

CITY OF FOLLY BEACH

Chris Bizzell, Mayor



Folly Beach, SC 29439

www.cityoffollybeach.com

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Blair Holladay, Council Member

Katherine Houghton, Mayor Pro Tem

DJ Rich, Council Member

**City Council Work Session Meeting SPECIAL 4:30 PM
Monday, March 6, 2023**

Executive Session 4:30 pm

Pursuant to §30-4-70 of the Freedom of Information Act

**Legal Advice Related to Amendments to the Short-Term Rental and Business License
Ordinances.**

1. Work Session Items

- a. Technical Amendments to the Short Term Rental Ordinance.
- b. Administrative Policies Related to the Short Term Rental Ordinance.
- c. Amendments to the Business License Notice and Appeal Requirements.
- d. Review of Draft Waitlist Proposal.

PUBLIC NOTICE

ALL MEDIA WERE NOTIFIED PURSUANT TO STATE LAW

City Council will not vote on matters discussed during Work Sessions or Executive Sessions.

However, matters discussed may be voted on during the evening City Council meeting. In keeping with the Americans with Disabilities Act, persons needing assistance, alternative formats, ASL interpretation, or other accommodation, please contact the Municipal Clerk at 843- 513-1833 during regular business hours at least 24 hours prior to the meeting. Hearing devices are available upon request for those with hearing difficulties.

The City of Folly Beach, in an effort to go green, will no longer have the Ordinances and Resolutions included in the agenda. Citizens interested in having a copy, please see the Municipal Clerk.



City of Folly Beach

Date: March 6th, 2023

Re: Short Term Rental Technical Amendments

Mayor and Council,

The short-term rental cap was adopted by special election on 2/7/23. The language as proposed by citizen petition is now incorporated into the Folly Beach Code of Ordinances and being applied by the City. With the rental cap now being put into practice, staff respectfully puts forward the following:

- A request for technical amendments to guide the application of the ordinance and adapt the language to fit within a municipal code. Each proposed amendment has been carefully reviewed to ensure that the function and parameters set by the cap are not substantively changed. The technical amendments fall in to three broad areas: adjusting format/grammar, eliminating redundant language, and applying consistency to terms and concepts.

- A review of administrative decisions related to enforcement of the ordinance. These policy decisions are meant to provide clear guidance on the City's interpretation of the ordinance for staff and applicants. Each has been reviewed to ensure that the functions and parameters of the cap are not substantively changed.

- A request for amendments to the general licensing ordinance. These amendments are meant to provide clear guidance and structure for appeals made in relation to the cap (and all other business licensing decisions). The proposed changes would grant more time for applicants to appeal, increase the notice requirements for the City, formalize hearing procedures, and set a tighter deadline for rulings on appeals.

- A review of a draft waitlist procedure to be implemented at a future date (when licenses fall below the cap). The waitlist will not go into effect immediately, but staff proposes to finalize the process as far in advance as possible to allow for public education and staff preparation.

A detailed review of each of these items is included in the attached presentation.

Aaron Pope, AICP
City Administrator

City Council Work Session 3/6/2023

STR Ordinance Technical Amendments

- -No substantive changes to function or parameters of cap.
- -Intended to provide for consistent language and clear guidance (staff and applicants).

Administrative Policies

- -Guidelines for implementing the ordinance.
- -Do not significantly change function or parameters of cap.

Business License Appeal Process Amendments

- -Guidance for staff/applicants on appeal process, timelines, and requirements.

Draft Waitlist Procedure and Timeline

- -Proposes a waitlist procedure to be adopted at a future date.
- -Provides opportunity for initial feedback.

STR Ordinance Technical Amendments

117.01 Minor Corrections/Defining Terms

(A) The purpose of this chapter is to regulate the use of residential units as short term rentals in order to:

- (1) Protect the integrity of the eCity's neighborhoods and the quality of life of its citizens;
- (2) Establish a system to track the short term rental inventory in the eCity;
- (3) To protect the health and safety of occupants of short term rental units;
- (4) To ensure a level playing field for individuals in the short term rental market; and
- (5) To protect the residential character of the residential districts of the cCity.

(B)..... **DWELLING UNIT.** A structure, or portion thereof, providing complete living facilities for a single family including a complete kitchen. One structure may contain multiple dwelling units with different property tax classifications.

