

ORDINANCE NO. 1468

AN ORDINANCE OF THE CITY OF SIERRA MADRE, CALIFORNIA, AMENDING CHAPTER 5.04 (BUSINESS LICENSES GENERALLY), DELETING CHAPTER 5.08 (BUSINESS LICENSE FEES), CHAPTER 5.12 (BUSINESS PERMITS), CHAPTER 5.20 (BANKRUPTCY, FIRE AND CLOSING-OUT SALES), CHAPTER 5.24 (BINGO GAMES), CHAPTER 5.28 (CHARITABLE SOLICITATIONS), CHAPTER 5.40 (HANDBILLS), CHAPTER 5.44 (TAXICABS), AND CHAPTER 5.48 (DISPLAY OF BOOKS, MAGAZINES AND OTHER PUBLICATIONS), AND AMENDING SECTION 5.56.040 (BUSINESS TAX CERTIFICATE-GENERALLY) AND SECTION 5.56.100 (MASSAGE BUSINESS OR ESTABLISHMENT – SUSPENSION, REVOCATION OR RESTRICTION FOR CAUSE) OF CHAPTER 5.56 (MASSAGE THERAPY, MASSAGE BUSINESS OR ESTABLISHMENTS) OF TITLE 5 (BUSINESS LICENSES AND REGULATIONS) OF THE SIERRA MADRE MUNICIPAL CODE

THEREFORE, THE CITY COUNCIL OF THE CITY OF SIERRA MADRE DOES ORDAIN AS FOLLOWS:

**SECTION 1. Purpose.** This amendment is intended to update, consolidate, and strengthen the City's business license regulations and shall apply to all active business licenses.

**SECTION 2. Amendment.** Chapter 5.04 (Business Licenses Generally) of Title 5 (Business Licenses and Regulations) of the Sierra Madre Municipal Code is repealed in its entirety and replaced with Exhibit 1 to this Ordinance.

**SECTION 3. Deletion.** Chapter 5.08 (Business License Fees) of Title 5 (Business Licenses and Regulations) of the Sierra Madre Municipal Code is repealed in its entirety.

**SECTION 4. Deletion.** Chapter 5.12 (Business Permits) of Title 5 (Business Licenses and Regulations) of the Sierra Madre Municipal Code is repealed in its entirety.

**SECTION 5. Deletion.** Chapter 5.20 (Bankruptcy, Fire and Closing-Out Sales) of Title 5 (Business Licenses and Regulations) of the Sierra Madre Municipal Code is repealed in its entirety.

**SECTION 6. Deletion.** Chapter 5.24 (Bingo Games) of Title 5 (Business Licenses and Regulations) of the Sierra Madre Municipal Code is repealed in its entirety.

**SECTION 7. Deletion.** Chapter 5.28 (Charitable Solicitations) of Title 5 (Business Licenses and Regulations) of the Sierra Madre Municipal Code is repealed in its entirety.

**SECTION 8. Deletion.** Chapter 5.40 (Handbills) of Title 5 (Business Licenses and Regulations) of the Sierra Madre Municipal Code is repealed in its entirety.

**SECTION 9. Deletion.** Chapter 5.44 (Taxicabs) of Title 5 (Business Licenses and Regulations) of the Sierra Madre Municipal Code is repealed in its entirety.

**SECTION 10. Deletion.** Chapter 5.48 (Display of Books, Magazines and Other Publications) of Title 5 (Business Licenses and Regulations) of the Sierra Madre Municipal Code is repealed in its entirety.

**SECTION 11. Amendment.** Section 5.56.040 (Business Tax Certificate – Generally) of Chapter 5.56 (Massage Therapy, Massage Business or Establishments) of Title 5 (Business Licenses and Regulations) of the Sierra Madre Municipal Code is amended to read as follows, with underlined text denoting additions and struck-thru text denoting deletions:

5.56.040 – ~~Business tax certificate—Generally~~ License Requirement.

All massage establishments including independent massage therapists or practitioners shall obtain a business license pursuant to the provisions of Municipal Code Chapter 5.04. A business license issued to a massage establishment or independent massage therapist or practitioner shall be conditioned upon the rules and regulations of this chapter.

