



AGENDA REPORT

TO: Honorable Mayor and Members of City Council

FROM: David C. Laredo, City Attorney

MEETING DATE: September 3, 2014

SUBJECT: Ordinance to amend Pacific Grove Municipal Code Chapter 7.04 regarding the City's business licenses

CEQA: Does not Constitute a "Project" per California Environmental Quality Act (CEQA) Guidelines

RECOMMENDATION

Hold second reading and adopt an ordinance to amend Chapter 7.04 of the Pacific Grove Municipal Code regarding the City's business licenses and direct publication of a summary of the measure at least three days before adoption in a newspaper of general circulation.

DISCUSSION

This Ordinance amends Chapter 7.04 dealing with the City's business licenses. A summary of this measure has been published in accord with Council direction. No substantive changes have been made to the draft presented to Council for review at the meeting of August 20, 2014. Minor changes in wording were made subsequent to first reading in order to improve clarity.

This ordinance has been drafted because members of the public, as well as members of Council, have raised concerns regarding the City's business license regulation. Presently it is difficult to construe and apply. This chapter was first adopted by the Council in 1970 and has undergone only minor revision since that time.

The proposed revisions are summarized below:

1. Definitions are expanded and clarified;
2. Businesses, services and professions subject to the City's business license tax are listed;
3. Exemptions pertaining to charitable organizations and minors are clarified;
4. Appeal notice requirements are clarified;
5. License fees now set forth in the Master Fee Schedule;
6. Refunds are no longer granted if the business terminates prior to expiration of the license;
7. Fees for collection of a judgment against a licensee are imposed; and
8. Conviction for transacting business without a license does not exempt the person from payment of the tax, or from criminal prosecution.

The sole purpose of this proposed revision is to bring the City's ordinance into conformance with current practice. As such, it is intended to serve only as a baseline for future discussions by the Council and community on such issues as home businesses, economic development, and appropriate tax rates. Matters needing consideration can be identified at any time and scheduled by the Council for the future, after completion of extensive research and analysis.

ATTACHMENT

1. Proposed Ordinance

RESPECTFULLY SUBMITTED,

David C. Laredo

David C. Laredo
City Attorney

ORDINANCE NO. 2014 - ____

**AN ORDINANCE OF THE CITY OF PACIFIC GROVE
AMENDING CHAPTER 7.04 OF THE PACIFIC GROVE MUNICIPAL CODE
REGARDING THE CITY'S BUSINESS LICENSE REGULATIONS**

WHEREAS, since 1970, the City of Pacific Grove has regulated business licenses as set forth in Pacific Grove Municipal Code (PGMC) Chapter 7.04; and

WHEREAS, members of the public, as well as members of the City Council, have raised concerns regarding the City's business license regulation, finding it is difficult to construe and apply; and

WHEREAS, the City has determined it is appropriate to amend the business license regulations to provide clarification; and

WHEREAS, this ordinance amends Chapter 7.04 of the PGMC; and

WHEREAS, in the enactment of this ordinance, the City followed the guidelines adopted by the State of California and published in the California Code of Regulations, Title 14, Section 15000, et seq.

WHEREAS, enactment of this ordinance action does not constitute a "project" as defined by California Environmental Quality Act (CEQA) because it is an organizational or administrative activity that will not result in direct or indirect physical changes in the environment.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE:

SECTION 1. The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 2. Existing Municipal Code section 7.04.010 of Chapter 7.04, entitled "**Definitions**" shall be amended by the deletion of all text shown in ~~strikeout text~~ and by the addition of all text shown in bold, italic text (***bold italic text***), as follows:

7.04.010 Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meaning respectively ascribed to them by this Section:

(a) Person. ~~As used in this chapter, "Person" means 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,~~ ***means*** 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~~ ***any person, firm, association, organization, partnership, business trust, corporation or company.***

~~(b) City. As used in this chapter, “Ceity” means the city of Pacific Grove, a municipal corporation of the state of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.~~

~~(c) Business. As used in this chapter, “Bbusiness” includes professions, trades, and occupations, and use of vehicles for sales or delivery of products, all and every kind of calling whether or not carried on for profit.~~

(d) Collector. “Collector” means the city treasurer, or his/her appointee.

(e) Fixed place of business. “Fixed place of business” shall refer to the premises occupied for the particular purpose of conducting business thereat, and regularly kept open for such purpose, with a person in attendance for the purpose of attending to such business. Such term shall also include the location at which telephone, internet or other electronic service is conducted.

