
1 **2020-34 (1ST READING): TO AMEND CHAPTER 11, ARTICLE II, SECTIONS 34, 35,**
2 **AND 36 OF THE CODE OF ORDINANCES OF THE CITY OF MYRTLE BEACH**
3 **(BUSINESS LICENSE ORDINANCE) TO ALLOW FOR THE TEMPORARY SUSPENSION**
4 **OF BUSINESS LICENSES AS A TOOL FOR ADDRESSING UNDERLYING UNLAWFUL**
5 **OR NUISANCE ACTIVITY RELATING TO CERTAIN BUSINESSES.**

6 **Applicant/Purpose:** Staff / to begin to use the Business License Ordinance as a tool to
7 encourage businesses to address underlying related unlawful/nuisance activities.

8
9 **Brief:**

- 10 • As currently written the Business License Ordinance is almost exclusively a revenue
11 generation tool.
- 12 • Revocations of the license are permanent. As a result, staff has been very reluctant to
13 propose suspensions/revocations to cure nuisances.
- 14 • The proposal includes 2 changes to the existing Business License Ordinance:
- 15 ○ To allow the Business License Official to work flexibly w/ business owners to
16 restore suspended business licenses once the underlying issues are resolved & to
17 allow the Official to renew those licenses in a subsequent year.
- 18 ○ Where time is of the essence, to allow the City Manager to address unlawful
19 activity & public nuisances by suspending the license (thus temporarily closing
20 the business) to cure that activity w/out that action necessarily leading to a
21 permanent revocation.
- 22 ▪ These suspensions may be lifted w/ or w/out conditions based on the
23 business' submission (& approval) of a plan to eliminate the underlying
24 unlawful/ nuisance behavior.
- 25 ▪ In such cases, the business has 15 days to submit & receive approval of
26 this plan or to appeal the suspension. All appeal rights remain intact.

27
28 **Issues:**

- 29 • The proposed amendments are intended to encourage businesses to work w/ MBPD to
30 address unlawful activities & nuisance behavior.
- 31 • The proposal is one of many steps taken & proposed to improve the perception & reality of
32 public safety throughout the City.

33
34 **Public Notification:**

- 35 • Legal ad for the PC public hearing was published on 6/19/20.
36 • Normal City Council meeting notification.

37
38 **Alternatives:**

- 39 • Modify the proposed ordinance.
40 • Deny the proposed ordinance.

41
42 **Financial Impact:** None.

43
44 **Manager's Recommendation:** I recommend 1st reading (6/23/2020).

45
46 **Attachment(s):** Proposed ordinance.

CITY OF MYRTLE BEACH
COUNTY OF Horry
STATE OF SOUTH CAROLINA

AN ORDINANCE AMENDING CHAPTER 11,
ARTICLE II, SECTIONS 34, 35, AND 36 OF THE
CODE OF ORDINANCES OF THE CITY OF MYRTLE
BEACH (BUSINESS LICENSE ORDINANCE) TO
ALLOW FOR THE TEMPORARY SUSPENSION OF
BUSINESS LICENSES AS A TOOL FOR ADDRESSING
UNDERLYING UNLAWFUL OR NUISANCE
ACTIVITY RELATING TO CERTAIN BUSINESSES.

WHEREAS, the City Council (“Council”) is committed to improving both the reality and the perception of public safety throughout the City of Myrtle Beach; and

WHEREAS, to that end Council and staff are engaged in on-going efforts to review City staffing levels, deployment strategies, compensation packages, technology, policies, data use, policies, and City ordinances, supporting that commitment; and

WHEREAS, except for the very extreme measure of a temporary suspension of a business license pursuant to a permanent revocation action, there is no current authorization in City Code for a suspension of a business license to address underlying unlawful or nuisance activity relating to that business, and to allow that business to subsequently resume operations; and

WHEREAS, it is, therefore, the intent of the Council to provide for a temporary suspension of a business license as a tool for strongly encouraging these businesses to deal with such underlying unlawful or nuisance activity by working cooperatively with the City to adopt and implement Approved Mitigation Plans to address such activity; and

