

1 **Ordinance To Amend And Re-Enact The Zoning Ordinance Of The City Of Hampton,**
2 **Virginia By Amending Section 3-2 Entitled, “Table of Uses Permitted” and Section 3-3**
3 **Entitled, “Additional Standards On Uses,” to Modify Regulations Pertaining to Restaurants**
4 **and Micro-breweries, Distilleries, and Wineries With Retail Alcoholic Beverage Licenses**
5 **Or Live Entertainment**

6 **Whereas,** the public necessity, convenience, general welfare and good zoning practice so
7 require;

8 **BE IT ORDAINED** by the Council of the City of Hampton, Virginia that Sections 3-2 and 3-3 of
9 the Zoning Ordinance of the City of Hampton, Virginia, be amended to read as follows:

10
11 **Sec. 3-2. Table of uses permitted.**

12 **(a) Table of Uses Permitted in Standard Zoning Districts.**

13 *[See attached use table for changes.]*

14 **(b) Table of Uses Permitted in Special Zoning Districts.**

15 *[See attached use table for changes.]*

16
17 ...

18 **Section 3-3. – Additional standards on uses.**

19
20 (12) ~~Outdoor dining~~ in the C-1, C-2, C-3, M-2, RT-1, BB-3, BB-4, BB-5, FM-1, FM-2, FM-3,
21 and FM-4 districts.

22 ~~(a)The proposed dining operation and location will not significantly interfere with the~~
23 ~~pedestrian traffic or otherwise constitute a health and safety risk;~~

24 ~~(b)Tables, chairs and other furniture placed outdoors shall be readily available for use.~~
25 ~~Any furniture which is not readily accessible may not be stored outside, but must be~~
26 ~~stored within a wholly enclosed structure;~~

27 ~~(c)Any sound or noise from amplified music shall not exceed a noise level measurement~~
28 ~~of sixty (60) dBA upon the real property of another as determined by a sound level meter~~
29 ~~using the "A" weighting scale in accordance with the American National Standard~~
30 ~~Institute;~~

31 ~~(d)Any encroachment of an outdoor dining area into a public right-of-way must be~~
32 ~~approved by the city council. The applicant must adhere to all terms and provisions~~
33 ~~specified in the agreement granted by the city council;~~

34 ~~(e)The hours of operation of the outdoor dining area shall not extend beyond 8:00 a.m.—~~
35 ~~9:00 p.m. Sunday through Thursday and 8:00 a.m.—10:00 p.m. Friday and Saturday,~~

36 ~~(f)All outdoor lighting shall be focused downward and inward in a way that prevents~~
37 ~~spillover onto adjacent properties;~~

38 ~~(g)All outdoor dining shall be subject to the provisions of the Hampton Zoning Ordinance~~
39 ~~and Hampton City Code, to include, but not be limited to, parking, setbacks, and building~~
40 ~~code requirements;~~

41 ~~(h)The outdoor dining permit shall be valid for eighteen (18) months from the date of~~
42 ~~approval by the zoning administrator. After twelve (12) months of operation, prior to the~~
43 ~~expiration date, the outdoor dining permit will be scheduled for review by the zoning~~

44 administrator to consider if the continuation of the outdoor dining permit would not be
45 detrimental to the public health, safety and welfare and that to continue the activities
46 under the outdoor dining permit would not cause public inconvenience, annoyance,
47 disturbance or have an undue impact on the community or be incompatible with other
48 uses of land in the zoning district. The review will be based, in part, upon a physical site
49 review, hours and manner of operation, noise, light, neighborhood complaints, police
50 service calls, and any violations of any federal, state or local law. If, after review, the
51 zoning administrator determines that the outdoor dining permit would not be detrimental
52 to the public health, safety and welfare and that to continue the activities under the
53 outdoor dining permit would not cause public inconvenience, annoyance, disturbance or
54 have an undue impact on the community or be incompatible with other uses of land in
55 the zoning district, the zoning administrator may administratively extend the outdoor
56 dining permit in five-year increments. Each such extension shall be subject to the same
57 administrative review. If the zoning administrator determines that the outdoor dining
58 permit would be detrimental to the public health, safety and welfare and that to continue
59 the activities under the outdoor dining permit would cause public inconvenience,
60 annoyance, disturbance or have an undue impact on the community or be incompatible
61 with other uses of land in the zoning district, the zoning administrator will notify the
62 permittee of a denial of the extension in writing in the same manner as required under
63 chapter 25 of the zoning ordinance. A permittee aggrieved by the decision of the zoning
64 administrator may appeal the decision of the zoning administrator to the board of zoning
65 appeals in the manner set forth in chapter 22 of the zoning ordinance. Nothing contained
66 herein shall limit the rights of a permittee to seek a new outdoor dining permit; and
67 (i) The zoning administrator, or appointed designee, shall have the ability to revoke the
68 outdoor dining permit upon violations of any of the above conditions.

69 *Restaurant 1 in the C-1, C-2, C-3, M-1, M-2, LFA-2, RT-1, BB-3, BB-4, BB-5, HRC-1, HRC-2,*
70 *HRC-3, LBP, DT-1, DT-2, PH-1, PH-2, PH-3, FM-1, FM-2, FM-3, and FM-4 zoning districts shall*
71 *comply with the following additional standards:*

- 72 (a) *The hours of operation of the restaurant shall not extend beyond 5:00 a.m. to 2:00 a.m.;*
- 73 (b) *The restaurant shall maintain compliance with all applicable federal and state laws and*
74 *requirements of licensing agencies;*
- 75 (c) *The restaurant shall be subject to the provisions of the Hampton Zoning Ordinance and*
76 *Hampton City Code, to include, but not be limited to, noise, setbacks, and building code*
77 *requirements;*
- 78 (d) *No operation with a retail alcoholic beverage license is permitted;*
- 79 (e) *No live entertainment is permitted;*
- 80 (f) *No outdoor dining is permitted; and*
- 81 (g) *Restaurants with drive-throughs or drive-ins are not permitted within the M-1, M-2, LFA-*
82 *2, HRC-1, HRC-2, HRC-3, DT-1, DT-2, PH-1, PH-2, PH-3, FM-1, FM-2, FM-3, and FM-4*
83 *zoning districts.*

84 (13) ~~Outdoor dining 2 in the C-1, C-2, C-3, M-2, RT-1, BB-3, BB-4, BB-5, FM-1, FM-2, FM-3,~~
85 ~~and FM-4 districts.~~

86 ~~Outdoor dining 2 venues are defined as those requesting to operate beyond the conditions set~~
87 ~~forth under the provisions of outdoor dining 1 in the same zoning districts as described above~~
88 ~~and are subject to obtaining a use permit by city council. The city will evaluate each application~~

89 ~~on a site-by-site basis with regard to the surrounding land use patterns and city council may~~
90 ~~impose more restrictive conditions when the proposal is adjacent to residential land uses.~~
91 ~~Conditions shall include, but are not limited to, the following:~~

- 92 ~~(a) Submission of a site plan indicating the location and total area of the outdoor dining~~
93 ~~space;~~
- 94 ~~(b) Hours of operation;~~
- 95 ~~(c) Sound or noise;~~
- 96 ~~(d) Term limitation on the use permit, administrative review, and extension or denial of~~
97 ~~use permit.~~

98 *Restaurant 2 in the C-1, C-2, C-3, M-1, M-2, LFA-2, RT-1, BB-3, BB-4, BB-5, HRC-1, HRC-2,*
99 *HRC-3, LBP, DT-1, DT-2, PH-1, PH-2, PH-3, FM-1, FM-2, FM-3, and FM-4 districts shall obtain*
100 *a Zoning Administrator Permit and comply with the following additional standards:*

- 101 *(a) The hours of operation of the restaurant shall not extend beyond 5:00 a.m. to 2:00 a.m.*
102 *when the restaurant does not have a retail alcoholic beverage license. For restaurants*
103 *with a retail alcoholic beverage license ("ABC"), the hours of operations of the restaurant*
104 *shall not extend beyond 5:00 a.m. to 12:00 a.m.;*
- 105 *(b) The restaurant shall maintain compliance with all applicable federal and state laws and*
106 *requirements of licensing agencies, including but not limited to ABC licensing;*
- 107 *(c) The restaurant shall be subject to the provisions of the Hampton Zoning Ordinance and*
108 *Hampton City Code, to include, but not be limited to, noise, setbacks, and building code*
109 *requirements;*
- 110 *(d) A floor plan shall be provided showing the arrangement of all tables, chairs, and*
111 *performance area, if any, which once approved by the City, shall become binding;*
- 112 *(e) Any live entertainment shall comply with the following conditions:*
 - 113 *(i) Live entertainment shall not be permitted in the M-1, M-2, LFA-2, HRC-1, HRC-2,*
114 *and HRC-3 zoning districts;*
 - 115 *(ii) Live entertainment shall be conducted inside the building only;*
 - 116 *(iii) The performance space shall be 75 square feet or less;*
 - 117 *(iv) The layout approved in the submitted floor plan shall remain in place for live*
118 *entertainment performances and no dance floor or similar open gathering space*
119 *shall be permitted;*
 - 120 *(v) The hours of live entertainment shall not extend beyond the hours of operation of*
121 *the restaurant; and*
 - 122 *(vi) Each ingress/egress point in the establishment shall be monitored by an*
123 *attendant during the hours of live entertainment. The establishment shall provide*
124 *an additional attendant(s), as may be determined necessary by the Zoning*
125 *Administrator, to monitor vehicle parking areas that serve the establishment in*
126 *order to control patron behavior upon exit of the building into the parking areas*
127 *and maintain compliance with these conditions and other City Code*
128 *requirements.*
- 129 *(f) Any outdoor dining shall comply with the following conditions:*
 - 130 *(i) Outdoor dining shall not be permitted within the M-1, M-2, LFA-2, HRC-1, HRC-2,*
131 *and HRC-3 zoning districts;*

- 132 (ii) *Within the DT-1, DT-2, PH-1, PH-2, PH-3, FM-1, FM-2, FM-3, and FM-4 districts,*
133 *the hours of operation of the outdoor dining area shall not extend beyond the*
134 *hours of operation of the restaurant.*
- 135 (iii) *Within the C-1, C-2, C-3, RT-1, BB-3, BB-4, BB-5, and LBP districts, the hours of*
136 *operation of the outdoor dining area shall not extend beyond 5:00 a.m. to 10:00*
137 *p.m.;*
- 138 (iv) *The proposed outdoor dining operation and location will not significantly interfere*
139 *with the pedestrian traffic or otherwise constitute a health and safety risk, as*
140 *determined by the Zoning Administrator;*
- 141 (v) *The outdoor dining area shall be clearly delineated through use of barriers,*
142 *landscaping, surface materials, or other similar means as determined by the*
143 *Zoning Administrator;*
- 144 (vi) *Tables, chairs and other furniture placed outdoors shall be readily available for*
145 *use. Any furniture which is not readily accessible may not be stored outside, but*
146 *must be stored within a wholly enclosed structure; and*
- 147 (vii) *All outdoor lighting shall be focused downward and inward in a way that*
148 *prevents spillover onto adjacent properties.*
- 149 (g) *Restaurants with drive-throughs or drive-ins are not permitted in the M-1, M-2, LFA-2,*
150 *HRC-1, HRC-2, HRC-3, DT-1, DT-2, PH-1, PH-2, PH-3, FM-1, FM-2, FM-3, and FM-4*
151 *zoning districts.*
- 152 (h) *The Zoning Administrator, or their designee, shall have the ability to revoke the zoning*
153 *administrator permit upon violation of any of the above conditions.*

154 (14) ~~Outdoor dining, downtown in the DT-1 and DT-2 districts.~~

- 155 ~~(a) All outdoor dining areas shall conform to the provisions and guidelines of this section.~~
156 ~~No zoning certificate shall be issued to authorize the installation of an outdoor dining~~
157 ~~area without prior approval by the zoning administrator, after review by the director of~~
158 ~~planning and the city health department of the plans for such installation. Elements to be~~
159 ~~reviewed shall include: the type, number and placement of tables, chairs, and/or other~~
160 ~~dining furniture; the color, design and placement of canopies and awnings; the design~~
161 ~~and placement of planters, trash receptacles, bollards, fences, other street furnishings~~
162 ~~and landscaping; the type, amount and location of surface material to be applied and the~~
163 ~~corresponding loss of green space, if any, and the type and amount of landscaping to be~~
164 ~~installed to compensate for that loss; the limits of encroachment, if any, into public rights-~~
165 ~~of-way; the width of the unobstructed pedestrian thoroughfare adjacent to the outdoor~~
166 ~~dining area; and overall conformance with the recommendations of the downtown~~
167 ~~master plan.~~
- 168 ~~(b) Any encroachment of an outdoor dining area into a public right-of-way must be~~
169 ~~approved by the city council. The applicant must adhere to all terms and provisions~~
170 ~~specified in the agreement granted by the city council.~~
- 171 ~~(c) Any outdoor dining area shall be surfaced with bricks, wood decking, exposed~~
172 ~~aggregate, pavers or similar material effectively treated to facilitate maintenance and~~
173 ~~minimize dust. If required to meet the standards of the Chesapeake Bay Preservation~~
174 ~~District (O-CBP), other surfaces may be used. Surfaces shall be kept free of litter and~~
175 ~~shall be graded to prevent pooling of water. No vehicle parking shall be permitted on~~
176 ~~these surfaces. If green space is lost due to the application of surface material, then~~
177 ~~landscaping shall be required to mitigate that loss.~~

- 178 ~~(d) Reserved.~~
- 179 ~~(e) The outer edge of any outdoor dining area shall not reduce the adjacent pedestrian~~
- 180 ~~thoroughfare to less than four (4) feet.~~
- 181 ~~(f) Tables, chairs and other furniture placed within the outdoor dining area shall be~~
- 182 ~~readily available for use. Any furniture which is not readily accessible may not be stored~~
- 183 ~~within the outdoor dining area, but must be stored within a wholly enclosed structure.~~
- 184 ~~(g) Where there are existing awnings or canopies on the street face block, the height,~~
- 185 ~~scale, and design of proposed awnings or canopies shall be compatible with them.~~
- 186 ~~Where none exist, proposed awnings or canopies shall be compatible with other design~~
- 187 ~~elements on the street face block.~~
- 188 ~~(h) Signage on awnings and canopies is permissible and will count towards the~~
- 189 ~~maximum total signage allowed for the principal establishment.~~
- 190 ~~(i) The hours of operation shall not extend beyond the normal operating hours of the~~
- 191 ~~principal establishment.~~

192 *Restaurant 3 in the C-1, C-2, C-3, M-1, M-2, LFA-2, RT-1, BB-3, BB-4, BB-5, HRC-1, HRC-2,*

193 *HRC-3, LBP, DT-1, DT-2, PH-1, PH-2, PH-3, FM-1, FM-2, FM-3, and FM-4 districts requesting*

194 *to operate outside of the conditions required for Restaurant 1 or Restaurant 2, whichever is*

195 *applicable, shall first obtain a use permit . The City will evaluate each application on a site-by-*

196 *site basis with regard to the surrounding land use patterns and city council may impose*

197 *conditions that are more restrictive as set forth in Article I, Chapter 14 of the zoning ordinance.*

198 *Conditions may include, but are not limited to, the following:*

- 199 *(a) Hours of operation;*
- 200 *(b) Sound or noise; and*
- 201 *(c) Expiration of the use permit upon change in: ownership of the property; possession; or*
- 202 *the operation or management of the facility.*

203 ...

204 ~~(22) Restaurant, without a retail alcoholic beverage license, with live entertainment, in all~~

205 ~~districts shall comply with the following minimum conditions:~~

206 ~~Live entertainment 1 venues are defined as venues providing live entertainment only~~

207 ~~within the building, without a dance floor or similar gathering area, and having~~

208 ~~performance space of 75 square feet or less. Any other live entertainment venue is~~

209 ~~considered a live entertainment 2 venue.~~

210 ~~Live entertainment 1 is subject to a live entertainment zoning administrator permit with the~~

211 ~~following attached conditions:~~

- 212 ~~(a) Live entertainment shall be conducted inside the building only;~~
- 213 ~~(b) A floor plan shall be provided and approved showing the arrangement of tables,~~
- 214 ~~chairs, and performance area. The layout shall remain in place for live entertainment~~
- 215 ~~performances and no dance floor or similar open gathering space shall be permitted;~~
- 216 ~~(c) The hours of operation for live entertainment shall not extend past 10:00 p.m.~~
- 217 ~~Sunday through Thursday and 11:59 p.m. Friday and Saturday;~~
- 218 ~~(d) The live entertainment shall comply with section 22-9 of the City Code, as amended,~~
- 219 ~~pertaining to noise.~~

- 223 ~~(e) Each ingress/egress point in the building shall be monitored by an attendant during~~
224 ~~the hours of operation, and additional attendants may be required to monitor vehicle~~
225 ~~parking areas that serve the building and maintain and control patron behavior upon~~
226 ~~exit of the building into the parking areas;~~
227 ~~(f) The restaurant shall meet the minimum requirements for parking as established in~~
228 ~~Chapter 11 herein;~~
229 ~~(g) The restaurant shall maintain compliance with all applicable federal and state laws~~
230 ~~and requirements of licensing agencies, including but not limited to ABC licensing;~~
231 ~~(h) The zoning administrator permit shall be valid for eighteen (18) months from the date~~
232 ~~of approval by the zoning administrator. After twelve (12) months of operation, prior~~
233 ~~to the expiration date, the zoning administrator permit will be scheduled for review by~~
234 ~~the zoning administrator to consider if the continuation of the zoning administrator~~
235 ~~permit would not be detrimental to the public health, safety and welfare and that to~~
236 ~~continue the activities under the zoning administrator permit would not cause public~~
237 ~~inconvenience, annoyance, disturbance or have an undue impact on the community~~
238 ~~or be incompatible with other uses of land in the zoning district. The review will be~~
239 ~~based, in part, upon a physical site review, traffic flow and control, access to and~~
240 ~~circulation within the property, off-street parking and loading, hours and manner of~~
241 ~~operation, noise, light, neighborhood complaints, police service calls, and any~~
242 ~~violations of any federal, state or local law. If, after review, the zoning administrator~~
243 ~~determines that the zoning administrator permit would not be detrimental to the~~
244 ~~public health, safety and welfare and that to continue the activities under the zoning~~
245 ~~administrator permit would not cause public inconvenience, annoyance, disturbance~~
246 ~~or have an undue impact on the community or be incompatible with other uses of~~
247 ~~land in the zoning district, the zoning administrator may administratively extend the~~
248 ~~zoning administrator permit in five-year increments. Each such extension shall be~~
249 ~~subject to the same administrative review. If the zoning administrator determines that~~
250 ~~that the zoning administrator permit would be detrimental to the public health, safety~~
251 ~~and welfare and that to continue the activities under the zoning administrator permit~~
252 ~~would cause public inconvenience, annoyance, disturbance or have an undue impact~~
253 ~~on the community or be incompatible with other uses of land the zoning district, the~~
254 ~~zoning administrator will notify the permittee of a denial of the extension in writing in~~
255 ~~the same manner as required under chapter 1 of the zoning ordinance. A permittee~~
256 ~~aggrieved by the decision of the zoning administrator may appeal the decision of the~~
257 ~~zoning administrator to the board of zoning appeals in the manner set forth in~~
258 ~~chapter 13 of the zoning ordinance. Nothing contained herein shall limit the rights of~~
259 ~~a permittee to seek a new zoning administrator permit; and~~
260 ~~(i) The zoning administrator, or appointed designee, shall have the ability to revoke the~~
261 ~~zoning administrator permit upon violation of any of the above conditions. *Reserved.*~~

262 ...

263 (47) Micro-brewery/distillery/winery in the PH-1, PH-2, PH-3, DT-1, DT-2, and FM-2
264 —districts shall include a retail component which is open to the general public.
265

266 Micro-brewery/distillery/winery in all districts shall comply with the following minimum
267 —conditions:

268 (a) All micro-breweries/distilleries/wineries in the M-1, M-2, M-3, HRC-1, HRC-2, LBP,
269 DT-1, DT-2, PH-1, PH-2, PH-3, FM-3, FM-4 districts are subject to a zoning
270 administrator permit with the following attached conditions:

271 (a) The hours of operation of the micro-brewery/distillery/winery shall not extend
272 beyond 6:00 a.m.—10:00 p.m.;

273 (b) The micro-brewery/distillery/winery shall comply with section 22-9 of the City
274 Code, as amended, pertaining to noise;

275 (c) The micro-brewery/distillery/winery shall be subject to the provisions of the
276 Hampton Zoning Ordinance and Hampton City Code, to include, but not be
277 limited to, parking, setbacks, and building code requirements;

278 (d) The zoning administrator permit shall be valid for eighteen (18) months from the
279 date of approval by the zoning administrator. After twelve (12) months of
280 operation, prior to the expiration date, the zoning administrator permit will be
281 scheduled for review by the zoning administrator to consider if the continuation of
282 the restaurant permit would not be detrimental to the public health, safety and
283 welfare and that to continue the activities under the restaurant permit would not
284 cause public inconvenience, annoyance, disturbance or have an undue impact
285 on the community or be incompatible with other uses of land in the zoning
286 district. The review will be based, in part, upon a physical site review, hours and
287 manner of operation, noise, light, neighborhood complaints, police service calls,
288 and any violations of any federal, state or local law. If, after review, the zoning
289 administrator determines that the restaurant permit would not be detrimental to
290 the public health, safety and welfare zoning administrator that to continue the
291 activities under the zoning administrator permit would not cause public
292 inconvenience, annoyance, disturbance or have an undue impact on the
293 community or be incompatible with other uses of land in the zoning district, the
294 zoning administrator may administratively extend the zoning administrator permit
295 in five-year increments. Each such extension shall be subject to the same
296 administrative review. If the zoning administrator determines that the zoning
297 administrator permit would be detrimental to the public health, safety and welfare
298 and that to continue the activities under the restaurant permit would cause public
299 inconvenience, annoyance, disturbance or have an undue impact on the
300 community or be incompatible with other uses of land in the zoning district, the
301 zoning administrator will notify the permittee of a denial of the extension in writing
302 in the same manner as required under chapter 25 of the zoning ordinance. A
303 permittee aggrieved by the decision of the zoning administrator may appeal the
304 decision of the zoning administrator to the board of zoning appeals in the manner
305 set forth in chapter 22 of the zoning ordinance. Nothing contained herein shall
306 limit the rights of a permittee to seek a new zoning administrator permit; and
307 (e) The zoning administrator, or appointed designee, shall have the ability to revoke
308 the zoning administrator permit upon violations of any of the above conditions.

309

310 ~~(b) All micro-breweries/distilleries/wineries in the M-1, M-2, M-3, HRC-1, HRC-2, LBP,~~
311 ~~DT-1, DT-2, PH-1, PH-2, PH-3, FM-3, and FM-4 districts requesting to operate~~
312 ~~outside the conditions set forth under the provisions of Section 3-3(47)(a) and those~~
313 ~~in districts LFA-2, LFA-3, LFA-4, LFA-6, and FM-2 are subject to obtaining a use~~
314 ~~permit by city council. The City will evaluate each application on a site-by-site basis~~
315 ~~with regard to the surrounding land use patterns and city council may impose more~~
316 ~~restrictive conditions when the proposal is adjacent to residential land uses.~~
317 ~~Conditions shall include, but are not limited to, the following:~~

318 ~~(i) Hours of operation;~~

319 ~~(ii) Sound or noise; and~~

320 ~~(iii) Expiration of the use permit upon change in: ownership of the property;~~
321 ~~possession; or the operation or management of the facility.~~

322 *Micro-brewery/distillery/winery in the M-1, M-2, M-3, HRC-1, HRC-2, LBP, DT-1, DT-2, PH-1,*
323 *PH-2, PH-3, FM-3, and FM-4 districts shall obtain a Zoning Administrator Permit and comply*
324 *with the following additional standards:*

325 *(a) Micro-brewery/distillery/winery 2 in the PH-1, PH-2, PH-3, DT-1, DT-2, and FM-2*
326 *districts shall include a retail component which is open to the general public;*

327 *(b) The hours of operation of any dining or retail component shall be between 5:00 a.m.*
328 *and 12:00 a.m. Production operations may occur at all hours of the day;*

329 *(c) The micro-brewery/distillery/winery shall maintain compliance with all applicable*
330 *federal and state laws and requirements of licensing agencies, including but not*
331 *limited to ABC licensing;*

332 *(d) The micro-brewery/distillery/winery shall be subject to the provisions of the Hampton*
333 *Zoning Ordinance and Hampton City Code, to include, but not be limited to, noise,*
334 *setbacks, and building code requirements;*

335 *(e) A floor plan shall be provided showing the arrangement of all tables, chairs, and*
336 *performance area, if any, which once approved by the City, shall become binding;*

337 *(f) Any live entertainment shall comply with the following conditions:*

338 *(i) Live entertainment shall be conducted inside the building only;*

339 *(ii) The performance space shall be 75 square feet or less;*

340 *(iii) The layout approved in the submitted floor plan shall remain in place for live*
341 *entertainment performances and no dance floor or similar open gathering*
342 *space shall be permitted;*

343 *(iv) The hours of operation for live entertainment shall not extend beyond the*
344 *hours of operation of the micro-brewery/distillery/winery; and*

345 *(v) Each ingress/egress point in the establishment shall be monitored by an*
346 *attendant during the hours of live entertainment. The establishment shall*
347 *provide an additional attendant(s), as may be determined necessary by the*
348 *Zoning Administrator, to monitor vehicle parking areas that serve the*
349 *establishment in order to control patron behavior upon exit of the building*
350 *into the parking areas and maintain compliance with these conditions and*
351 *other City Code requirements.*

352 *(g) Any outdoor dining shall comply with the following conditions:*

- 353 (i) Outdoor dining shall not be permitted within the M-1, M-2, M-3, HRC-1, and
354 HRC-2 zoning districts;
- 355 (ii) Within the DT-1, DT-2, PH-1, PH-2, PH-3, FM-3, and FM-4 districts, the hours
356 of operation of the outdoor dining area shall not extend beyond the hours of
357 operation of the micro-brewery/distillery/winery.
- 358 (iii) Within the LBP district, the hours of operation of the outdoor dining area shall
359 not extend beyond 5:00 a.m. to 10:00 p.m.;
- 360 (iv) Proposed dining operation and location will not significantly interfere with the
361 pedestrian traffic or otherwise constitute a health and safety risk, as
362 determined by the Zoning Administrator;
- 363 (v) The outdoor dining area shall be clearly delineated through use of barriers,
364 landscaping, surface materials, or other similar means as determined by the
365 Zoning Administrator;
- 366 (vi) Tables, chairs and other furniture placed outdoors shall be readily available
367 for use. Any furniture which is not readily accessible may not be stored
368 outside, but must be stored within a wholly enclosed structure; and
- 369 (vii) All outdoor lighting shall be focused downward and inward in a way that
370 prevents spillover onto adjacent properties; and
- 371 (h) The zoning administrator, or appointed designee, shall have the ability to revoke the
372 zoning administrator permit upon violations of any of the above conditions.
- 373 (i) All micro-breweries/distilleries/wineries in the M-1, M-2, M-3, HRC-1, HRC-2, LBP,
374 DT-1, DT-2, PH-1, PH-2, PH-3, FM-3, and FM-4 districts requesting to operate
375 outside the conditions set forth under the provisions of Section 3-3(47)(a-h), and
376 those in districts LFA-2, LFA-3, LFA-4, LFA-6, and FM-2 shall first obtain a use
377 permit. The City will evaluate each application on a site-by-site basis with regard to
378 the surrounding land use patterns and city council may impose conditions that are
379 more restrictive as set forth in Article I of Chapter 14 of the zoning ordinance.
380 Conditions shall include, but are not limited to, the following:
- 381 (i) Hours of operation;
- 382 (ii) Sound or noise; and
- 383 (iii) Expiration of the use permit upon change in: ownership of the property;
384 possession; or the operation or management of the facility.

385
386 ~~(48) Outdoor dining, Phoebus in the PH-1, PH-2, and PH-3 districts shall be subject to a zoning~~
387 ~~administrator permit and the hours of operation shall not extend beyond the hours of operation~~
388 ~~for the principle establishment.~~

389 *Brewery/distillery/winery shall comply with the following minimum conditions:*

- 390 (a) All breweries/distilleries/wineries in the M-3, HRC-1, HRC-2, LBP, and FM-3 districts
391 are subject to a zoning administrator permit with the following attached conditions:
- 392 (i) The hours of operation shall not extend beyond 5:00 a.m. to 2:00 a.m.;
- 393 (ii) The brewery/distillery/winery shall maintain compliance with all applicable federal
394 and state laws and requirements of licensing agencies, including but not limited
395 to ABC licensing;

- 396 (iii) The brewery/distillery/winery shall be subject to the provisions of the Hampton
397 Zoning Ordinance and Hampton City Code, to include, but not be limited to,
398 noise, parking, setbacks, and building code requirements;
- 399 (iv) A floor plan shall be provided and approved showing the arrangement of all
400 tables, chairs, and performance area, if any;
- 401 (v) Any live entertainment shall comply with the following conditions:
402 a. Live entertainment shall be conducted inside the building only;
403 b. The performance space shall be 75 square feet or less;
404 c. The layout approved in the submitted floor plan shall remain in place for
405 live entertainment performances and no dance floor or similar open
406 gathering space shall be permitted;
407 d. The hours of operation for live entertainment shall not extend beyond the
408 hours of operation of the brewery/distillery/winery; and
409 e. Each ingress/egress point in the building shall be monitored by an
410 attendant during the hours of live entertainment, and additional attendants
411 may be required to monitor vehicle parking areas that serve the building
412 and maintain and control patron behavior upon exit of the building into the
413 parking areas;
- 414 (vi) Any outdoor dining shall comply with the following conditions:
415 a. Outdoor dining shall not be permitted within the M-3, HRC-1, and HRC-2
416 zoning districts;
417 b. Within the FM-3 zoning districts, the hours of operation of the outdoor
418 dining area shall not extend beyond the hours of operation of the
419 brewery/distillery/winery.
420 c. Within the LBP zoning district, the hours of operation of the outdoor dining
421 area shall not extend beyond 5:00 a.m. to 10:00 p.m.;
422 d. Proposed dining operation and location will not significantly interfere with
423 the pedestrian traffic or otherwise constitute a health and safety risk;
424 e. The outdoor dining area shall be clearly delineated through use of
425 barriers, landscaping, surface materials, or other similar means as
426 determined by the Zoning Administrator;
427 f. Tables, chairs and other furniture placed outdoors shall be readily
428 available for use. Any furniture which is not readily accessible may not be
429 stored outside, but must be stored within a wholly enclosed structure; and
430 g. All outdoor lighting shall be focused downward and inward in a way that
431 prevents spillover onto adjacent properties; and
- 432 (vii) The zoning administrator, or appointed designee, shall have the ability to revoke
433 the zoning administrator permit upon violations of any of the above conditions.
434
- 435 (b) All breweries/distilleries/wineries in the M-3, HRC-1, HRC-2, LBP, and FM-3 districts
436 requesting to operate outside the conditions set forth under the provisions of Section
437 3-3(48)(a) and breweries/distilleries/wineries in the LFA-2, LFA-3, LFA-4, and LFA-6
438 districts shall first obtain a use permit. The City will evaluate each application on a
439 site-by-site basis with regard to the surrounding land use patterns and city council

440 *may impose conditions that are more restrictive as set forth in Article I of Chapter 14*
441 *of the Zoning Ordinance. Conditions shall include, but are not limited to, the*
442 *following:*

- 443 *(i) Hours of operation;*
- 444 *(ii) Sound or noise; and*
- 445 *(iii) Expiration of the use permit upon change in: ownership of the property;*
446 *possession; or the operation or management of the facility.*

447 ...
448 ~~(54) Restaurant, without a drive-through or drive-in, with a retail alcoholic beverage license~~
449 ~~shall comply with the following minimum conditions:~~

450 ~~(a) All restaurants, without a drive-through or drive-in in the C-1, C-2, C-3, M-1, M-2, BB-~~
451 ~~3, BB-4, BB-5, HRC-1, HRC-2, HRC-3, LBP, DT-1, DT-2, PH-1, PH-2, and PH-3~~
452 ~~districts, with a retail alcoholic beverage license and restaurants with a drive-through~~
453 ~~or drive-in in the C-1, C-2, C-3, M-1, M-2, BB-3, BB-4, BB-5, HRC-1, HRC-2, HRC-3,~~
454 ~~LBP, DT-1, and DT-2 districts, with a retail alcoholic beverage license are subject to~~
455 ~~a zoning administrator permit with the following attached conditions:~~

- 456 ~~(i) The hours of operation of the restaurant shall not extend beyond 6:00 a.m. —~~
457 ~~10:00 p.m.;~~
- 458 ~~(ii) The restaurant shall comply with section 22-9 of the City Code, as amended,~~
459 ~~pertaining to noise;~~
- 460 ~~(iii) The restaurant shall be subject to the provisions of the Hampton Zoning~~
461 ~~Ordinance and Hampton City Code, to include, but not be limited to, parking,~~
462 ~~setbacks, and building code requirements;~~
- 463 ~~(iv) The zoning administrator permit shall be valid for eighteen (18) months from the~~
464 ~~date of approval by the zoning administrator. After twelve (12) months of~~
465 ~~operation, prior to the expiration date, the zoning administrator permit will be~~
466 ~~scheduled for review by the zoning administrator to consider if the continuation of~~
467 ~~the restaurant permit would not be detrimental to the public health, safety and~~
468 ~~welfare and that to continue the activities under the restaurant permit would not~~
469 ~~cause public inconvenience, annoyance, disturbance or have an undue impact~~
470 ~~on the community or be incompatible with other uses of land in the zoning~~
471 ~~district. The review will be based, in part, upon a physical site review, hours and~~
472 ~~manner of operation, noise, light, neighborhood complaints, police service calls,~~
473 ~~and any violations of any federal, state or local law. If, after review, the zoning~~
474 ~~administrator determines that the restaurant permit would not be detrimental to~~
475 ~~the public health, safety and welfare zoning administrator that to continue the~~
476 ~~activities under the zoning administrator permit would not cause public~~
477 ~~inconvenience, annoyance, disturbance or have an undue impact on the~~
478 ~~community or be incompatible with other uses of land in the zoning district, the~~
479 ~~zoning administrator may administratively extend the zoning administrator permit~~
480 ~~in five-year increments. Each such extension shall be subject to the same~~
481 ~~administrative review. If the zoning administrator determines that the zoning~~
482 ~~administrator permit would be detrimental to the public health, safety and welfare~~
483 ~~and that to continue the activities under the restaurant permit would cause public~~

484 inconvenience, annoyance, disturbance or have an undue impact on the
485 community or be incompatible with other uses of land in the zoning district, the
486 zoning administrator will notify the permittee of a denial of the extension in writing
487 in the same manner as required under chapter 25 of the zoning ordinance. A
488 permittee aggrieved by the decision of the zoning administrator may appeal the
489 decision of the zoning administrator to the board of zoning appeals in the manner
490 set forth in chapter 22 of the zoning ordinance. Nothing contained herein shall
491 limit the rights of a permittee to seek a new zoning administrator permit; and
492 (v) ~~The zoning administrator, or appointed designee, shall have the ability to revoke~~
493 ~~the zoning administrator permit upon violations of any of the above conditions.~~

495 (b) ~~Restaurants, with or without a drive-through or drive-in, with a retail alcoholic~~
496 ~~beverage license in the C-1, C-2, C-3, M-1, M-2, BB-3, BB-4, BB-5, HRC-1, HRC-2,~~
497 ~~HRC-3, LBP, DT-1, DT-2, PH-1, PH-2, and PH-3 districts requesting to operate~~
498 ~~outside the conditions set forth under the provisions of Section 3-3(54)(a) and~~
499 ~~restaurants, with a drive-through or drive in, with a retail alcoholic beverage license~~
500 ~~in the PH-1, PH-2, and PH-3 districts are subject to obtaining a use permit by city~~
501 ~~council. The City will evaluate each application on a site-by-site basis with regard to~~
502 ~~the surrounding land use patterns and city council may impose more restrictive~~
503 ~~conditions when the proposal is adjacent to residential land uses. Conditions shall~~
504 ~~include, but are not limited to, the following:~~

- 505 (i) ~~Hours of operation;~~
- 506 (ii) ~~Sound or noise; and~~
- 507 (iii) ~~Expiration of the use permit upon change in: ownership of the property;~~
508 ~~possession; or the operation or management of the facility. *Reserved.*~~

509 (55) ~~Restaurant, with a retail alcoholic beverage license, with live entertainment 1 or micro-~~
510 ~~brewery/distillery/winery with live entertainment 1 in all districts shall comply with the following~~
511 ~~minimum conditions:~~

512
513 (j) ~~Live entertainment 1 venues with a retail alcoholic beverage license are subject to a~~
514 ~~zoning administrator permit with the following attached conditions.~~

- 515 (vi) ~~The hours of operation shall not extend beyond 6:00 a.m.—10:00 p.m.;~~
- 516 (vii) ~~Live entertainment shall be conducted inside the building only;~~
- 517 (viii) ~~A floor plan shall be provided and approved showing the arrangement of~~
518 ~~tables, chairs, and performance area. The layout shall remain in place for~~
519 ~~live entertainment performances and no dance floor or similar open~~
520 ~~gathering space shall be permitted;~~
- 521 (ix) ~~The live entertainment 1 venue shall comply with section 22-9 of the City~~
522 ~~Code, as amended, pertaining to noise;~~
- 523 (x) ~~Each ingress/egress point in the building shall be monitored by an~~
524 ~~attendant during the hours of operation, and additional attendants may be~~
525 ~~required to monitor vehicle parking areas that serve the building and~~

526 maintain and control patron behavior upon exit of the building into the
527 parking areas;

528 ~~(xi) The live entertainment 1 venue shall maintain compliance with all~~
529 ~~applicable federal and state laws and requirements of licensing agencies,~~
530 ~~including but not limited to ABC licensing;~~

531 ~~(xii) The zoning administrator permit shall be valid for eighteen (18) months~~
532 ~~from the date of approval by the zoning administrator. After twelve (12)~~
533 ~~months of operation, prior to the expiration date, the zoning administrator~~
534 ~~permit will be scheduled for review by the zoning administrator to consider if~~
535 ~~the continuation of the zoning administrator permit would not be detrimental~~
536 ~~to the public health, safety and welfare and that to continue the activities~~
537 ~~under the zoning administrator permit would not cause public~~
538 ~~inconvenience, annoyance, disturbance or have an undue impact on the~~
539 ~~community or be incompatible with other uses of land in the zoning district.~~
540 ~~The review will be based, in part, upon a physical site review, hours and~~
541 ~~manner of operation, noise, light, neighborhood complaints, police service~~
542 ~~calls, and any violations of any federal, state or local law. If, after review,~~
543 ~~the zoning administrator determines that the zoning administrator permit~~
544 ~~would not be detrimental to the public health, safety and welfare and that to~~
545 ~~continue the activities under the restaurant permit would not cause public~~
546 ~~inconvenience, annoyance, disturbance or have an undue impact on the~~
547 ~~community or be incompatible with other uses of land in the zoning district,~~
548 ~~the zoning administrator may administratively extend the zoning~~
549 ~~administrator permit in five-year increments. Each such extension shall be~~
550 ~~subject to the same administrative review. If the zoning administrator~~
551 ~~determines that the zoning administrator permit would be detrimental to the~~
552 ~~public health, safety and welfare and that to continue the activities under~~
553 ~~the zoning administrator permit would cause public inconvenience,~~
554 ~~annoyance, disturbance or have an undue impact on the community or be~~
555 ~~incompatible with other uses of land in the zoning district, the zoning~~
556 ~~administrator will notify the permittee of a denial of the extension in writing~~
557 ~~in the same manner as required under chapter 25 of the zoning ordinance.~~
558 ~~A permittee aggrieved by the decision of the zoning administrator may~~
559 ~~appeal the decision of the zoning administrator to the board of zoning~~
560 ~~appeals in the manner set forth in chapter 22 of the zoning ordinance.~~
561 ~~Nothing contained herein shall limit the rights of a permittee to seek a new~~
562 ~~restaurant permit; and~~

