

ORDINANCE

CITY OF NEW ORLEANS

CITY HALL: December 1, 2017

CALENDER NO. 32,107

NO. _____ MAYOR COUNCIL SERIES

BY: COUNCILMEMBER ^{SA}HEAD (BY REQUEST)

AN ORDINANCE to amend and reordain Sections 10-1, 10-4, 10-46, 10-49, 10-52, 10-53, 10-76, 10-78, 10-79, 10-80, 10-101, 10-106, 10-110, 10-113, 10-121, 10-123, 10-124, 10-125, 10-128, 10-131, 10-132, 10-134, 10-136, 10-137, 10-157, 10-160, 10-236, 10-237, 10-238, 10-261, 10-262, 10-263, 10-401, 10-403, 10-428, 10-429, 10-430, and 10-566 of the Code of the City of New Orleans, to create, clarify, and augment regulations pursuant to the City's police powers regarding the application and issuance of alcoholic beverage permits, enforcement and applicable penalties for alcoholic beverage outlets, ensuring consistency with the Comprehensive Zoning Ordinance and to provide for permit issuance via the Department of Safety and Permits in lieu of Department of Finance; to repeal Sections 10-5, 10-6, 10-11, 10-12, 10-50, 10-107 through 10-109, 10-111, 10-112, 10-130, 10-133, 10-187, 10-286, 10-311 through 10-318, 10-341, 10-540 and reserve them accordingly; and to provide otherwise with respect thereto.

1 **SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY**
2 **ORDAINS**, That Sections 10-1, 10-4, 10-46, 10-49, 10-52, 10-53, 10-76, 10-78, 10-79, 10-80,
3 10-101, 10-106, 10-110, 10-113, 10-121, 10-123, 10-124, 10-125, 10-128, 10-131, 10-132, 10-
4 134, 10-136, 10-157, 10-160, 10-236, 10-237, 10-238, 10-267, 10-262, 10-263, 10-401, 10-403,
5 10-428, 10-429, 10-430, and 10-566 of the Code of the City of New Orleans are hereby amended

6 and reordained to read as follows; and that Sections 10-5, 10-6, 10-11, 10-12, 10-50, 10-107
7 through 10-109, 10-111, 10-112, 10-130, 10-133, 10-187, 10- 286, 10-311 through 10-318, 10-
8 341,10-540 are repealed and reserved as follows:

9 **“Sec. 10-1. - Definitions.**

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11 *Applicant* means a natural or juridical person that submits an application for consideration of any
12 permitting available and/or required by this chapter.

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14 *Brewery* means a facility licensed as a “Manufacturer or brewer” as defined in Title 26, Section
15 241, of the Louisiana Revised Statutes. The facilities may include an on-site tasting room as an
16 accessory use with retail sales of only those alcoholic beverages produced at the facility for
17 consumption on or off the premises. An on-site tasting room shall be subject to the use and
18 parking standards of a bar and any limitations provided for in state law.

19 *Business entity* means any juridical person that has legal standing under the law, including but
20 not limited to a partnership, a limited liability company, and corporations.

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22 *Director* means the director of the department of finance or the department of safety and permits,
23 as determined by the authorized duties in the relevant section.

24 *Distillery* means a facility licensed as a “Manufacturer” as defined in Title 26, Section 2, of the
25 Louisiana Revised Statutes. The facilities may include an on-site tasting room as an accessory
26 use with retail sales of only those alcoholic beverages produced at that facility for consumption
27 on or off the premises. An on-site tasting room shall be subject to the use and parking standards
28 of a bar an any limitations provided for in state law.

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Manager means individual designed by the permittee to exercise responsibility over the establishment in the absence of the permittee.

Micro-Brewery means a facility licensed as a “Microbrewer” as defined in Title 26, Section 241, of the Louisiana Revised Statutes. The facilities may include an on-site tasting room with retail sales of alcoholic beverages for consumption on or off the premises. An on-site tasting room with retail sales of only those alcoholic beverages produced at that facility shall be a permitted accessory use, subject to the use and parking standards of a bar and any limitations provided for in state law. An on-site tasting room with retail sales of alcoholic beverages purchased from a licensed wholesale dealer shall be considered to be a bar.

Micro-Distillery means a facility licensed as a “Microdistiller” as defined in Title 26, Section 2, of the Louisiana Revised Statutes. The facilities may include an on-site tasting room with retail sales of alcoholic beverages for consumption on or off the premises. An on-site tasting room with retail sales of only those alcoholic beverages produced at that facility shall be a permitted accessory use, subject to the use and parking standards of a bar and any limitations provided for in state law. An on-site tasting room with retail sales of alcoholic beverages produced at that facility and any other alcoholic beverages purchased from a licensed wholesale dealer shall be considered to be a bar.