WHEREAS, to that end this proposed ordinance is designed to authorize such a mechanism with the ultimate goal of allowing those business to resume operations based on the implementation of an Approved Mitigation Plan and the subsequent issuance of a conditional or unconditional business license;

NOW, THEREFORE, IT IS HEREBY ORDAINED THAT THE CODE OF ORDINANCES OF THE CITY OF MYRTLE BEACH, CHAPTER 11, ARTICLE II, SECTIONS 34, 35, AND 36 BE AMENDED FOLLOWS:

Sec. 11-34. - Denial of license.

(a) The license official ~~shall~~ may deny a license to an applicant upon a determination that:

- (1) The application is incomplete, contains a misrepresentation, false or misleading statement evasion or suppression of a material fact; or
- (2) The activity for which a license is sought is unlawful or constitutes a public nuisance per se or per accidents; or
- (3) The applicant, licensee or prior licensee or the person in control of the business has been convicted of an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude, or an unlawful sale of merchandise or prohibited goods; or
- (4) The applicant, licensee or prior licensee or the person in control of the business has engaged in an unlawful activity or nuisance related to the

1 business or to a similar business in the municipality or in another jurisdiction;
2 or

3 (5) The applicant, licensee or prior licensee or the person in control of the
4 business is delinquent in the payment to the municipality of any lien or debt
5 resulting from nuisance abatement, note, assessment, tax or fee; or

6 (6) The license for the business or for a similar business of the licensee in the
7 municipality or another jurisdiction has been denied, suspended or revoked in
8 the previous license year; or

9 (7) The license is sought on behalf of another person who has previously been
10 denied or had a business license revoked because of unlawful activity or
11 nuisance related to the business; or

12 (8) The applicant has unpaid liens, taxes, fees and charges due and owing to the
13 municipality.

14 (b) Denial of licenses are subject to appeal, as provided herein. Failure to timely appeal
15 waives any right to contest the denial.
16

17 **Sec. 11-35. - Suspension or revocation of license.**

18 (a) The license official may suspend or revoke a business license upon determining that:

19 (1) A license has been mistakenly or improperly issued or issued contrary to law;
20 or

21 (2) A licensee has breached any condition upon which the license was issued or
22 has failed to comply with the provisions of this ordinance; or

23 (3) A licensee has obtained a license through a fraud, misrepresentation, a false
24 or misleading statement, evasion or suppression of a material fact in the
25 license application; or

26 (4) A licensee has been convicted of an offense under a law or ordinance
27 regulating business, a crime involving dishonest conduct or moral turpitude,
28 or an unlawful sale of merchandise or prohibited goods; or

29 (5) A licensee has engaged in an unlawful activity or nuisance related to the
30 business; or

31 (6) A licensee is delinquent in the payment to the municipality of any lien or debt
32 resulting from nuisance abatement, note, assessment, tax or fee.

33 (b) In an emergency situation, where time is of the essence, the City Manager may
34 suspend a business license upon determining that the licensee has engaged in an
35 unlawful activity or nuisance related to the business. Such suspension may be lifted
36 with or without conditions based upon the business's submission of a plan, acceptable
37 to the City Manager (Approved Mitigation Plan), to eliminate the underlying unlawful
38 activity or nuisance behavior. The business has 15 days to submit and receive
39 approval of a plan to eliminate the underlying unlawful activity or nuisance behavior
40 or to appeal the suspension as prescribed in Section 11-36(d).