~~(d)f) Gross Receipts. As used in this chapter, “Ggross receipts” includes the total amounts actually received, ***charged*** or receivable from sales within the city and the total amounts actually received, ***charged*** or receivable for the performance of any act or service within the city 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, ***including state or federal motor vehicle fuel or license taxes;***
- (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 furnished the collector with the names and addresses of the others and the amounts paid to them;
- (6) That portion of the receipts of a general contractor which represent payments to subcontractors; provided, ~~that~~ such subcontractors are licensed under this chapter, and provided the general contractor furnishes the collector with the

names and addresses of the subcontractors and the amounts paid each subcontractor;

(7) Receipts of refundable deposits, except that refundable deposits forfeited and taken into income of the business shall not be excluded;

(8) 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;

~~(9) As to a gasoline dealer, a portion of his or her receipts from the sale of motor vehicle fuels equal to the motor vehicle fuel license tax imposed by and previously paid under the provisions of Part 2 of Division 2 of the Revenue and Taxation Code of the state of California;~~

~~(10) As to a retail gasoline dealer, the special motor fuel tax imposed by the federal government if paid by the dealer or collected by him or her from the consumer or purchaser;~~

~~(11) The rental received from three residential rental units where no more than three such units are in a single ownership. Persons owning more than three residential rental units shall pay tax based on the gross receipts of all rental units;~~

~~(12) The gross receipts of persons whose fixed place of business or location is in a city which affords to persons located in this city a reciprocal exemption on transactions, the nature of which would otherwise be subject to this chapter. This is not intended to exclude the transactions of persons who have an actual location or office in the city.~~

~~(g) Sale. As used in this chapter, "Sale" includes the transfer, in any manner or by any means whatsoever, of title to property for a consideration including the lease or rental thereof; the serving, supplying, or furnishing for a consideration of any property; and a transaction whereby the possession of property is transferred and the seller retains the title as security for the payment of the price shall likewise be deemed a sale. The foregoing definitions include any transaction which is or which, in effect, results in a sale within the contemplation of law.~~

~~(h) Sworn Statement. As used in this chapter, "Sworn statement" means an affidavit sworn to before a person authorized to take oaths, or a declaration or certification made under penalty of perjury.~~

~~(i) Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a public street or highway, except devices moved by human power or used exclusively upon stationary rails or tracks.~~

~~(g) Collector. As used in this chapter, "collector" means the city finance director. [Ord. 656 N.S. § 1, 1970].~~

SECTION 3. Existing Municipal Code section 7.04.030 of Chapter 7.04, entitled "**Effect on other ordinances**" shall be amended by the deletion of all text shown in

strikeout text (~~strikeout text~~) and by the addition of all text shown in bold, italic text (***bold italic text***), as follows:

7.04.030 Effect on other ordinances.

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 ***provision of the municipal code or uncodified*** ordinances of the city, and shall remain subject to the regulatory provisions of ***those*** other ***requirements of law*** ordinances.

No license issued pursuant to the provisions of this chapter shall be construed ***to*** ~~as authorizing~~ the conduct or continuance of any illegal or unlawful business. [Ord. 656 N.S. § 1, 1970].

SECTION 4. Existing Municipal Code section 7.04.040 of Chapter 7.04, entitled “**License and tax payment required**” shall be amended by the deletion of all text shown in strikeout text (~~strikeout text~~) and by the addition of all text shown in bold, italic text (***bold italic text***), as follows:

7.04.040 License and tax payment required.

License taxes are ~~There are hereby~~ imposed upon the businesses specified in this chapter ~~license taxes~~ in the amounts hereinafter prescribed. It is unlawful for any person to transact and carry on any business in the city without first having procured a license from the city ~~so to do~~ and paying the ***prescribed*** tax ~~hereinafter prescribed~~ or without complying with any and all 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 of the state of California. Persons not so required to obtain a license prior to doing business within the city nevertheless shall be liable for payment of the tax imposed by this chapter. [Ord. 656 N.S. § 1, 1970].