**SECTION 12. Amendment.** Section 5.56.100 (Massage business or establishment – Suspension, revocation or restriction for cause) of Chapter 5.56 (Massage Therapy, Massage Business or Establishments) of Title 5 (Business Licenses and Regulations) of the Sierra Madre Municipal Code is amended to read as follows, with underlined text denoting additions and struck-thru text denoting deletions:

5.56.100 – ~~Massage business or establishment—Suspension, revocation or restriction for cause.~~ Suspension or revocation of business license.

~~After mailing the property owner written notice of the time and place of the public hearing at least five calendar days before the public hearing, the director of development services may conduct a public hearing at which the director of development services orders any zoning clearance required by this chapter to be suspended, revoked or restricted for any violation of this chapter or the provisions of Business and Professions Code Section 4600 et seq. that occurs on the massage business premises. Notwithstanding any other provision of this code to the contrary, the decision of the director of development services may be appealed consistent with the requirements of Chapter 17.66 ("Appeals and Calls for Review").~~

- A. For the purpose of enforcing the requirements of this chapter, all owners and operators of the business or establishment shall be responsible for the conduct of all of their employees, agents, independent contractors or other representatives, while on the premises of the business or establishment or providing massages.
- B. In addition to any other remedy available to the city under applicable law, a massage establishment permit may be suspended or revoked for any of the reasons under section 5.04.130 of this code. Any such determination may be appealed under section 5.04.140 of this code.
- C. Upon issuance of a final order by the city manager or his or her designee to revoke the massage establishment permit, the massage establishment shall immediately cease operation, and, if so ordered by the hearing officer, no other massage establishment shall be permitted to operate at that location by any person or business for a period of not less than five years. If the operator is not also the legal owner of the real property on which the massage establishment is situated, notice of such revocation and the five-year prohibition shall be provided by the city to the owner of record of the property as shown on the latest county assessment roll.

**SECTION 13. CEQA.** Pursuant to 14 CCR 15378(b)(5), the City Council finds the adoption of this Ordinance does not meet the definition of a project for purposes of the California Environmental Quality Act (CEQA) because the issuance of business licenses involves administrative activities that will not result in direct or indirect physical changes in the environment.

**SECTION 14. Severability.** If any sections, subsections, subdivisions, paragraph, sentence, clause or phrase of this Ordinance or any part hereof or exhibit hereto is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Ordinance or any part thereof or exhibit thereto. The City Council hereby

declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that anyone or more sections, subsections, subdivisions, paragraph, sentences, clauses or phrases be declared invalid.

**SECTION 15. Publication.** The City Clerk shall cause this Ordinance to be published or posted in accordance with California Government Code Section 36933. She shall certify to the adoption of this Ordinance and her certification, together with proof of the publication, will be entered in the book of Ordinances of the City Council.

**SECTION 16. Effective Date.** This Ordinance shall take effect thirty days after its adoption pursuant to California Government Code Section 36933.

**PASSED, APPROVED, AND ADOPTED** this 22nd day of August 2023.



Edward Garcia, Mayor

**ATTEST:**



Laura Aguilar, City Clerk

**APPROVED AS TO FORM:**

Aleks R. Giragosian, City Attorney

**I HEREBY CERTIFY** that the foregoing Ordinance was introduced by first reading on the 11th day of July 2023 and duly adopted by the City Council of the City of Sierra Madre, California, at a regular meeting held on the 22nd day of August 2023 by the following vote:

**AYES:** Mayor Edward Garcia, Council Member Gene Goss, Council Member Kristine Lowe, Council Member Robert Parkhurst

**NOES:** None

**ABSENT:** None

**ABSTAIN:** Mayor Pro Tem Kelly Kriebs

## EXHIBIT 1

### Chapter 5.04 – BUSINESS LICENSES GENERALLY

#### 5.04.010 – Definitions.

For purposes of this title, the following words and terms shall have the meanings set out in this section.

“Business” means the conducting of a trade, calling, profession, or occupation to produce and/or sell goods and/or services.

“Certificate” shall refer to a certificate of exemption exempting certain persons from the requirement to obtain a license and pay a license fee.

