

ORDINANCE 2023 - 08

AN ORDINANCE OF THE CITY OF SUNNYSIDE, WASHINGTON, AMENDING SUNNYSIDE MUNICIPAL CODE CHAPTER 5.56 TO ALLOW FOR THE CITY MANAGER TO REVOKE BUSINESS LICENSES AND ALLOW FOR AN APPEAL TO A HEARING EXAMINER. THE ORDINANCE ALSO SETS FORTH THE EFFECTIVE DATE OF THE ORDINANCE AND PROVIDES THAT ITS PROVISIONS ARE SEVERABLE FROM ONE ANOTHER AND PROVIDES FOR PUBLICATION BY SUMMARY.

THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Sunnyside Municipal Code Chapter 5.56.010 is hereby amended to read as follows.

5.56.010 Revocations of business license.

- A. Notwithstanding the specific provisions applicable to particular licenses or permits in this title, the City may revoke any license or permit issued under this title after it has been issued, when any one or more of the following grounds are found to exist:
1. Illegal issuance of the permit or license.
 2. Issuance of the permit or license without authority or power.
 3. Issuance under an unauthorized ordinance or under an ordinance illegally adopted.
 4. Issuance in violation of an ordinance.
 5. When the business license or permit was procured by fraud or false representation of facts.
 6. When issued through mistake or inadvertence.
 7. When the license or permit application contains false or misleading statements, evasions or suppression of material facts.
- B. Other grounds for revocation in addition to those stated in subsection (A) of this section are as follows:
1. Substantial violations of the terms and conditions on which a license or permit is issued.
 2. Violation of ordinances or laws authorizing or regulating the license or permit, or regulating the business activity or purpose for which the license or permit is issued.
 3. Conviction of infractions of or offenses under such an ordinance or law.
 4. Wrongful behavior of a substantial character and of a public concern in relation to the licensed activity.
 5. When reasonably necessary in the interests of protection of the public

health, safety, peace or welfare.

Section 2. Sunnyside Municipal Code Chapter 5.56.020 is hereby enacted to read as follows:

5.56.020 City Council or City Manager Immediate Revocation of business license.

Before any such license or permit shall be canceled or revoked for any of the grounds set forth in section 5.56.010, the holder of such license or permit shall be given two weeks' notice of a hearing to be held by the City Council at which time the holder of such license or permit must show cause why such license or permit should not be revoked. The notice to be given to the holder of such license or permit must state the grounds and the reasons for the forfeiture, cancellation and/or revocation, and must also state the date on which the hearing is set. Provided, however, the City Manager may immediately revoke the license or permit of any business or activity for any of the grounds set forth in 5.56.010 (A), when any such license or permit has been issued for a period of less than 72 hours, and any such determination by the City Manager shall be deemed conclusive unless the holder of the license or permit appeals to the City Council within five calendar days of the notice of revocation. Pending any such appeal to the City Council, the license or permit shall remain revoked.

Section 3. Sunnyside Municipal Code Chapter 5.56.030 is hereby enacted to read as follows:

5.56.030 City Manager Non-Immediate Revocation of business license.

- A. Any license issued under this title may be revoked based on one or more of the grounds set forth in SMC 5.56.010.
- B. The City Manager shall have the power and authority to revoke any license issued under the provisions of this title. The City Manager shall notify such licensee in writing by certified mail or personal service of the revocation of his or her license application or license and the grounds therefor.
- C. Any applicant or licensee may, within fourteen (14) calendar days from the date that the denial or revocation notice was mailed to, or personally served on, the licensee, appeal from such denial or revocation by filing a written notice of appeal setting forth the grounds therefor with the Hearing Examiner pursuant to Chapter 2.46 SMC. A filing fee as set forth in Chapter 2.02 SMC shall be submitted with the appeal, which filing fee is required to process the appeal. The hearing shall be conducted in accordance with the procedures for hearing contested cases set out in Chapter 2.46 SMC. After the hearing thereon the Hearing Examiner shall, after appropriate findings of fact, and conclusions of law, affirm, modify, or overrule the revocation and order reinstatement of the license, and may impose any terms thereupon.

- D. No revocation of a license issued pursuant to the provisions of this chapter shall take effect until fourteen (14) calendar days after service of the notice thereof by the City Manager, and if the appeal is timely filed, the renewal or revocation shall be stayed pending final action by the Hearing Examiner. All licenses which are revoked shall be surrendered to the City on the effective date of such revocation.
- E. The decision of the Hearing Examiner shall be final. The licensee and/or the City may seek review of the decision by the Superior Court of Washington in and for Yakima County within appeal period as set forth in SMC 2.72.010. If review is sought as herein prescribed the renewal or revocation shall be stayed pending final action by the Superior Court.
- F. When revoked, the license shall be canceled and immediately surrendered to the City Manager or his or her designee. Upon revocation of any license as provided in this chapter no portion of the license fee shall be returned to the licensee.
- G. Upon revocation, the person whose license revoked shall not be granted a license for a business, upon any new application that may be made, for a period of ninety (90) calendar days from date of revocation and further, no license shall be issued until such person cures any defaults that resulted in the revocation.

Section 4. SEVERABILITY. The provisions of this ordinance are hereby declared to be severable. If any section, subsection, sentence, clause, or phrase of this ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional, the remainder of this ordinance shall not as a result of said section, sentence, clause, or phrase be held unconstitutional or invalid.

Section 5. This ordinance shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

PASSED this 24th day of April 2023.

ATTEST:



JACQUELINE RENTERIA, CITY CLERK



DEAN BROERSMA, MAYOR

APPROVED AS TO FORM:



SAXTON, RILEY & RILEY, LLPC
Attorneys for the City of Sunnyside

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