SECTION 5. A new section 7.04.045 shall be added to Chapter 7.04, entitled “**Business List**” shall be created, as follows:

7.04.045 Business List.

(a) Businesses subject to this chapter shall include, but are not limited to the following:

Ambulance service

Art galleries

Athletic events

Auto court, trailer court

Auto parts

Awning sales and repairs

Automobiles for hire

Bakeries

Bath and massage

Barbershop

Batteries, sales and service

Beauty shop

Bed & Breakfast

Bicycles, sale, repair or rental

Blacksmith or iron works

Boardinghouse (over four guests)

Boats, sale, repair or storage

Book store

Bowling alleys

Cabinetmaking

Candy store

Catering service

Chimney cleaning

Child care nursery

Cigar store

Circuses, carnivals, fairs and other similar events or concessions therein

Cleaning dyeing and renovating (fixed place of business)

Cleaning or laundry trucks

Clothing, sale of

Dancing, public hall

Dancing school

Delivery of gasoline, oil or other petroleum products

Dairy products

Dressmaking or alterations

Drugstore

Farmers

Fire extinguisher service

Fish market, retail

Florist

Furniture

Furs

Garden service

Gift shop

Glazier

Golf course

Golf driving range

Grocer and meat market

Gymnasium

Ice manufacturer and distributor

Handicrafts and works of art

Hardware

Hospital

Hotel

Housecleaning

Household appliances and furnishings

Janitorial and cleaning services

Jewelry

Junk collectors

Junk dealers

Laundry or laundrette

Lockers, frozen food

Leather shop

Lumber yard

Merchant, general

Machine shop

Mail order

Motel

Museum

Music store

Newspaper distributing
Newsstand or newspaper distributor
Nursery school
Office equipment
Paint store
Parking lots
Pawnbroker
Peddlers

Pet shop
Pest control
Piano tuner

Physical culture

Picture gallery
Planing mill
Pool room
Printing and graphic
Private instructor
Produce sales
Public garage
Racquetball facility
Recording services and repairs
Rental of equipment
Repair shop or repair service
Restaurant

Rest Home
Rooming house (over four guests)

Rug cleaning
Sanitary supplies and service
Sanatorium
Sanatory or convalescent hospital
Scooter or motor bikes, sale, repair or rental

Secondhand dealer

Service station

Ship chandlery

Shoes, sale or repair

Signs, sale

Skating rink

Skateboard park

Skiff rental

Snack bar

Solicitors

Sporting goods

Sports facility

Stationery store

Statuary

Storage

Swimming pool maintenance

Telephone soliciting

Tailor

Tires, retreading and vulcanizing

Theaters

Tool sharpening

Towel supply

Trailer and camper sales

Tree maintenance

Trucking

Trucks and automobiles, rent or lease

Upholstery

Watchmaker, repairs

Wholesale delivery (other than produce)

Wholesale pickup

Window cleaning

Wood yard

Taxicabs

(b) Services and professions subject to this chapter shall include, but are not limited to the following:

Architect/designer

Artist

Computer service

Consulting service

Accountant, auditor

Abstract company

Advertising

Appraiser

Architect

Assayer

Attorney at law

Bacteriologist

Brokers (stock, bond, real estate, boat, insurance, etc.)

Boarding kennels

Business college

Chemist or chemical laboratory

Chiropodist

Chiropractor

Clinic

Collection agency

Consultant

Dental laboratory

Dentist

Designer or illustrator

Dog and cat hospital

Electrologist

Employment agency

Engineer

Finance company

Fortunetelling and other similar practices

Funeral director

Geologist

Graphic artist

Gunsmith, repair

Hearing aid center

Income tax service

Insurance adjuster

Interior decorator

Land title company

Lapidary

Masseurs and masseuses

Oculist

Optician

Optometrist

Osteopath or osteopathist

Photographer

Physical therapist

Psychologist

Public relations service

Radio and TV stations

Research laboratories

Research service

School of cosmetology

Sculptor

Security patrol

Sign painter

Stenographer, public

Telephone answering service

Tours and related visitor services

Travel agency

Veterinary

Web designer

Yoga practitioner

SECTION 6. Existing Municipal Code section 7.04.050 of Chapter 7.04, entitled “**Branch establishments**” shall be amended by the deletion of all text shown in ~~strikeout text~~ and by the addition of all text shown in bold, italic text (***bold italic text***), as follows:

7.04.050 Branch establishments.

A separate license 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 ~~and~~. ***Each*** license shall authorize the licensee to transact and carry on only the business licensed ~~thereby~~ at the location or in the manner designated in such license; provided, however, ~~that~~ if a separate federal income tax return is filed for a particular business, it shall, for purposes of this section, be conclusively presumed to be a separate business for which a separate license is required. [Ord. 656 N.S. § 1, 1970].

