

1 **STATE OF SOUTH CAROLINA**
2 **COUNTY OF HORRY**
3 **CITY OF MYRTLE BEACH**

ORDINANCE 2008-57

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5
6 **AN ORDINANCE AMENDING SECTIONS 10-22 OF DIVISION 1 OF ARTICLE**
7 **II OF CHAPTER 10 OF THE CODE OF ORDINANCES OF THE CITY OF**
8 **MYRTLE BEACH TO DEFINE AND DECLARE UNPERMITTED EVENTS AND**
9 **RALLIES TO BE PUBLIC NUISANCES; TO PROHIBIT THEIR**
10 **MAINTENANCE, AND TO SEEK FINANCIAL REDRESS FROM THOSE**
11 **ENTITIES THAT PROMOTE UNPERMITTED SPECIAL EVENTS IN THE**
12 **CITY**

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14 WHEREAS, in the Greater Grand Strand Area, in the spring and fall of every year, there
15 are motorcycle rallies that have historically had as their destination and congregational
16 focal points the City of Myrtle Beach; and

17
18 WHEREAS, since 1990 the City Council has in workshop and regular session at multiple
19 meetings had on the agenda discussion and action items regarding the events and their
20 impact and cost, and Council's desire to curtail the events and their impact; since 1995
21 the City has participated with other local cities, Horry County, local business leaders, and
22 bike related and other stakeholders in the annual Bike Week Task Force meeting to
23 discuss plans, hear complaints, and find solutions to the overwhelming noise, litter,
24 congestion and traffic unsafety; the City Administration with Council members have
25 traveled and investigated how other communities like Atlanta or Daytona have dealt with
26 overwhelming events; the City Administration has tried different configurations of traffic
27 control to ease the congestion of people and vehicles, and the vehicular gridlock that
28 results from the overwhelming numbers at great cost to the taxpayers; the City has met
29 with organizers of the events to seek relief; the City has attempted through others,
30 through funding or the offering of facilities for free, to create dispersion and to make
31 Ocean Boulevard and Kings Highway less congested by providing alternative sites for
32 visitors, but to no avail. The City has sought and received the training and on-site
33 assistance of the United States Justice Department in management of the events. In the
34 past the City has sought the help and assistance of the Governor's Office. The City has
35 entered into multiple mutual aid agreements with law enforcement agencies in and out of
36 state for assistance. The City has sought and received mutual aid from the South Carolina
37 Law Enforcement Division, The Department of Probation, Pardon and Paroles, the State
38 Constables, the State Highway Patrol, the Department of Natural Resources, and others to
39 help manage the events; and STILL these rallies have grown in attendance to the point
40 that they have now overwhelmed the public's tolerance for the noise, litter, congestion
41 and traffic unsafety, and the public's expenditure of resources that are necessary just to
42 contain and police them due to the noise, litter, overwhelming congestion, traffic unsafety
43 and crime that is ever present during these times. These rallies are viewed by the
44 residents as a public nuisance, and a destruction of the quality of life for the residents
45 who live and work in the City of Myrtle Beach; and

47 WHEREAS, these rallies have grown in attendance to the point that they are now
48 considered, and advertised by others, as a marketing identity, an area branding for the
49 City of Myrtle Beach and indeed, all of Horry County, as well as a nationally recognized
50 defining attribute of the month of May for the Grand Strand area; and

51
52 WHEREAS, the City Council does not believe that the encouragement and continuation
53 of these events and rallies is in the best long term economic interest of the City of Myrtle
54 Beach in developing a sustainable and family oriented tourist trade, and

55
56 WHEREAS, the encouragement and continuation of these rallies by any public or private
57 party will only continue to destroy the citizens' rights of public health, safety and
58 welfare; and

59
60 WHEREAS, the encouragement and continuation of these rallies has a negative disparate
61 impact on the residents of the City of Myrtle Beach; and

62
63 WHEREAS, the City of Myrtle Beach has taken legislative action to require that such
64 congregational events be permitted, since they demand an expenditure of public resources
65 above and beyond normal tourism, and further has taken definitive action to stop all
66 vending and rallies-related activities through zoning changes and the cancellation of
67 events at the Myrtle Beach Convention Center, and has put forth legislative actions to
68 bring back the month of May for a more broadly appealing and family oriented tourist
69 trade, and the City Council is articulating a legislative policy that does not attract, enable
70 or encourage bike rallies as a sustainable tourism model and would ask that neighboring
71 jurisdictions join in; and

