

ORDINANCE NO. 618-25

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MURRIETA, CALIFORNIA, AMENDING TITLE 5 OF THE MURRIETA MUNICIPAL CODE RELATING TO THE BUSINESS LICENSES

Summary: This ordinance establishes a uniform appeal process for all business license appeals and makes additional clarifications relating to the advertisement, solicitation or promotion of business within the City.

WHEREAS, the Murrieta Municipal Code (“MMC”) currently authorizes the issuance and revocation of business licenses; and

WHEREAS, the City aims to achieve best governmental practices and ensure organizational efficiency; and

WHEREAS, the City Council now desires to amend Title 5 of the MMC to create a uniform appeal process for business license appeals and clarify that business licenses are required prior to the advertising, promotion or solicitation of business within the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MURRIETA, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 5.02.030 of the Murrieta Municipal Code is hereby amended to read as follows (new language is indicated in ***bold and italics***, language proposed to be deleted is shown with an ~~underline and strikethrough~~):

“5.02.030 License required.

A. It shall be unlawful for any organization to ***advertise, solicit, promote, or*** conduct any bingo games in the city of Murrieta unless such organization is a qualified organization and has been issued a license as provided in this chapter.

B. It shall be unlawful for any person to ***advertise, solicit, promote, or*** conduct any bingo games in the city of Murrieta unless such person is a member of a qualified organization acting on behalf of such qualified organization that has been issued a license as provided by this chapter.”

SECTION 2. Section 5.03.050 of the Murrieta Municipal Code related to terms of licenses is hereby amended to read as follows (new language is indicated in ***bold and italics***, language proposed to be deleted is shown with an ~~underline and strikethrough~~):

“5.02.050 Term of license and fees.

The term of a bingo license is one year and may be renewed any time within one year from its date of issuance, upon application therefor. The fee for an initial bingo license shall be ***based on the fees established by the city council and set by resolution***, ~~one hundred dollars (\$100.00)~~, and shall accompany the filing of the application. A license may be renewed upon the payment of a renewal fee ***based on the fees established by the city council and set by resolution*** ~~of one hundred dollars (\$100.00)~~, which has been paid at least 30 days prior to the expiration of the term of the current license, and provided the applicant is in good standing under the current license. When the renewal fee is not paid at least 30 days prior to ***the*** expiration of the current license, an additional late fee of twenty-five dollars (\$25.00) shall be paid.”

SECTION 3. Paragraph D of Section 5.02.100 of the Murrieta Municipal Code is hereby amended to read as follows (new language is indicated in ***bold and italics***, language proposed to be deleted is shown with an ~~underline and strikethrough~~):

“D. Any organization whose bingo license has been ***suspended or*** revoked may not apply for a license to conduct any bingo games for a period of ~~one year~~ ***twenty-four months*** from the date notice of such ***suspension or*** revocation was served on it, or if affirmed on appeal ~~by the Murrieta city council as provided in this section~~, from the date of such affirmation; provided, however, if the reason for revocation is cancellation of the exemption granted under Section 23701(a), 23701(b), 23701(d), 23701(e), 23701(f), 23701(g) and 23701(l) of the Revenue and Taxation Code, such organization may again apply for a bingo license upon proof of reinstatement of such exemption.”

SECTION 4. 5.02.110 of the Murrieta Municipal Code related to Appeals is hereby repealed in its entirety.

SECTION 5. Section 5.04.020 of the Murrieta Municipal Code is hereby amended to read as follows (new language is indicated in ***bold and italics***, language proposed to be deleted is shown with an ~~underline and strikethrough~~):

“5.04.020 Licenses required.

There is imposed, upon each business conducted within the city, a business license fee in the amount hereinafter prescribed. It is unlawful for any person to ***advertise, solicit, promote or*** conduct any business within the city without first having procured a license from the city to do so and paid the license fee therefor and without complying with all applicable provisions of this chapter.”

SECTION 6. Section 5.04.150 of the Murrieta Municipal Code is hereby amended to read as follows (new language is indicated in ***bold and italics***, language proposed to be deleted is shown with an ~~underline and strikethrough~~):

“5.04.150 Unlawful manner of operation.

