

ORDINANCE NO. 3680 C.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY

**RECODIFY AND AMEND THE CITY CODE TO NAME
THE OLD MONTEREY BUSINESS ASSOCIATION AS THE OFFICIAL ADVISORY BOARD
TO THE CITY FOR THE DOWNTOWN PROMOTION DISTRICT**

THE COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN, as follows:

SECTION 1:

WHEREAS, In May 1974, the Monterey Downtown Promotion District ("District") was formed under Parking and Business Improvement Area Law of 1965 (Streets & Highways Code section 36000 et seq.) when the City Council adopted Ordinance No. 1953.

WHEREAS, all business licensees in the District pay a supplemental business license tax that is collected by the City for the following purposes: (1) decoration of any public place in the area; (2) promotion of public events within the area; (3) furnishing of music in any public place in the area; and (4) the general promotion of business activities in the area;

WHEREAS, the amount of the tax was reduced from 50% to 25% of the annual business license tax in July 1974 with the adoption of Ordinance No. 2223;

WHEREAS, in November 1974, the City Council appointed the Downtown Monterey Council as the Advisory Committee to the City Council for the District. (Resolution 12,417.) City records demonstrate that the Downtown Monterey Council changed its name to Old Monterey Council in approximately 1975. The City has not located any legislation appointing the Old Monterey Business Association (referred to herein as "OMBA" or the "Association") as the advisory board, although OMBA has acted as in that capacity for decades;

WHEREAS, this action appoints OMBA as the Advisory Board to the City Council for the District. If so appointed, OMBA, as the official advisory board described in Streets & Highways Code section 36003, will have the authority to recommend to the City Council how to spend tax revenue, while the City Council maintains ultimate authority to approve how to spend that revenue;

WHEREAS, OMBA may advise the City on how much to request for the voluntary contribution from businesses that do not pay the tax, and the City Council may authorize OMBA to solicit those contributions;

WHEREAS, this action recodifies Ordinance 1953, as amended by Ordinance 2223, as Chapter 18, Article 4, of the Monterey City Code without substantive changes. This action does not modify or extend the amount of any tax that has been in effect since the adoption of Ordinance 2223 in 1974;

WHEREAS, this action repeals Resolution 12,417 in its entirety;

WHEREAS, the OMBA must comply with the Ralph M. Brown Act and the California Public Records Act; and

WHEREAS, the City of Monterey determined that appointing a new advisory committee for a business improvement district is not a project as defined by the California Environmental Quality Act (CEQA) (CCR, Title 14, Chapter 3 (“CEQA Guidelines”), Article 20, Section 15378). In addition, CEQA Guidelines section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The adoption of this ordinance is an organizational and administrative activity of the City, does not have the potential to result in either a direct or reasonably foreseeably indirect physical change in the environment, and is therefore not a project of purposes of CEQA pursuant to CEQA Guidelines sections 15061(b)(3); 15378(b)(5). Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. In the event adoption of this ordinance does constitute a project, it is categorically exempt under the Class 20 (Changes in the Organization of Local Governments) categorical exemption (State CEQA Guidelines section 15320). Further, none of the exceptions to exemptions found in State CEQA Guidelines section 15300.2 apply.

NOW THEREFORE, the Monterey City Council declares as follows:

SECTION 2: The above recitals are true and correct and are hereby incorporated and adopted as findings of the City Council as if fully set forth herein.

SECTION 3: Ordinance 1953, as amended by Ordinance 2223, is recodified as Monterey City Code, Chapter 18, Article 4, Monterey Downtown Promotion District, Sections 18-4.00 through 18-4-06.

SECTION 4: Monterey City Code, Chapter 18, Article 4, Section 18-4-07, Advisory Board, is added to read as follows:

“(a) The Old Monterey Business Association (the “Association”) is appointed, pursuant to Streets & Highways Code section 36003, as the Advisory Board to make recommendations to the City Council as to the use of the funds of the Monterey Downtown Promotion District, and to expend such funds in compliance with the adopted budget for such District.

(b) The Advisory Board may recommend to the City Council, at the time it submits its proposed budget pursuant to Section 18-4.08, an amount of voluntary contribution that may be requested from businesses that do not pay the tax. Upon approval by the City Council, the Advisory Board is authorized to solicit those voluntary contributions.

(c) When the Association takes action that requires a vote of its members, businesses that voluntarily pay the dues, as established by the Association from time to time, shall have equal voting rights with the businesses that are members of the Association by virtue of paying the business license tax levied on behalf of the District. The Association may also establish, from time to time, one or more classes of non-voting members for businesses located outside the geographic boundary of the District.”

SECTION 5: Monterey City Code, Chapter 18, Article 4, Section 18-4-08, Annual Budget and Expenditure Reports, is added to read as follows:

“(a) Annually, but not later than May 1 of each year, the Advisory Board shall submit a budget to the City Council for approval that shows the anticipated revenues and expenditures for the ensuing fiscal year beginning July 1 and ending June 30.

(b) Annually, but not later than September 30 of each year, the Advisory Board shall submit a report to the Finance Director of the City of Monterey that shows how the revenues for the prior fiscal year were spent.

(c) The Finance Director is authorized and directed to establish such rules and procedures as necessary or desirable to ensure that the funds of the District are lawfully expended and to audit the expenditure of such funds whenever the Finance Director should determine that an audit is necessary or desirable.”

SECTION 6: It is the intent of the City Council that Ordinance 1953, as amended by Ordinance 2223, shall not be considered repealed and reenacted in its recodified and amended form; that the portions which are not altered are to be considered as having been the law from the time when they were enacted; that the new provisions are to be considered as having been enacted at the time of the amendment; and that the omitted portions are to be considered as having been repealed at the time of the amendment.

SECTION 7: Resolution 12,417 is hereby repealed.

SECTION 8: This ordinance shall be in full force and effect thirty (30) days from and after its final passage and adoption.

SECTION 9: It is the intent of the City Council that this ordinance does not enact a new tax or increase a tax. The tax remains unchanged from that adopted in Ordinance 2223 in


1974. Should a court of competent jurisdiction determine that this action is subject to Proposition 13, Proposition 218, and/or Proposition 26, then this action is void.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 19th day of March, 2024, by the following vote:


AYES:	4	COUNCILMEMBERS:	Barber, Garcia, Smith, Williamson
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	1	COUNCILMEMBERS:	Haffa
ABSTAIN:	0	COUNCILMEMBERS:	None

APPROVED:

ATTEST:

DocuSigned by:

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Mayor of said City

DocuSigned by:

ED6459A4F02C4AA...

City Clerk thereof