41 (c) ~~(b)~~ All business license suspensions or revocations are subject to appeal, as provided
42 herein. Failure to timely appeal waives any right to contest the suspension or
43 revocation.
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45 **Sec. 11-36. - Appeals.**

46 (a) In determination of assessments, denial, suspension or revocation, the license
47 official, or the City Manager acting pursuant to Section 11-35 (b), shall give written
48 notice to the licensee or the person in control of the business within the municipality
49 by certified mail to the address provided in the application by the licensee. In the
50 case of an action issued under Section 11-35(b), the Manager shall provide the license

1 official a copy of the written notice so that the license official may initiate the
2 measurement of the appeals and hearing date deadlines provided for in sub-
3 paragraph (d) below. The failure of the licensee to sign for certified mail at the
4 address provided does not constitute a bar to administrative action, as the applicant
5 is deemed to have provided accurate information for contact having certified that
6 information under oath, and having expressed consent to administrative oversight by
7 submitting a sworn application for approval.

8 (b) The notice of the license official or City Manager pursuant to Section 11-35 (b) shall
9 plainly set forth the action taken against the licensee, and the basis for the decision.

10 (1) In the matter of assessments, the notice shall set forth the amount due, and
11 any penalty arising thereto, and the due date, and a copy of the ordinance
12 relating to appeals.

13 (2) In the matter of suspension pending revocation, the notice shall set forth that
14 the license is suspended as of an effective date pending a hearing before city
15 council for the purpose of determining whether the license should be
16 permanently revoked, or other such remedy as may be determined, and a copy
17 of the ordinance relating to appeals.

18 (3) In the matter of revocation, the notice shall set forth that the license is
19 revoked as of an effective date pending a hearing before city council for the
20 purpose of determining whether the license should be permanently revoked,
21 or other such remedy as may be determined, and a copy of the ordinance
22 relating to appeals.

23 (4) Any person aggrieved by a decision or final assessment by the license official
24 may appeal the decision by written request stating the reasons therefore,
25 filed with the license official within 15 days after the date of the mailing of
26 the certified letter.

27 (c) An appeal regarding final assessments may be made to a hearing officer by written
28 request stating the reasons therefore, filed with the license official within 15 days
29 after the date of the certified mailing of license official. An appeal hearing regarding
30 final assessments shall be held by a hearing officer 30 days after receipt of a request
31 for appeal, unless continued by agreement of the licensee and the hearing officer.
32 At the hearing, all parties shall have the right to be represented by counsel, to
33 present testimony and evidence and to cross-examine witnesses. The proceedings
34 shall be recorded and transcribed at the expense of the party so requesting. The rules
35 of evidence and procedure prescribed by the hearing officer shall govern the hearing.
36 The hearing officer, or the majority shall render a written decision based on findings
37 of fact and application of the standards herein which shall be served by certified mail
38 upon all parties or their representatives. Orders of the hearing officer regarding
39 assessments shall be appealable to the city council, as set forth below.

40 (d) An appeal regarding a denial, suspension or revocation of a business license by the
41 license official, or by the City Manager pursuant to Section 11-35 (b), or an order by
42 a hearing officer may be made to the City Council by written request stating the
43 reasons therefore, filed with the license official within 15 days after the date of the
44 certified mailing of the order of the hearing officer, or within 15 days of the certified
45 mailing of the denial, suspension or revocation of a business license by the license
46 official. The appeal shall be held by the City Council within 30 days receipt of the
47 licensee's notice, at a regular or special meeting of which the applicant or licensee
48 has been given written notice by the license official, unless continued by agreement.

49 (e) At the City Council hearing, all parties shall have the right to be represented by
50 counsel, to present testimony and evidence and to cross-examine witnesses. The

1 proceedings shall be recorded and transcribed at the expense of the party so
2 requesting. The rules of evidence and procedure prescribed by the City Council shall
3 govern the hearing. The majority of City Council members present shall render a
4 written decision based on findings of fact and application of the standards herein
5 which shall be served upon all parties or their representatives. The order of City
6 Council shall be the final decision of the municipality.
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9 This ordinance becomes effective upon adoption.
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13 BRENDA BETHUNE, MAYOR
14

15 ATTEST:

16
17 JENNIFER ADKINS, CITY CLERK
18

19
20 1st Reading: 7-14-2020

21 2nd Reading: