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ORDINANCE NO. 2006-_____

AN ORDINANCE OF THE CITY OF TAMPA, FLORIDA, MAKING COMPREHENSIVE REVISIONS TO CHAPTER 3, ALCOHOLIC BEVERAGES CODE, OF THE CITY OF TAMPA CODE OF ORDINANCES; AMENDING SECTION 3-21, PROVIDING NEW DEFINITIONS; AMENDING SECTION 3-30, ALCOHOLIC BEVERAGE ZONING CLASSIFICATION; AMENDING SECTION 3-80, PROVIDING THE REQUIREMENTS FOR "R" CLASSIFICATION WETZONINGS AND PROVIDING PENALTIES FOR VIOLATION; AMENDING SECTION 3-90, SALE OF BEVERAGES AFTER DISCONTINUANCE; AMENDING SECTION 3-100, TO PROVIDE FOR REVOCATION AND SUSPENSION FOR CAUSE; AMENDING SECTION 3-101, NOTICE AND PUBLIC HEARING FOR REVOCATION AND SUSPENSION; AND AMENDING SECTION 3-102, REAPPLICATION FOR WET-ZONING; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Tampa directed the Land Development Coordination office to complete the following amendments to Chapter 3, Alcoholic Beverages Code, of the City of Tampa Code of Ordinances; and

WHEREAS, the City Council of the City of Tampa has determined that the following amendments promote and protect the general health, safety and welfare of the residents of the City of Tampa; and

WHEREAS, duly noticed public hearings as required by law were held by the City Council of the City of Tampa, at which public hearings all residents and interested persons were given an opportunity to be heard.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TAMPA, FLORIDA:

Section 1. That **Section 3-21. Definitions.**, is hereby amended by adding the underlined language as follows:

1
2 **Sec. 3-21. Definitions**
3

4 Semi-annual period: from January 1 to June 30 and from July 1 to December 31.
5

6 Wet-zoned parcel: A lot, plot, or tract of land at or from which the sale of
7 alcoholic beverages may lawfully occur pursuant to an ordinance of the city.”
8
9

10 **Section 2.** That **Section 3-30. Alcoholic beverage zoning classification.**, is
11 hereby amended by adding the underlined language and deleting the stricken language as
12 follows:
13

14 **Sec. 3-30. Alcoholic beverage zoning classification.**
15

16 All places within the city licensed by the state to sell alcoholic beverages shall be zoned
17 under one (1) of the following classifications:
18

- 19 (1) (1-APS)--Beer. Sale of malt beverages containing alcohol of more than one (1)
20 percent by weight in sealed containers for consumption off the premises only;
21
- 22 (2) (2-APS)--Beer and wine. Sale of beverages containing alcohol of more than one
23 (1) percent by weight and not more than fourteen (14) percent by weight and
24 wines regardless of alcoholic content in sealed containers for consumption off the
25 premises only;
26
- 27 (3) (1-COP)--Beer. Sale of malt beverages containing alcohol of more than one (1)
28 percent by weight for consumption on the premises and in sealed containers for
29 consumption off the premises;
30
- 31 (4) (2-COP)--Beer and wine. Sale of beverages containing alcohol of more than one
32 (1) percent by weight and not more than fourteen (14) percent by weight and
33 wines regardless of alcoholic content for consumption on the premises and in
34 sealed containers for consumption off the premises;
35
- 36 (5) (3-PS)--Beer, wine and liquor. Sale of beverages regardless of alcoholic content
37 in sealed containers for consumption off the premises only;
38
- 39 (6) (4-COP)--Beer, wine and liquor. Sale of beverages regardless of alcoholic content
40 for consumption on the premises and in sealed containers for consumption off the
41 premises;
42
- 43 (7) (1-COP-R)--Beer. Sale of malt beverages containing alcohol of more than one (1)
44 percent by weight for consumption on the premises only in connection with a
45 restaurant business having a ~~combined~~ minimum indoor ~~or outdoor~~ seating
46 capacity of ~~not less than fifty (50)~~ twenty (20) seats ~~with at least sixty (60)~~

1 ~~percent of all seating located indoors~~ and wherein the combined gross sales of the
2 business operation is more than fifty-one (51) percent attributable to the sale of
3 food during ~~each calendar quarter of each calendar year~~ semi-annual period as
4 required in Section 3-80. The establishment located or to be located on the subject
5 property of the petition must have a minimum interior floor area of seven hundred
6 fifty (750) square feet of space;
7

