

# ORDINANCE

No. 24-014

1<sup>st</sup> Reading APR 18 2024

Date to Mayor MAY 14 2024

Public Hearing MAY 6 2024

Date Returned \_\_\_\_\_

2<sup>nd</sup> Reading & Passage MAY 09 2024

Date Resubmitted to Council \_\_\_\_\_

Withdrawn Lost

Approved as to Form and Legality

Factual content certified by

WESLEY BRIDGES, ESQ., CITY ATTORNEY

ADAM CRUZ, BUSINESS ADMINISTRATOR

*Christina*  
Councilman /woman

*Scott Edwards, James Figueroa, Kelly...*  
presents the following Ordinance:

## AN ORDINANCE OF THE CITY OF TRENTON AMENDING CHAPTER 10, "ALCOHOLIC BEVERAGES," SECTION 10-5, "RESTRICTIONS," OF THE CODE OF THE CITY OF TRENTON TO PERMIT A WAIVER OF DISTANCE RESTRICTIONS UNDER CERTAIN CIRCUMSTANCES

WHEREAS, Chapter 10 of the Code of the City of Trenton, entitled "Alcoholic Beverages," Article I, entitled "Licensing; Regulation of Establishments," sets forth the licensing regulations and restrictions applicable to liquor establishments in the City; and

WHEREAS, Section 10-5(H)(2) of the Code of the City of Trenton prohibits new plenary retail consumption or plenary retail distribution licenses from being issued where the proposed location is "within 1,000 feet of another premises holding either of said licenses, said distance being measured in the normal way that a pedestrian would probably walk from the nearest entrance from one premises to the other, except that this restriction shall not apply within a portion of the Roebling Entertainment District as defined in § 10-5D"; and

WHEREAS, the Code of the City of Trenton does not currently permit a waiver of the above-mentioned location restriction; and

WHEREAS, there are certain situations in which a waiver of this location restriction would be warranted and beneficial to the City, particularly in instances where the proposed location previously was the site of a licensed liquor establishment; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Trenton as follows:

Section 1. Chapter 10, "Alcoholic Beverages," Article I, "Licensing; Regulation of Establishments," Section 10-5, "Restrictions," of the Code of the City of Trenton shall be amended as follows (additions are **emboldened and underlined** and deletions are struck through):

### § 10-5 Restrictions.

#### A. Hours.

(1) Excluded hours of sale. No alcoholic beverages shall be sold, served, delivered or consumed, nor shall any licensee suffer or permit the sale, service, delivery or consumption of, any alcoholic beverage, directly or indirectly, upon the licensed premises between the following hours, prevailing time, unless otherwise exempted:

(a) Monday through Saturday: 2:00 a.m. and 9:00 a.m.

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(b) Sundays: 2:00 a.m. and 12:00 noon.

(c) "Sunday Brunch" exemption. Any plenary retail consumption licensee may permit any person, patron, or customer to consume alcoholic beverages upon the licensed premises and remain upon the licensed premises during "Sunday Brunch" hours, defined as 9:00 a.m. through 12:00 noon on Sundays. Such establishments may sell, serve, and deliver alcohol to be consumed on the premises, provided that those establishments meet the definition of a "restaurant" as defined in § 10-1 as "a business establishment which is devoted to the serving of food and in which the selling and serving of alcoholic beverages for consumption by the public, guests or patrons is only incidental to the sale or consumption of food products."

(2) Closing of premises. No licensee shall permit any person, patron or customer to consume any alcoholic beverages upon the licensed premises during the hours when the sale, delivery, service or consumption of alcoholic beverages is forbidden, and said premises must remain closed and locked to all persons except for employees who clean or perform other necessary work in and about the premises during such prohibited hours, and no person other than such employees shall be permitted to remain on the premises. Exemptions to the restriction for allowance of any person, patron or customer in licensed premises are restaurants and public dining rooms in hotels and premises operated by club licenses or other licensees who could qualify for club licenses.

(3) New Year's Day exception.