LEGAL RESIDENCE. A dwelling unit assigned a four percent property tax ratio by the Charleston County Assessor's Office under the requirements of SC Code 12-43-220.

INVESTMENT SHORT TERM RENTAL BUSINESS LICENSE (ISTR) - A ~~dwelling unit~~ licensed **issued** for ~~short term rentals, for a dwelling unit that is not the legal residence of the owner to be used as a short term rental. whose owner does not claim the licensed property to be their primary residence.~~

OWNER-OCCUPIED SHORT TERM RENTAL (OSTR) BUSINESS LICENSE – A ~~property and/or dwelling unit, in whole or part, licensed issued for short term rentals whose owner claims the licensed property to be the owner's primary residence as evidenced by: (a) current S.C. drivers license or S.C. identification card, (b) the address where they are, or may be, enrolled and registered to vote in local, state and federal elections and (c) the physical address used for the purpose of filing local, state and federal income taxes.~~ **for a dwelling unit that is the legal residence of the owner to be a used as short term rental.**

STR Ordinance Technical Amendments

117.02 Language Consistency And Clarity

- (A) The City is ~~authorized to~~ **shall** issue ~~two classes of short term rental business licenses:~~ (1) Investment Short Term Rental business licenses, and (2) Owner-Occupied Short Term Rental business licenses.
- (B) ~~Owner Occupied Short Term Rental Business License:~~ There will be no limit on the number of Owner Occupied Short Term Rental business licenses issued.
- (C) ~~Investment Short Term Rental CAP:~~ (1) The maximum number of ~~permitted~~ Investment Short Term Rental business licenses **issued**, ~~city wide,~~ shall be ~~no more than~~ 800, henceforth referred to as the **CAP cap**.
- (a) ~~Upon enactment the CAP shall be set at 800.~~
- (2) (1) No New Investment Short Term Rentals **business license** shall be ~~permitted~~ **issued** unless the total number of Investment Short Term Rentals **business licenses** is below the **CAP cap**.
- (a) (2) ~~Exception: After enactment, all~~ **Any existing** Investment Short Term Rental business ~~License~~ **issued prior to February 7, 2023** ~~holders~~ **which remains** in good standing may continue to **be renewed** annually, even if the ~~initial~~ number of Investment Short Term Rentals **business licenses** exceeds the **CAP cap**.

STR Ordinance Technical Amendments

117.02(C)(3) Waitlist Procedure To Be Approved By Council

(3) ~~Investment Short Term Rental Wait List: If demand for~~ **When the number of** Investment Short Term Rental business licenses ~~exceeds~~ **falls below** the ~~CAP~~ **cap** a wait list will be established and maintained by the City of Folly Beach. ~~(a) When the number of allowable Investment Short Term Rental business licenses falls below the CAP, a~~ **New** licenses shall be offered by US Mail to the next qualified applicant on the wait list **to applicants according to procedures adopted by City Council.**

~~(b) If the applicant fails or neglects to complete an application for an Investment Short Term Rental business license within 45 days after notice is given, the city shall deem the offer to have been rejected and thereupon offer the available business license to the next listed applicant.~~

STR Ordinance Technical Amendments

117.02(D) Clarification of Transferability

(D) Non- transferable.

- (1) Investment Short Term Rental **license** wait list status terminates upon transfer of property and is non-transferable.
- (2) Investment Short Term Rental business licenses terminate upon transfer of property and are non-transferable.
- (3) Owner Occupied Short Term Rental business licenses terminate upon transfer of property and are non- transferable.
- (4) **Owner Occupied Short Term Rental business licenses terminate upon loss of four percent property tax assessment status and are non-transferable.**