8 (8) (2-COP-R)--Beer and wine. Sale of beverages containing alcohol of more than
9 one (1) percent by weight and not more than fourteen (14) percent by weight and
10 wines regardless of alcoholic content for consumption on the premises only in
11 connection with a restaurant business having a ~~combined~~ minimum indoor ~~or~~
12 ~~outdoor~~ seating capacity of ~~not less than fifty (50)~~ twenty (20) seats with at least
13 sixty (60) percent of all seating located indoors and the combined gross sales of
14 the business operation is more than fifty-one (51) percent attributable to the sale
15 of food during each calendar quarter of each calendar year semi-annual period as
16 required in Section 3-80. The establishment located or to be located on the subject
17 property of the petition must have a minimum interior floor area of seven hundred
18 fifty (750) square feet of space;
19

20 (9) (4-COP-R)--Beer, wine and liquor. Sale of beverages regardless of alcoholic
21 content for consumption on the premises only in connection with a restaurant
22 business having a combined minimum indoor or outdoor seating capacity of not
23 less than fifty (50) seats with at least sixty (60) percent of all seating located
24 indoors and the combined gross sales of the business operation is more than fifty-
25 one (51) percent attributable to the sale of food during ~~each calendar quarter of~~
26 ~~each calendar year~~ semi-annual period as required in Section 3-80. Where outdoor
27 seating is utilized to satisfy the seating requirement, the area of such seating shall
28 be clearly delineated by fences or other barriers. The establishment located or to
29 be located on the subject property of the petition must have a minimum combined
30 contiguous interior and exterior floor area of one thousand (1000) square feet of
31 space;
32

33 (10) (1-COP-X)--Beer. Sale of malt beverages containing alcohol of more than one (1)
34 percent by weight for consumption on the premises only;
35

36 (11) (2-COP-X)--Beer and wine. Sale of beverages containing alcohol of more than
37 one (1) percent by weight and not more than fourteen (14) percent by weight and
38 wines regardless of alcoholic content for consumption on the premises only;
39

40 (12) (4-COP-X)--Beer, wine and liquor. Sale of beverages regardless of alcoholic
41 content for consumption on the premises only;
42

43 (13) (11-C)--Beer, wine and liquor --Nonprofit private clubs. Sale of beverages
44 regardless of alcoholic content for consumption on the premises only to members
45 and guests of members of nonprofit private clubs. For the purpose of this
46 subparagraph, a "nonprofit private club" is defined as any establishment which

1 restricts admissions to individuals who are members of a fraternal order, private
2 organization or other private association, which individuals may be identified by
3 reference to a list kept by the owner or operator of such establishment and which
4 establishment does not in any way operate or solicit a public calling or invite
5 general members of the public to the premises to utilize the establishment and
6 which establishment does not operate for profit. An 11-C alcoholic beverage
7 zoning classification shall be effective only for so long as the subject property of
8 the zoning petition is occupied by the nonprofit private club that initially
9 petitioned for the alcoholic beverage zoning, and the alcoholic beverage zoning
10 shall not be transferable, and, upon the happening of any one (1) of the following
11 events:

- 12
- 13 a. Vacation of the subject property of the alcoholic beverage zoning petition
 - 14 by the nonprofit private club;
 - 15 b. Sale of the subject property of the alcoholic beverage zoning petition; or
 - 16 c. Dissolution of the nonprofit private club;
- 17 the subject property of the alcoholic beverage zoning petition will
18 automatically revert to a dry status. The foregoing shall be in addition to
19 all other provisions of this chapter dealing with the revocation of alcoholic
20 beverage zoning and the reversion of property zoned for the sale of
21 alcoholic beverages to a dry status, which provisions of this chapter shall
22 apply to an 11-C alcoholic beverage zoning.
- 23

24

25 **Section 3.** That **Section 3-80. Records; semi-annual reports; violation of**
26 **"R" classification zoning requirements.**, is hereby amended by deleting the entire
27 section and restating as follows:

28

29 **Sec. 3-80. Records; semi-annual reports; violation of "R" classification**
30 **zoning requirements.**

31

32 (a) The owner or operator of a business from which alcoholic beverage sales are
33 made pursuant to an R zoning classification, as contained in section 3-30, is
34 subject to the following requirements:

35

36 1. The owner or operator shall:

37

- 38 a. Keep and maintain separate books and records on the premises
39 from which the alcoholic beverage sales are made or provide a
40 certified copy of the books and records to the land development
41 coordination division within ten (10) days of the request to view
42 said documents; and,

43

- 44 b. Said books and records shall be of such a nature as to accurately
45 identify each daily sale of food and each daily sale of alcoholic
46 beverages (i.e. pre-numbered and dated sale slips; cash register

1 tapes or machine printouts that date and identify each sale as being
2 food or alcoholic beverages, etc.); and,

3
4 c. Said books and records shall reflect the gross sale of food and the
5 gross sale of alcoholic beverages for each semi-annual period of
6 each calendar year; and,

7
8 d. Said books and records shall reflect that the combined gross sales
9 of the business are not less than fifty-one (51) percent attributable
10 to the sale of food during any semi-annual period of each calendar
11 year.