Outlet means means any person or dealer who draws or removes any alcoholic beverages from its container for sale or consumption on the premises. For purposes of this Chapter, package houses are outlets.

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53 **Sec. 10-4. - Enforcement.**

54 (a) This chapter shall not give the police power of the department of police to the department
55 of finance, but on the contrary, the enforcement of this chapter is hereby vested in the
56 department of police and it shall be the duty and authority of the department of police to
57 enforce the provisions of this chapter.

58 (b) The Departments of Finance, Safety and Permits, and Law, as provided herein, shall have
59 administrative enforcement jurisdiction over provisions of this chapter and may bring
60 enforcement action under the provisions of this chapter before the Alcoholic Beverage
61 Control Board or may seek administrative relief through the provisions of Chapter 6 of
62 this Code.

63 **Sec. 10-5. – Reserved.**

64 **Sec. 10-6. – Reserved.**

65 **Sec. 10-11. – Reserved.**

66 **Sec. 10-12. – Reserved.**

67 **Sec. 10-46. - Unlawful to sell without permit.**

68 It shall be unlawful for any person, whether as a manufacturer, rectifier, distiller, micro-distiller,
69 importer, manufacturer's agent, wholesaler or retail dealer, knowingly to sell, donate or deliver in
70 any place to any person alcoholic beverages unless such person holds a city permit for the sale of
71 such alcoholic beverages.

72 **Sec. 10-49. – Wholesale and retail dealers permits required.**

73 Before engaging in the business of dealing in alcoholic beverages, all wholesale and retail
74 dealers shall obtain from the department of safety and permits, a permit to conduct each separate
75 wholesale or retail business, and shall renew the permit annually.

76 **Sec. 10-50 – Reserved.**

77 **Sec. 10-52. - Special events permits.**

78 (a) The director of the department of safety and permits or his designee may, upon receipt of
79 written or electronic approval by the office of a member of the city council, authorize the
80 issuance of alcoholic beverage permits for special events when such functions will not
81 continue for a period in excess of three days. No more than 12 such permits may be issued to

82 any one organization within a single calendar year. The department of safety and permits
83 may issue an alcoholic beverage permit or permits to the applicant named in the letter
84 notwithstanding any ordinance or moratorium to the contrary upon payment, if applicable,
85 of the alcoholic beverage permit fee specified in this section.

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87 **Sec. 10-53. - Class A permits.**

88 The director of the department of safety and permits shall issue the following types of Class A
89 retail alcoholic beverage permits:

90 (1) *Class A-General:*

- 91 a. A Class A-General retail permit for alcoholic beverages shall be issued only to a
92 retail outlet where alcoholic beverage is sold on the premises for consumption on or
93 off the premises by paying customers. Such an establishment must be equipped
94 with a permanent wet bar equipped with a nonmovable sink and backbar or similar
95 equipment for public display and to inform the public of brands and flavors offered
96 for sale.
- 97 b. A Class A-General retail establishment shall be staffed by a bartender whose
98 primary duty is to open and/or prepare alcoholic beverage products for
99 consumption on or off the premises by paying customers, or prepared with an
100 appropriate lid or cover on the container for takeout service. Such an establishment
101 must meet all state and city health and zoning requirements as set forth by the state
102 or the city; and
- 103 c. Except as otherwise provided in this section, a Class A-General retail permit shall be
104 issued only to an establishment where city and state law provides that no person
105 under the age of 18 years is allowed on the premises except as provided by R.S.
106 26:90(A)(8)(a) and 26:286(A)(8)(a).

107 (2) *Class A-Restaurant permit:*

- 108 a. A Class A-Restaurant permit shall be issued only to a "restaurant establishment" as
109 defined in subsection b. below. Restaurant shall have a valid Class "R" permit
110 issued by the state.
- 111 b. For purposes of this section, "restaurant establishment" shall be defined as an
112 establishment:
- 113 1. Which operates a place of business whose purpose and primary function is to
114 take orders for and serve food and food items;
 - 115 2. Which serves alcoholic beverages in conjunction with meals;
 - 116 3. Which serves food on all days of operation;
 - 117 4. Which maintains separate sales figures for alcoholic beverages; and
 - 118 5. Which operates a fully equipped kitchen used for the preparation of uncooked
119 foods for service and consumption of such foods on the premises of the
120 establishment; and

- 121 6. Which grosses at least 50 percent of its average monthly revenue from the
122 retail sale of food, food items that are prepared for service and consumption
123 on the premises of the establishment, and nonalcoholic beverages.