72
73 WHEREAS, the City Council of Myrtle Beach finds that it is necessary to provide for the
74 abatement of unpermitted motorcycle special event and rally conditions, and any other
75 such "events" that constitute an unpermitted special event, which are offensive to public
76 order, detrimental to property values and community appearance, an obstruction to or
77 interference with enjoyment of adjacent property or premises, hazardous or injurious to
78 the health, safety or welfare, or require expenditure of public resources for police, fire
79 and code enforcement which are of greater frequency, intensity or duration than normal
80 tourism events; and

81
82 WHEREAS, the Council finds that the public health, safety and welfare of the people are
83 safeguarded and nurtured by the maintenance of property and premises in a wholesome
84 and appropriate condition; and the unpermitted motorcycle special events and rallies, and
85 other such unpermitted special events, are inapposite to achieving this goal; and

86
87 WHEREAS, the Council finds that abatement of nuisances promotes an economically
88 sound environment and preserves and maintains an attractive community appearance; and
89 that unpermitted motorcycle special events and rallies, and other such unpermitted special
90 events, are nuisances of a public order and are deserving of abatement; and

91

92 WHEREAS, the Council finds that abatement of nuisances resulting from unpermitted
93 motorcycle special events and rallies, and other such unpermitted special events, will
94 protect and enhance the long term economic value of property, and thereby the long term
95 economic vitality and stability of the community at large.

96
97 THEREFORE, the Council, as stewards of the public trust, declares that the purposes of
98 this Ordinance are to reduce or eliminate the threat to health, safety, welfare, appearance
99 and economic value due to unpermitted motorcycle special events and rallies, and other
100 such unpermitted special events, to declare such as illegal; to abate such conditions
101 through such process as may be deemed appropriate and expedient, and to hold
102 accountable those who promote, encourage or enable such nuisances to continue.

103
104 **IT IS HEREBY ORDAINED THAT CHAPTER 10, ARTICLE II, SECTION 10-22**
105 **OF THE CODE OF ORDINANCES OF THE CITY OF MYRTLE BEACH IS**
106 **AMENDED AS FOLLOWS:**

107
108 **Section. 22 NUISANCES**

109
110 a. Nuisances affecting public health

111 The following are hereby declared to be nuisances affecting public health:

- 112
113 1) All decayed or unwholesome food products or food waste not properly contained
114 either inside or outside for more than twenty four hours before pick up;
115 2) Litter, debris, trash or refuse which is not placed within the appropriate container; or
116 containers for waste which are not properly placed upon their pads;
117 3) All pools of stagnant water or vessels holding stagnant water in which mosquitoes
118 can breed, excluding required retention ponds;
119 4) Swimming pools which either (a) are empty, excluding such pools that are completely
120 and effectively covered, or (b) contain liquids and/or debris which are not
121 bacteriologically, chemically or physically safe for swimming or other intended uses;
122 5) Animal carcasses not buried or disposed of in a lawful and sanitary manner within
123 twenty four hours after death;
124 6) Leaking septic tanks or sewer lines or other sewage existing in an unsanitary manner;
125 7) Weeds or other rank growths of vegetation upon private or public property, and all
126 other vegetation at any stage of maturity which exceeds twelve inches in height,
127 except for healthy trees, shrubs or plants grown in a tended and cultivated garden or
128 plot; regardless of height, harbors, conceals or invites rodents, pests or vermin or
129 deposits of refuse; gives off noxious odors; constitutes a fire or traffic safety hazard;
130 8) Damaged or diseased limbs of trees or trees to the extent of potential injury to the
131 public at large due to imminent structural failure;
132 9) Deliberate placement or discharge of into any part of a storm water drainage system
133 of untreated sewage, sewage solids, process wastewater, refuse, explosive or
134 combustible liquid, solid or gas, oils, greases, industrial water or other polluted water
135 except where a federal, state or local permit for connections, discharge or disposal has
136 been obtained prior to the event; or waters or wastes containing toxic or poisonous
137 wastes to constitute a hazard to humans, plants or animals or to cause corrosion,

138 discoloration or deposition on real or personal property; or any solid or viscous
139 substances in such quantities or of such size capable of causing obstruction to the
140 flow in the storm water drainage system or other interference with the proper
141 operation of the drainage system of the City of Myrtle Beach.

