

**ORDINANCE NO. 2023-27**

**AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA,  
AMENDING CHAPTER 4 OF THE CODE OF THE CITY OF ST.  
AUGUSTINE; AMENDING SECTION 4-1 PROVIDING DEFINITIONS;  
AMENDING SECTION 4-3 PROVIDING FOR RESTRICTED HOURS OF  
SALE AND OPERATION; PROVIDING FOR EXTENDED HOURS OF  
OPERATION PERMITS; ESTABLISHING PERMIT REQUIREMENTS;  
ESTABLISHING VIOLATIONS; PROVIDING FOR HEARINGS;  
PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES;  
PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND  
PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, § 166.041, Florida Statutes, provides for procedures for the adoption of ordinances and resolutions by municipalities; and

**WHEREAS**, the City has received a number of complaints concerning certain alcohol beverage establishments operating after midnight and the impact that they have on the public health and safety of city residents; and

**WHEREAS**, the City of St. Augustine adopted a Strategic Plan Initiative, September 2020, to initiate planning to preserve a safe, healthy, vibrant, and balanced historic downtown character; and

**WHEREAS**, the City of St. Augustine benchmarked comparable municipalities policies, procedures and sought the input of the Responsible Hospitality Institute on the proper oversight required to maintain a livable, vibrant, and sociable city; and

**WHEREAS**, the City of St. Augustine has engaged in multiple meetings with affected stakeholders and residents of the city; and

**WHEREAS**, the City of St. Augustine has experienced increased law enforcement costs as a result of the sale and consumption of alcoholic beverages by individuals who consume to the point of intoxication, and particularly after 12:00 a.m.; and

**WHEREAS**, the City's law enforcement personnel must respond to a greater number of calls for service directly resulting from the need to keep the peace after 12:00 a.m.; and

**WHEREAS**, § 562.14, Florida Statutes authorizes a municipality to regulate the hours of sale for alcoholic and intoxicating beverages at alcohol beverage establishments, including having the ability to stop the sale of alcoholic beverages entirely during certain times; and

**WHEREAS**, the City of St. Augustine has experienced increased trash, public littering, and inebriated public bodily functions from late night bar patrons, increasing the burden on

public works and its ability to maintain the cleanliness of public streets, sidewalks, and rights-of-way; and

**WHEREAS**, the City Commission for the City of St. Augustine heard testimony and received and reviewed data and analysis in the public record regarding negative secondary impacts of activities related to late night alcoholic beverage establishments at its special workshop meeting on August 21, 2023 and incorporates those documents and testimony by reference; and

**WHEREAS**, the City Commission heard testimony of operators and staff of alcohol beverage establishments at its September 11, 2023 first reading that confirmed that the requirements in the ordinance for training and security were essentially already either requirements of other agencies or best industry practice; and

**WHEREAS**, the City Commission heard testimony of operators and staff of alcohol beverage establishments throughout its public outreach and comment sessions, and finds that maintaining the ability of alcohol beverage establishments to continue serving alcohol after midnight is a substantial economic benefit to the nightlife industry of the City, and finds that providing a safe and comfortable environment for patrons of alcohol beverage establishments in the City through strategies such as the “Nightlife Manager” along with afterhours support services provided by police, first responders, sanitation and other municipal employees is an important benefit to the nighttime economy, and finds that reasonable regulations that address the negative secondary impacts to the community while requiring minimal permitting and compliance costs to those businesses choosing to serve alcohol after midnight is not arbitrary and is a reasonable exercise of legislative authority and bears a substantial relation to public health, safety, and welfare; and

**WHEREAS**, City staff estimates that the cost of permitting and compliance will be shared between the City general government and the permit applicants and will be no greater than the cost of administering the program; and

**WHEREAS**, the City Commission for the City of St. Augustine finds that the proposed permitting and compliance regulations are consistent with other Florida local government regulatory programs regarding alcoholic beverage establishments and existing state or municipal code requirements, as well as, recommendations from the Responsible Hospitality Institute, and industry standards and best practices, and are rationally related and proportionate to the proposed regulation; and

**WHEREAS**, § 162.21(8), Florida Statutes and Section 2-316 of the municipal code

provide that the City of St. Augustine may enforce its codes by any means legally available to it; and