12
13 2. The owner or operator shall:

14
15 a. Submit a sworn notarized statement to the land development
16 coordination office reflecting separately the gross sale of food, and
17 the gross sale of alcoholic beverages made from the business for
18 the preceding semi-annual period; and,

19
20 b. Said statement shall be either hand-delivered or sent via mail and
21 postmarked on or before the thirtieth (30th) day of January and July
22 of each year.

23
24 (b) Failure to comply with any part of subsection (a) shall result in the following
25 actions:

26
27 1. The land development coordination office shall immediately call for an
28 inspection of the premises by the business tax division; and,

29
30 2. The land development coordination office shall immediately issue a
31 'Notice of Non-Compliance and Late Fee' to the business and property
32 owner by certified mail, and shall impose and collect an administrative fee
33 of five hundred dollars (\$500.00) from said business. The required
34 documentation and late fee shall be submitted and paid to the land
35 development coordination office. Said documentation and fee shall be
36 either hand-delivered or sent via certified mail and postmarked on or
37 before the thirtieth (30th) calendar day following the original required due
38 date as stated in Section 3-80 (a)2.b.

39
40 (c) Non-compliance with any part of this section shall be deemed a violation of this
41 section and are subject to the provisions of section 3-100 (c).
42
43

1 expiration. The following documentation, if applicable to the subject
2 establishment, shall be submitted to the land development coordination division,
3 by the property owner, the holder of the alcoholic beverage license, or their
4 designated representative, as evidence that the sale of alcoholic beverages has
5 resumed at or from the wet-zoned parcel:
6

- 7 1. A notarized "Resumption of Sales" form identifying the date upon which
8 the sale of alcoholic beverages resumed at or from the wet-zoned parcel
9 (blank forms are provided by the land development coordination division);
10 and,
- 11 2. The most current invoices, delivery receipts, and payments to a distributor
12 of alcoholic beverages of sales of alcoholic beverages at or from the wet-
13 zoned parcel; and,
- 14 3. The most current records of state sales tax payments; and,
- 15 4. The most current records of electric usage, consumption, and payment for
16 the business establishment operated on the wet-zoned parcel; and
- 17 5. The most current records of water usage, consumption, and payment of
18 same for the business establishment operated on the wet-zoned parcel; and
- 19 6. Photographs of the wet-zoned parcel evidencing that the structure located
20 thereon complies with the property maintenance and structural standards
21 in Chapter 19; and
- 22 7. Copy of a valid and current alcoholic beverage sales license from the State
23 of Florida; and
- 24 8. Copy of valid and current city business tax receipt; and,
- 25 9. Copy of valid and current occupational license.
26

27 Land development staff shall review and evaluate the documentation provided by
28 the property owner, the holder of the alcoholic beverage license, or their
29 designated representative. The documentation, collectively, must at a minimum
30 demonstrate on going sales activity (less the period during which the wet-zoned
31 parcel was posted), continual operation and maintenance of the wet-zoned
32 parcel, and a state and local licensure for the business entity located on the wet-zoned
33 parcel. If the above documentation is provided in conformity with the
34 requirements stated herein, the land development coordination division shall
35 advise the property owner and the holder of the alcoholic beverage license that the
36 sale of alcoholic beverages may continue at or from the wet-zoned parcel in
37 accordance with the ordinance authorizing same.
38

39 Public Hearing before City Council: Failure to provide documentation in
40 conformity with the requirements stated herein shall result in a public hearing
41 being held by the City Council. Notwithstanding the provisions of Section 3-100,
42 Revocation and suspension for cause, upon request by a representative from the
43 land development coordination division, the City Council shall, by motion, fix a
44 date for a public hearing and cause a notice of the public hearing to be published
45 one (1) time in a newspaper of general circulation at least thirty (30) days before
46 the public hearing. No later than the next business day after City Council fixes the

1 date for the public hearing, the land development coordination division shall send
2 a copy of City Council's motion fixing the date of the public hearing and the
3 notice requirements of Section 3-60, Public notice requirements, to the property
4 owner and to the address of the wetzoned parcel. Additionally, the property
5 owner, the owner of the alcoholic beverage license, or their designated
6 representative, shall comply with the notice requirements in Section 3-60, Public
7 notice requirements. The property owner or the owner of the alcoholic beverage
8 license shall appear at the public hearing. In the absence of good cause shown, the
9 failure to so appear may be grounds for revocation of the wet-zoning and a
10 reversion to a dry status any property which has been zoned for the sale of any
11 type of alcoholic beverages or from which any type of alcoholic beverages may
12 be lawfully sold within the corporate limits of the city. City Council shall apply a
13 de novo standard of review and shall not be limited to that information,
14 documentation or evidence upon which the land development coordination
15 division based the determination. However, if the land development coordination
16 division intends to present new or different evidence to support its position to City
17 Council, it shall provide said information to the property owner, operator and
18 holder of the alcoholic beverage license not less than five (5) days prior to the
19 public hearing. After completion of the public hearing, the City Council shall
20 either permit the sale of alcoholic beverages in accordance with the ordinance
21 lawfully authorizing the same or shall order that the sale of alcoholic beverages be
22 revoked and that the property revert to a dry status.

23
24 (d) *Extension granted by land development coordination division.* The property
25 owner, holder of the alcoholic beverage license, or their designated representative,
26 may apply to extend the lawful discontinuance of sales of alcoholic beverages for
27 a period of one hundred twenty (120) days without affecting the status of the wet-
28 zoned parcel. Application for the one hundred twenty (120) day extension shall be
29 filed with the land development coordination division prior to the expiration of
30 the thirty (30) consecutive day period identified on the notice posted pursuant to
31 Section 3-90(b). Application shall be legible and notarized, on a form provided by
32 the land development coordination division and shall include the following
33 documentation for consideration:

- 34
35 1. For those wet-zoned parcels, at or from which the sale of alcoholic
36 beverages has ceased due to a potential ownership change of real property
37 or business, provide a copy of the listing or of the current sales contract
38 that clearly states the proposed date of closing or tentative transaction date
39 for the sale.
- 40
41 2. For those wet-zoned parcels, at or from which the sale of alcoholic
42 beverages has ceased due to repair, renovation, expansion, or new
43 construction, provide a copy of the building permit application, a copy of
44 the building permit issued by the Construction Services Center and a copy
45 of the contract for such repair, renovation, expansion or new construction,

1 or other documentation indicating ongoing good faith efforts to complete
2 construction.

- 3
4 3. For those wet-zoned parcels, at or from which the sale of alcoholic
5 beverages has ceased for reasons other than those identified in subsection
6 one (1) or two (2) above, provide documentation supporting the need for
7 an one hundred twenty (120) day extension.

8
9 Only one (1) one hundred twenty day (120) extension may be granted by
10 the land development coordination division for a wet-zoned parcel in any
11 twelve (12) month period. The extension shall be granted only upon a
12 showing by the property owner, the holder of the alcoholic beverage
13 license for the wet-zoned parcel or their designated representative, that the
14 application is complete and filed prior to the expiration of the initial thirty
15 (30) day period as described in (b) of this section for the discontinuance of
16 the sale of alcoholic beverages. Failure by the property owner, the holder
17 of the alcoholic beverage license for the wet-zoned parcel or their
18 designated representative, to timely file a complete application shall result
19 in an automatic reversion of the wet-zoned parcel to dry status.

- 20
21 (e) Extension granted by City Council. Upon the expiration of the one hundred
22 twenty (120) day extension approved by the land development coordination
23 division, the wet-zoned parcel shall automatically revert to a dry status unless the
24 property owner or the holder of the alcoholic beverage license for the wet-zoned
25 parcel, prior to the expiration of the one hundred twenty (120) day extension
26 period, files a proper and complete petition (hereinafter referred to as ‘extension
27 petition’) with the land development coordination division for an extension
28 beyond the period of time authorized in Section 3-90(d). The extension petition
29 shall be filed on a form provided by the land development coordination division,
30 shall be legible and notarized, and shall include, but not be limited to the
31 following information: (i) the date when the sale of alcoholic beverages at or from
32 the wet-zoned parcel described in the petition ceased; (ii) the date of expiration of
33 any previous extension issued by the land development coordination division; (iii)
34 the name, address and date of birth of the petitioner, and, if the petitioner is an
35 organization or legal entity, provide the names, addresses and dates of birth of the
36 current officers, directors, partners and/or managers thereof; (iv) a copy of the
37 Ordinance authorizing the sale of alcoholic beverages at or from the wet-zoned
38 parcel; and (v) documentation required in Section 3-90(d) for City Council’s
39 consideration of the additional extension. The proper and complete filing of an
40 extension petition pursuant to this subsection shall suspend the time provisions of
41 subsection (a) of this section until such petition has been acted upon by the City
42 Council.

- 43
44 (1) The land development coordination division shall provide a copy of the
45 extension petition, with the date when the extension petition will be

1 considered by City Council noted thereon, to the Tampa Police
2 Department.

3
4 (2) Public notice requirements. The property owner, holder of the alcoholic
5 beverage license, or their designated representative for the wet-zoned
6 parcel, when filing an extension petition shall be required to comply with
7 the following public notice requirements:

8
9 a. Upon the filing of the extension petition and the payment of the
10 applicable fee, the City Council shall, by motion, fix a date for a
11 public hearing on the petition. The petitioner shall, upon the
12 adoption of the motion fixing a date for a public hearing and not
13 less than thirty (30) days prior to the date set for the public hearing,
14 place a sign, which may be cardboard, metal or other substance
15 and of a size of eighteen (18) inches by twenty-four (24) inches
16 (the shape to be fixed by the city), upon which shall be printed,
17 painted or otherwise made to appear the following information:

18
19 "PUBLIC NOTICE--ALCOHOLIC BEVERAGE
20 HEARING BEFORE THE CITY COUNCIL OF THE
21 CITY OF TAMPA, CITY COUNCIL CHAMBERS, CITY
22 HALL, (insert date and hour of hearing), TO PERMIT AN
23 EXTENSION OF TIME FOR THE LAWFUL
24 DISCONTINUANCE OF SALE OF ALCOHOLIC
25 BEVERAGES FROM THIS PROPERTY, (insert here the
26 alcoholic beverage zoning classification previously
27 authorized as set forth in section 3-30 and the period of
28 time for which the extension is being requested)."

29
30 The sign shall be placed in a conspicuous place on and near
31 the front of the wet-zoned parcel, in the parkway in front of
32 the wet-zoned parcel, or on the building located on said
33 wet-zoned parcel.

34
35 b. In addition to such notice, the petitioner shall immediately, upon
36 the adoption of the motion fixing a date for a public hearing and
37 not less than thirty (30) days prior to the date set for the public
38 hearing, send a copy of the notice of the public hearing on the form
39 supplied by the land development coordination division to owners
40 of each parcel of land (in this section hereinafter referred to as
41 "notice") as follows:

42
43 i. Where the subject property of the extension petition (in this
44 section hereinafter referred to as "petition property") and
45 the immediately adjoining and abutting property (in this
46 section hereinafter referred to as "adjoining property") are

1 not of the same ownership, petitioner shall send notice to
2 owners of each parcel of land within a distance of two
3 hundred fifty (250) feet, including rights-of-way, in any
4 direction from petition property (in this section hereinafter
5 referred to as "parcel notice"). Additionally, petitioner shall
6 send a notice to every owner or owners of an established
7 church, public or private school, hospital, public recreation
8 area, park, day care center, halfway house, alcoholic
9 rehabilitation center, governmental building, or similar use
10 within the distance requirements set forth in section 3-70
11 (in this section hereinafter referred to as "institutional
12 notice"). Parcel notice and institutional notice shall be
13 mailed to such owners at their address according to the
14 latest ad valorem tax rolls of Hillsborough County, Florida.

15
16 ii. Where petition property and adjoining property are of the
17 same ownership and their combined size is less than five
18 (5) acres, petitioner shall send parcel notice and
19 institutional notice. Distance for parcel notice and
20 institutional notice shall be measured from the outside
21 boundary edge of adjoining property. Parcel notice and
22 institutional notice shall be mailed to such owners at their
23 address according to the latest ad valorem tax rolls of
24 Hillsborough County, Florida.

25
26 iii. Where petition property and adjoining property are of the
27 same ownership and combined are greater in size than five
28 (5) acres and petition property is more than two hundred
29 fifty (250) feet from the outside boundary edge of adjoining
30 property, then parcel notice need not be given; however, if
31 any institutional use, as noted in (e)(2)b(i) above, lies
32 within the distance requirements set forth in section 3-70,
33 petitioner shall send institutional notice; measurement for
34 purposes of institutional notice shall be from the boundary
35 of petition property. Institutional notice shall be mailed to
36 such owners at their address according to the latest ad
37 valorem tax rolls of Hillsborough County.

38
39 iv. Where petition property and adjoining property are of the
40 same ownership and combined are greater in size than five
41 (5) acres and petition property is less than two hundred fifty
42 (250) feet from the outside boundary edge of adjoining
43 property, petitioner shall send parcel notice and
44 institutional notice; measurement for purposes of parcel
45 notice and institutional notice shall be from the outside
46 boundary edge of petition property. Parcel notice and

1 institutional notice shall be mailed to such owners at their
2 address according to the latest ad valorem tax rolls of
3 Hillsborough County, Florida.

4
5 c. The notices required by this section shall be mailed by the
6 petitioner to each of the respective owners entitled to receive such
7 notice at the usual post office address of such owner by "certificate
8 of mailing" through the United States Post Office. The petitioner
9 shall prepare a sworn affidavit showing: (i) the folio or parcel
10 number for each parcel of land with respect to which the owner is
11 entitled to receive notice in accordance with this section; (ii) the
12 names of the respective owners to whom such notices are mailed;
13 and (iii) the date and post office address to which each copy of the
14 notice was mailed. The affidavit with copies of the post marked
15 receipts for "certificates of mailing" showing the date the notices
16 were mailed and a photograph of the sign posted on the property
17 shall be filed by the petitioner, with the office of the city clerk, not
18 less than fifteen (15) days prior to the public hearing.

19
20 d. In addition to all other notice requirements set forth in this section,
21 the petitioner shall send written notice to the officially registered
22 neighborhood association (in this section hereinafter referred to as
23 "association(s)") in which the petition property lies and all
24 associations within a 250' radius (including rights-of-way). If the
25 petition property is not located within the boundaries of an
26 association, the petitioner shall notify the closest association as
27 measured on the official association boundary map. Said notice
28 shall be mailed by "certificate of mailing" no less than thirty (30)
29 days prior to the date of the public hearing on a form provided by
30 the land development coordination division. The form notice shall
31 be entitled "Good Neighbor Notice for Extension of Time for the
32 Discontinuance of Sale of Alcoholic Beverages" and shall include
33 but not be limited to the following information: (i) the property
34 address, (ii) the name, address, and phone number of the property
35 owner, holder of the alcoholic beverage license, and/or agent for
36 wet-zoned parcel, the public hearing date and time the extension
37 petition is scheduled before City Council, and the nature of the
38 extension petition. The affidavit required pursuant to subsection (c)
39 above shall also include a statement attesting that the good
40 neighbor notice required herein was provided.

41
42 e. If the required notice is not perfected, according to the regulations
43 set forth in this section, the public hearing shall be canceled. The
44 petitioner shall be allowed to file only one (1) amended extension
45 petition. For the amended petition, all notice must be perfected,
46 according to the regulations set forth in this section, otherwise the

1 amended extension petition shall be void and the wet-zoned parcel
2 shall revert to a dry status. No further extensions shall be granted
3 following this action. The filing fee for the amended extension
4 petition shall be as specified by resolution of the City Council,
5 which fee shall be paid before the amended extension petition will
6 be received for filing by the land development coordination
7 division. Failure to file an amended extension petition within seven
8 (7) days of cancellation of the public hearing shall cause the wet-
9 zoned parcel to automatically revert to a dry status.

10
11 (3) City Council Action. The extension of time authorized herein may be
12 granted only upon a showing of good cause by the petitioner (per
13 documentation submitted to the land development coordination division as
14 required by this section) for a period of time not to exceed one (1) year
15 from the date of the expiration of the one hundred twenty (120) day
16 extension. Granting a petition shall be by resolution of the City Council
17 reflecting the date until which the extension has been granted. If the wet-
18 zoned parcel, for which the grant of an extension by City Council is
19 requested, is zoned for the sale of alcoholic beverages which is not
20 required to be incidental to the primary business operated upon said
21 parcel, then only one (1) such extension of time may be granted by the
22 City Council pursuant to this section. The denial of a petition by the City
23 Council shall result in the wet-zoned parcel automatically reverting to a
24 dry status.”

25
26 (f) Exemptions. Public cultural facilities, as defined by Chapter 27, shall be exempt
27 from the drying provisions of this Section. These uses shall be subject to the
28 remaining portions of this chapter related to the application, notice of public hearing,
29 and approval processes to become a wet-zoned parcel.

30
31 Wetzonings which have been suspended pursuant to Sec. 3-100 shall be exempt
32 from the drying provisions of this Section during the period of the suspension.

33
34
35 **Section 5.** That **Section 3-100. Revocation and suspension for cause.**, is
36 hereby amended by adding the underlined language and deleting the stricken language as
37 follows:

38
39 **Sec. 3-100. Revocation and suspension for cause.**

40
41 (a) Revocation for cause.

42
43 The city council, after conducting a public hearing as provided for in section 3-
44 101, and by a majority vote of the city council, is hereby authorized to revoke a
45 wet zoning and revert to a dry status any property which has been zoned for the
46 sale of any type of alcoholic beverages or from which any type of alcoholic

1 beverages may be lawfully sold within the corporate limits of the city, whenever it
2 is determined that the owner of the property or the owner or holder of the
3 alcoholic beverage license pertaining to the property or the operator of the wet
4 zoned establishment, his agents or employees have been found to have violated or
5 have been convicted of any one (1) or more of the following:
6

- 7 (1) Commission of an act, on or about the wet zoned property, amounting to a
8 felony under the laws of the state or the United States. For purposes of this
9 section, the term 'on or about' shall include, but not be limited to, activities
10 directly attributable to the wet zoned property which occur on or about all
11 adjacent sidewalks, rights-of-way and parking areas, both public and
12 private, which patrons or employees may utilize to provide transportation
13 to or from the wet zoned property;
14
- 15 (2) Failing to comply with any section of this Chapter 3, Alcoholic Beverages,
16 any condition, limitation or restriction imposed pursuant to section 3-73,
17 ~~the exterior maximum sound levels as provided for in section 14-151,~~
18 ~~excessive noise declared a public nuisance,~~ or any other section of the City
19 of Tampa Code relating to alcoholic beverages, including but not limited
20 to section 14-97, Nudity on premises where alcoholic beverages offered
21 for sale;
22
- 23 (3) The maintaining of a nuisance on the property (as said term is defined by
24 this code or common law);
25
- 26 (4) Engaging in or permitting disorderly conduct on or about the property;
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- 28 (5) Operation of the wet zoned establishment in a manner other than as
29 permitted by the ordinance authorizing same or in a manner that
30 repeatedly, or on an ongoing basis, has negative secondary effects on
31 surrounding property, including but not limited to violations of city code,
32 ordinance or state law related to noise, parking, or trash and debris, after
33 having received reasonable notice to terminate or correct any condition
34 that is in violation of such code, ordinance or law;
35
- 36 (6) Failing to comply with any of the provisions of the fire prevention
37 ordinance after having received reasonable notice to eliminate or correct
38 any condition existing on the property that is in violation of such
39 ordinance;
40
- 41 (7) Failing to comply with any of the provisions of the health and sanitation
42 ordinances of the city, the county or laws of the state after having received
43 reasonable notice to eliminate or correct any condition existing on the
44 property that is in violation of such ordinances or laws;
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- (8) Conviction ~~or withholding of adjudication~~ for selling, giving, serving or permitting to be served alcoholic beverages to persons under twenty-one (21) years of age or permitting a person under twenty-one (21) years of age to consume alcoholic beverages on such property, in accordance with state law;
 - (9) Revocation of a license for the sale of alcoholic beverages by the state department of business and professional regulation, division of alcoholic beverages and tobacco;
 - (10) The inclusion of false information in any application or petition filed under any section of this Chapter 3, or presented by or on behalf of a petitioner or applicant filing same at any public hearing before the city council relating to a consideration of such petition or application by the city council;
 - (11) Conviction or withholding of adjudication or finding of delinquency of any patron of the wet zoned premises for underage possession of any alcoholic beverage;
 - (12) Allowing the sale of alcoholic beverages at or from a wet zoned establishment while the license for the sale of alcoholic beverages is suspended by the state department of business and professional regulation, division of alcoholic beverages and tobacco.

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(b) Suspension or revocation for cause for conviction(s) of Section 14-151, Excessive Noise, exterior maximum sound levels. The city council, after conducting a public hearing as provided for in section 3-101, and by a majority vote of the city council, is hereby authorized to suspend a wet zoning for any property which has been zoned for the sale of any type of alcoholic beverages or from which any type of alcoholic beverages may be lawfully sold within the corporate limits of the city, whenever it is determined that the owner of the property or the owner or holder of the alcoholic beverage license pertaining to the property or the operator of the wet zoned establishment, his agents or employees have been found to have been convicted of the exterior maximum sound levels as provided for in section 14-151, excessive noise. City council may suspend the wetzoning for up to 30 days for the first conviction, 60 days for the second conviction, and 90 days for the third conviction. Upon the fourth or subsequent conviction, city council may consider revocation of the wetzoning and reverting the property to dry status.