142 10) Regardless of the intervals, the passage of time, or the length of time between events,
143 the pervasive and continual clamor and noise, litter, and congestion of large number
144 of persons and vehicles resulting from a promotion, direction, advertisement or
145 solicitation for individuals to attend unpermitted special events, rallies and parades,
146 whether cyclical or not, of any nature or sort, by persons or groups identifying or
147 claiming the City of Myrtle Beach as the gathering or focal location; when that results
148 in vehicles and participants congregating in such numbers that it works to the
149 detriment of the public health, safety and welfare of the citizens, or requires a
150 heightened law enforcement response or a heightened intensity of law enforcement
151 response, or a public resource response of such disproportionate expenditure when
152 compared to normal tourism; those persons or legal entities of any status that enable,
153 sponsor or advertise such unpermitted special events and rallies to be held within the
154 city limits shall be responsible for the costs, as set forth in this Article, arising there
155 from for promoting an unpermitted special event in the city limits.

156
157 b. Nuisances offending public decency, peace and order
158 The following are hereby declared to be public nuisances affecting public
159 decency, peace and order, ~~when~~ whether such violations are of an intermittent,
160 cyclical, continual, reoccurring or constant nature when the responsible party
161 generates, enables, or contributes to the occurrence of the unlawful behavior by a
162 absence or failure of property management policy or practice, absence or failure
163 of control over the property, absence or failure of supervision of guests or
164 invitees, absence or failure of security measures; provided however, that no
165 person shall be held liable or no structure shall be declared a nuisance in the event
166 that person or accountable does not generate, enable or contribute to the
167 occurrence of unlawful behavior by a management policy or practice, personal
168 conduct, lack of control or supervision, absence or ineffectiveness of security or
169 other factors:

- 170
171 (1) Any structure, whether commercial or residential, where gambling devices, slot
172 machines, punch boards and other such contrivances of similar character
173 involving any elements of chance as a consideration or any type of gambling,
174 bookmaking, wagering or betting is carried on, and all gambling equipment,
175 except where such specific form of gambling is permitted by applicable law;
176 (2) Any structure, whether commercial or residential, operated as a bawdy house,
177 house of assignation, place of prostitution or used and maintained for the
178 commercial or criminal purposes of unlawful sexual activity in violation of
179 federal, state or local law;
180 (3) Any structure, whether commercial or residential, where intoxicating liquors are
181 manufactured, sold, bartered or given away in violation of federal, state or local
182 law, or where intoxicating liquors kept for sale, barter or distribution in violation

183 of federal, state or local law, and all liquors, bottles, kegs, pumps, bars and other
184 property kept at and used for maintaining such a place;

185 (4) Any structure, whether commercial or residential, where acts of sale, possession
186 or distribution of controlled substances occur in violation of federal, state and
187 local law;

188 (5) Any structure, whether a commercial operation or a residential use, where
189 municipal code violations, breaches of the peace, disorderly conduct or Offences
190 against the Person found in Chapter 3, Title 16 of the South Carolina Code of
191 Law, Offences against the Person found in Articles II, IV and VI, Chapter 14 of
192 the Code of Ordinances of the City of Myrtle Beach occur with disproportionate
193 frequency or intensity that they require an excessive public safety response cost.
194 “Excessive public safety response” means the deployment or dispatch of five or
195 more law enforcement officers to the scene at any one time, or the need for public
196 safety personnel or emergency vehicles, or code enforcement or public works
197 equipment or personnel due to an observation or report of public disturbances, or
198 public health/safety or code violations at the location of the structure when
199 compared to the frequency or intensity of law enforcement action law or
200 regulation enforcement required at other similarly situated structures, or where the
201 intensity of law enforcement response, when required, is disproportionate to the
202 intensity of response required at other similarly situated structures. After notice of
203 the continuing nature of the nuisance and specific identification of the facts and
204 circumstances that either generate, enable or contribute to the nuisance, the
205 owner, lessee, renter, management or the person in control, may be held
206 responsible for the maintenance of a public nuisance and the structure declared a
207 public nuisance.
208