The granting of a license for a business shall not be deemed a permit to conduct, ***advertise, solicit, or promote*** the same in an unlawful manner or on premises where such business is prohibited by law.”

SECTION 7. Section 5.04.335 of the Murrieta Municipal Code is hereby amended to read as follows (new language is indicated in ***bold and italics***, language proposed to be deleted is shown with an ~~underline and strikethrough~~):

“5.04.335 ***Suspension or*** Revocation of business license.

A. Any business license issued pursuant to the provision of this chapter may be ***suspended or*** revoked by the ~~city council~~ ***Business License Officer*** on the basis of any of the following:

1. That the business or activity has been conducted in an illegal or disorderly manner;
2. That any operator of the business or activity has an unfit character;
3. That the purpose for which the permit has been issued is being abused to the detriment of the public;
4. That the permit is being used for a purpose different from that for which it was issued;
5. That the permittee has misrepresented any fact in the application for permit or has not answered each question therein truthfully;

B. Unless otherwise provided in this chapter, in the event a permit is ***suspended or*** revoked pursuant to the provisions of this chapter, another permit shall not be granted to such person within ~~twelve (12)~~ ***twenty-four (24)*** months after the date of such ***suspension or*** revocation. The ~~city council's~~ ***Business License Officer's*** determination following a ***suspension or*** revocation hearing shall be ***subject to appeal as set forth herein***~~final and conclusive in the matter.~~”

SECTION 8. Section 5.04.340 of the Murrieta Municipal Code is hereby amended to read as follows (new language is indicated in ***bold and italics***, language proposed to be deleted is shown with an ~~underline and strikethrough~~):

“5.04.340 Appeals from denial, suspension or revocation of business license or permit.

A. Any person aggrieved by the denial of an application for a business license or permit, denial of an application for renewal of a business license or permit, suspension or revocation of a business license or permit, or any other decision of the city with respect to the issuance or refusal to issue a license or permit or the suspension or revocation of such license or permit subject to the appeals provisions of this chapter (“administrative decision”), may appeal the administrative decision by filing an appeal with the office of the city clerk within fifteen (15) calendar days from the date the notice of the administrative decision was mailed to the applicant. If the fifteenth day falls on a Saturday, Sunday or city holiday, the appeal may be filed on the next day city hall is open for business. The appeal document must be received by the office of the city clerk within the applicable time period and not just mailed within such time. This appeal process applies to the denial, suspension or revocation of those permits referenced in sections 5.26 Alcoholic Beverage Sales, 5.18 Massage Business and Massage Therapists and 5.27 Short Term Vacation Rental ***all licenses issued pursuant to Title 5 of this Code.*** The person who files such an appeal shall be known as the “appellant.” Except in those instances where an appeal is filed by the city manager or other public official in pursuance of official duties, the written notice of appeal from the action of an administrative official or from an administrative body of the city, as the case may be, shall be accompanied by a fee of fifty dollars (\$50.00) or such other fee as may be required by other enactment of the city council.

1. The appeal shall set forth the administrative decision being appealed and the reasons why the decision should be reversed or modified. The city clerk shall promptly forward a copy of the appeal to the city manager and ~~administrative hearing~~ ***independent hearing*** officer.

2. In the event an appeal is timely filed, an administrative decision concerning the denial of business license or permit, or the suspension or revocation of a license or permit shall not be effective until a final decision by the ~~administrative hearing~~ ***independent hearing*** officer has been made pursuant to this section. Failure of any person to file an appeal in accordance with the provisions of this section shall constitute a waiver of that person’s right to an appeal. If no timely appeal is filed, the administrative decision shall become effective upon expiration of the period for filing an appeal. In the event a notice of appeal fails to set forth any information required by this section, the city clerk shall return the same to the appellant with a statement of the respects in which it is deficient, and the appellant shall thereafter be allowed five (5) days in which to perfect and refile the notice of appeal.

