

## **City Council Action Item Cover Sheet**

DATE: July 17, 2019

### **Agenda Item:**

Review & Update to Section 4.04

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### **Question Before Council:**

Consider the following Update to Municipal Code 4.04

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### **Person/Group Initiating Request:**

Mayor Moore

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### **Item Summary/Background:**

The policy issue addressed in the attached is to exempt certain garage sales to obtain a business license. The definition has been adjusted to exempt up to 4 times per year as a discussion starting point for Council. This update also removes terms that are defined but never used in the business license chapter. None of these terms are used in Chapter 4.04 so there is no need for their definitions.

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By Charter, this will need to be heard, considered, and voted on twice.

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After discussion, the City Manager recommends that the following motion be considered: "I move, that Ordinance 359, amending Chapter 4.04, be accepted."

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#### **Section 4.04.020 Definitions.**

For the purpose of licensing businesses in the City, the following definitions apply:

~~“Amusement device” means any game, device or machine kept, operated or played in any place of business or other place where the public is invited or permitted to attend and which may be played by the insertion of coins.~~

~~“Arcade” means any business whose primary purpose is providing entertainment by the playing of amusement devices.~~

“Business” means any trade, occupation, calling, profession, pursuit or activity which is carried on for the purpose of profit.

~~“Exhibition” means the display of goods or materials for which an admission fee is charged.~~

~~“Flea market” means all general sales, open to the public, conducted in any commercial zone or public facilities zone within the City, for the purpose of disposing of personal property. These general sales include, but are not limited to, sales entitled “flea markets,” “bazaars” and “rummage sales.” This includes situations where booths, tables or spaces are sold or rented for the purpose of conducting sales of personal property. For this definition “personal property” means property which is owned by the individual conducting the sale, is purchased for resale, or is obtained on consignment.~~

~~“Garage sale” includes, but is not limited to, (also known as “porch sales,” “patio sales” or “yard sales,” and consists of”) means any public sale of new or used goods by an individual or group from private property when the group or individual is not in the business of selling goods or is not licensed as a secondhand dealer, and when the property from which the sale is to be conducted is not within a zone permitting commercial business or otherwise permitted under the provisions of this chapter.~~

~~“Hotel” and “motel” includes any single structure or multiple combination of two (2) or more structures, operated as a single business venture where one or more units, rooms or apartments are hired out to the public for rent on less than a monthly rental basis, exclusive of any unit, room or apartment that is occupied by the owner, contract vendee or manager.~~

~~“Itinerant merchant/peddler” means a person or persons traveling from place to place selling and delivering from stock on hand.~~

“Nonprofit” means any business or organization which holds a certificate of exemption from taxes from the Internal Revenue Service.

“Person” means any person~~individual~~, firm, partnership, association ~~or~~, corporation or entity.

#### **Section 4.04.030 Exemptions.**

The following are exempt from the license requirements under this chapter:

A. Hobbies. Any pursuit or activity which is carried on in a casual manner, such as a hobby, where no display or advertising is conducted to promote the products or services of the pursuit or activity.

B. Income Based on Wages. No person whose income is based solely on a wage or salary shall, for the purpose of this chapter, be deemed a person transacting or carrying on any business in the City, and it is the intention that license fees will be borne by the employer.

C. Franchise. Any business paying a franchise tax or fee under City ordinances or resolutions now existing.

D. Wholesalers. Wholesalers making deliveries or taking orders from duly licensed retail outlets within the City.

E. Sixteen (16) Years or Younger. Any person sixteen (16) years or younger who operates a business on a part-time basis, which business has an annual gross income of less than five hundred dollars (\$500.00).

F. Nonprofit organizations as defined in this chapter.

G. Rentals. Any person having for rent three (3) or fewer residential or commercial units which rent for a period of thirty (30) days or longer.

H. Vacation Rentals. Any person having a vacation rental license.

I. Garage sales. Garage sales, provided that sales are conducted no more than four days in any calendar year on a property.



**CITY OF YACHATS  
ORDINANCE 359  
A ORDINANCE AMENDING THE YACHATS MUNICIPAL CODE  
CHAPTER 4.04  
RELATED BUSINESS LICENSES**

**Whereas**, the City maintains a business license program with the intent to provide revenue to pay for expenses incurred in issuing licenses, to pay for municipal services to businesses, and to provide for the health, safety and welfare of the citizens of Yachats; and

**Whereas**, the City Council wishes to formally exempt infrequent garage sales from having to obtain a business license because such activities do not impact the community in the same manner as more regular business activities within the City; and

**Whereas**, with these amendments to YMC Chapter 4.04, the City Council believes that its scarce code enforcement and business enforcement resources will be allocated more appropriately,

**NOW THEREFORE**, the City of Yachats ordains as follows:

**Section 1. Yachats Municipal Code Section 4.04.020.**

Yachats Municipal Code Section 4.04.020 shall be amended to read as follows:

**Section 4.04.020 Definitions.**

For the purpose of licensing businesses in the City, the following definitions apply:

“Business” means any trade, occupation, calling, profession, pursuit or activity which is carried on for the purpose of profit.

“Garage sale” (also known as “porch sales,” “patio sales” or “yard sales”) means any public sale of new or used goods by an individual or group from private property when the group or individual is not in the business of selling goods and when the property from which the sale is to be conducted is not within a zone permitting commercial business or otherwise permitted under the provisions of this chapter.

“Nonprofit” means any business or organization which holds a certificate of exemption from taxes from the Internal Revenue Service.

“Person” means any individual, firm, partnership, association, corporation or entity.

**Section 2. Yachats Municipal Code Section 4.04.030.**

Yachats Municipal Code Section 4.04.030 shall be amended to read as follows:

**Section 4.04.030 Exemptions.**

The following are exempt from the license requirements under this chapter:

A. Hobbies. Any pursuit or activity which is carried on in a casual manner, such as a hobby, where no display or advertising is conducted to promote the products or services of the pursuit or activity.

B. Income Based on Wages. No person whose income is based solely on a wage or salary shall, for the purpose of this chapter, be deemed a person transacting or carrying on any business in the City, and it is the intention that license fees will be borne by the employer.

C. Franchise. Any business paying a franchise tax or fee under City ordinances or resolutions now existing.



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ORDINANCE 359  
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- D. Wholesalers. Wholesalers making deliveries or taking orders from duly licensed retail outlets within the City.
- E. Sixteen (16) Years or Younger. Any person sixteen (16) years or younger who operates a business on a part-time basis, which business has an annual gross income of less than five hundred dollars (\$500.00).
- F. Nonprofit organizations as defined in this chapter.
- G. Rentals. Any person having for rent three (3) or fewer residential or commercial units which rent for a period of thirty (30) days or longer.
- H. Vacation Rentals. Any person having a vacation rental license.
- I. Garage sales. Garage sales, provided that sales are conducted no more than four days in any calendar year on a property.

**Section 3. Effective date.**

Pursuant to the Yachats Charter, this ordinance shall take effect 30 days after adoption.

Passed and adopted by the City Council of the City of Yachats on this \_\_\_\_ day of \_\_\_\_\_, 2019.

	YES	NO	NOT PRESENT
John Moore, Mayor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Max Glenn	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
James Kerti	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Tooke	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leslie Vaaler	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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W. John Moore, Mayor

Attest by:

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Shannon Beaucaire, City Manager