124 **Sec. 10-76. - Authority of Alcoholic Beverage Control Board.**

125 (a) Pursuant to the authority contained in the Home Rule Charter of the City of New Orleans
126 and La. R.S. 33:4785, the Alcoholic Beverage Control Board shall have the power and authority
127 to conduct hearings and to suspend or revoke city alcoholic beverage permits issued by the
128 department of safety and permits, or to impose other remedial sanctions as set forth in section
129 10-160; to hear and decide appeals from persons who have been denied alcoholic beverage
130 permits by an administrative official in the enforcement of applicable state or municipal laws.

131 (b) No board member shall have ownership, leasehold interest in nor be an employee of a
132 permitted alcoholic beverage outlet.

133 **Sec. 10-78. - Suspension, revocation procedure.**

134 (a) Upon petition fully filed by either the mayor or the superintendent of police, the director of
135 the department of finance, the director of the department of safety and permits, or the city
136 attorney, setting forth the causes for suspension, revocation, or other remedial sanctions as set
137 forth in section 10-160, a hearing shall be held by the alcoholic beverage control board to
138 determine whether the permit of the person charged shall be suspended or revoked, or whether
139 remedial sanctions shall be imposed. A notice shall be served upon the holder of the permit
140 stating the time and place of the hearing to be held by the board, which shall be not less than ten
141 calendar days from the date such notice is given. The notice shall be sent by the clerk of the
142 council and shall enumerate the cause or causes for suspending or revoking the permit, or for
143 imposing remedial sanctions. The notice shall be mailed by regular and registered or certified
144 mail to the holder of the permit at the address of his place of business as given in his application

145 for the permit, or it may be served on him in person by a police officer or employee of the
146 department of finance or the department safety and permits.

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148 (e) Upon the determination by the Mayor, Superintendent of the Police, or the Chairman of the
149 Alcoholic Beverage Control Board that a violation of this chapter has occurred that directly
150 endangers the health, safety and welfare of the community, the Mayor, Superintendent of the
151 Police, or the Chairman of the Alcoholic Beverage Control Board may order the immediate
152 suspension of an Alcoholic Beverage Permit, pending review of the Alcoholic Beverage Control
153 Board. The just cause for the immediate and temporary suspension shall be in writing, shall
154 detail the manner in which the operation threatens the health, safety, and welfare of the
155 community, and shall provide notice as to the date of review before the Alcoholic Beverage
156 Control Board. The order shall be provided to a manager or other representative of the permitted
157 location.

158 **Sec. 10-79. - Notice.**

159 Where the holder of, or applicant for, an alcoholic beverage permit and the owner of the real
160 property are different and a permit has been denied, suspended or revoked, or remedial sanctions
161 have been imposed under this article, in addition to the notification required to be given to the
162 holder thereof, or applicant therefor, the department of finance, the department of safety and
163 permits, or the alcoholic beverage control board, as appropriate, shall notify one or more of the
164 owners of the real property upon which the business, in the name of which the alcoholic
165 beverage permit was issued, is located.

166 **Sec. 10-80. - Standing before board.**

167 Any person desiring to appear before the alcoholic beverage control board relative to the appeal
168 of the denial of an alcoholic beverage permit by the department of safety and permits or the

169 suspension or revocation of an alcoholic beverage permit by the alcoholic beverage control board
170 or the imposition of remedial sanctions by the alcoholic beverage control board shall have
171 standing before the board.

172 **Sec. 10-101. - Form and content.**

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174 (1) That the applicant is a person of good character, reputation, and over 18 years of age.

175 (2) Each applicant must give concise and correct previous home addresses in which the applicant
176 has lived for a period of the past five years prior to making application for a permit, and if such
177 applicant has engaged in the sale of alcoholic beverages within five years of the date of the
178 application, then the applicant shall also give a correct and concise address of previous
179 businesses so conducted within the past five years, together with the name under which the
180 business was conducted.

181 (3) That the applicant has not been convicted within a period of five years, of a felony under the
182 laws of the United States, this state, ordinances of the city or of any other state, sovereignty,
183 parish, county or municipality, or of any misdemeanor involving moral turpitude, and if so
184 convicted, permits shall not be issued.

185 (4) That the applicant has been a citizen or resident alien of the United States and of this state
186 continuously for a period of not less than two years next preceding the date of the filing of such
187 application. However, the requirements as to United States and state citizenship do not apply to
188 wholesalers or retailers who held permits on or prior to January, 1950.

189 (5) That the applicant is the owner of the premises wherein the business or operation is to be
190 conducted or has a bona fide written lease for the same. A true copy of such lease or rental
191 agreement shall be filed with the application.

192 (6) That the applicant is not the spouse of a person who is ineligible for a permit, unless legally
193 separated. However, the age, residency and citizenship of an applicant's spouse shall in no event
194 be a ground for denial of a permit.

195 (7) That the applicant or property whereby permitting is being sought does not owe the United
196 States, State, or City any delinquent taxes, penalties, interest, or government liens, excluding

197 items under formal appeal pursuant to applicable statutes. If an applicant has outstanding taxes,
198 penalties, interest and/or government liens, permits shall not be issued.

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200 **Sec. 10-106. - How application mailed.**

201 All applications for permits regulated by this chapter shall be mailed or delivered to the
202 department of safety and permits and, when an applicant must also apply for one or more local
203 permits, all applications shall be mailed and delivered to the respective authorities, including the
204 state, within 24 hours of each other. If the applicant fails in this respect the application may be
205 withheld and the permit denied.

206 **Sec. 10-107. - Reserved.**

207 **Sec. 10-108. - Reserved.**

208 **Sec. 10-109. - Reserved.**

209 **Sec. 10-110. - Investigation by administrative agencies.**

210 (a) Safety and Permits: The department of safety and permits shall conduct whatever
211 investigations may be required to properly certify that the proposed business location
212 complies with:

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214 (3) Section 10-236, as amended, regarding the proximity of such business to playgrounds,
215 churches, public libraries or schools; providing that the department of safety and permits
216 may issue permits to business locations which do not comply with section 10-236, but
217 which are lawfully permitted to sell alcoholic beverages for the year 1985 and providing
218 that if the property is a legal nonconforming use, that it has maintained its status as a
219 nonconforming use in accordance with the provisions of the comprehensive zoning
220 ordinance, as amended;

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(6) Compliance with all applicable provisions of the Code of Ordinances of the City of
New Orleans.

The department of safety and permits shall not issue permits if the location does not comply with such requirements.

Sec. 10-111. – Reserved.

Sec. 10-112. – Reserved.

Sec. 10-113. - Continued investigation and revocation on subsequent findings.

All applicable administrative agencies shall continue investigating the qualifications of all applicants for permits under the provisions of this chapter. Subsequent to the issuance of permits, should it be ascertained that the applicant was not qualified for his permit under the provisions of this chapter, or that the applicant falsified his application, the department of safety and permits shall take immediate steps, on its own volition or at the written request of any other local authority to begin the process to suspend or revoke the permit.

Sec. 10-121. - Procedure for withholding or denying permits.

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(b) Upon receipt of an application for a permit or upon receipt of an affidavit for a renewal of a permit, the department of safety and permits shall conduct an investigation to determine whether the application meets all of the requirements of this chapter. After the department of safety and permits has completed its investigation and received reports regarding the application from the other departments of the city, as required in this division, then the department shall determine whether the application for the permit or the affidavit for a renewal of a permit shall be granted or denied.

244 (c) If the department of safety and permits finds that the application for the permit or the
245 affidavit for a renewal of a permit is not in compliance with this chapter or that the applicant
246 does not meet the qualifications required by this chapter, then the department shall deny the
247 application for a permit or affidavit for renewal of a permit. This denial shall be communicated
248 to the applicant by registered or certified mail, giving the specific reason for such denial.

249 (d) In order to afford every person a full opportunity to be heard, it is hereby provided that when
250 an application for a permit or a renewal thereof is denied, the applicant, within ten days from the
251 date of notification of such denial, may petition in writing to the alcoholic beverage control
252 board for a review of the action taken by the department of safety and permits in denying or
253 withholding the issuance of a permit or a renewal thereof.

254 (e) At this hearing, the director of the department of safety and permits or his duly designated
255 representative and the city attorney or an assistant city attorney shall be present to assist in
256 presenting the facts in the particular case to the alcoholic beverage control board or its
257 designate. At such a hearing, the applicant shall appear in person and may be represented by
258 counsel.

259 (f) After reviewing the file in the case and considering the evidence, the alcoholic beverage
260 control board or its designate shall determine whether the action of the department of safety and
261 permits in denying the issuance of the permit or a renewal of a permit should be upheld or
262 reversed. Should the applicant fail to appear for the hearing, the alcoholic beverage control
263 board shall nevertheless decide the matter without further delay.

264 **Sec. 10-123. - Permit fees due annually and penalties thereto.**

265 (a) The permit fees fixed and established for retailers and wholesalers of beverages of low and
266 high alcoholic content, as provided in section 10-122, and also the permit fees fixed in section

267 10-50, shall be due and payable by April 1 for the ensuing year. Failure to timely pay permit
268 fees shall result in the imposition of delinquency penalties. If not renewed by June 30, in
269 addition to penalties, an applicant shall be required to submit a new application.

270 (b) The delinquency penalty relative to low content shall be twenty-five percent over and above
271 the regular fee paid.

272 (c) The delinquency penalty relative to high content shall be five percent over and above the
273 regular fee paid if the failure to pay is for not more than thirty days. There shall be an addition
274 five percent for each additional thirty days or fraction thereof during which the failure continues.

275 (d) Should it become necessary for the city to make claim in any court of competent jurisdiction
276 for all or a portion of any of the permit fees and penalties provided in this chapter, an additional
277 charge of ten percent may be added for attorney fees.

278 **Sec. 10-124. – Failure to timely pay permit fees.**

279 The failure to timely pay permit fees constitutes a violation of this chapter, and such violation
280 may be deemed good and sufficient grounds for refusing to issue a renewal of a permit, or the
281 imposition of any other remedial sanctions as set forth in section 10-160.

282 **Sec. 10-125. – Permits to be displayed.**

283 All permits issued under the provisions of this chapter shall be displayed in a conspicuous place
284 at all times on the licensed premises. If the operation of an alcohol beverage outlet is granted by
285 ordinance from the city council, all enumerated operating provisos shall also be displayed.
286 Failure to display the aforementioned shall constitute a violation of this chapter.

287 **Sec. 10-128. - Maintenance of responsible person on licensed premises.**

288 No alcoholic beverage outlet shall operate without someone in attendance with managing
289 authority over such establishment. Every place not directly supervised and managed by the
290 permittee shall designate a manager to exercise responsibility over the establishment. No

291 alcoholic beverage outlet shall remain open unless the owner or the manager is in attendance
292 therein. Owners and managers of such establishments shall notify the department of safety and
293 permits of any change in the managers employed by such establishment within five days of such
294 change. Managers must have all the personal qualifications prescribed by law for owners. Failure
295 of the owner to comply with this section shall constitute a penal violation of this Code.

296 **Sec. 10-130. – Reserved.**

297 **Sec. 10-131. – Change of manager(s).**

298 The holder of a permit issued under this chapter shall notify the department of safety and permits
299 of any change in manager(s), and such manager(s) must qualify in accordance with the
300 provisions of this chapter.

301 **Sec. 10-132. – Applications for permit renewals.**

302 (a) Every alcoholic beverage outlet permit issued under the authority of this Chapter shall expire
303 on May 31st of each year, and must be recertified annually by the Department of Safety and
304 Permits. Applications for renewal shall be submitted by April 1 of each year. The original
305 permit shall be renewed by the permittee to whom it was issued.

306 (b) If a person holding permits under this Chapter fails to file an application for renewal in
307 accordance with this Chapter by April 1, the Department of Safety and Permits may temporarily
308 suspend the alcoholic beverage outlet permit pending proceedings before the Board.

309 (c) Renewals are subject to all the rules and provisions of this Chapter and may be withheld or
310 denied accordingly.

311 **Sec. 10-133. – Reserved.**

312 **Sec. 10-134. - Fingerprints, etc., may be required again for renewals.**

313 The department of safety and permits may require applicants for permits under this division who
314 have already furnished the department with fingerprints, photographs and the other requirements
315 of this chapter, to furnish such information so required again for the renewal of permits.

316 **Sec. 10-136. – Neighborhood Compatibility.**

317 (a) Under the provisions of this chapter, no permit shall be issued or renewed for any applicant
318 who has not submitted a litter abatement plan form, which shall be provided and certified by the
319 department of safety and permits, and shall provide as follows:

- 320 1. The name and phone number of the particular individual, be it the manager, owner, etc.,
321 to contact should a violation of the litter abatement plan occur.
- 322 2. If applicable, a photo of the screened dumpster used in conjunction with the petitioned
323 site that is visible from the public right-of-way or parking area. All fences shall be a six-
324 foot opaque fence with gates. No dumpsters are permitted to be placed within the public
325 right-of-way.
- 326 3. The dates, general time, and location area for the sweeping and periodic hosing of the
327 public right-of-way. At a minimum, every alcoholic beverage outlet shall perform daily
328 sweeps of the entirety of the public right-of-way fronting the alcoholic beverage outlet,
329 the adjoining parking lot, and any other public rights-of-way directly bounding an outlet,
330 if applicable. If the requirements contained herein are contracted out by an alcoholic
331 beverage outlet to a third party, a copy of the executed contract shall be attached to the
332 litter abatement plan form.
- 333 4. Presentation of a site plans indicating all litter receptacles outside an alcoholic beverage
334 outlet.
- 335 5. The frequency of trash pick-up, including the day's pick-up is scheduled to occur.