3. Upon receipt of a timely appeal, the city clerk shall make arrangements for the selection of an ~~administrative hearing~~ ***independent hearing*** officer to conduct the appeal hearing. The ~~administrative hearing~~ ***independent hearing*** officer shall be a person knowledgeable in municipal affairs, including, but not limited to, attorneys, retired judges, a reputable firm providing mediators and arbitrators, local government officials, or the State Office of Administrative Hearings (or its successor office). Not less than fifteen (15) days prior to the appeal hearing, the city clerk shall notify the city manager and the appellant of the name of the hearing officer who has been selected

to hear the appeal. The ~~administrative hearing~~ ***independent hearing*** officer shall be fair and impartial and shall have no bias for or against the city or the appellant.

4. Any documents or evidence to be used by the city and/or the appellant during the appeal hearing must be provided to the ~~administrative hearing~~ ***independent hearing*** officer and the other party for review at least ten (10) days prior to the appeal hearing.

5. At the appeal hearing, the ~~administrative hearing~~ ***independent hearing*** officer shall receive oral and written evidence from the city and the appellant.

a. The evidence presented need not comply with the strict rules of evidence set forth in the California Evidence Code but shall be the type of evidence upon which reasonable and prudent people rely in the conduct of serious affairs.

b. The ~~administrative hearing~~ ***independent hearing*** officer shall have broad authority to control the proceedings and to allow for cross examination of witness in a fair and impartial manner. The ~~administrative hearing~~ ***independent hearing*** officer shall have authority to administer oaths to those persons who will provide oral testimony. Each party shall have the opportunity to offer testimony and evidence and cross-examine witnesses in support of their case.

c. The city shall have the burden of proof to establish by clear and convincing evidence the facts upon which his or her decision is based.

d. The appeal hearing shall be recorded by audio recording. Any party may, at its sole cost and expense, utilize the services of a certified court reporter to prepare the verbatim record of the hearing. If a court reporter is used, the transcript prepared shall be made available for purchase to both parties. The appellant's failure to appear at a hearing shall constitute a waiver of the right to a hearing and a forfeiture of the hearing fee deposit. An appellant's failure to appear at the hearing shall be presumed an admission of guilt to the municipal code violation charges as indicated on the administrative decision. Any administrative fine applicable to the administrative decision, and additional hearing fees, if any, shall be immediately due and payable to the city.

e. The ~~administrative hearing~~ ***independent hearing*** officer may continue the appeal hearing from time to time, but only upon written motion of a party showing good cause for the continuance. The party requesting the continuance shall pay the costs of the hearing officer, if any, for the cancelled hearing.

i. The ~~administrative hearing~~ ***independent hearing*** officer may uphold, modify or reverse the administrative decision of the city.

ii. Within ten (10) days of the conclusion of the appeal hearing, the ~~administrative hearing~~ ***independent hearing*** officer shall render his or her decision and make written findings supporting

the decision. The ~~administrative hearing~~ ***independent hearing*** officer shall send the decision to the city clerk. Upon receipt of the hearing officer's decision, the city clerk shall notify the city manager, the respective department and the appellant of the decision and provide them with a copy of the hearing officer's decision, along with a proof of mailing.

iii. The ~~administrative hearing~~ ***independent hearing*** officer's decision shall be final and conclusive as to the city and the appellant and no further administrative appeal from the hearing officer's decision shall be available. Any legal action challenging the ~~administrative hearing~~ ***independent hearing*** officer's decision shall be filed within ninety (90) days of the date of the proof of service of mailing of the hearing officer's opinion, pursuant to Section 1094.5 et seq., of the California Code of Civil Procedure.

f. Any notices which either party may desire to give to the other party in connection with the appeal under this section must be in writing and may be given either by: (1) personal service; (2) delivery by a reputable document delivery service, such as, but not limited to, federal express, that provides a receipt showing date and time of delivery; or (3) mailing in the United States mail, first class mail, postage prepaid, addressed to the address to the city at city hall or to the appellant at the address set forth in the notice of appeal. Notice shall be effective on the date of personal delivery or the date when the notice was deposited in the mail or reputable document delivery service.

g. If the ~~administrative hearing~~ ***independent hearing*** officer overturns the administrative decision or substantially modifies it in favor of the appellant, the appeal fee shall be refunded to the appellant.

h. The city manager shall have the authority to establish all appropriate administrative regulations for the fair and efficient implementation of this section, conducting hearings and rendering decisions pursuant to this section.

i. Notwithstanding the procedures set forth in this section, the city manager shall have the authority to enter into settlement agreements with an appellant that justice may require and that are consistent with the purposes of this title."

