to paid.
- B. All applications shall be reviewed by the city of McFarland community development director or his/her designee. All required planning entitlements and permits must be obtained by the applicant prior to approval of a business license application.
- C. Each business license issued hereunder shall be conditioned upon the following and each licensee shall comply with same:
  - D. All written conditions or limitations imposed upon the permit;
  - E. Payment of all fees required by this chapter;
  - F. Cooperating with the police department and all other departments of the city in connection with the investigation of any criminal activity in or around the business premises and to assist in the investigation thereof;
  - G. The business and premises on which it is conducted shall not be in violation of any local, state, or federal laws or regulations including, without limitation, all laws, rules and regulations within the McFarland Municipal Code.
  - H. A business license shall not be issued or renewed if the property owner or business owner has any outstanding zoning, code enforcement and/or building violations on the subject property.
  - I. Upon approval of the business license application and upon the payment of the prescribed license tax the city clerk shall issue to such person a license which shall contain (i) the name of the person to whom the license is issued, (ii) the business licensed, (iii) the place where such business is to be transacted and carried on, (iv) the date of the expiration of the license, and (v) such other information as may be necessary for the enforcement of the provisions of this chapter.

**5.04.080 - Appeal.**

Any person aggrieved by any decision of the city clerk with respect to the issuance, refusal, to issue such license may appeal to the council by filing a notice of appeal with the city clerk. The council shall thereupon fix a time and place of hearing such appeal. The city clerk shall give notice to such person of the time and place of hearing by serving it personally or by depositing it in the U.S. Post Office at McFarland, California, postage prepaid, addressed to such person at his last known address. The council shall have authority to determine all questions

raised on such appeal. No such determination shall conflict with any substantive provision of this chapter.

**5.04.090 - Licenses not transferable—Change of location.**

No license issued pursuant to this chapter shall be transferable; provided, that where a license is issued authorizing a person to transact and carry on a business at a particular place, such license may upon application therefor and paying a fee of fifteen dollars have the license amended to authorize the transacting and carrying on of such business at some other location to which the business is or is to be moved.

**5.04.100 - Duplicate license.**

A duplicate license may be issued by the city clerk to replace any license previously issued under this chapter which has been lost or destroyed upon the licensee filing statement of such fact, and at the time of filing such statement paying to the city clerk a duplicate license fee of fifteen dollars.

**5.04.110 - Posting and keeping license.**

All licenses must be kept and posted in the following manner:

- A. Any licensee transacting and carrying on business at a fixed place of business in the city shall keep the license posted in a conspicuous place upon the premises where such business is carried on.
- B. Any licensee transacting and carrying on business but not operating at a fixed place of business in the city shall keep the license upon his person at all times while transacting and carrying on such business.

**5.04.115 - Suspension or revocation.**

A business license may be suspended or revoked, temporarily or permanently, upon the permittee's failure to comply with all written conditions or limitations of the permit or the requirements of Section 5.04.070(C). Upon suspension or revocation of any permit, no other application by the same permittee or his or her agent to carry on a similar business or activity shall be filed for a period of one year from the date of such suspension or revocation.

**5.04.116 - Appeal of suspension or revocation of permit.**

A suspension or revocation shall be final unless appealed to the city manager by the permittee within ten days after service of written notice of the suspension or revocation on the permittee. The filing of any appeal shall not stay any action to correct any violation of the permittee which may be pending. Any appeal shall be in writing and shall set forth fully the grounds upon which the appeal is based. The city manager shall determine the appeal based on the writings. The city manager shall send notice of his or her decision to the permittee within thirty days of receipt of all of the written materials required by the city manager. The city manager's decision shall be final.

**5.04.120 - License tax—How and when payable.**

All license fees payable under this chapter shall be due and payable in full as follows:

- A. Annual licenses: In advance on the first day of July.

- B. Quarterly license taxes: In advance on the first day of January, April, July and October of each year.
- C. Monthly licenses: On the first day of each and every month in advance.
- D. Daily licenses: In advance each day.

**5.04.130 - Penalty for failure to pay tax when due.**

For failure to pay a license tax when due, the city clerk shall add a penalty of twenty-five percent of the license tax on the last day of the month after the due date thereof and the penalty and license tax shall bear interest from and after the due date until paid at the rate of twenty-five percent for each month delinquent thereafter providing that the amount of any penalty shall in no event exceed one hundred percent of the amount of the license tax due.