**WHEREAS**, the City Commission for the City of St. Augustine finds it is in the best interest of the residents, visitors, and business community of the City to encourage responsible alcohol beverage establishments by providing for regulation of alcohol beverage establishments after 12:00 a.m.; and

**WHEREAS**, the City Commission for the City of St. Augustine finds that an Extended Hours of Operation Permit and regulations related thereto are the exercise of its police power and legislative function to regulate the hours of operations for alcohol beverage establishments; and

**WHEREAS**, the City Commission for the City of St. Augustine finds that it is in the best interest of public health, safety, and general welfare that the following amendments be adopted consistent with the requirements of § 166.021(4), Florida Statutes.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION FOR THE CITY OF ST. AUGUSTINE, FLORIDA, AS FOLLOWS:**

Section 1. Amendment to Chapter 4, Section 4-1. Chapter 4, Section 4-1 of the Code of the City of St. Augustine is hereby amended, as follows:

**Sec. 4-1. - Definitions.**

- (1) *Alcoholic Beverage* for purposes of this section shall mean distilled spirits and all beverages containing one-half of one percent or more alcohol by volume or as provided in F.S. § 561.01, as amended. For the purposes of this chapter, the definition of Alcoholic Beverage includes beer, wine, cider, distilled or fermented spirits, or liquor as that term is commonly used.
- (2) *Alcoholic Beverage Establishment* shall mean any place of business, and its owners, located in the city which allows for Alcoholic Beverages to be sold for consumption on the premises to the general public. This does not include any areas within a business not open to the general public for alcoholic beverage service, nor for caterer licensing for private receptions, or sales or consumption of alcohol in a room at a public lodging establishment.
- (3) *Curfew* shall mean a regulation requiring people to generally remain indoors between specified hours, typically at night. Curfews may be issued during public health or weather emergencies, crises, or civil unrest by a competent authority.
- (4) *Establishment* shall have the same meaning as Alcoholic Beverage Establishment.
- (5) *Extended Hours of Operation Permit* shall mean a permit issued by the City of St. Augustine that allows an Alcoholic Beverage Establishment to operate and sell Alcoholic Beverages for purposes of consumption on the premises between the hours of 12:00 a.m. and 2:00 a.m.

- (6) *Last Call* shall mean the time when customers in an Alcoholic Beverage Establishment are told that they may order only one more Alcoholic Beverage before the Establishment closes.
- (7) *Mandatory Evacuation* shall mean a situation where emergency management officials put maximum emphasis on encouraging evacuation and limiting ingress to potentially affected areas.
- (8) *Mandatory Evacuation Zone* shall mean an area that may be inundated by an abnormal rise of water pushed onto shore by a hurricane or storm event or other natural or manmade disaster.
- (9) *Restaurant* shall mean any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared before being delivered to another location for consumption as defined in F.S. § 509.013(5)(a), as amended. For the purposes of this chapter, the definition of a restaurant shall include any business with a special food service establishment license issued by the Division of Alcohol and Tobacco of the Florida Department of Business and Professional Regulation.
- (10) *Sale and Sell* shall mean and include not only selling but also consuming, serving, and/or permitting to be served or consumed, any alcoholic beverages, except for Last Call procedures that are limited to consumption of alcoholic beverages on site.
- (11) *Special Magistrate* shall mean a person designated as the Special Magistrate by the City Commission under the authority of section 2-340 of this Code. In the event that a Special Magistrate is unavailable or has a conflict in a particular case, the city may elect to prosecute a violation utilizing all available legal avenues.
- (12) *Transfer of Ownership* shall mean a transfer of a license, change of officers or directors, or transfer of interest as defined and regulated under the provisions F.S. § 561.32, as amended.