“Department” shall refer to the Department of Planning and Community Preservation.

“Director” shall refer to the Director of Planning and Community Preservation or his or her designee.

“License” shall refer to a business license regulated under this title.

“Person or organization” means any individual, company, firm, organization, association, trust, estate, partnership, corporation, limited liability company, or other entity however organized.

“Profit”, as used in this chapter, shall not include a reasonable compensation paid, or agreed to be paid, to any person or organization for bona fide services rendered.

“Title” means Title 5 of the Sierra Madre Municipal Code titled “Business Licenses and Regulations.”

The terms business and person or organization are intended to be interpreted broadly.

#### 5.04.020 – Purpose and Intent.

The purpose of this title is to provide for necessary regulation, monitoring, and enforcement of lawful business activities conducted within the city to protect public health, safety, and welfare.

#### 5.04.030 – License fees.

- A. The application for all licenses in this title shall be accompanied by a fee established or modified by resolution of the city council. All application fees are nonrefundable and paid in advance, before engaging in any business subject to a license under this title.
- B. In no case shall any mistake made by a city employee or an agent of the city regarding the amount of any license fee prevent or prejudice the city’s collection of the fee which is actually due from any person or organization engaging in any business subject to a license under this title.
- C. The business license fees shall be revenue neutral in that they may not exceed the reasonable costs of providing the regulatory services included in the licensing program. No business license fee charged under the provisions of this title shall be construed as a business license tax.

#### 5.04.040 – License requirement.

- A. It is unlawful for any person or organization to engage in any business in the city without first obtaining a business license and paying the license fee therefor, unless exempt pursuant to this title.

- B. A separate business license shall be obtained, and a separate license fee paid therefor, for each branch business establishment.
- C. Any person or organization engaged in several businesses required to be licensed by this title, even if in the same location or under the same management, shall obtain a separate license for each such business.

**5.04.050 – Certificates of exemption.**

- A. Application. No person or organization engaging in any business subject to a license shall be exempt from the duty to obtain a license and pay a license fee, until a certificate of exemption is applied for and issued certifying that such person or organization is entitled to such exemption.
- B. The following persons or organizations engaging in any business subject to a license are exempt from this title:
  - 1. any organization engaging in business primarily for charitable purposes and for which a profit is not derived, either directly or indirectly; and
  - 2. any person or organization who federal or state law exempts from the provisions of this title.

**5.04.060 - License types.**

- A. There shall be three types of business licenses subject to this title:
  - 1. A one-day business license;
  - 2. A 30-day business license;
  - 3. An annual business license.
- B. The following persons or organizations engaging in the following businesses may need to obtain additional authorizations and be subject to additional restrictions:
  - 1. Cable television systems pursuant to chapter 5.32 of this title.
  - 2. State video franchises pursuant to chapter 5.34 of this title.
  - 3. Commercial photography and motion picture filming pursuant to chapter 5.36 of this title.
  - 4. Massage therapy, massage business or establishments pursuant to chapter 5.56 of this title.
  - 5. Tobacco retailers pursuant to chapter 5.58 of this title.
  - 6. Sidewalk vendors pursuant to section 12.12.055 of chapter 12.12 of title 12.
  - 7. Home occupations pursuant to chapter 17.85 of title 17.

**5.04.070 – Evidence of doing business.**

The following circumstances shall be considered prima facie evidence that a person or organization is engaging any business in the city:

- A. Where any person or organization, by use of any sign, circular, card, brochure, telephone book, magazine, newspaper, website, electronic media or other publication, shall advertise, hold out or by any other means represent that the person or organization is in business in the city; or
- B. When any person or organization holds an active license or permit issued by another governmental agency indicating that the person or organization is in business in the city.