563 ~~(xiii) The zoning administrator, or appointed designee, shall have the ability to~~
564 ~~revoke the zoning administrator permit upon violations of any of the above~~
565 ~~conditions.~~

566 ~~(k) Restaurants or micro-breweries/distilleries/wineries requesting to operate beyond the~~
567 ~~conditions set forth under the provisions of Section 3-3(55)(a) are subject to~~
568 ~~obtaining a use permit by city council. The city will evaluate each application on a~~
569 ~~site-by-site basis with regard to the surrounding land use patterns and city council~~

570 may impose more restrictive conditions when the proposal is adjacent to residential
571 land uses. Conditions shall include, but are not limited to, the following:

572 (i) Hours of operation;

573 (ii) Sound or noise;

574 (iii) Expiration of the use permit upon change in: ownership of the property;
575 possession; or the operation or management of the facility. *Reserved.*

576

577 (56) Restaurant, with or without a retail alcoholic beverage license, with live entertainment 2 or
578 a micro-brewery/distillery/winery with live entertainment 2 in all districts shall comply with
579 the following minimum conditions:

580 (a) Live entertainment 2 venues are subject to obtaining a use permit by city council.

581 The city will evaluate each application on a site-by-site basis with regard to the
582 surrounding land use patterns and city council may impose more restrictive
583 conditions when the proposal is adjacent to residential land uses. Conditions shall
584 include, but are not limited to, the following:

585 (i) Hours of operation;

586 (ii) Sound or noise;

587 (iii) Term limitation on the use permit, administrative review, and extension or
588 denial of use permit.

589 (b) Live entertainment 2 venues, with a retail alcoholic beverage license, are subject to
590 the conditions listed in sec. 3-3(56)(a) and the following condition:

591 (i) Expiration of the use permit upon change in: ownership of the property;
592 possession; or the operation or management of the facility. *Reserved.*

593

594 (57) Brewery/distillery/winery shall comply with the following minimum conditions:

595 (c) All breweries/distilleries/wineries in the M-3, HRC-1, HRC-2, LBP, and FM-3 districts
596 are subject to a zoning administrator permit with the following attached conditions:

597 (viii) The hours of operation of the brewery/distillery/winery shall not extend
598 beyond 6:00 a.m.—10:00 p.m.;

599 (ix) The brewery/distillery/winery shall comply with section 22-9 of the City Code, as
600 amended, pertaining to noise;

601 (x) The brewery/distillery/winery shall be subject to the provisions of the Hampton
602 Zoning Ordinance and Hampton City Code, to include, but not be limited to,
603 parking, setbacks, and building code requirements;

604 (xi) The zoning administrator permit shall be valid for eighteen (18) months from the
605 date of approval by the zoning administrator. After twelve (12) months of
606 operation, prior to the expiration date, the zoning administrator permit will be
607 scheduled for review by the zoning administrator to consider if the continuation of
608 the restaurant permit would not be detrimental to the public health, safety and
609 welfare and that to continue the activities under the restaurant permit would not
610 cause public inconvenience, annoyance, disturbance or have an undue impact
611 on the community or be incompatible with other uses of land in the zoning
612 district. The review will be based, in part, upon a physical site review, hours and

613 manner of operation, noise, light, neighborhood complaints, police service calls,
614 and any violations of any federal, state or local law. If, after review, the zoning
615 administrator determines that the restaurant permit would not be detrimental to
616 the public health, safety and welfare zoning administrator that to continue the
617 activities under the zoning administrator permit would not cause public
618 inconvenience, annoyance, disturbance or have an undue impact on the
619 community or be incompatible with other uses of land in the zoning district, the
620 zoning administrator may administratively extend the zoning administrator permit
621 in five-year increments. Each such extension shall be subject to the same
622 administrative review. If the zoning administrator determines that the zoning
623 administrator permit would be detrimental to the public health, safety and welfare
624 and that to continue the activities under the restaurant permit would cause public
625 inconvenience, annoyance, disturbance or have an undue impact on the
626 community or be incompatible with other uses of land in the zoning district, the
627 zoning administrator will notify the permittee of a denial of the extension in writing
628 in the same manner as required under chapter 25 of the zoning ordinance. A
629 permittee aggrieved by the decision of the zoning administrator may appeal the
630 decision of the zoning administrator to the board of zoning appeals in the manner
631 set forth in chapter 22 of the zoning ordinance. Nothing contained herein shall
632 limit the rights of a permittee to seek a new zoning administrator permit; and
633 (xii) The zoning administrator, or appointed designee, shall have the ability to revoke
634 the zoning administrator permit upon violations of any of the above conditions.

635
636 ~~(d) All breweries/distilleries/wineries in the M-3, HRC-1, HRC-2, LBP, and FM-3 districts~~
637 ~~requesting to operate outside the conditions set forth under the provisions of Section~~
638 ~~3-3(57)(a) and breweries/distilleries/wineries in the LFA-2, LFA-3, LFA-4, and LFA-6~~
639 ~~districts are subject to obtaining a use permit by city council. The City will evaluate~~
640 ~~each application on a site-by-site basis with regard to the surrounding land use~~
641 ~~patterns and city council may impose more restrictive conditions when the proposal~~
642 ~~is adjacent to residential land uses. Conditions shall include, but are not limited to,~~
643 ~~the following:~~

- 644 ~~(i) Hours of operation;~~
- 645 ~~(ii) Sound or noise; and~~
- 646 ~~(iii) Expiration of the use permit upon change in: ownership of the property;~~
647 ~~possession; or the operation or management of the facility. *Reserved.*~~

648
649 ...