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ORDINANCE NO.: 2011- 021

Amending the 1998 Code of Ordinances of the City of Columbia, South Carolina, Chapter 14, Article IV, Offenses Against the Public Peace and Order, Sec. 14-106 Hours of sale restricted for commercial establishments which allow for on-premises consumption of beer, ale, porter and/or wine

BE IT ORDAINED by the Mayor and Council this 7th day of June, 2011, that the 1998 Code of Ordinances of The City of Columbia, South Carolina, Chapter 14, Article IV, Offenses Against the Public Peace and Order, Sec. 14-106 Hours of sale restricted for commercial establishments which allow for on-premises consumption of beer, ale, porter and/or wine, are amended to read as follows:

Sec. 14-106. Hours of sale restricted for commercial establishments which allow for on-premises consumption of beer, ale, porter and/or wine.

(a) The following definitions apply for the purposes of this section.

Beer, ale, porter and wine are defined as stated in Section 61-4-10 of the Code of Laws of South Carolina 1976, as amended from time to time.

Commercial establishment means any individual, firm, partnership, cooperative nonprofit membership, corporation, joint venture, professional association, estate, trust, business trust, receiver, syndicate holding company, or other group or combination acting as a unit, in the singular or plural, and the agent or employee having charge or control of a commercial establishment in the absence of the principal.

Incident means credible evidence of any attempted or accomplished violation of any of the listed crimes, ordinances or codes in this section which is either documented or investigated by a law enforcement agency, fire marshal, license inspector or code enforcement officer or a conviction for a violation of the crimes, ordinances or codes in this section.

(1) Commercial establishments that allow for the on-premises consumption of beer, ale, porter and/or wine shall be prohibited from operating, selling or allowing consumption of beer, ale, porter or wine after 2:00 a.m. on Mondays through Saturdays.

(2) Under a program established by the City Manager, commercial establishments that allow for the on-premises consumption of beer, ale, porter and/or wine may seek exemption to subsection (1) to operate after 2:00 a.m. on Mondays through Saturdays, upon application and proof of business policies or practices that comply with the following:

a. The commercial establishment shall not allow any drinking contests or games, or contests involving disrobing, or "wet t-shirt", "Girls Gone Wild" ™ or similar contests will be

held or advertised at the commercial establishment unless the commercial establishment is licensed to operate as a sexually oriented business. No agent, employee or independent contractor for the commercial establishment will encourage or permit this prohibited behavior by the patrons, unless the business is licensed to operate as a sexually oriented business.

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b. The commercial establishment shall establish a policy that (i) requires all floor managers, bartenders and wait staff to maintain certification in Serve Safe Alcohol, TIPS or Lexington Richland Alcohol & Drug Abuse Council's PREP training on determining when a customer is underage or apparently intoxicated or approved training as specified by the City of Columbia extended hours exemption permit program procedural guide; (ii) prohibits employees from service of alcohol to underage or apparently intoxicated customers; and (iii) requires the commercial establishment, its agents and employees to enforce a policy of refusing further alcohol service to customers at that point.

c. For those commercial establishments required to utilize security agency personnel to primarily exercise security functions, as defined by Section 40-18-20, et. seq, of the Code of Laws of South Carolina 1976, as amended from time to time, under subsection 3 such security agency shall be licensed by the State of South Carolina. The security agency shall also be licensed by the City of Columbia.

d. No alcohol consumption will be permitted in the parking lots under the control of the commercial establishment. No alcohol consumption will be permitted outside of any roofed, decked, café-style areas or encroachment areas authorized by Columbia City Council, nor shall any glass or metal containers of any kind shall be permitted to leave the roofed, decked, café-style areas of the commercial establishment or encroachment areas authorized by Columbia City Council. The commercial establishment will establish policies and security resources to assure compliance.

e. The commercial establishment must have in place and maintain current at all times all licenses and permits required by state or local law.

f. The commercial establishment must have in place and maintain current at all times liquor liability insurance and workers' compensation insurance. The commercial establishment shall provide the City proof of such insurance at the time of application for an exemption or at any other time the City may request.

g. Upon City request, the commercial establishment will consult with the City of Columbia Police Department and provide such security as is recommended by that Department that recognizes individual circumstances of the commercial establishment.

h. All commercial establishments seeking an exemption under this subsection shall complete an application provided by the Business License Division. Extended Operating Hours permits

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shall be issued for one calendar year or any portion thereof and shall expire on June 30. Applicants shall pay a nonrefundable application fee of $50 (to be equally divided between the business license division and the police department) for each exemption or any renewal or reinstatement thereof. Applicants applying for reinstatement of a revoked exemption shall have a fire safety plan approved by the fire department and shall attend and complete the fire department's Nightclub Safety Seminar prior to reinstatement of the exemption, if any of the incidents resulting in the revocation were related to a violation of the fire code. Exempted commercial establishments shall receive an Extended Operating Hours permit which shall be conspicuously displayed at the entry way of the commercial establishment. Extended Operating Hours permits are not transferable. Extended Operating Hours permits shall be immediately removed upon revocation.

i. Any application for an initial, renewal or reinstatement of an exemption shall be denied if the application is incomplete or contains a misrepresentation, false or misleading statement or a material fact. If it is discovered that any application for an initial, renewal or reinstatement of an exemption was incomplete or contained a misrepresentation, false or misleading statement or a material fact after an exemption has been granted then the granted exemption shall be immediately revoked. The commercial establishment shall comply with subsection 1 for a period of twelve (12) months before applying for another exemption and must be incident free during the twelve (12) month period in order to apply.

j. The denial of an application or revocation of an exemption shall be subject to an appeal process developed by the City Manager.

(3) If the commercial establishment is not the victim of the incident, but shall have on the premises under its control, within the permit period and at any time the commercial establishment is open for business, attempted or accomplished robberies or larcenies, breaches of the peace, drug offenses, assaults, public nuisances, violations related to unlawful service of alcohol to minors or to already intoxicated persons or violations of the fire code related to occupancy loads and exits on the premises, hereinafter collectively "incidents", then:

For a second (2nd) incident of the first two (2) incidents within the permit period and at any time the commercial establishment is open for business the commercial establishment shall employ security agency personnel on a ratio of 1 to per 100 occupancy based on the permitted load occupancy rounded up to the next 100 within 30 days of notice. Failure to provide the required security within 30 days of notice shall result in the immediate revocation of the exemption and permit, and the commercial establishment shall comply with subsection 1 for a period of twelve (12) months before applying for another exemption and must be incident free during the twelve (12) month period in order to apply.

For a third (3rd) incident within the permit period and at any time the commercial establishment is open for business, then the granted exemption shall be immediately

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revoked and the commercial establishment shall comply with subsection 1 for a period of three (3) months before applying for another exemption. The commercial establishment must be incident free during the revocation period in order to reapply for reinstatement of its exemption. In the event of an incident during the revocation period, the commercial establishment shall comply with subsection 1 for a period of twelve (12) months before applying for another exemption and must be incident free during the twelve (12) month period in order to apply.

For a fourth (4th) incident within the permit period and at any time the commercial establishment is open for business, then the granted exemption shall be immediately revoked and the commercial establishment shall comply with subsection 1 for a period of twelve (12) months before applying for another exemption and must be incident free during the twelve (12) month period in order to apply.

(4) For subsection 3, the issue of business accountability for incident occurrence shall be subject to an appeal process developed by the City Manager.

(5) Police officers, fire marshals, license inspectors and/or code enforcement officers shall have the authority to administer the provisions of this section as to business accountability for incidence occurrence, proof of compliance, permit violations and revocation.

This ordinance shall be effective as of July 1, 2011.

Requested by:

Hospitality Zone Task Force

Approved by:

City Manager

Approved as to form:

City Attorney

Introduced: 4/26/2011
Final Reading: 6/7/2011

MAYOR

ATTEST:

Erika D. Salley

City Clerk