Section 2. Amendment to Chapter 4, Section 4-3. Chapter 4, Section 4-3 of the Code of the City of St. Augustine is hereby amended, as follows:

**Sec. 4-3 – Hours of sale.**

- (a) *Applicability.* The provisions of this section shall apply to any place of business holding a license allowing for consumption on premises of Alcoholic Beverages under the Division of Alcoholic Beverages and Tobacco of the Florida Department of Business and Professional Regulation within the corporate limits of the city.
- (b) *Restricted hours of sale and operation.* Except as provided in section 4-3(c), no Alcoholic Beverage Establishment licensed under the state alcoholic beverage laws to sell Alcoholic Beverages, shall Sell or offer for Sale, or serve or offer to serve, any Alcoholic Beverages of any kind, regardless of alcoholic content, or be open for operation, on any day of the week between the hours of 12:00 a.m. and 7:00 a.m.

(1) *Last Call procedures:* All Establishments that sell or serve Alcoholic Beverages will have a "Last Call" for the sale of alcohol, but there will no further Sale of Alcoholic Beverages one-half hour prior to the applicable closing time of the

Establishment, whether the closing time is set by city code, by a use by exception permit granted by the Planning and Zoning Board, or an Extended Hours of Operation Permit. All Alcoholic Beverage Establishments shall have a Last Call policy for the final consumption of Alcoholic Beverages and patron egress. At the time of Last Call, only one Alcoholic Beverage per person may be purchased.

- (2) Staff: All Alcoholic Beverage Establishments shall prohibit staff drinking or shift drinking of Alcoholic Beverages by servers and bartenders while they are on duty. Bartenders may taste alcoholic beverages as part of the preparation of a customer's cocktail or mixed drink, or in order to describe the attributes of the alcoholic beverage as part of a tasting, consistent with the industry practice.
- (3) Alcoholic Beverage Establishments whose hours are restricted by a use by exception permit granted by the Planning and Zoning Board are not eligible for an extended hours permit, to the extent that the extended hours period conflicts with the use by exception-limited hours and must adhere to the conditions established by the use by exception permit.
- (4) Alcoholic Beverage Establishments residing within a Mandatory Evacuation Zone shall cease the sale of Alcoholic Beverages during the duration of any Mandatory Evacuation issued by any local, state, or federal authority until such time as the order is lifted.
- (5) All Alcoholic Beverage Establishments shall abide by Curfew hours, as ordered by a local, state, or federal official that is legally authorized to establish a Curfew.
- (6) Sound: All Alcoholic Beverage Establishments shall remain compliant with noise control ordinances as published in Chapter 11, Article IV of the Code.

(c) Extended Hours of Operation Permit is required for Alcoholic Beverage Establishments to sell Alcoholic Beverages between the hours of 12:00 a.m. and 2:00 a.m.

- (1) Permit required. Any Alcoholic Beverage Establishment licensed under the state alcoholic beverage laws to sell, offer for sale, or deliver Alcoholic Beverages, for purposes of consumption on the premises desiring to remain open to sell, offer for sale, or deliver Alcoholic Beverages for the purpose of consumption on the premises between the hours of 12:00 a.m. and 2:00 a.m., but in any case no later than 2:00 a.m., on any day of the week, shall make application with the Planning and Building Department for an Extended Hours of Operation Permit. An Alcoholic Beverage Establishment may request from the City Manager or designee, a temporary use approval for no more than four times per calendar year with each temporary use approval limited to one day only, without obtaining an extended hours of operation permit, and be otherwise consistent with section 28-351.
- (2) The Alcoholic Beverage Establishment shall complete an application form provided by the city, including, but not limited to, the name and street address where notices related to this section are to be mailed. An annual fee, initially set at one hundred thirty-nine dollars and sixty-three cents per permit, payable upon issuance, shall be charged for the permit. The City Commission may set the permit fee annually by resolution or during the adoption of the municipal budget. The permit fee shall be rationally related and proportionate to the costs of administering this regulation. The application form shall include, but not be

limited to, the following information.

- a. Name and street address of the owner of the Alcoholic Beverage Establishment.
- b. Valid business tax receipt for the Alcoholic Beverage Establishment.
- c. Verification of compliance by the Alcoholic Beverage Establishment with city zoning regulations.
- d. Specific type of state alcoholic beverage license held by the Alcoholic Beverage Establishment.
- e. If the Establishment holds a state alcoholic beverage license other than a 4-COP Quota License, or its equivalent, the Establishment shall submit a copy of the proposed seating diagram, to include any proposed dining area.