**5.04.080 – Application and issuance procedures.**

Unless the requirements for a particular license under this title state otherwise, application for any license under this title shall be made according to the following procedures:

- A. Any person or organization wishing to obtain any license required by this title shall complete the most current application issued by the department and available on the city's website. Forms must be complete with all information necessary to evaluate the application, including any supplemental requirements and information requests. All applications shall include:
1. The name, address, and contact information of the person or organization;
  2. The name, personal address, and contact information of the applicant;
  3. The name, personal address, and contact information of any manager of the organization;
  4. The name and contact information for the legal owner of the real property upon which the business operates, if different than the applicant;
  5. A copy of the rental or lease agreement between the applicant and the legal owner of the real property upon which the business operates, if applicable;
  6. A copy of the applicant's California driver's license number or California identification number;
  7. Whether the person or organization is an individual or legal entity, and, if a legal, the type of legal entity (e.g. corporation, limited liability company, partnership, sole proprietor);
  8. An explanation of the type of business engaged in by the person or organization;
  9. A list of the organization's officers, directors, or shareholders who own more than ten percent of the stock or beneficial interest in that organization, if applicable;
  10. A copy of the organization's filing with the county of registration for use of a fictitious business name, if applicable;
  11. A copy of the organization's filings with the state of registration to evidence legal status, if applicable;
  12. A copy of the organization's filing with the Internal Revenue Service of the United States or California Franchise Tax Board evidencing its tax exempt status, if applicable;
  13. A copy of any other state or local licenses, certifications, or permits required to operate the business, if applicable; and
  14. Any other information, items, or documents as the director may require to conduct necessary background investigations of the applicant and/or verify the truthfulness and accuracy of the information in the application.
- B. Application forms must be certified under penalty of perjury that the applicant is authorized to execute the application on behalf of the person or organization and all facts, information, and statements are true, accurate, and correct. If the applicant is:
1. An individual, the same individual shall sign the application;
  2. A corporation, the authorized officer shall sign the application;
  3. A partnership or limited partnership, a general partner shall sign the application;
  4. A limited liability company or other business organization, a managing member, manager, or chief executive officer shall sign the application.
- C. Any act or condition for which a license can be suspended or revoked under this title may also serve as grounds to deny an application.

- D. Denial of an application shall be made in writing by the director, mailed to the applicant, and state the date, specific grounds for which the application was denied, and applicant's right to request an appeal.
- E. No application which has been denied, in whole or in part, shall be filed again within six months of the date of such denial except upon proof of changed conditions. Proof of changed conditions must demonstrate that the basis for the denial has been resolved or removed.

**5.04.090 – Pre-issuance inspections.**

Prior to issuance of a license, any city department or any governmental agency may review, inspect, and investigate the business license and the business premises to determine if the business operations meet the requirements of federal, state, or local laws, as well as to determine what effect, if any, the issuance of such a license shall have on the public peace, health, safety and general welfare of the city. The director may also refer to any governmental agency any information submitted by a person or organization subject to the provisions of this title in connection with the conduct of a business regulated, or supervised, or otherwise the concern of any such agency, including agencies concerned with health, zoning, or fire/life/safety regulations or any other safeguard of the public interest.

**5.04.100 – Display of licenses.**

Every person or organization holding a license with a fixed place of business shall keep the current license posted and displayed in a clearly visible and conspicuous location at the place of business. Every person or organization having such a license and not having a fixed place of business shall carry such license with him or her at all times while carrying on the business for which the license was granted and shall produce the license for inspection upon demand. Every person or organization having a license shall present the license when applying for a renewal thereof, and whenever requested to do so by any city officer or by any officer authorized to issue or inspect licenses.

**5.04.110 – Payment of fees.**

- A. All one-day business license shall be due and payable in advance prior to engaging in the business;
- B. All 30-day business licenses shall be due and payable in advance prior to engaging in the business. There shall be no proration of a 30-day business license.
- C. All annual business licenses shall be due and payable in advance on the first day of January of each calendar year. Business license fees for new businesses shall be prorated as follows:
  - 1. If the business is commenced after January 1<sup>st</sup> and prior to June 30<sup>th</sup>, of any calendar year, the amount of business license fee shall be the full annual rate therefor;
  - 2. If the business is commenced after July 1<sup>st</sup>, and prior to December 31<sup>st</sup>, of any calendar year, the amount of business license fee shall be one-half the annual rate therefor.

**5.04.120 – Not transferrable.**

No license or certificate issued under this title shall be in any manner transferred or assigned, and no other person or organization other than the person or organization to whom the license was issued is authorized to carry on the licensed business. Any change in the information contained in the application shall require a new license to be obtained.