**5.04.140 – License taxes - Rates**

- A. Every person who commences, conducts, engages in or carries on any business listed hereinafter in this subsection shall pay a business license tax comprised of the base, annual, per event, daily, and/or tax plus the unit tax amount times the number of units calculated, respectively, for each such classification of business as hereinafter specified.

Business Type	Annually/Daily/Per Event/ Unit Tax Amount
Administrative office	\$100.00 annually.
Apartments/rental property	\$65.00 plus \$5.00 for each after 4 units.
Arts and/or crafts fair	\$10.00 per booth/stall.
Barber shop/beauty salon	\$65.00 per owner and non-employee operator.
Billboard Structures within the city	\$150.00 annually per structure.
Christmas tree lot sales operations	\$40.00 per day. All structures and electrical permit requirements are inspected and approval by the building department and all fire code requirements approved by the fire department. Planning department approval requirement.
Circus/carnival	\$450.00 for 5 days or less.
Commercial solicitors/peddlers	\$60.00 per person, per day, \$90.00 for background check and live scan required. All solicitors/peddlers must comply with the conditions described in municipal code Chapter 5.32.

Business Type	Annually/Daily/Per Event/ Unit Tax Amount
Curb Painters	\$30.00 per day. Requirements: Obtain insurance in the amount of \$100,000.00 for public liability from an insurance company. Obtain a Surety Bond from a bonding company or insurance company in the amount of \$500.00, or cash deposit in that amount can be made to the city of McFarland. The permit must be in possession of the person performing the work and available for inspection on demand.
Exhibitions (i.e. car show)	\$10.00 per vehicle, per day.
Family child care over 8 children	\$100.00 annually plus home occupation permit required and approved by the planning department and permit from the state of California to operate. See Res. No. 2014-0201 for fee.
Family child care of 8 or less children	Health and Safety Code Section 1597.45: No local jurisdiction shall impose any business license, fee or tax for the privilege of operating a small daycare home.
Farmers market	\$10.00 per booth/stall.
Non-Food Mobile Vendor – Municipal Code Chapter 5.44	\$200.00 Annually, \$90.00 for background check required on owner/operator, \$25.00 for each vehicle inspection, and live scan required on each owner/operator. Liability insurance required, see municipal code Section 5.44.020. Must comply with the additional conditions described in municipal code Chapter 5.32.
Food vending vehicles — Municipal code Chapter 5.44	\$200.00 Annually, \$90.00 for background check required on owner/operator, \$25.00 for each vehicle inspection, and live scan required on each owner/operator. Must present a valid Kern County Environmental Health Permit. Liability insurance required, see municipal code Section 5.44.020. Must comply with the additional conditions described in municipal code Chapter 5.32.
Fortunetelling, palmist, clairvoyant	\$500.00 annually, plus investigation filing fee of \$500.00, plus the fee charged by Department of Justice for fingerprint processing. Must comply with additional requirements in municipal code Chapter 5.28.
Hotel, motel, lodging houses	\$65.00 annually, plus \$5.00 per room after 4.
Ice cream vending vehicle	\$200.00 Annually, \$90.00 for background check required on owner/operator, \$25.00 for each vehicle inspection, and live scan

Business Type	Annually/Daily/Per Event/ Unit Tax Amount
	required on each owner/operator. Must present a valid Kern County Environmental Health Permit. Liability insurance required see municipal code Section 5.44.060. Must comply with additional conditions described in municipal code Chapter 5.32.
Itinerant vendor	\$60.00 per person, per day, \$90.00 for background check and live scan required. All solicitors/peddlers/itinerant vendors must comply with the conditions described in Municipal Code Chapter 5.32.
Interpreter	\$65.00 annually.
Laundromats	\$30.00 for the first machine, \$10.00 for each additional machine per year. Maximum \$200.00 annually.
Spas-medi/pedi	\$65.00 per owner and non-employee operator.
Taxi-cab	\$65.00 per vehicle. \$90.00 for background check required on each owner/driver, \$25.00 for each vehicle inspection, and live scan required on each owner/driver. Must also comply with all requirements stated in municipal code Chapter 5.52.
Duplicate (lost or damaged business license) — Municipal code Section 5.04.100	\$15.00
Change location of business—Municipal code Section 5.04.090	\$15.00

B. Every person who engages in any business within the city except those businesses set forth in subsection A of this Section 5.04.140 shall pay an annual business tax based upon gross receipts at the rates to be calculated to the nearest cent as set forth below:

City of McFarland

License Fee Schedule

Annual Gross Receipts

1. Base fee on all business license: Fifteen dollars.
2. California state fee on all business license: Four dollars. May be revised by state of California.