(a) Any plenary retail consumption licensee may permit any person, patron or customer to consume alcoholic beverages upon the licensed premises and remain upon the licensed premises until 4:00 a.m. on New Year's Day, provided they have first registered their intent to extend their hours with the office of the City Clerk, prior to December 15 and having provided an executed contract with a certified security agency for the provision of no less than one armed security guard, to be stationed on the exterior of the licensed premises and one additional security guard on the interior of the licensed premises, for every 45 people or part thereof, allowed to legally occupy that location, between the hours of 12:00 midnight and 4:00 a.m. (i.e., if the occupancy limit is 150 people, you will be required to have four security guards).

(b) Any licensee who either by conviction or by settlement agreement, of an ABC violation, has a current and active special condition levied onto their license will remain subject to the terms and conditions outlined in the special condition and will not be permitted an exemption if it is in conflict with those terms (i.e., if the special condition requires you to close at 12:00 midnight, you must continue to close at 12:00 midnight on New Year's Eve).

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(c) Any licensee who, either by conviction or by settlement agreement, has had a finding of "guilty" as to any ABC violation within the past two years shall be ineligible for the New Year's Eve exception under this section.

(d) Any person or entity who violates any provision of this section, upon conviction, shall pay a fine of not less than \$750 nor more than \$2,000 [Trenton City Code], plus costs of prosecution per violation. This shall include the business owner, person in charge, individual operator, manager, or patron as appropriate.

(e) Enforcement shall be by the Trenton Police Department, Trenton ABC Officer or the Trenton Code Enforcement Officer or their respective designee.

B. License limits. No person shall acquire a beneficial interest in more than two alcoholic beverage retail licenses. Nothing herein shall require any person who had an effective interest in two licenses on or before August 3, 1962, to surrender, dispose of or release his/her interest in any license. The provisions of this subsection shall not apply in the case of a hotel containing at least 50 sleeping rooms, or for use in connection with the operation of a restaurant, nor shall the provisions of this subsection affect the right of any person to dispose of an interest in a license by will or to transfer the same by dissent and distribution, provided that a license acquired for use in connection with a restaurant pursuant to the above exception shall be limited to the sale of alcoholic beverages for consumption on the licensed premises.

## C. District regulations.

(1) Restaurant District (B Zone). Nothing contained in Subsection B above shall prevent an otherwise valid place-to-place transfer to occur to a location which is at least 400 feet from another premises holding a sale or consumption license if said premises is suitable for dining facilities and used as a restaurant with more than 50 seats or a banquet hall with a seating capacity of more than 150 people and is located in a Business B Zone. The playing of live music or the use of a DJ shall be restricted to the hire for catered events and shall not include concerts or events that require cover charges or ticket sales.

D. Building specifications. All establishments must provide for an unobstructed clear window, door, or other viable view point into the establishment from the street, except for those establishments within a portion of the district known as the "Roebing Entertainment District," which shall be known as the "Wire Rope District" and is defined as Block 15704, Lot 1, Block 15704, Lot 1.01, Block 15704, Lot 1.02, Block 15704, Lot 1.03, Block 15704, Lot 1.04, Block 15704, Lot 1.05, Block 15704, Lot 1.06, Block 15704, Lot 1.07, Block 15704, Lot 1.08, Block, 15901, Lot 1, Block 15901, Lot 2, Block 15901, Lot 3, Block 15901, Lot 4, Block 16001, Lot 1, Block 16001, Lot 10, Block 16001, Lot 12, Block, 16001, Lot 13, Block 16001, Lot 2, Block 16001, Lot 3, Block 16001, Lot 4, Block 16001, Lot 5, Block, 16001, Lot 6, Block 16001, Lot 6.01, Block 16001, Lot 6.02, Block 16001, Lot 6.03, Block 16001, Lot 7, Block 16001, Lot 8, Block 16001, Lot 9 and set forth on the attached map.<sup>11</sup> Such window, door, or view point shall be no less than 216 square inches (or 12 inches by 18 inches) at a height of between four feet to six feet from the floor level of the premises, so as not to prevent an examination of the interior from the entrance by a police officer, inspector, or other public official. The view must not be obstructed by goods, blinds, shade, advertisement or any other signage. Establishments that do not

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structurally comply with this code as of June 30, 2016, shall be given an additional one-year period to meet the standard. No establishment shall be given a "grandfathered" exemption for compliance with this section at the conclusion of the June 30, 2016, to June 30, 2017, amortization period.