SECTION 7. Existing Municipal Code section 7.04.060 of Chapter 7.04, entitled “**Evidence of doing business**” shall be amended by the deletion of all text shown in ~~strikeout text~~ and by the addition of all text shown in bold, italic text (***bold italic text***), as follows:

7.04.060 Evidence of doing business.

When any person makes use of signs, circulars, cards, telephone books, ~~or~~ newspapers, ***the internet, or employs other means of advertising,*** ~~advertises,~~ ~~holds~~ ***holding*** out, or ***representing*** ~~represents~~ that he or she is in business in the city, or when any person holds an active license or permit issued by a governmental agency, indicating ~~that~~ he or she is in business in the city, and such person fails to ***provide*** ~~deny~~ by a sworn statement ~~given~~ to the collector that he or she is not conducting a business in the city, after being requested to do so by the collector, then these facts shall be considered prima facie evidence that he or she is conducting a business in the city.

Until proper evidence to the contrary is presented to the collector, the collector shall be entitled to treat all business accounted for from a Pacific Grove location, as transactions subject to tax. [Ord. 656 N.S. § 1, 1970].

SECTION 8. Existing Municipal Code section 7.04.070 of Chapter 7.04, entitled “**Exemptions**” shall be amended by the deletion of all text shown in ~~strikeout text~~ and by the addition of all text shown in bold, italic text (***bold italic text***), as follows:

7.04.070 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 of California from the payment of such tax as is herein prescribed.

(b) Nothing in this chapter shall be deemed or construed to apply to any charitable, nonprofit or eleemosynary corporation, association or organization, or to any person or entity conducting business under an agreement with such charitable, nonprofit, or eleemosynary organization where the purpose is to conduct a street fair or art, book, health or seasonal event, the duration of which does not exceed three consecutive days held on no more than two occasions per year. *To the extent a charitable organization shall sell goods, wares or merchandise to persons other than members of such charitable organization, or for which any person is paid a fee as a lecturer, entertainer, or any other capacity related to the conduct of such event, a business license shall be required under this chapter. In the event the required license is on a gross receipts basis, any amount collected by the charitable organization shall be deducted from the gross receipts.*

(c) Nothing in this chapter shall be deemed or construed to apply to a business conducted by a participant in a trade show, exhibition, street fair, farmers' market or other similar event, or an organization qualified under Section 501(c) of the Internal Revenue Code provided a business license has been obtained by the organizer or sponsor, upon payment of the applicable fee and submission of a form to be provided by the collector, as an annual master business license based upon the gross receipts generated by all businesses at the event.

(d) Nothing in this chapter shall be deemed or construed to apply to conducting any entertainment, dance, concert, exhibition or lecture by any religious, charitable, state, county or municipal organization or association whenever the receipts of any such entertainment, dance, concert, exhibition or lecture are to be appropriated for the purpose and objectives for which such organization or association was formed and from which profit is not derived, either directly or indirectly by any person; provided, that nothing in this chapter shall be deemed to exempt any such organization or association from complying with the provisions of this code, or any other ordinance of the city requiring a permit from the city to conduct, manage or carry on any profession, trade, calling or occupation.

(e) This chapter is intended to tax only those portions of gross receipts attributable to the business activity of the licensee carried on within the city. In any case where a licensee conducts business activities both inside and outside the city, he may upon written application to the collector request apportionment of gross receipts attributable to business activity within the city and those portions of those gross receipts which are wholly, or partially, exempt from taxation as not being attributable to business activity carried on within the city.

In making such application, the City Manager may require, and the licensee shall be responsible for providing, business records necessary to determine a fair and equitable apportionment. Apportionment established shall be reviewed annually by the City Manager prior to the renewal of such license.

(f) Every natural person of the age of 16 years or under whose annual gross receipts from any business are \$500 or less shall not be required to obtain a business license under the provisions of this chapter.

(~~dg~~) Any person claiming an exemption pursuant to this section shall file a sworn statement with the collector stating the facts upon which exemption is claimed, and in the absence of such statement substantiating the claim, such person shall be liable for the payment of the taxes imposed by this chapter. The collector shall, upon a proper showing contained in the sworn 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.

(~~eh~~) The collector, 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 herein. [Ord. 09-004 § 2, 2009; Ord. 08-018 § 2, 2008; Ord. 04-06 § 1, 2004; Ord. 656 N.S. § 1, 1970].