209 A. For purposes of (5) only, a commercial operation is defined as activity in which
210 goods or services are exchanged for money or barter, or the rental or lease of
211 accommodations for any length of time; a residential use is defined as single-
212 family residences or multifamily residences. It is the intent of this ordinance that
213 commercial operations shall be held responsible for the acts or omissions which
214 generate, enable or contribute to the requirement of frequent or intensive law
215 enforcement action due to a management policy or practice, personal conduct,
216 lack of control or supervision, absence or ineffectiveness of security or other
217 factors. When such a management policy or practice, personal conduct, lack of
218 control or supervision, absence or ineffectiveness of security or other factors are
219 identified by law enforcement as generating, enabling or contributing to the
220 disproportionate need for frequent or intensive law enforcement action, notice
221 shall be provided to the commercial operation; such notice shall identify with
222 particularity the management policy or practice, personal conduct, lack of control
223 or supervision, absence or ineffectiveness of security or other factors that are
224 generating, enabling or contributing to the frequency and intensity of unlawful
225 behavior, and that further occurrences may result in a declaration of a public
226 nuisance. If, after notice, the management policy or practice, personal conduct,
227 lack of control or supervision, absence or ineffectiveness of security or other
228 factors that are generating, enabling or contributing to the frequency and intensity

229 of unlawful behavior are not changed or modified, the owner, lessee, renter,
230 management or the person in control, may be held responsible for the
231 maintenance of a public nuisance and the structure declared a public nuisance.

232 B. For purposes of (5) only, a residential use is defined as any residence in which a
233 family or individual or individuals reside ~~for a period exceeding thirty days~~. It is
234 the intent of this ordinance that owners, lessees or renters of the property shall be
235 held responsible for the conduct of the residents, invitees or guest that generate,
236 enable or contribute to the requirement of frequent or intensive law enforcement
237 action. When conduct is identified by law enforcement as generating, enabling or
238 contributing to the disproportionate need for frequent or intensive law
239 enforcement action, notice shall be provided to the owner, lessee or renter; such
240 notice shall identify with particularity the conduct that is generating, enabling or
241 contributing to the frequency and intensity of unlawful behavior, and that further
242 occurrences may result in the declaration of a public nuisance. If, after notice, the
243 conduct that is generating, enabling or contributing to the frequency and intensity
244 of unlawful behavior is not changed or modified, the owner, lessee, renter,
245 management or the person in control, may be held responsible for the
246 maintenance of a public nuisance and the structure declared a public nuisance.
247

248 (6) Regardless of the intervals, the passage of time, or the length of time between
249 events, any structure, whether a commercial operation or a residential use, which has
250 inadequate security or policies in place to control an assembly of persons attending an
251 event properly permitted, or in the case of unpermitted special events or rallies,
252 whether of a cyclical nature or not, of any sort which have inadequate security or
253 policies in place to prevent the congregation of persons in required parking areas and
254 landscaped areas, or allows after hours loitering, or loitering without concurrent
255 commercial activity, or allows encampment, unlawful amplified broadcasts, clamor
256 and noise, placement of tables, chairs, coolers, and the like, or allows congregational
257 preparation, service or consumption of food or beverage in required parking or
258 landscaping areas, such use is deemed to require law enforcement response and
259 management of such disproportionate intensity when compared to the intensity of law
260 enforcement action required at other similarly situated structures under normal
261 tourism circumstances, or is further deemed to require heightened intensity of law
262 enforcement response, which is disproportionate to the intensity of response required
263 at other similarly situated structures that have adequate and appropriate security and
264 policies in place. After notice of the nuisance and specific identification of the facts
265 and circumstances that either generate, enable or contribute to the nuisance, the
266 owner, lessee, renter, management or the person in control, may be held responsible
267 for the maintenance of a public nuisance and the structure declared a public nuisance.
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269 c. Nuisances affecting public welfare and safety

270 The following are hereby declared to be public nuisances affecting public welfare and
271 safety:
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273 1) All trees, hedges, signs or other obstructions, or any portion of the same so
274 located on private property which prevents the clear and unobstructed view of

- 275 a fire hydrant, fire department connection or other fire protection device, or
276 directional or identification signage pertaining to the above, from a public
277 way;
- 278 2) Any obstruction, erosion or depression which poses a potential hazard to
279 vehicles or pedestrians using a right of way on private property where the
280 public is invited or permitted to traverse for commercial purposes;
 - 281 3) All wires, strings, ropes or lighting contrivances over streets, alley or public
282 grounds which are not authorized or permitted by the City or which are strung
283 so that the lowest portion is less than thirteen and one half (13 & 1/2) feet
284 above the surface of the ground;
 - 285 4) All explosives, flammable liquids and other dangerous substances stored in
286 any manner, in any amount other than that manner or amount permitted by
287 law;
 - 288 5) All hanging signs, awnings, canopies and other similar structures over the
289 streets or sidewalks so situated or constructed as to endanger public safety or
290 to be contrary to ordinance;
 - 291 6) Any motor vehicle that is unregistered, inoperable, derelict or abandoned on
292 any highway or right of way, or other public or private property, unless such
293 vehicle is stored inside of a building or protected from the elements by way of
294 a complete covering.
 - 295 7) Any abandoned or discarded icebox, refrigerator, ice chest or other type of air-
296 tight container whose door, lid or other closing devise has not been removed.
 - 297 8) Any tents, trailers, structures, cooking devices, appliance, chairs, tables,
298 coolers or other objects used in impromptu, unpermitted or unmanaged
299 outdoor events or gatherings in a required parking area or landscaped area of a
300 business license holder, or the site of any short term residential rental, unless
301 that such outdoor events that are specifically permitted through legislative or
302 administrative action, or sponsored by the business license holder in
303 compliance with regulations governing such outdoor events

304
305 d. Nuisances affecting public economy

306 The following are hereby declared to be public nuisances affecting the public
307 economy:

- 308 1) All structures bearing graffiti, to be abated by applicable law;
- 309 2) All structures in violation of the International Property Maintenance Code, as
310 adopted and all structures, for a period of one month, which remain
311 unoccupied and boarded up, and whose exterior finish is destroyed, decayed,
312 dilapidated or deteriorated in violation of the International Property
313 Maintenance Code, as adopted, provided however, unoccupied structures shall
314 not be considered a public nuisance affecting public economy if the building
315 exterior is weather tight and maintained for purposes of appearance and
316 security according to the International Property Maintenance Code, and the
317 material which secures the building is compatible with the exterior in
318 appearance, color, texture and design, and the premises are kept in compliance
319 with all applicable building, property maintenance, zoning, and land use laws;

- 320 3) All businesses or commercial enterprises operating without a valid, current
321 and displayed business license.
322 4) All premises continually not in compliance with applicable licensing, zoning
323 and land use laws.
324 5) All business with an outstanding arrearage of applicable city liens, taxes, fees,
325 charges or assessments.
326 6) All premises which originate false fire or burglar alarms, as defined by
327 applicable law.
328

329 Regardless of the intervals, the passage of time, or the length of time between events,
330 unpermitted special events or rallies of any nature or sort, promoting, inviting or claiming
331 the City of Myrtle Beach as the gathering or focal location, and promoting, inviting and
332 encouraging participants and vehicles to congregate in such numbers and such length of
333 time, that it results to the detriment of the public health, safety and welfare of the citizens
334 in terms of clamor and noise, traffic congestion and unsafety, and litter, or requires a law
335 enforcement response and a heightened intensity of law enforcement response, or a
336 public resource response of such disproportionate expenditure when compared to normal
337 tourism; those persons or legal entities of any status that enable, sponsor or advertise such
338 unpermitted special events and rallies to be held within the city limits shall be responsible
339 for the costs, as set forth in this Article, arising there from for holding an unpermitted
340 special event in the city limits.
341

342 **Effective Date.** This ordinance is effective immediately upon its adoption.
343

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345 _____
346 JOHN RHODES, MAYOR
347

348 ATTEST:
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350
351 _____
352 Joan Grove, City Clerk
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354 1st Reading: September 9, 2008

355 2nd Reading:
356
357