SECTION 9. Paragraph R of Section 5.14.040 of the Murrieta Municipal Code is hereby amended to read as follows (new language is indicated in ***bold and italics***, language proposed to be deleted is shown with an ~~underline and strikethrough~~):

"R. The business operator, at his/her expense, shall provide a California licensed uniform security guard on the premises Monday through Friday between 4:00 p.m. and closing and Saturday through Sunday between 12:00 p.m. and closing.

1. The Chief of Police is authorized to require a specific owner/operator to provide a security guard(s) on the premises at other hours of the day in the event that there are significant calls for service relating to assaults, gang-related activity, weapons offenses, disturbances, and juvenile-related crimes, including truancy or other good cause.

~~2. Any decision of the Chief of Police may be appealed to the City Council. Any appeal shall be made within ten (10) calendar days following the date of the decision by the Chief of Police. Further, such appeal period shall end at 5:00 p.m. on the tenth calendar day following such date of the written decision by the Chief of Police. If such tenth calendar day ends on a Saturday, Sunday, or holiday, the ten-day period shall end at 5:00 p.m. on the next regular business day.~~

~~— 3. All appeals shall be in writing and on forms provided by the planning department and shall specify where in there was any error or decision or requirement by the Chief of Police. Furthermore, a copy of such appeal shall be filed with the planning department and the office of the City Clerk.~~

~~— 4. Upon receipt of such appeal, the planning department shall set the matter for hearing by the City Council.~~

~~— 5. The City Council may after public hearing, affirm, reverse, change, or modify the original decision and may make additional determination that shall consider appropriate within the limitations imposed by this chapter. Such decision shall be filed with the office of the City Clerk and the planning department; one (1) copy thereof shall be sent to the applicant.~~

SECTION 10. Paragraph A of Section 5.16.020 of the Murrieta Municipal Code is hereby amended to read as follows (new language is indicated in ***bold and italics***, language proposed to be deleted is shown with an ~~underline and strikethrough~~):

“A. No sexually-oriented business shall be permitted to operate or ***advertise, solicit, or promote such operation within the City*** without a valid permit issued by the city for the particular type of business. It is unlawful and a person commits a misdemeanor if he/she operates, ***advertises, solicits, or promotes*** or causes to be operated, ***advertised, solicited or promoted*** a sexually-oriented business without the permit.”

SECTION 11. Section 5.16.090 of the Murrieta Municipal Code is hereby amended to read as follows (new language is indicated in ***bold and italics***, language proposed to be deleted is shown with an ~~underline and strikethrough~~):

“5.16.090 Revocation of permit.

A. The city manager shall revoke a permit if a cause of suspension and the permit has been suspended within the preceding twelve (12) months.

B. The city manager shall revoke a permit upon determining that:

1. A permittee gave false or misleading information in the material submitted during the application process; or

2. A permittee or an employee has knowingly allowed possession, use or sale of controlled substances on the premises; or

3. A permittee or an employee has knowingly allowed prostitution on the premises; or

4. A permittee or an employee knowingly operated the sexually-oriented business during a period of time when the permittee's permit was suspended; or

5. A permittee has been convicted of a "specified criminal act" for which the time period required of this chapter has not elapsed; or

6. On two or more occasions within a twelvemonth period, a person or persons committed an offense, occurring in or on the permitted premises, constituting a specified criminal act for which a conviction has been obtained, and the person or persons were employees of the sexually-oriented business at the time the offenses were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the permit; or

7. A permittee is delinquent in payment to the city or state for any taxes or fees past due; or

8. A permittee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or any other specified sexual activities to occur in or on the permitted premises.

9. The permittee shall have the right to appeal any intended denial, suspension or revocation of the permit pursuant to **Chapter 5.04** ~~Sections 2.28.010 through 2.28.040~~**5.04** of this code. All administrative actions shall be stayed pending the completion of the hearing process.

C. When the city manager revokes a permit, the revocation shall continue for one year and the permittee shall not be issued a sexually-oriented business permit for one year from the date revocation became effective. If, subsequent to revocation, the city or its designee finds that the basis for revocation has been corrected, the applicant shall be granted a permit if at least ninety (90) days have elapsed since the date revocation became effective."