SECTION 9. Existing Municipal Code section 7.04.110 of Chapter 7.04, entitled “**Statements and records**” shall be amended by the deletion of all text shown in ~~strikeout text~~ and by the addition of all text shown in bold, italic text (*bold italic text*), as follows:

7.04.110 Statements and records.

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~~.

In the event ~~that~~ the collector deems it necessary, he or she may require that a licensee or applicant for license submit a verification attesting to such financial information as may be necessary to ascertain the amount of license fee due, or at the option of the licensee or applicant, may authorize the collector, his or her deputies, or authorized employees of the city to examine his or her records or business transactions in order that the proper license fee may be computed. [Ord. 656 N.S. § 1, 1970].

SECTION 10. Existing Municipal Code section 7.04.130 of Chapter 7.04, entitled “**Failure to file statement or corrected statement**” shall be amended by the deletion of all text shown in ~~strikeout text~~ and by the addition of all text shown in bold, italic text (*bold italic text*), as follows:

7.04.130 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 or she fails to file a corrected statement, or if any person subject to the tax imposed by this chapter fails to apply for a license, the collector may determine the amount of license tax due from such person by means of such information as he or she may be able to obtain and shall give written notice thereof to such person. [Ord. 656 N.S. § 1, 1970].

SECTION 11. Existing Municipal Code section 7.04.140 of Chapter 7.04, entitled “**Appeal**” shall be amended by the deletion of all text shown in ~~strikeout text~~ and by the addition of all text shown in bold, italic text (*bold italic text*), as follows:

7.04.140 Appeal.

Any person aggrieved by any decision of the collector with respect to the issuance or refusal to issue such license, *or the collector’s determination of the assessment*, may appeal to the council by filing a notice of appeal with the clerk of the council within 15 days *after the mailing or serving of* ~~receipt of written~~ notice from the collector. The council shall thereupon fix a time and place for hearing such appeal. The clerk of the council shall give *at least 10 days* notice to such person of the time and place of hearing, *to be held within 30 days of the date the appeal was received*, by serving it personally or by depositing in the United States Post Office at Pacific Grove, California, postage prepaid, addressed to such person at his or her last known address. The council shall have authority to determine all questions raised on such appeal. *The council shall consider all evidence produced, and written notice of its findings, which findings shall be final, shall be served upon the applicant in the manner prescribed above for the service of the notice of assessment.* No such determination shall conflict with any substantive provision of this chapter.
[Ord. 656 N.S. § 1, 1970].

SECTION 12. Existing Municipal Code section 7.04.160 of Chapter 7.04, entitled “**License nontransferable – Changed location**” shall be amended by the deletion of all text shown in ~~strikeout text~~ and by the addition of all text shown in bold, italic text (*bold italic text*), as follows:

7.04.160 License nontransferable – Changed 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 licensee ~~may~~ upon application ~~therefore~~ and ~~paying~~ *payment of the a fee set by the council resolution in its Master Fee schedule of \$5.00* may have the license amended to authorize the transacting and carrying on of such business under said license at some other location to which the business is or is to be moved. [Ord. 656 N.S. § 1, 1970].

SECTION 13. Existing Municipal Code section 7.04.170 of Chapter 7.04, entitled “**Duplicate license**” shall be amended by the deletion of all text shown in ~~strikeout text~~ and by the addition of all text shown in bold, italic text (*bold italic text*), as follows:

7.04.170 Duplicate license.

A duplicate license may be issued by the collector to replace any license previously issued hereunder 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 collector a duplicate license fee of ~~\$2.00~~*set by the council in its Master Fee schedule*. [Ord. 656 N.S. § 1, 1970].

SECTION 14. Existing Municipal Code section 7.04.210 of Chapter 7.04, entitled “**Refunds**” shall be amended by the deletion of all text shown in ~~strikeout text~~ and by the addition of all text shown in bold, italic text (*bold italic text*), as follows:

7.04.210 Refunds of overpayments.

(a) No licensee shall be entitled to the refund of any portion of the tax paid by reason of the termination of such licensed activity prior to the expiration of the term for which such license shall have been issued.