336 6. All applicants shall file any amendments that deviate from their initially filed litter
337 abatement plan form with the department of safety and permits. Failure to have an
338 updated litter abatement plan shall constitute a violation of this Chapter.

339 (b) Under the provisions of this chapter, no permits shall be issued or renewed for any applicant
340 upon the determination of the ABC Board that the alcoholic beverage outlet constitutes a
341 nuisance or is detrimental to the health, safety and welfare of a community. When any alcoholic
342 beverage outlet has five written complaints from residents or owners of real property within a
343 one-half mile radius filed with the Department of safety and permits that detail violations of this
344 Chapter, the ABC Board shall conduct a public hearing and determine if sanctions as provided in
345 10-160 are appropriate. Written complaints shall be in the form of a petition or sworn affidavit.

346 **10-137. – Participation in Community Security Systems**

347 Outlets shall install City approved video security camera systems outside the premises that
348 archive video footage for a period of not less than fourteen (14) days to a cloud based platform
349 integrated with the City's system.

350 **Sec. 10-157. – Grounds for revocation or suspension of permit.**

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352 (5) Permitting any disturbance of the peace or obscene, lewd, sexually indecent, immoral or
353 improper conduct on the licensed premises. Improper conduct, as specified in this subsection,
354 shall consist of actions which violate the penal provisions of this Code, state statute or other
355 penal ordinances of the city.

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357 (11) Failure to pay any sales, amusement or other excise taxes, or fees, liens or fines due the city
358 in connection with the licensed premises.

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360 (16) Conviction of the permit holder of a felony under the laws of the United States, any State, or
361 municipality, or the conviction of a misdemeanor involving moral turpitude, or a conviction of
362 an employee of the permit holder of a felony committed on the permitted premises or in
363 connection with the business. If a business entity, a permit holder includes: all partners, officers
364 and directors and all stockholders or members owning in the aggregate more than ten percent of
365 the stock or of the membership interest in a limited liability company and the person or persons
366 who shall conduct or manage the business.

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368 (23) Written complaints (individually or in petition form) from five or more residents or
369 owners of real property within a one half mile radius of the alcoholic beverage outlet that the
370 outlet constitutes a nuisance in the neighborhood.

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372 (27) Failure to comply with sales tax audit requests or installment payments.

373 (28) Any other violation of this Chapter.

374 (29) Any violation of La. R.S. Title 26.

375 (30) Sale without permit. To sell or offer for sale at wholesale or at retail any of the articles taxed
376 in this chapter, without first having procured a permit as a wholesale or retail dealer, as may be
377 required.

378 (31) Violation of rules, etc. To violate any lawful rule or regulation made and pursuant to this
379 chapter.

380 (32) Refusal, etc., of inspection. To refuse to allow, on demand, the department of finance or any
381 officer or agent of the department to make a full inspection of any place of business where any of
382 the articles taxed in this chapter are sold or otherwise to hinder or prevent such inspection.

383 (33) Concealing violations. To use any artful device or deceptive practice to conceal any
384 violation of this chapter or to mislead any agent of a department tasked with the enforcement of
385 this chapter, or to do any other act tending to defraud the city of its revenue.

386 (34) Failure to produce invoices. For any retail dealer or his agent or employee to fail to produce,
387 on demand of the department of finance or safety and permits, all invoices of alcoholic beverages
388 bought by him or received at his place of business within six months prior to such demand,
389 unless he can show by satisfactory proof that the nonproduction of such invoices was due to
390 providential or other causes beyond his control.

391 (35) False invoices. For any person to make, use, present or exhibit to the department of finance
392 or department of safety and permits or any of its agents any invoices of alcoholic beverages
393 which bear an untrue date or falsely state the nature or quantity of the goods invoices as provided
394 by this chapter.

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396 **Sec. 10-160 – Fines and penalties.**

397 Upon a finding of a violation of this Chapter, the Board may elect to suspend or revoke an
398 outlet's alcoholic beverage permits. The Board may also impose one or more of the following
399 remedial sanctions in addition to, or as an alternative to suspension or revocation:

- 400 (1) A fine of no less than \$50.00 and no more than \$500.00 per violation, per day.
401 (2) Limitations on operating hours.
402 (3) Limitations on the use of the premises.

- 403 (4) Institution of security procedures at the premises, including:
- 404 a. requiring that the alcoholic beverage outlet install video surveillance systems both
- 405 inside and outside the premises, as dictated by the City, that archives video footage
- 406 for a period of not less than fourteen (14) days to a cloud based platform integrated
- 407 with the City's system;
- 408 b. installing lighting systems on the exterior of the premises or around the perimeter of
- 409 the premises;
- 410 c. requiring security guards on premises during particular days/times.
- 411 (5) Requiring additional off-street parking spaces.
- 412 (6) Sound proofing measures.
- 413 (7) Bond for payment of fines and/or fees.
- 414 (8) Augmenting litter abatement measures.

415 **Sec. 10-187. – Reserved.**

416 **Sec. 10-236. - Restrictions as to property near schools, churches, etc.**

- 417 (a) It is hereby declared the sense and policy of this section and section 10-238 that no permit
- 418 shall be granted for the opening of any bar, adult performance venue, live performance
- 419 venue and venue authorized to provide live entertainment as a secondary use that is also
- 420 authorized to sell alcoholic beverages for the consumption on premises within 300 foot
- 421 radius of any playground, church, public library, or school. Exempted from these provisions
- 422 are the following:

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- 424 (3) Any person or corporation who are within the 300-foot prohibited limit, and who obtain
- 425 by approval of a sworn affidavit of not less than 75 percent of the property owners
- 426 within such 300 foot radius as recorded by the assessor of Orleans parish.
- 427 (b) The word "school" as used in this section shall not include a school for business education
- 428 conducted as a business college or school within the city.

429 **Sec. 10-237. - Restrictions on retail sales of package liquor near churches, schools, etc.**

- 430 (a) No permit shall be granted for opening of any retail sales of packaged liquor within 300 foot
- 431 radius of any playground, church, public library, school, funeral home, or mortuary.

432 (b) The provisions of this section shall not apply to a package liquor store where the wholesale
433 cost of package liquor stocked and displayed does not exceed 15 percent of the wholesale
434 cost of other merchandise stocked and displayed and where package liquor display does not
435 constitute more than ten percent of all display area and where package liquor is not
436 advertised outside or off the premises. Any permit obtained under this subsection shall be
437 limited to the type or types of establishments represented in the original application. A
438 sworn statement of continued use shall be required before each periodic renewal of such
439 license and the operation of any additional type or variation of type shall be a violation of
440 this section and cause for the immediate revocation of such license by the department of
441 finance.

442 (c) The provisions of this section shall not apply to package liquor store locations which are
443 licensed to sell alcoholic beverages on the effective date of the ordinance from which this
444 section was derived and which are continuously operated as such with no lapse in the
445 operation for a period in excess of six consecutive months.

446 **Sec. 10-238. - How distance measured.**

447 (a) The 300-foot distance provided for in sections 10-236 and 10-237 shall be measured as a
448 300 foot radius from all sides of a parcel upon which the establishment seeing to be
449 licensed will be located to the nearest point of any parcel occupied by as a person walks,
450 using the sidewalk, from the nearest point of the property line of the a playground,
451 church, public library or school, to the nearest point of the premises to be licensed.

452 * * *

453 (c) It shall be unlawful for any person or any other legal entity who is engaged in the
454 operation of a bar, adult performance venue, live performance venue and venue authorized to
455 provide live entertainment as a secondary use that is also authorized to sell alcoholic
456 beverages for the consumption on premises, to keep or allow to be kept any benches or seats
457 on the sidewalks in the vicinity of any such business establishment, unless approved subject
458 to sidewalk use provisions in Chapter 146 of this Code.

459 ***

460 **Sec. 10-261. - Alcoholic beverage outlets prohibited in residential and park districts.**

461 No alcoholic beverage outlet permit shall be granted or license issued for the establishment or
462 opening of any bar, adult performance venue, live performance venue and venue authorized to
463 provide live entertainment as a secondary use that is also authorized to sell alcoholic beverages
464 for the consumption on premises, in any residential district or park and recreation district of the
465 city as defined in the comprehensive zoning ordinance of the city, as now or hereafter amended.
466 The provisions of this section shall not be construed to apply to any premises which, at the time
467 of the passage of this section, were lawfully operated as bona fide barroom, saloon, cabaret,
468 night club or other place where beverages of high alcoholic content or beer or ale were lawfully

469 sold at retail to be consumed on the premises, and for which the proper licenses and permits have
470 been granted and are in effect which are continuously operated as such with no lapse in the
471 operation for a period in excess of six consecutive months, it being the intent of this section that
472 the nonconforming status of such property shall be considered as having been maintained for
473 both high alcoholic beverages licenses and beer licenses where only one such license is
474 maintained and in effect provided that 60 percent of the property owners within 600 feet have
475 consented in writing thereto, as computed in section 10-238. Nothing in this section shall be
476 deemed to repeal, restrict or modify any of the prohibitions or restrictions of the comprehensive
477 zoning law of the city.

478 **Sec. 10-262. - Exceptions to section 10-261.**

479 (a) Permits shall be granted or licenses issued for the sale of beverages of high alcoholic content
480 or beer or ale, to be consumed on the premises, in single-family residential districts to those
481 private recreational clubs operated exclusively for the use of private members and their
482 guests provided that such club must be located on a site having a minimum of three acres.

483 * * *

484 (d) Permits shall be granted or licenses issued for wine tastings and limited retail sale of wine in
485 single-family residential districts and R-RE rural residential districts to farms at least ten
486 acres in size that include cultivation, processing, and fermentation of grapes, berries or citrus
487 fruits relative to the products raised on the premises.

488 (e) Permits shall be granted to approved non-residential uses authorized in Regional Parks
489 pursuant to the standards of the comprehensive zoning ordinance.

490 **Sec. 10-263. - Package liquor stores in residential districts prohibited.**

491 * * *

492 (c) The provisions of this section shall not apply to retail and service facilities as an accessory
493 use within a building containing an approved Planned Development.

494 **Sec. 10-286. – Reserved.**

495 **Secs. 10-311. – 10-318 – Reserved.**

496 **Sec. 10-341. – Reserved.**

497 **Sec. 10-401. - Sales restricted to within premises.**

498 (a) Any location with an alcoholic beverage license issued pursuant to this chapter is prohibited
499 from conducting sales through a window, door, or other opening to a customer located on a
500 sidewalk or other public way.

501 (b) No bar, counter, or other service location shall be established within ten (10) feet of the
502 outermost wall of the licensed establishment.

503 (c) The provisions of this section do not apply to locations with a valid sidewalk use permit
504 issued pursuant to the standards of Chapter 146, and then such service may only occur in a
505 manner and location consistent with such permitting.

506 **Sec. 10-403. - Sidewalk seats not permitted.**

507 a) It shall be unlawful for any person engaged in the operation of any bar, live performance
508 venue or other place where alcoholic beverages are sold at retail, to be consumed on the
509 premises, to keep or allow to be kept any benches or seats on the sidewalks in the vicinity of any
510 such business establishment.

511 (b) The prohibition of this Section shall not apply to any location issued a valid sidewalk use
512 permit under the provisions of Chapter 146 of this Code.

513 **Sec. 10-428. - Enlargement of premises without consent prohibited.**

514 Enlargement or modification of the licensed premises is prohibited without prior approval having
515 been inscribed on the license by the department of safety and permits.

516 **Sec. 10-429. - Anaesthetics not to be kept on premises.**

517 No person owning, operating or having control of any bar, live performance venue or other place
518 where alcoholic beverages are sold shall own, possess, have, use or permit to be used or permit
519 to be kept on or brought on such premises any anaesthetics, including, but not being limited to,
520 chloral hydrate, ether, chloroform or any other chemical substance commonly known or used as
521 "knock-out drops" or "mickey finns."

522 **Sec. 10-430. - Prostitution on premises prohibited.**

523 No person owning, operating or having control of any bar, live performance venue or other place
524 where alcoholic beverages are sold shall permit or allow prostitution or the soliciting of patrons
525 to consort with prostitutes on, within or upon the same premises or within the same building, the
526 location for which a license has been issued under this chapter for the sale of alcoholic
527 beverages.

528 **Sec. 10-540. – Reserved.**

529 **Sec. 10-566. Authority to search for violations.**

530 The departments of safety and permits may search and examine any warehouse, boat, store,
531 storeroom, automobile, truck, conveyance, vehicle or other place of storage, except a private
532 residence which may be searched only in the manner provided for by law, and any means of

533 transportation, whenever there is probable cause to believe that the terms of this chapter have
534 been, or are being violated.”

1 **SECTION 2.** Should any section, paragraph, sentence, clause, phrase or word of this
2 Chapter be declared invalid or unconstitutional by a court of competent jurisdiction, such
3 invalidity or unconstitutionality shall not affect any of the remaining words, phrases, clauses,
4 sentences, paragraphs or sections of this Chapter.

1 **SECTION 3.** The provisions of this ordinance shall not be construed to supersede and
2 waive any other requirements of other applicable city, state, or federal laws.

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS _____

PRESIDENT OF THE COUNCIL

DELIVERED TO THE MAYOR ON _____

APPROVED:
DISAPPROVED: _____

MAYOR

RETURNED BY THE MAYOR ON _____ **AT** _____

CLERK OF COUNCIL

ROLL CALL VOTE:

YEAS:

NAYS:

ABSENT:

RECUSED: