

ORDINANCE NO. 2010-2

ADDING SECTION 5.03.315, "TAX COLLECTOR," TO  
CHAPTER 5.03, "DEFINITIONS," AND ADDING SECTION 5.12.020,  
"CONSTITUTIONAL APPORTIONMENT," TO CHAPTER 5.12,  
"TAX RETURN FILING—ISSUANCE OF CERTIFICATE,"  
OF THE SAN MATEO MUNICIPAL CODE

WHEREAS, the City's Municipal Code does not currently define the term "tax collector" and it is desirable to do so; and

WHEREAS, a city may tax a business which is partially located outside the city's jurisdictional boundaries only if the business license tax fairly reflects that proportion of activity carried on within the City; and

WHEREAS, it has been the City of San Mateo's practice to apportion business taxes on businesses partially located outside of the City, in accordance with Municipal Code section 5.12.025; and

WHEREAS, the City wishes to confirm its apportionment practice by codifying it separately from Municipal Code Section 5.12.025;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN MATEO,  
CALIFORNIA, ORDAINS AS FOLLOWS:

**Section 1.** Section 5.03.315, "Tax Collector," is added to Chapter 5.03, "Definitions," of the San Mateo Municipal Code to read:

**5.03.315 TAX COLLECTOR.** "Tax Collector" means the Director of Finance or his or her designee.

**Section 2.** Section 5.12.020, "Constitutional Apportionment", is added to Chapter 5.12, "Tax Return Filing—Issuance of Certificate," of the San Mateo Municipal Code to read:

**5.12.020 CONSTITUTIONAL APPORTIONMENT.** None of the business taxes provided for in this chapter shall be so applied as to occasion an undue burden upon interstate commerce or be violative of the equal protection and due process clauses of the Constitution of the United States and the State. In any case where a business tax is believed by a business tax certificate holder or applicant for a business tax certificate to place an undue burden upon interstate commerce or be violative of such constitutional clauses, he may apply to the Tax Collector for an adjustment of the business tax. Such application may be made before, at, or within one year after the payment of the prescribed business tax. The applicant shall, by sworn statement and supporting testimony, show his method of business, his gross receipts, and such other information as the Tax Collector may deem necessary in order to determine the extent, if any, of such undue burden or violation. The Tax Collector shall then conduct an investigation and, after

having first obtained the written approval of the City Attorney, shall fix as the business tax for the applicant 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. In fixing the business tax to be charged the Tax Collector shall have the power to base the business tax upon a percentage of gross receipts or any other measure which will assure that the business tax assessed shall be uniform with that assessed on businesses of like nature, so long as the amount assessed does not exceed the business tax as prescribed by the provisions of this chapter. Should the Tax Collector determine the gross receipts measure of business tax to be the proper basis, he may require the applicant to submit, either at the time of termination of the applicant's business in the City or at the end of each fiscal year, a sworn statement of the gross receipts and pay the amount of business tax therefore; provided, however, no additional business tax during any one calendar year shall be required after the business tax certificate holder shall have paid an amount equal to the annual business tax as prescribed in this chapter.

**Section 4. CEQA.** In accordance with CEQA Guidelines Section 15061(c)(3), this Ordinance is not a project in that there is no possibility that it will have a significant effect upon the environment.

**Section 5. PUBLICATION.** This Ordinance shall be published in summary in the Examiner Peninsula Edition, posted in the City Clerk's Office, and posted on the City's website, all in accord with Section 2.15 of the Charter and shall be effective 30 days after the date of adoption.

I hereby certify this to be a correct copy of Ordinance 2010-2 of the City of San Mateo, California, introduced on January 4, 2010 and adopted on January 19, 2010, by the following vote of the Council:

AYES: Council Members LIM, MATTHEWS, GROTTTE, ROSS and LEE

NOES: NONE

ABSENT: NONE

(SEAL) /s/ NORMA GOMEZ, City Clerk