E. Adult entertainment. No establishment may provide entertainment, live or recorded, that involves lewd or immoral activity as defined under "adult entertainment" in § 10-1 herein.

F. Distilling apparatus. No person shall have in his/her possession or custody or under his/her control any still or distilling apparatus set up, dismantled or in the process of construction, or parts thereof, without having registered the same in accordance with the provisions of the Alcoholic Beverage Control Act.

G. Signage. No establishment shall post or allow a third party to post advertisement of special events, happy hour, live shows or any such activity that is to occur at the establishment on any public street, building (other than their own), pole or billboard.

H. Location. No new plenary retail consumption or plenary retail distribution license shall be hereafter issued, nor shall a place-to-place transfer of a license be granted, to any person, corporation or group of persons, under the following circumstances:

(1) For the sale or consumption of alcoholic beverages within 200 feet of any church or public school or private school not conducted for pecuniary profit, said distance being measured in the normal way that a pedestrian would properly walk from the nearest entrance of said church or school to the nearest entrance of the premises sought to be licensed, and in accordance with N.J.S.A. 33:1-76; provided, however, that the foregoing provision shall not prevent the future renewal or person-to-person transfer of any plenary retail distribution license that is in existence at the time of adoption of this section.

(2) For the sale or consumption of alcoholic beverages within 1,000 feet of another premises holding either of said licenses, said distance being measured in the normal way that a pedestrian would probably walk from the nearest entrance from one premises to the other, except that this restriction shall not apply within a portion of the Roebling Entertainment District as defined in § 10-5D. **Notwithstanding the foregoing, the local ABC Board may approve an application for a new license or place-to-place transfer for a licensed premises within 1,000 feet of another premises holding either of said licenses, upon adoption of a resolution by the City Council, finding that the proposed premises had previously been licensed for the sale of alcoholic beverages, and good cause exists to waive the distance requirement.**

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**Section 2. Repealer.** Any article, section, paragraph, subsection, clause, or other provision of the Code of the City of Trenton inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

**Section 3. Severability.** If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

**Section 4. Effective date.** This ordinance shall take effect upon its passage and publication and as otherwise provided for by law.

INTRODUCTION:	MOTION: <i>Feliciano</i>				SECOND: <i>Figueroa/Kettenburg</i>				ORD. AUTHORED BY:	ADOPTION				MOTION: <i>Williams</i>				SECOND: <i>Frisby</i>								
	INTRODUCTION				ADOPTION					INTRODUCTION				ADOPTION				INTRODUCTION				ADOPTION				
	AYE	NAY	NV	AB	AYE	NAY	NV	AB		AYE	NAY	NV	AB	AYE	NAY	NV	AB	AYE	NAY	NV	AB	AYE	NAY	NV	AB	
EDWARDS	✓				✓				GONZALEZ	✓				✓				FELICIANO	✓				✓			
FIGUEROA KETTENBURG	✓				✓				HARRISON	✓				✓												
FRISBY	✓				✓				WILLIAMS	✓				✓												

NV - NO VOTE      AB - ABSENT

Adopted on first reading at a meeting of the City Council of the City of Trenton, NJ on APR 18 2024

Adopted on second reading after the public hearing on MAY 09 2024

*[Signature]*  
 Mayor  
*[Signature]*  
 President of Council

APPROVED  
 REJECTED

Reconsidered by Council - Override Vote \_\_\_\_\_  
 \_\_\_\_\_  
 City Clerk