STR Ordinance Administrative Policies

- Allow corrections of license information for valid 2022 licenses (obtained prior to special election) to match property records (on file prior to special election). **No New Accounts/No Increase in Total License Count**
- Allow leaseholders with valid 2022 licenses (obtained prior to STR regulation change in September 2022) to renew until end of lease. **No New Accounts/ No Increase in Total License Count**
- Allow owners with valid 2022 licenses (obtained prior to STR regulation change in September 2022), to obtain individual licenses for units on the same property. All units must have been covered by a valid single license prior to September 2022. **No New Accounts/Nominal Increase in Total License count.**
- Require owners to self report number of nights rented for prior year during registration. **No New Accounts/No Increase in Total License Count**
- Honoring rentals for closings completed between 90 days prior to special election and 90 days after special election to allow buyers/sellers a window to comply with SC law. **Will require additional licenses to be issued, monitored, and then closed. No Increase in Total License Count**
- Applying the substantial damage rule to STR properties. If purposeful demolition, or natural/catastrophic damage, occurs to an extent greater than 50% of the building, a replacement unit must be licensed under the cap. **No New Accounts/No Increase in Total License Count**

Business License Appeal Process Amendments

110.14(B) Adding Section Reference

§ 110.14 DENIAL OF LICENSE.....

(B) A decision of the License Official shall be subject to appeal as herein provided. Denial shall be written ~~with reasons stated~~ **in compliance with § 110.16**.

Business License Appeal Process Amendments

110.15(B) Adding Section Reference

§ 110.15 SUSPENSION OR REVOCATION OF LICENSE.....

(B) The License Official may give written notice to the licensee or the person in control of the business within the municipality by personal service or mail that the license is suspended pending a single hearing before Council or its designee for the purpose of determining whether the suspension should be upheld and the license should be revoked in compliance with § 110.16. A decision of the License Official to suspend a license shall be subject to appeal as herein provided. If the suspension is not appealed within thirty days of receipt of notice of suspension, then the license is deemed revoked.

~~—(C) The written notice of suspension and proposed revocation shall state the time and place at which the hearing is to be held, and shall contain a brief statement of the reasons for the suspension and proposed revocation and a copy of the applicable provisions of this chapter.~~

Business License Appeal Process Amendments

110.16(A) Contents of Notice to Deny, Suspend, or Revoke

§ 110.16 NOTICE OF DENIAL OR SUSPENSION AND APPEALS TO COUNCIL OR ITS DESIGNEE.

(A) Written notice of the denial or suspension of a license shall be provided to the applicant or licensee and shall contain:

- (1) A statement of the reasons for the denial or suspension; and
- (2) A copy of the applicable provisions of this Chapter and any other ordinances relevant to the proposed denial or suspension; and
- (3) Notice that the applicant or licensee may appeal by serving a notice of appeal on the Business License Official within thirty days and in accordance with the provisions of this Section; and
- 4) Notice to the applicant or licensee that failure to serve notice of appeal within thirty days shall result in denial or revocation as applicable.
 - a) Where an application for a new business has been denied and an appeal has timely filed, notice shall be given that no business operations may commence until a business license is issued after a successful appeal.
 - b) Where an application for license for a previously licensed business has been denied or a license for a previously licensed business has been suspended and an appeal has timely filed, notice shall be given that all business operations may continue until the appeal is denied by written order.

Business License Appeal Process Amendments

110.16(B) Time Limit for Appeal, Business Operations During Appeal

~~(A)~~ (B) Except with respect to appeals of assessments under § 110.11 hereof, which are governed by S.C. Code § 6-1-410, any person aggrieved by a determination, denial, or suspension and proposed revocation of a business license by the License Official may appeal the decision to the Council or its designee by written request stating the reasons for appeal, filed with the License Official within ~~ten~~ **thirty** days after service by mail or personal service of the notice of determination, denial, or suspension and proposed revocation.

(1) A new business that has not been previously licensed, for which an application has been denied and an appeal has timely filed, may not initiate business operations until a business license is issued after a successful appeal.

(2) A previously licensed business, with ongoing operations, for which an application for a license has been denied or notice of suspension given for a license and an appeal has been timely filed, may continue business operations until the appeal is denied by written order.

Business License Appeal Process Amendments

110.16(C) Hearing Timeline and Procedure

~~(B)~~ (C) A hearing on an appeal from a license denial, **suspension**, or other determination of the License Official ~~and a hearing on a suspension and proposed revocation shall be held by the Council or its designee within ten~~ **thirty** business-days after receipt of a request for appeal. ~~or service of a notice of suspension and proposed revocation.~~

(1) The hearing shall be held upon written notice at a regular or special meeting of the Council, or, if by designee of the Council, at a hearing to be scheduled by the designee.

(a) The hearing may be continued to another date by agreement of all parties.

(b) Council or its designee may hold a pre-trial conference and ask that the parties exchange exhibits and witness lists.

(c) ~~At the hearing,~~ Additional issues not referenced in the notice of denial, suspension, or revocation and the notice of appeal may not be raised at the hearing unless approved by Council or its designee.

(d) All parties shall have the right to be represented by counsel, to present testimony and evidence, and to cross-examine witnesses.

(e) The proceedings shall be recorded and transcribed at the expense of the party so requesting.

(f) The rules of evidence and procedure prescribed by Council or its designee shall govern the hearing. **Hearsay, including affidavits, are allowed to be presented by either party.**

(2) Following the hearing, the Council by majority vote of its members present, or the designee of Council if the hearing is held by the designee, shall render a written decision based on findings of fact and conclusions on application of the standards herein. **The written decision shall be issued within thirty days of the hearing or final briefings if such is requested.** The written decision shall be served, by personal service or by mail, upon all parties or their representatives and shall constitute the final decision of the municipality.

Draft Waitlist Procedure

Goal: Equal opportunity for all applicants to be accepted for the waitlist and to receive licenses.

Process: Waitlist awarded by lottery rather than order of application. Licenses awarded from waitlist by lottery.

Goal: To increase odds for all applicants to be selected in lottery.

Process: Prevent multiyear backlog by renewing waitlist annually. Limit waitlist to a ration of license available.

Goal: Naturally cull outdated/abandoned waitlist bids.

Process: Renew waitlist applications on an annual basis.

Goal: Ensure maximum rotation from waitlist each year.

Process: Annual waitlist period includes renewal and ongoing attrition.

Draft Waitlist Procedure

- Waitlist is not activated until the first year the license count falls under the cap.
- Once activated, the waitlist renews annually, opens on July 1, and applications are accepted for thirty days.
- Required submittals are a complete business license and rental registration application with proper documentation.
- After the application period is closed, waitlist spots are awarded by lottery. The number of applications assigned to the waitlist is limited to a 2 to 1 ratio of the prior year attrition rate (if 25 licenses were are closed then 50 applications will be selected by lottery).
- Licenses will be awarded from the waitlist either a) throughout the year if licenses close and spots are available, or b) after the renewal grace period when all renewals are confirmed and there are spaces available.
- Licenses offered to applicants by lottery. If applicant doesn't take spot, a new drawing is held.
- Once offered a license, the applicant is removed from the pool for the rest of the year.

Draft Waitlist Procedure

- March -April 30: Renewals of existing licenses and rental registrations.
- May 1-June 30: Finalize all renewals and rental registrations to determine attrition rate.
- July 1: Announce attrition rate and current license totals.
 - If licenses below cap: Post notice for waitlist application process and total spots being offered (2x attrition rate).
- July 1-July 31: Accept applications for waitlist.
- August: Hold lottery to determine which applications are assigned to waitlist. Hold lottery to determine which applicants on the waitlist are awarded licenses available through failure to renew.
- August-March 1: Award additional licenses that become available during the BL year.

Year 2 and Beyond

- March 1-June 30: Renewals/confirmations of existing licenses and rental registrations, no new licenses awarded during this time.
- Repeat.



CITY OF FOLLY BEACH

1st Reading: March 14th, 2023
2nd Reading:

Introduced by: Mayor Goodwin
Date: March 14th, 2023

ORDINANCE 003-23

AN ORDINANCE AMENDING THE FOLLY BEACH CODE OF ORDINANCES CHAPTER 117 (SHORT TERM RENTALS) BY ADOPTING TECHNICAL AMENDMENTS TO THE LANGUAGE IMPLEMENTING THE SHORT-TERM RENTAL CAP AS APPROVED BY SPECIAL ELECTION

The City Council of Folly Beach, South Carolina, duly assembled, hereby ordains that Folly Beach Code of Ordinance be amended as follows:

NOTE: Deleted material struck through, new material shown in red,

§ 117.01 PURPOSE, APPLICABILITY, AND DEFINITIONS.

(A) The purpose of this chapter is to regulate the use of residential units as short term rentals in order to:

- (1) Protect the integrity of the eCity's neighborhoods and the quality of life of its citizens;
- (2) Establish a system to track the short term rental inventory in the eCity's;
- (3) To protect the health and safety of occupants of short term rental units;
- (4) To ensure a level playing field for individuals in the short term rental market; and
- (5) To protect the residential character of the residential districts of the eCity's.

(B) The following definitions apply:

DESTINATION CLUBS. Destination or private vacation clubs ("destination clubs") are classified as private and/or exclusive membership organizations or commercial businesses primarily engaged in providing short term overnight accommodations and related services for its club members with non-ownership interest who seek alternative options to standard vacation home rentals. **DESTINATION CLUBS** typically own or lease properties from the owners on a long term basis, provide those properties in a variety of locations to its members on a short term basis, and model a membership access structure where its members purchase membership levels granting access to properties and personalized services. Properties offered by destination clubs to a member for less than 30 days are considered short term rentals whether the destination club is an owner of record or a lessee. All references to "owners" in this chapter apply to destination clubs.

DWELLING UNIT. A structure, or portion thereof, providing complete living facilities for a single family including a complete kitchen. One structure may contain multiple dwelling units with different property tax classifications.

HOUSE EXCHANGE PROGRAMS. The occasional occupancy of a residential occupancy assessed by Charleston County at a 4% property tax rate by someone other than the owner of the residence while the owner is temporarily absent from the residence, and no monetary compensation is paid to the owners for such occupancy. **HOUSE EXCHANGE PROGRAMS** are not short term rentals.

INVESTMENT SHORT TERM RENTAL BUSINESS LICENSE (ISTR) - A dwelling unit licensed issued for short term rentals, for a dwelling unit that is not the legal residence of the owner to be used as a short term rental. whose owner does not claim the licensed property to be their primary residence.

LEGAL RESIDENCE. A dwelling unit assigned a four percent property tax ratio by the Charleston County Assessor's Office under the requirements of SC Code 12-43-220.

RENTAL OCCUPANT. Any person who, in exchange for compensation paid, occupies a dwelling unit for less than 30 days.

OWNER-OCCUPIED SHORT TERM RENTAL (OSTR) BUSINESS LICENSE – A property and/or dwelling unit, in whole or part, licensed issued for short term rentals whose owner claims the licensed property to be the owner's primary residence as evidenced by: (a) current S.C. drivers license or S.C. identification card, (b) the address where they are, or may be, enrolled and registered to vote in local, state and federal elections and (c) the physical address used for the purpose of filing local, state and federal income taxes. for a dwelling unit that is the legal residence of the owner to be a used as short term rental.

SHORT TERM RENTALS. Residential dwellings rented for less than 30 days, used in a manner consistent with the residential character of the dwelling. Tourist accommodations, including hotels, motels, inns, and bed and breakfasts, are not considered **SHORT TERM RENTALS**.

TIME SHARES. "Vacation time sharing plans" as defined in S.C. Code § 27-32-10(9) are not short-term rentals. However, any "vacation time sharing lease plan" as defined in S.C. Code § 27-32-10(8) that is less than three years is considered a short term rental. "Vacation multiple ownership interests" as defined in S.C. Code § 27-32-250(1) are not short term rentals.

§ 117.02 SHORT TERM RENTAL BUSINESS LICENSES.

(A) The City is authorized to shall issue two classes of short term rental business licenses: (1) Investment Short Term Rental business licenses, and (2) Owner-Occupied Short Term Rental business licenses.

(B) Owner Occupied Short Term Rental Business License: There will be no limit on the number of Owner Occupied Short Term Rental business licenses issued.

(C) Investment Short Term Rental CAP. (1) The maximum number of permitted Investment Short Term Rental business licenses issued, city wide, shall be no more than 800, henceforth referred to as the CAP cap.
(a) Upon enactment the CAP shall be set at 800.

(2) (1) No New Investment Short Term Rentals business license shall be permitted issued unless the total number of Investment Short Term Rentals business licenses is below the CAP cap.

~~(a) (2) Exception: After enactment, all~~ **Any** existing Investment Short Term Rental business ~~License~~ **issued prior to February 7, 2023** ~~holders~~ **which remains** in good standing may continue to **be** renewed annually, even if the ~~initial~~ number of Investment Short Term Rentals **business licenses** exceeds the ~~CAP~~ **cap**.

~~(3) Investment Short Term Rental Wait List: If demand for~~ **When the number of** Investment Short Term Rental business licenses ~~exceeds~~ **falls below** the ~~CAP~~ **cap** a wait list will be established and maintained by the City of Folly Beach. ~~(a) When the number of allowable Investment Short Term Rental business licenses falls below the CAP, a~~ **New** licenses shall be offered by US Mail to the next qualified applicant on the wait list **to applicants according to procedures adopted by City Council.**

~~(b) If the applicant fails or neglects to complete an application for an Investment Short Term Rental business license within 45 days after notice is given, the city shall deem the offer to have been rejected and thereupon offer the available business license to the next listed applicant.~~

(D) Non- transferable.

(1) Investment Short Term Rental **license** wait list status terminates upon transfer of property and is non-transferable.

(2) Investment Short Term Rental business licenses terminate upon transfer of property and are non-transferable.

(3) Owner Occupied Short Term Rental business licenses terminate upon transfer of property and are non-transferable.

(4) Owner Occupied Short Term Rental business licenses terminate upon loss of four percent property tax assessment status and are non- transferable.

RATIFIED this ____ day of _____ 2023, at Folly Beach, South Carolina, in City Council duly assigned.

ATTEST:

Municipal Clerk

Tim Goodwin, Mayor



CITY OF FOLLY BEACH

1st Reading: March 14th, 2023
2nd Reading:

Introduced by: Mayor Goodwin
Date: March 14th, 2023

ORDINANCE 004-23

AN ORDINANCE AMENDING THE FOLLY BEACH CODE OF ORDINANCES CHAPTER 110 (BUSINESS REGULATIONS) BY PRESCRIBING THE CONTENTS OF CERTAIN NOTICES, ESTABLISHING PROCEDURES FOR APPEALS HEARINGS, AND SETTING TIME LIMITS FOR APPEALS RELATED ACTIONS.

The City Council of Folly Beach, South Carolina, duly assembled, hereby ordains that Folly Beach Code of Ordinance be amended as follows:

NOTE: Deleted material struck through, new material shown in red,

§ 110.14 DENIAL OF LICENSE.

(A) The License Official may deny a license to an applicant when the License Official determines:

(1) The application is incomplete or contains a misrepresentation, false or misleading statement, or evasion or suppression of a material fact;

(2) The activity for which a license is sought is unlawful or constitutes a public nuisance per se or per accidens;

(3) The applicant, licensee, prior licensee, or the person in control of the business has been convicted within the previous ten years of an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude related to a business or a subject of a business, or an unlawful sale of merchandise or prohibited goods;

(4) The applicant, licensee, prior licensee, or the person in control of the business has engaged in an unlawful activity or nuisance related to the business or to a similar business in the municipality or in another jurisdiction;

(5) The applicant, licensee, prior licensee, or the person in control of the business is delinquent in the payment to the municipality of any tax or fee;

(6) A licensee has actual knowledge or notice, or based on the circumstances reasonably should have knowledge or notice, that any person or employee of the licensee has committed a crime of moral turpitude on the business premises, or has permitted any person or employee of the licensee to engage in the unlawful sale of

merchandise or prohibited goods on the business premises and has not taken remedial measures necessary to correct such activity; or

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

(B) A decision of the License Official shall be subject to appeal as herein provided. Denial shall be written ~~with reasons stated~~ **in compliance with § 110.16.**

§ 110.15 SUSPENSION OR REVOCATION OF LICENSE.

(A) A license may be suspended or revoked when the License Official determines:

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

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

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

(4) A licensee has been convicted within the previous ten years of an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude related to a business or a subject of a business, or an unlawful sale of merchandise or prohibited goods;

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

(6) A licensee is delinquent in the payment to the municipality of any tax or fee.