SECTION 12. Section 5.18.040 of the Murrieta Municipal Code is hereby amended to read as follows (new language is indicated in ***bold and italics***, language proposed to be deleted is shown with an ~~underline and strikethrough~~):

“5.18.040 Massage, general requirements.

A. CAMTC Certificate required.

1. Massage therapist. Except as otherwise provided in this chapter, it shall be unlawful for any person to perform massage ***or advertise, solicit or promote the performance of massage***, whether as full-time, part-time or temporary status, as an employee, sole practitioner, or independent contractor of a massage business, or in any other capacity within the jurisdiction of the city, unless that person possesses a current, valid and authentic CAMTC Certificate.

2. Massage business. Except as otherwise provided in this chapter, it shall be unlawful for any massage business to operate, ***or advertise, solicit or promote such operation***, within the jurisdiction of the city, unless all persons utilized by the massage business to perform massage, whether as full-time, part-time or temporary status, as an employee, sole practitioner, or independent contractor, or otherwise, possess a current, valid and authentic CAMTC Certificate.

B. City business license required. All massage businesses must obtain a city business license pursuant to Chapter 5.04 of this municipal code.

C. Independent contractors. Any independent contractor(s) utilized by a massage business to perform massage must obtain a city business license and must provide a current valid, and authentic CAMTC Certificate to the city prior to performing massage.

D. Permit issuance. Except as otherwise provided in this chapter, the procedures to follow to obtain a permit under this chapter are those set forth in the uniform licensing procedures under Chapter 5.04 of this municipal code. Any permit issued pursuant to this chapter shall be issued by the Chief of Police, or his or her designated representative, and shall be valid for a period of one (1) year from the date of such issuance. The Chief of Police, or his or her designated representative, shall have the authority to review the requirements contained in the permit application and renewal application forms, and modify the applications, as necessary.

E. Existing massage businesses/therapists. Unless expressly exempted by this chapter, the provisions of this chapter shall be applicable to all massage businesses and massage therapists described herein, whether or not the activities herein described were established before or after October 2, 2021. Any existing massage business/therapist must be in full compliance with the applicable requirements of this chapter and Title 16 of this municipal code no later than October 2, 2021.”

SECTION 13. Section 5.22.140 of the Murrieta Municipal Code related to Appeals is hereby repealed in its entirety.

SECTION 14. Section 5.23.150 of the Murrieta Municipal Code related to Appeals is hereby repealed in its entirety.

SECTION 15. This ordinance is exempt from the California Environmental Quality Act (“CEQA”) under Section 15061(b)(3) of the CEQA Guidelines, which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question would have a significant effect on the environment, the activity is not subject to CEQA.

SECTION 16. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 17. This Ordinance shall become effective on the thirty-first (31st) day after its passage and adoption, and within fifteen (15) days after its final passage and the City Clerk shall cause it to be posted and published in a newspaper of general circulation, printed, published and circulated in the City in the manner required by law and shall cause a copy of this Ordinance and its certification, to be entered in the Book of Ordinances of the City.

PASSED AND ADOPTED this ____ day of _____, 2025.

Cindy Warren, Mayor

ATTEST:

Cristal McDonald, City Clerk

APPROVED AS TO FORM:

Tiffany J. Israel, City Attorney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE)§ CITY
OF MURRIETA)

I, Cristal McDonald, City Clerk of the City of Murrieta, California, do hereby certify that the foregoing Ordinance No. 618-25 was duly passed and adopted by the City Council of the City of Murrieta at the regular meeting thereof, held on the ____th day of _____, 2025, and was signed by the Mayor of the said City, and that the same was passed and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Cristal McDonald, City Clerk

I, Cristal McDonald, City Clerk of the City of Murrieta, California further certify that Ordinance No. 618-25 was duly published according to law and the order of the City Council of said City and the same was so published in *Press Enterprise*, a newspaper of general circulation on the following date(s):

Adopted Ordinance: _____, 2025.

In witness whereof, I have hereunto subscribed my name this __ day of _____, 2025.

Cristal McDonald, City Clerk