



Office of the City Manager

PUBLIC HEARING

June 10, 2014

To: Honorable Mayor and Members of the City Council

From:  Christine Daniel, City Manager

Submitted by: Robert Hicks, Director, Finance

Subject: Business License Administrative Lien Fee

RECOMMENDATION

Conduct a public hearing and upon conclusion, adopt a Resolution increasing the delinquent business license administrative lien fee from \$50 to \$125 effective August 1, 2014 for each delinquent account sent to the County for collection.

FISCAL IMPACTS OF RECOMMENDATION

The proposed increase to the business license administrative lien fee is estimated to raise an additional \$8,550 in General Fund revenue for Fiscal Year 2015. This increase is intended to more fully recover the costs associated with the collection of the projected 114-150 delinquent business license accounts that will be transferred to Alameda County for inclusion on the 2014-2015 property tax roll.

The business license administrative lien fee is deposited to the general fund revenue account code 010-3202-318-50.19.

CURRENT SITUATION AND ITS EFFECTS

The City Auditor's Office performed a business license tax audit in 2010 and submitted the Audit Report to Council on May 29, 2012. The audit involved the Finance Department (Revenue Collection, Treasury, and Accounting Divisions), and Information Technology Department. The objective of the audit was to determine if: business licenses were assigned correct tax codes, taxes were accurately calculated, and when appropriate, if penalties and interest were accurately assessed.

The complete Business License Taxes: Providing Better Guidance and Customer Service Will Increase Revenues Audit can be found on the City's website at: <http://www.cityofberkeley.info/auditor/currentaudits.htm>.

The audit found that due to limitations in the BMC, Chapter 9.04, the administrative lien fee of \$50 did not fully recover the fee Alameda County charged to collect delinquent business license fees and Finance's costs to place the lien on the property tax roll. The audit recommended an amendment to BMC, Chapter 9.04 to increase the business license administrative lien fee to an amount which would allow recovery of the County's

collection fee as well as recover the City's costs in staff time to place the lien on the property tax roll.

As reported in the Business License Audit, in tax year 2011 and 2012, Finance submitted a total of \$483,052 in delinquent business license liens to the county to collect on the annual property tax roll. Included in that amount was a total of \$13,600 in administrative lien fees. The county retained 1.7% of the \$483,052 it collected or \$8,212; the City received only \$5,388 of the \$13,600 in administrative fees assessed.

It costs the City approximately \$95 per account in Finance staff time to place each delinquent tax lien on the property tax roll. For tax years 2011 and 2012, a total of 272 accounts were turned over to the County for collection which costs the City approximately \$25,840 in staff time to process; the County collection fee was \$8,212. Therefore, it cost the City approximately \$34,052 to place the 272 delinquent business license liens, yet Finance could only charge a total of \$13,600 in administrative lien fees. Had the administrative lien fee been \$125 per lien, the City would have assessed \$34,000 in lien fees, which would have covered the county collection fee as well Finance's costs to place the liens.

Therefore, staff is recommending that the business license administrative lien fee be increased from \$50 to \$125 per delinquent account. Staff has submitted a report also on the June 10, 2014 agenda recommending that the language in BMC Section 9.04.125 be amended. This change to the BMC will in part address audit finding 3.1 to recover both the county collection fee and the cost to the City in staff time to place a business license lien.

#### BACKGROUND

The City implemented its Business License Tax Ordinance in 1977 to raise general fund revenue. In Fiscal Year 2011, the year the Business License Tax audit was performed, the general fund received \$13.954 million from approximately 13,000 business licenses. The current administrative lien fee was set at \$50 in 1988 and the Audit found that the \$50 administrative lien fee does not fully recover all of the costs associated with placing a property tax lien with the Alameda County, and therefore, recommended that the administrative lien fee be increased to cover the county's collection fee and the City's costs to place the lien.

#### ENVIRONMENTAL SUSTAINABILITY

The proposed amendments would have little effect on the City's environmental sustainability goals. It is unlikely that these amendments would have any effect on environmental sustainability goals relating to zero waste, food, information technology, climate change, habitat, air quality, or emissions.

RATIONALE FOR RECOMMENDATION

The proposed resolution will, in part, address audit finding 3.1 by increasing the administrative lien fee from \$50 to \$125, which will recover both the County's 1.7% collection fee as well recover the City's cost to place each lien.

ALTERNATIVE ACTIONS CONSIDERED

Leave the administrative lien fee at \$50 as it currently exists in BMC 9.04.125 which pays for the county collection fee but does not fully recover City staff costs.

CONTACT PERSON

Heather M Murphy, Revenue Collection Manager, 981-7261

Attachments:

- 1: Resolution
- 2: Notice of Public Hearing

RESOLUTION NO. ##,###-N.S.

BUSINESS LICENSE ADMINISTRATIVE LIEN FEE

WHEREAS, Council adopted the Business License Tax Ordinance in 1977 to raise general fund revenue; and

WHEREAS, the current administrative lien fee was set at \$50 in 1988; and

WHEREAS, the City has established the goal of financial self-sufficiency for each program; and

WHEREAS, Council conducted a public hearing on increasing the administrative lien fee for the Business License program on June 10, 2014.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Administrative Lien Fee for the Business License program is hereby adopted as set forth and shall be effective August 1, 2014.

BE IT FURTHER RESOLVED that if the taxes are not paid when due, such tax, penalty and interest shall constitute an assessment against such business property and shall be a lien on the property. The amount of the lien shall include an administrative processing fee of \$125, which is in addition to the billed amount and applicable late penalty fees and interest.

**NOTICE OF PUBLIC HEARING  
BERKELEY CITY COUNCIL  
ADMINISTRATIVE LIEN FEE INCREASE**

Notice is hereby given by the City Council of the City of Berkeley that a public hearing will be conducted by said city council of the City of Berkeley at which time and place all persons may attend and be heard upon the following:

The Department of Finance is proposing to increase the delinquent business license administrative lien fee effective August 1, 2014.

<b><u>Current Fees</u></b>	<b>\$50 per delinquent account</b>
<b><u>Proposed Fees</u></b>	<b>\$125 per delinquent account</b>

The hearing will be held on, **JUNE 10, 2014** at 7:00 p.m. in the City Council Chambers, 2134 Martin Luther King, Jr. Way.

For further information, please contact Heather Murphy at 510-981-7261.

A copy of the agenda material for this hearing will be available on the City's website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **May 29, 2014**.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 12 days prior to the public hearing.

**Published:** May 30 and June 6, 2014 – The Berkeley Voice  
**Per Government Code 6062A**

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I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way, as well as on the City's website, on May 29, 2014.

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Mark Numainville, CMC, City Clerk