*(b) No refund of an overpayment of taxes or fees imposed by this chapter shall be allowed in whole or in part unless a written claim for refund is filed with the collector. The claim shall conform in all respects to the requirements set forth for claims against the city in Chapter 6.06 PGMC. Upon the filing of such a claim and when he or she **the collector** determines that an overpayment has been made **refund is due**, the collector may **issue the** refund ~~the amount overpaid~~. [Ord. 02-28 § 5, 2002; Ord. 656 N.S. § 1, 1970].*

SECTION 15. Existing Municipal Code section 7.04.240 of Chapter 7.04, entitled “**Enforcement by officials**” shall be amended by the deletion of all text shown in ~~strikeout text~~ and by the addition of all text shown in bold, italic text (*bold italic text*), as follows:

7.04.240 Enforcement by officials.

It shall be the duty of the collector, and he or she is directed to enforce each and all of the provisions of this chapter, and the chief of police shall render such assistance in the enforcement thereof as may from time to time be required by the collector or the city council.

The collector, in the exercise of the duties imposed upon him or her may examine or cause to be examined any place of business in the city to ascertain whether the provisions of this chapter have been complied with.

The collector and each and all of his or her assistants and any police officer shall have the power and authority (upon obtaining an inspection warrant ~~therefor~~ ***if required by law***) 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 license. Any person having such license ~~heretofore issued~~, in his or her possession or under his or her control, who willfully fails to exhibit the same on demand, is guilty of an infraction. It shall be the duty of the collector and each of his or her assistants to cause a complaint to be filed against any and all persons found to be violating any of said provisions. [Ord. 09-005 § 11, 2009; Ord. 833 N.S. § 2, 1975; Ord. 656 N.S. § 1, 1970].

SECTION 16. Existing Municipal Code section 7.04.250 of Chapter 7.04, entitled “**License tax a debt**” shall be amended by the deletion of all text shown in ~~strikeout text~~ and by the addition of all text shown in bold, italic text (***bold italic text***), as follows:

7.04.250 License tax a debt.

The amount of any license tax and penalty imposed by the provisions of 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 payment of the fee set by the council resolution in its Master Fee schedule and the sum of \$350 which, if judgment is recovered, shall be applied as collection fees for the city to be included in and assessed as recoverable costs in such action.*** [Ord. 656 N.S. § 1, 1970].

SECTION 16. Existing Municipal Code section 7.04.260 of Chapter 7.04, entitled “**Remedies cumulative**” shall be amended by the deletion of all text shown in ~~strikeout text~~ and by the addition of all text shown in bold, italic text (***bold italic text***), as follows:

7.04.260 Remedies cumulative.

All remedies prescribed ~~hereunder~~ ***in 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 hereof. [Ord. 656 N.S. § 1, 1970].

SECTION 17. Existing Municipal Code section 7.04.270 of Chapter 7.04, entitled “**Effect of chapter on past actions**” shall be amended by the deletion of all text shown in ~~strikeout text~~ and by the addition of all text shown in bold, italic text (***bold italic text***), as follows:

7.04.270 Effect of chapter on past actions.

Neither the adoption of the ordinance codified herein nor its superseding of any portion of any other ordinance of the city shall in any manner be construed to affect prosecution for violation of any other ordinance committed prior to the effective date hereof, 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. ***Conviction and punishment of any person for transacting any business without a license shall not excuse or exempt such person from the payment of any license tax due or unpaid at the time of such conviction, together with all penalties due as provided in this chapter, and nothing in this chapter shall prevent a criminal prosecution for any violation of the provisions of this chapter.*** [Ord. 656 N.S. § 1, 1970].

SECTION 18. Existing Municipal Code section 7.04.280 of Chapter 7.04, entitled “**Enforcement – Penalty for violation**” shall be amended by the deletion of all text shown in ~~strikeout text~~ and by the addition of all text shown in bold, italic text (***bold italic text***), as follows:

7.04.280 Enforcement – Penalty for violation.

Any person violating any of the provisions of this chapter or knowingly or intentionally misrepresenting to any officer or employee of this city any material fact in procuring the license or permit herein provided for shall be deemed guilty of a misdemeanor, and may be prosecuted pursuant to Chapters 1.16 ***and 1.19 of the*** PGM. [Ord. 09-005 § 12, 2009; Ord. 08-006 § 16, 2008; Ord. 656 N.S. § 1, 1970].

SECTION 19. The City Council declares that, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

SECTION 20. This ordinance shall be effective thirty (30) days from and after the date of its passage.

SECTION 21. A summary of this ordinance shall be published at least three days before adoption in a newspaper of general circulation.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE
THIS ____ day of _____, 2014, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

BILL KAMPE, Mayor

ATTEST:

ANN CAMEL, Interim City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney

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