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(c) Suspension or revocation for cause for violation(s) of Section 3-80 Records; semi-annual reports; revocation of "R" classification zoning. The city council, after conducting a public hearing as provided for in section 3-101, and by a majority vote of the city council, is hereby authorized to suspend a wet zoning for any property which has been zoned for the sale of any type of alcoholic beverages or from which any type of alcoholic beverages may be lawfully sold within the

1 corporate limits of the city, whenever it is determined that the owner of the
2 property or the owner or holder of the alcoholic beverage license pertaining to the
3 property or the operator of the wet zoned establishment, his agents or employees
4 have been found to have violated any part of section 3-80 of this chapter. City
5 council may suspend the wetzoning for up to 30 days for the first violation, 60
6 days for the second violation, and 90 days for the third violation. Upon the fourth
7 or subsequent violation, city council may consider revocation of the wetzoning
8 and reverting the property to dry status.
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10 For purposes of this section, the terms "~~convicted,~~" "~~conviction,~~" "~~violated~~" or "~~violation~~"
11 "convicted" or "conviction" shall mean being found guilty of, or entering a plea of nolo
12 contendere to, regardless of adjudication, a violation of a municipal or county ordinance
13 or state or federal law, as provided herein. The terms "violation" or "violated" shall mean
14 being found in non-compliance with any part of this chapter, as determined by the
15 reviewing city department. In determining whether to suspend or revoke a wetzoning,
16 city council shall consider:
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- 18 1. The gravity of the violation; and,
- 19 2. Any actions taken by the violator to correct the violation; and,
- 20 3. Any previous violations committed by the violator.
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22 Unless a public record is exempt from disclosure pursuant to F.S. Ch. 119, an owner of
23 property which has been zoned for the sale of any type of alcoholic beverages or from
24 which any type of alcoholic beverages may be lawfully sold shall be provided written
25 notice of a violation hereof by the city.
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28 **Section 6.** That **Section 3-101. Notice to owner or licensee of intention to**
29 **revert property; public hearing.**, is hereby amended by adding the underlined language
30 and deleting the stricken language as follows:
31

32 **Sec. 3-101. Notice to owner or licensee of intention to revert property; public**
33 **hearing.**
34

35 Whenever the city council shall find that the owner of any property which has been zoned
36 for the sale of any type of alcoholic beverages or from which any type of alcoholic
37 beverages may be lawfully sold or the holder of the alcoholic beverage license pertaining
38 to the property, his agents or employees have been convicted of or have ~~allowed or~~
39 ~~caused or permitted to exist~~ violated any one (1) or more of the enumerated items
40 contained in section 3-100, it shall notify the owner of the property ~~or~~ and the holder of
41 the alcoholic beverage license pertaining to the property of its intention to revert the
42 property to a dry status or suspend the wetzoning and shall grant the affected party a
43 public hearing at a time and place to be specified in the notice and at a time not less than
44 ~~ten (10)~~ thirty (30) days from the date of the notice.
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1 **Section 7.** That **Section 3-102. Reapplication for wet-zoning.**, is hereby
2 amended by adding the underlined language and deleting the stricken language as
3 follows:
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5 **Sec. 3-102. Reapplication for wet-zoning.**
6

7 (a) Whenever any property has been reverted to a dry status pursuant to the
8 provisions of sections 3-90, 3-100 and 3-101, the property shall not thereafter be
9 zoned wet under the provisions of this article for a period of six (6) months from
10 the date that the property has been reverted to a dry status by the city council.
11

12 (b) The ~~withdrawal of a petition by the petitioner or the~~ denial of a petition by the city
13 council shall preclude consideration of other petitions involving the same lands or
14 any portion thereof for a period of six (6) months from the date of either the
15 withdrawal or denial of the previous petition.
16

17 **Section 8.** That should a court of competent jurisdiction declare any part of
18 this Ordinance invalid the remaining parts hereof shall not, in any way, be affected by
19 such determination as to the invalid part.
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21 **Section 9.** That all ordinances or parts of ordinances in conflict herewith are
22 hereby repealed to the extent of any conflict.
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