For the sales and service or the rendering of any service whatsoever.

FROM	TO	FEE DUE
ZERO	\$30,000	\$65.00
\$30,001.00	\$50,000.00	\$75.00
\$50,001.00	\$75,000.00	\$100.00
\$75,001.00	\$100,000.00	\$125.00
\$100,001.00	\$175,000.00	\$150.00
\$175,001.00	\$250,000.00	\$175.00
\$250,001.00	\$500,000.00	\$225.00
\$500,001.00	\$750,000.00	\$300.00
\$750,001.00	\$1,000,000.00	\$450.00
\$1,000,001.00	\$1,500,000.00	\$500.00
\$1,500,001.00	\$2,000,000.00	\$600.00
\$2,000,001.00	\$3,000,000.00	\$700.00
\$3,000,001.00	\$4,000,000.00	\$800.00
\$4,000,001.00	\$5,000,000.00	\$900.00
\$5,000,001.00	\$10,000,000.00	\$1,000.00
\$10,000,001.00	and up	\$2,000.00

Note: You may report your gross receipts on a calendar or fiscal basis as long as it is for a full year. Please report by the same method each year. If you have been doing business in the city of McFarland for less than twelve months, enter an estimate of your gross receipts for twelve months.

C. The business license tax and gross receipts may be modified from time to time by city council resolution.

**5.04.150 - Vehicle deliveries.**

Every person not having a fixed place of business within the city who is not subject to the provisions of Section 5.04.140, who delivers goods, wares or merchandise of any kind by vehicles in the city or who provides any service by the use of vehicles in the city shall pay a license tax of one hundred fifty dollars per year.

**5.04.160 - Other outside businesses—No fixed location.**

Every person not having a fixed place of business within the city who engages in business within the city and is not subject to the provisions of Sections 5.04.140 or 5.04.150, shall pay a license tax of one hundred fifty dollars per year.

**5.04.170 - Other outside businesses—Fixed location.**

Every person who engages in business at a fixed place of business within the city and is not subject to the provisions of Section 5.04.140 shall pay an annual license tax of fifty dollars.

**5.04.180 - Proration.**

Whenever a business shall be first commenced during the year or any quarter thereof, the license tax shall be prorated for the months remaining in the license period after the first day of the month in which the business is commenced. Provided, however, that there shall be no proration of daily licenses and there shall be no proration of licenses for any person who does not have an established place of business in the city and provided further, that the minimum license fee under any proration shall be fifteen dollars.

**5.04.190 - Waiver.**

The licensing of any business, occupation or activity carried on wholly for the benefit of charitable purposes from which profit is not derived either directly or indirectly by any person, or to the conducting of any entertainment, dance, concert, exhibition or lecture on scientific, historical, literary, religious or moral subjects whenever the receipts from such entertainment, dance, concert, exhibition or lecture go to any church, school, or to any religious or benevolent purpose within the city, or to any federal, military, fraternal or local chamber of commerce within the city, may be waived by the city council provided an application is made therefor with the city clerk of the city at least ten days prior to a regular city council meeting.

**5.04.200 - Enforcement.**

It shall be the duty of the city clerk of the city and he is by the ordinance codified in this section directed to enforce each and all of the provisions of this chapter, and the chief of police shall render such assistance in the enforcement of this chapter as may from time to time be required by the city clerk or the city council. The city clerk in the exercise of the duties imposed upon him under this chapter shall examine or cause to be examined all places of business in the city to ascertain whether the provisions of this chapter have been complied with. The city clerk and each and all of his 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 in this chapter, and demand an exhibition of its license. Any person having such license theretofore issued, in his possession or under his control, who wilfully fails to exhibit the same on demand shall be guilty of a misdemeanor and subject to the penalties provided by this chapter.

It shall be the duty of the city clerk to cause a complaint to be filed against any and all persons found to be violating any of the provisions of this chapter.

**5.04.210 - Revocation.**

The city manager or his designee may revoke a business license if the business should be registered with the board of equalization and collecting and forwarding the sales tax accordingly but fails to do so.

**5.04.220 - Error by city not to prevent collection of due and payable tax.**

In no case shall any mistake made by the director in stating the amount of a license tax prevent or prejudice the collection by the city of what shall be actually due from any carrying on a business subject to a license tax under this chapter.

