

# APPLICANT PROPOSED CONDITIONS

Use Permit Application No. 26-0039

Restaurant 3 | Southern Comfort Restaurant & Lounge, LLC  
2163 & 2165 Cunningham Dr (Portion of LRSN: 7001532)

## 1. Issuance of Permit

This Use Permit is being granted to Southern Comfort Restaurant & Lounge, LLC ("Permitholder") for a Restaurant 3 ("Restaurant"), as that use is defined in the Hampton Zoning Ordinance, and shall apply only to the location at 2163 and 2165 Cunningham Dr [Portion of LRSN: 7001532] ("Location") as identified on **Exhibit A** attached hereto, and is not transferable to another location. Any expansion beyond the designated area will require an amended Use Permit.

## 2. Hours of Operation

The Restaurant's hours of operation shall be limited to the following:

a) General operation

- Sunday - Thursday 11:00AM to 2:00AM
- Friday - Saturday 11:00 AM to 2:00 AM

b) Live Entertainment (as defined in the Hampton Zoning Ordinance) may not occur outside the hours of general operation stated above.

## 3. Location of Live Entertainment

Live Entertainment may only be conducted at the Location in those areas identified as "Live Entertainment Area A", "Live Entertainment B", and "Live Entertainment Area C" on the floor plan attached hereto as **Exhibit B**. The layout of tables and chairs shall be as depicted in **Exhibit B**, so that no dance floor or similar open space will be allowed except as shown on Exhibit B. 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.

## 4. Window Transparency / Privacy

No exterior or interior window treatment including but not limited to film, tint, blinds, curtains, shades, shutters, and other devices used to cover windows for privacy shall be installed that would impede visibility into the Restaurant from the outside while the Restaurant is in operation.

## 5. Certificate of Occupancy

The Restaurant must obtain an updated Certificate of Occupancy prior to engaging in the uses permitted by this Use Permit.

## 6. Capacity

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During operation, patronage and staff shall not exceed the maximum capacity as determined by the Building Official or Fire Marshal. The Restaurant shall appoint a staff member to monitor capacity and upon the request of a Hampton Police Division Officer, Hampton Fire Marshal, or Virginia ABC Special Agent, provide an accurate count of patrons in the Restaurant to such requestor. Staff shall provide any of those personnel with access to all publicly accessible areas of the Restaurant for the purposes of verifying capacity during all hours of operation.

## 7. Sound

The Restaurant shall comply with Section 22-9 of the Hampton City Code (as amended) with respect to any sound or noise.

## 8. Security

- a. The Restaurant shall provide security personnel, as further described in paragraphs 8(b) through 8(d) below, consisting of in-house security officers or security officers engaged through a private security business, to monitor and control patron behavior inside the Restaurant and upon their exit from the building into the parking lot and surrounding areas. All security personnel must be certified as security officers by the Virginia Department of Criminal Justice Services (VDCJS) pursuant to Virginia Code §§ 9.1-138 and 139. Certification of training by all security officers must be kept current and provided to the city upon request.
- b. Whenever the portion of the premises designated as "EVENT AREA" on the attached Exhibit B is closed to the public and a physical barrier prohibits entry to the EVENT AREA by patrons from outside or elsewhere on the premises, Restaurant and Lounge shall maintain no fewer than three (3) security officers to monitor and control patron behavior in the interior of and at the points of ingress/egress to the Restaurant and Lounge, and no fewer than two (2) officers to patrol the parking lot and monitor and control behavior, from 10:30 p.m. until 30 minutes after closing each night. Any physical barrier required by this section shall comply applicable law, including (without limitation) the Uniform Statewide Fire Prevention Code, and any orders of the City Fire Marshal.
- c. Whenever patrons are permitted in the EVENT AREA or no physical barrier prohibits patron entry into the EVENT AREA, Restaurant shall maintain no fewer than two (2) security officers to monitor and control patron behavior in the interior of and at the points of ingress/egress to the event space, and no fewer than two (2) officers to patrol the parking lot and monitor

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and control patron behavior, from 10:30 p.m. until 30 minutes after closing each night. At any time when both the lounge area and the EVENT AREA are in use by patrons, the security requirements contained both in conditions 8(b) and 8(c) hereof shall apply, except that a minimum of only two (2) security officers are required to patrol the parking lot in all cases.