**5.04.130 – Suspension and revocation.**

- A. Any license or certificate issued under this title may be suspended or revoked by the city manager or his or her designee when he or she determines:
1. The information contained in the application is false, or the application was procured by way of fraud, misrepresentation, deception or mistake.
  2. The business authorized by such license or certificate is conducted, maintained, or carried on contrary to or in violation of any law of the state or County;
  3. The business authorized by such license or certificate is conducted, maintained, or carried on contrary to or in violation of any provision of this code;
  4. The business authorized by such license or certificate is conducted, maintained, or carried on contrary to or in violation of any condition of any state or local license, permit, or certificate;
  5. The business authorized by such license or certificate is conducted, maintained, or carried on contrary to or in violation of any condition of the license or certificate;
  6. The business authorized by such license or certificate is conducted, maintained, or carried on in such a manner as to constitute a public nuisance;
  7. The holder of the license or certificate has received three or more administrative citations for violations of this title within the preceding twelve months; or
  8. The holder of the license or certificate has unpaid state or local fees, fines, or costs.
- B. For purposes of enforcing the requirements of this title, all persons and organizations shall be liable for the conduct of their employees, agents, and independent contractors occurring on the premises of the business or while engaged in the business activity.
- C. When the city manager or his or her designee makes the determination set forth in subsection A above, he or she shall notify the holder of the license or certificate in writing of the proposed action and shall state the date, the reason for the proposed action, the date on which the suspension or revocation will go into effect, and the applicant's right to request an appeal.
- D. No license which has been suspended or revoked shall be considered for reissuance within six months of the date of such suspension or revocation except upon proof of changed conditions. Proof of changed conditions must demonstrate that the basis for the suspension or revocation has been resolved or removed.

#### **5.04.140 – Appeals.**

Unless the requirements for a particular license or certificate under this title state otherwise, an appeal of a denial, revocation, or suspension shall be made according to the following procedures:

- A. Within fifteen days after the issuance date of written notice of the denial, revocation, or suspension of a license or certificate, the applicant or holder of a license or certificate may appeal by submitting a written appeal to the department. The appeal must:
1. State the date;
  2. Specify the grounds for the appeal;
  3. State facts that support each ground for the appeal;
  4. Identify documents or items, and attach a copy of them, that substantiate each ground for the appeal; and
  5. Include an appeal fee as established by resolution of the city council.



- B. The city manager shall issue a notice of hearing on a date not earlier than fourteen days, and not later than sixty days after the date that the department received the request for a hearing.
- C. The director's proposed action will go into effect and will become final, and the applicant or holder of a license or certificate will waive any appeal, if he or she fails to:
  - 1. Submit a written appeal within fifteen days after the issuance of a written denial, suspension, or revocation; or
  - 2. Attend the hearing on the appeal either in person or through a designated representative.
- D. The hearing shall be conducted pursuant to section 1.18.150 of this code.
- E. An applicant or holder of a license or certificate aggrieved by the city manager's or his or her designee's decision under this section's hearing and appeal procedures may appeal the decision to a court of competent jurisdiction.

#### **5.04.150 – Post-issuance inspections.**

The director or his or her designee, and all enforcement officers and police officers shall have and exercise the power to:

- A. Enter, free of charge, at any time the business is open, any place of business for which a license is required by this title; and
- B. Request and examine photographs or recordings of all or any part of the business to obtain any evidence needed to verify compliance with any part of this title.

#### **5.04.160 – Enforcement.**

- A. Any person who fails to pay a business license fee when due shall be assessed a penalty of fifty percent of the total amount of the business license fee. The penalty shall be imposed if such fee is not paid within thirty days after the due date.
- B. The director and his or her deputies and all enforcement officers and police officers shall have the power to enforce the provisions of this title subject to title 1 of this code.
- C. All remedies prescribed in this title are cumulative, and the use of any one or more remedies by the city shall not bar the use of any other remedy for the purpose.

#### **5.04.170 – Administrative rules.**

The director is authorized to adopt such administrative rules and regulations as may be necessary to effectuate the purpose of this title.