

CONDITIONS

Use Permit Application No. 22-00010

Restaurant 3 | 1471 Merchant Ln [LRSN: 13002022]

1. Issuance of Permit

The Use Permit applies only to the location at 1471 Merchant Ln. (LRSN: 13002022) and is not transferable to another location.

2. Location of Live Entertainment

Live Entertainment may be conducted inside the building only and shall be limited to the area indicated on the attached floor plan identified as "Live Entertainment Area," attached hereto as Exhibit A. Exhibit A also depicts the layout of tables and chairs as well as the specific absence of a dance floor or similar clear area. The set up and use of any equipment shall not interfere with required clear space for safe exit in the case of emergency, per the Uniform Statewide Building Code and/or the Statewide Fire Prevention Code.

3. Hours of Operation

The hours of operation shall be limited to the following:

- Sunday – Thursday 5:00 AM to 12:00 AM
- Friday – Saturday 5:00 AM to 2:00 AM

4. Capacity

During operation, patrons and staff shall not exceed the maximum capacity determined by a City building official.

5. Outdoor Dining

A request may be made to permit outdoor dining upon increasing the number of available parking spaces through the alternatives set forth in Section 11-8 of the Zoning Ordinance. If additional parking is approved by the Zoning Administrator, the Zoning Administrator may, in consultation with the Director of Community Development, issue written zoning approval provided that the proposed outdoor dining complies with applicable zoning ordinance regulations.

6. Sound

The business shall comply with Hampton City Code section 22-9 (as amended) with respect to any sound or noise.

7. Security

The business shall provide security services, consisting of in-house security, services of a contracted security firm, or extra duty police officers at a minimum of one (1) located in and monitoring the inside restaurant and bar area, and one (1) posted outside monitoring activity on the property during the hours of 10 PM until closing. Any criminal activity shall be reported to the Hampton Police Division, and security will cooperate with the Hampton Police Division in their investigation into the criminal activity. Staffing shall be sufficient to monitor and

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control patron behavior inside as well as upon exit of the building into the surrounding area.

8. Licensing and Compliance with all Laws

The business must maintain a valid license from the Virginia Department of Alcoholic Beverage Control (VABC) and comply with all restrictions or requirements imposed by VABC. In addition, this Use Permit may be terminated for any violation of federal, state, or local law.

9. Dancing

The business shall comply with Hampton City Code section 4-16 (as amended) with respect to dancing on the premises and dance floor area.

10. Third Party Promoters

Neither the facility nor any portion of it shall be leased, let, or used by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event at the facility.

11. ABC Licensee Expiration

The Use Permit will automatically expire upon a change of ownership of the property, a change in possession, a change in the operation or management of a facility, or the passage of three (3) months without an active retail alcoholic beverage control license.

12. Revocation

Notwithstanding any condition or provision of this use permit to the contrary, the use permit may be revoked for violation of any terms or conditions of the use permit as set forth in chapter 14 of the Hampton Zoning Ordinance (as amended).

13. Nullification

The Use Permit shall automatically expire and become null and void under any of the following conditions:

- (1) If, in the case of new construction, the building has not been erected, with doors, windows, roof covering and exterior finish materials in place within two (2) years of the issuance of the use permit;
- (2) No building permit to construct the authorized improvements has been issued within twelve (12) months of the date of approval by the city council, or if no building permit is required, if the use is not established within twelve (12) months of the date of approval by the city council; or
- (3) Once the property may be occupied, if the property is not used for the permitted purpose for a continuous two-year period unless otherwise

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specified in the zoning ordinance. In making this determination the city may consider such matters as the issuance of a building permit, a business license, utility connections and such related factors.