- d. In addition to the contracted or in-house security required by conditions 8(b) and 8(c) above, the Restaurant shall contract (2) extra duty police officers from the Hampton Police Division to serve from 10:30 pm until 30 minutes after closing on any night when the Restaurant is open past 12:00 am.
- e. Restaurant and its security personnel shall take all reasonable measures to prevent an act of violence from occurring on the premises of the Restaurant, the parking areas for the Restaurant, or on any portion of public property immediately adjacent to the Restaurant premises and parking areas.
- f. Restaurant shall notify the City of Hampton, Chief of Police or their designee in writing not less than seven (7) calendar days before any use of the EVENT AREA by patrons. The presence of any patrons in the EVENT AREA without such advance notice will constitute a violation of this Use Permit.

## 9. Dancing

Restaurant may allow patrons to dance on that area indicated on Exhibit B as "DANCE FLOOR," which shall not exceed ten (10) percent of the total floor area of the Restaurant.

## 10. Third Party Promoters

Neither the Restaurant 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, advertise for, or host any event at the Restaurant.

## 11. Criminal investigations

- a. Any criminal activity observed by Restaurant staff or security personnel shall be reported to the Hampton Police Division, and Restaurant staff and security personnel shall cooperate with the Hampton Police Division in their investigation into the criminal activity.
- b. The Restaurant shall maintain video surveillance in all publicly accessible areas of the Restaurant and store that footage for a period of (7) days.

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- c. The Restaurant shall install and maintain (2) external cameras for the purpose of monitoring the entryways of the Restaurant and provide continuous access to these cameras to The Hampton Police Division's Real Time Information Center (RTIC). The external cameras must be maintained and positioned to effectively monitor a radius of 150 feet from all public entrances, including those areas identified as "Surveillance Camera 1" and "Surveillance Camera 2" on the floor plan attached hereto as Exhibit B. The Restaurant shall utilize an ID scanner for the purposes of verifying the age of all patrons who enter the Restaurant from 8:00 p.m. until closing, and will maintain storage of identifying information collected by the ID scanner for a minimum period of 7 days.

## 12. Licensing and Compliance with Laws

- a. Permitholder shall obtain and maintain all applicable licenses and permits to operate the Restaurant authorized by this Use Permit prior to engaging in any such business, including, but not limited to, any license that may be required by the Virginia Department of Alcoholic Beverage Control (VABC). Permitholder shall comply with all restrictions or requirements imposed by VABC and any other licensing or permitting authority.
- b. If Permitholder is a legal entity other than a natural person, including, but not limited to a limited liability company or corporation, Permitholder shall be authorized by the State Corporation Commission to transact business in Virginia as a domestic or foreign business entity and shall provide proof of registration and good standing to the Zoning Administrator, upon request. Permitholder shall not allow its existence to lapse or its certificate of authority or registration to transact business in Virginia to be suspended, revoked, deactivated, or cancelled at any time while this Use Permit is in effect.
- c. The VABC license and business license for the Restaurant must be obtained and maintained in Permitholder's name.
- d. Permitholder shall comply with all applicable local, state and federal laws, regulations, and license requirements and conditions pertaining to operation of the Restaurant and to use, occupancy and maintenance of the Location, including but not limited to payment of all applicable taxes.

## 13. Revocation

In accordance with Section 14-11 of the Hampton Zoning Ordinance (as amended), the Use Permit may be revoked for violation of any terms or conditions of the Use Permit.

## 14. Nullification

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

- (1) No building permit to construct the authorized improvements has been issued within twelve (12) months of the date of approval of this Use Permit 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
- (2) Once the property may be occupied, if the property is not used for the permitted purpose for a continuous two-year period unless otherwise specified in the zoning ordinance.
- (3) A change in possession of the Location, a change in the operation or management of the Restaurant, or the passage of three (3) months without an active retail alcoholic beverage control license.

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## EXHIBIT A



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## EXHIBIT B