**5.04.230 - Statements and records—Auditing—Examination.**

- 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 collector, his deputies, or authorized employees of the city, who are hereby authorized to examine, audit, and inspect such books and records of any certificate holder or applicant for business tax certificate, as may be necessary in their judgment to verify or ascertain the amount of business tax due.
- B. All persons subject to the provisions of this chapter shall keep complete records of business transactions, including sales, receipts, purchases, and other expenditures, and shall retain all such records for examination by the collector. Such records shall be maintained for a period of at least five years. No person required to keep records under this section shall refuse to allow authorized representatives of the collector to examine the records at reasonable times and places.

**5.04.240 - Information confidential.**

- A. It is unlawful for the collector or any person having an administrative duty under the provisions of this chapter to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person required to obtain a business tax certificate, or pay a business tax, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof set forth in any statement or application, or to permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person. Provided that nothing in this section shall be construed to prevent:
- B. The disclosure to, or the examination of records and equipment by, another city official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this chapter, or collecting taxes imposed hereunder;

- C. The disclosure of information to, or the examination of records by, federal or state officials, or the tax officials of another city or county, or city and county, if a reciprocal arrangement exists, or to a grand jury or court of law, upon subpoena;
- D. The disclosure of information and results of examination of records of particular taxpayers, or relating to particular taxpayers, to a court of law in a proceeding brought to determine the existence or amount of any business tax liability of the particular taxpayers of the city;
- E. The disclosure after the filing of a written request to that effect, to the taxpayer himself, or to his successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, of information as to the items included in the measure of any paid tax, any unpaid tax or amounts of tax required to be collected, interest and penalties; further provided, however, that the city attorney approves each such disclosure and that the collector may refuse to make any disclosure referred to in this paragraph when in his opinion the public interest would suffer thereby;
- F. The disclosure of the names and addresses of persons to whom business tax certificates have been issued, and the general type or nature of their business;
- G. The disclosure by way of public meeting or otherwise of such information as may be necessary to the city council in order to permit it to be fully advised as to the facts when a taxpayer files a claim for refund of business taxes, or submits an offer of compromise with regard to a claim asserted against him by the city for business taxes, or when acting upon any other matter;
- H. The disclosure of general statistics regarding taxes collected or business done in the city;
- I. The disclosure of information and examination of records of any business tax certificate holder who is a litigant in any lawsuit involving the city and such information is relevant to the issues in such lawsuit.

**5.04.250 - Failure to file statement or corrected statement.**

If any person fails to file any required statement within the time prescribed, or if after demand therefor made by the collector he fails to file a corrected statement, or if any person subject to the tax imposed by this chapter fails to apply for a business tax certificate, the collector may determine the amount of business tax due from such person by means of such information as he may be able to obtain. In case of failure to apply for a business tax certificate, a twenty-five percent penalty shall be added to the tax due. If the collector is not satisfied with the information supplied in statements or applications filed, he may determine the amount of any business tax due by means of any information he may be able to obtain. If such a determination is made the collector shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States Post Office at McFarland, California, postage prepaid, addressed to the person so assessed at his last known address. Such person may, within fifteen days after the mailing or serving of such notice, make application in writing to the collector for a hearing on the amount of the business tax. If such application is made, the collector shall cause the matter to be set for hearing within thirty days before the city council. The collector shall give at least ten days' notice to such person of the time and place of hearing in the manner prescribed above for serving notices of assessment. The council shall consider all evidence produced, and shall make findings thereon, which shall be final. Notice of such findings shall be served upon the applicant in the manner prescribed above for serving notices of assessment.

**5.04.260 - Amount to be paid fixed by chapter.**

The amount of licenses taxes to be paid to the city by any person engaged in or carrying on any profession, trade, calling, occupation or business hereinafter designated is hereby fixed and established by separate resolution from time to time by the city council. 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.

**5.04.270 - License tax a debt.**

The amount of any license tax and penalty and interest imposed by this chapter shall be deemed a debt to the city. An action may be commenced in the name of the city in any court of competent jurisdiction for the amount of any delinquent license tax and penalties and interest.

**5.04.280 - Remedies cumulative.**

All remedies prescribed under this chapter 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 chapter.

**5.04.290 - Penalty for violation.**

Any person violating any of the provisions of this chapter or knowingly or intentionally misrepresenting to any officer or employee of the city any material fact in procuring the license or permit provided for in this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars or by imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment.