

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: 5/29/2018

AGENDA ITEM:	
Ordinance Amending MMC 5.02.140 imposing penalties for business license violations	
PREPARED BY:	DIRECTOR APPROVAL:
Jon Walker	
DEPARTMENT:	
Legal	
ATTACHMENTS:	
BUDGET CODE:	AMOUNT:
SUMMARY:	

Under the municipal code, the penalty for operating a business after being denied a license or having a business license suspended or denied is a civil infraction. The second violation is also a civil infraction. A third violation can be a crime if it is committed within two years of two civil infractions being found committed. The same penalty scheme applies if a person refuses to obey an order to close a business subject to summary suspension. The penalty for these violations is not proportionate to their seriousness and the process of having to have two civil infractions go through the court process before a crime can be charged is unnecessarily cumbersome.

This ordinance would align the penalty for these violations with their seriousness and increase the deterrence for persons to ignore the licensing and safety requirements of the municipal code.

RECOMMENDED ACTION: Staff recommends that the Council consider adopting the ordinance amending MMC 5.02.140.

CITY OF MARYSVILLE

Marysville, Washington

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON, AMENDING SECTION 5.02.140 OF THE MUNICIPAL CODE SETTING PENALTIES FOR VIOLATIONS OF THE BUSINESS LICENSING CODE.

WHEREAS, chapter 5.02 of the municipal code imposes requirements for operating businesses in the City of Marysville; and

WHEREAS, persons who fail to conform with those requirements will be denied a business license or have their license suspended or revoked; and

WHEREAS, a person who operates a business after being denied a license or having a license suspended or revoked is subject only to a civil infraction; and

WHEREAS, a person who disobeys a police officer's, code enforcement officer's, or fire marshal's order to close a business under the municipal code's summary suspension procedure is subject only to a civil infraction; and

WHEREAS, criminal penalties are more proportionate to the seriousness of such offenses; and

WHEREAS, public health and safety will be enhanced by imposing criminal penalties when a person operates a business after being denied a license by the City or having a license suspended or revoked by the City; and

WHEREAS, public health and safety similarly will be enhanced by imposing criminal penalties when a person disobeys an order to close a business which is subject to summary suspension of its business license.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. Section 5.02.140 of the municipal code is amended as set forth in Exhibit A.

SECTION 2. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

SECTION 3. Effective Date. This ordinance shall become effective five days after the date of its publication by summary.

PASSED by the City Council and APPROVED by the Mayor this _____ day of _____, 2018.

CITY OF MARYSVILLE

By _____

JON NEHRING, MAYOR

Attest:

By _____

_____, DEPUTY CITY CLERK

Approved as to form:

By _____

JON WALKER, CITY ATTORNEY

Date of publication: _____

Effective Date (5 days after publication): _____

EXHIBIT A

5.02.140 Penalties for violation.

(1)(a) Any person, including an employee, who conducts, operates, practices, or engages in a business knowing that the license for that business is suspended or revoked or was denied is guilty of a gross misdemeanor.

(b) Any person, including an employee, who fails to obey an order to close a business under section 5.02.111 of the municipal code is guilty of a gross misdemeanor.

(2) ~~Other violations-violations~~ of, or failure to comply with, any provision of this chapter shall constitute a commercial violation and any person found to have violated any provision of this chapter is punishable by a penalty as set forth in MMC [4.02.040](#)(3)(g). Each day that a violation continues shall constitute a new and separate violation.

(23) The imposition of a penalty for violation of this chapter shall be in addition to any other penalties provided for in any other ordinances of the city or any other ordinances or laws applicable to the violation, and any premises upon which a business is operated in violation of this chapter is hereby declared to be a public nuisance.

(34) Any license fee or penalty which is delinquent or unpaid shall constitute a debt to the city and may be collected by a court proceeding in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies.

(45) The city shall not enter into any contract or conduct any trade or commerce with any business which fails to comply with this chapter.