(B) The License Official may give written notice to the licensee or the person in control of the business within the municipality by personal service or mail that the license is suspended pending a single hearing before Council or its designee for the purpose of determining whether the suspension should be upheld and the license should be revoked **in compliance with § 110.16. A decision of the License Official to suspend a license shall be subject to appeal as herein provided. If the suspension is not appealed within thirty days of receipt of notice of suspension, then the license is deemed revoked.**

~~—(C) The written notice of suspension and proposed revocation shall state the time and place at which the hearing is to be held, and shall contain a brief statement of the reasons for the suspension and proposed revocation and a copy of the applicable provisions of this chapter.~~

§ 110.16 **NOTICE OF DENIAL OR SUSPENSION AND APPEALS TO COUNCIL OR ITS DESIGNEE.**

(A) Written notice of the denial or suspension of a license shall be provided to the applicant or licensee and shall contain:

(1) A statement of the reasons for the denial or suspension; and

(2) A copy of the applicable provisions of this Chapter and any other ordinances relevant to the proposed denial or suspension; and

(3) Notice that the applicant or licensee may appeal by serving a notice of appeal on the Business License Official within thirty days and in accordance with the provisions of this Section; and

4) Notice to the applicant or licensee that failure to serve notice of appeal within thirty days shall result in denial or revocation as applicable.

a) Where an application for a new business has been denied and an appeal has timely filed, notice shall be given that no business operations may commence until a business license is issued after a successful appeal.

b) Where an application for a license for a previously licensed business has been denied or a license for a previously licensed business has been suspended and an appeal has timely filed, notice shall be given that all business operations may continue until the appeal is denied by written order.

~~(A)~~ (B) Except with respect to appeals of assessments under § 110.11 hereof, which are governed by S.C. Code § 6-1-410, any person aggrieved by a determination, denial, or suspension and proposed revocation of a business license by the License Official may appeal the decision to the Council or its designee by written request stating the reasons for appeal, filed with the License Official within ~~ten~~ thirty days after service by mail or personal service of the notice of determination, denial, or suspension and proposed revocation.

(1) A new business that has not been previously licensed, for which an application has been denied and an appeal has timely filed, may not initiate business operations until a business license is issued after a successful appeal.

(2) A previously licensed business, with ongoing operations, for which an application for a license has been denied or notice of suspension given for a license and an appeal has been timely filed, may continue business operations until the appeal is denied by written order.

~~—(B)~~ (C) A hearing on an appeal from a license denial, ~~suspension~~, or other determination of the License Official ~~and a hearing on a suspension and proposed revocation~~ shall be held by the Council or its designee within ~~ten~~ thirty business days after receipt of a request for appeal. ~~or service of a notice of suspension and proposed revocation.~~

(1) The hearing shall be held upon written notice at a regular or special meeting of the Council, or, if by designee of the Council, at a hearing to be scheduled by the designee.

(a) The hearing may be continued to another date by agreement of all parties.

(b) Council or its designee may hold a pre-trial conference and ask that the parties exchange exhibits and witness lists.

(c) ~~At the hearing,~~ Additional issues not referenced in the notice of denial or suspension and the notice of appeal may not be raised at the hearing unless approved by Council or its designee.

(d) All parties shall have the right to be represented by counsel, to present testimony and evidence, and to cross-examine witnesses.

(e) The proceedings shall be recorded and transcribed at the expense of the party so requesting.

(f) The rules of evidence and procedure prescribed by Council or its designee shall govern the hearing. ~~Hearsay, including affidavits, are allowed to be presented by either party.~~

(2) Following the hearing, the Council by majority vote of its members present, or the designee of Council if the hearing is held by the designee, shall render a written decision based on findings of fact and conclusions on application of the standards herein. ~~The written decision shall be issued within thirty days of the hearing or final briefings if such is requested.~~ The written decision shall be served, by personal service or by mail, upon all parties or their representatives and shall constitute the final decision of the municipality.

~~—(C)~~ (D) Timely appeal of a decision of Council or its designee does not effectuate a stay of that decision. The decision of the Council or its designee shall be binding and enforceable unless overturned by an applicable appellate court after a due and timely appeal.

—~~(D)~~ (E) For business licenses issued to businesses subject to business license taxes under Article 20, Chapter 9, Title 58, and Chapters 7 and 45, Title 38, of the South Carolina Code, the municipality may establish a different procedure by ordinance.

(Ord. 36-21, passed 12-14-21)

RATIFIED this ____ day of _____ 2023, at Folly Beach, South Carolina, in City Council duly assigned.

ATTEST:

Municipal Clerk

Tim Goodwin, Mayor