(3) The city manager or designee shall review the application and, if the application is complete, and the Alcoholic Beverage Establishment is in compliance with the Code of Ordinances, a permit shall be issued allowing the Alcoholic Beverage Establishment to sell Alcoholic Beverages, as restricted by the alcoholic beverage establishment's state beverage license, for purposes of consumption on the premises, between the hours of 12:00 a.m. and 2:00 a.m. on every day of the week.

(4) Extended Hours of Operation Permit requirements. In addition to the permit application the following requirements must be shown by the Alcohol Beverage Establishment.

- a. Responsible Beverage Service Program: All permit applicants will provide proof that at least one member of staff working on every shift has completed a Responsible Beverage Service Training Program within the previous 12 months. Programs provided through other regulatory agencies or commercial providers that substantially cover the same core training material will be accepted for purposes of this requirement. All permit applicants must provide a certification of completion at the time of application/renewal and within 5 business days of a request to provide the certification by the City. The standards and curriculum of alcohol server education courses reflect industry best practices and shall include but not be limited to the following:
  1. Alcohol as a drug and its effects on the body and behavior, especially driving ability.
  2. Effects of alcohol in combination with commonly used legal, prescription or nonprescription, drugs and illegal drugs.
  3. Recognizing the problem drinker and community treatment programs and agencies.
  4. State alcohol beverage laws such as prohibition of sale to minors and sale to intoxicated persons, sale for on-premises or off-premises consumption, hours of operation and penalties for violation of the laws.
  5. Drunk driving laws and liquor liability statutes.
  6. Intervention with the problem customer including ways to cut off service, ways to deal with the belligerent customer and alternative means of transportation to get the customer safely home.
  7. Advertising and marketing for safe and responsible drinking patterns

and standard operating procedures for dealing with customers.

- b. Security: All Alcoholic Beverage Establishments shall provide reasonable security coverage to public places where alcohol will be served or consumed in relation to the anticipated number of patrons, physical space and layout of the premises, areas dedicated to seating, dancing, or standing room only, type of entertainment (concert, special event, promotional event), and any other relevant factor that a prudent Alcoholic Beverage Establishment should reasonably consider in order to maintain a safe and orderly environment. Security coverage can be met by the human element of security staff on the premises each shift, or the presence of continuously operational security cameras, or any combination of both.
- c. Last Call Procedures: All Alcoholic Beverage Establishments with an Extended Hours of Operation Permit will have Last Call at 1:30 a.m. for the sale of Alcoholic Beverages. The period between 1:30 a.m. and 2:00 a.m. will be for the final consumption of Alcoholic Beverages only.
- d. Daylight Savings Time: All Extended Hours of Operation Permit holders shall cease the sale of Alcoholic Beverages at 2:00 a.m. and shall not operate during the additional hour due to the cessation of Daylight Savings Time.
- e. Crowd Management: All Alcoholic Beverage Establishments shall maintain a Crowd Manager on site when assembly occupant loads exceed 50, and when occupant loads exceed 250, additional crowd managers are required at a ratio of 1 for every 250 occupants thereafter, consistent with Florida law (NFPA 1-20.1.5.6), as may be amended from time to time.
- f. Compliance with Fire Prevention Code and Life Safety Code: All Alcoholic Beverage Establishments shall comply with the requirements for fire prevention and life safety per Section 8-501 and Section 8-502, and Chapter 12, Fire Prevention and Protection, of the municipal code. Proof of compliance with the City's Fire Inspection Program must be included with the application for, and any renewal to, an Extended Hours of Operation Permit and maintained on the premises of the Alcoholic Beverage Establishment and presented upon request to the City Fire Marshal or his or her designee.

(5) Such permit shall be renewed with the city annually, corresponding with the renewal of the establishment's Business Tax Receipt renewal, unless any of the following occur:

- a. The permit is under suspension at the time of renewal.
- b. The Alcoholic Beverage Establishment's state beverage license has been revoked or suspended; or
- c. A Transfer of Ownership or a change in location of the establishment has occurred, and this information was not provided to the city through a new permit as described in subsection (6) below.

(6) The city shall be notified immediately, and the Alcoholic Beverage Establishment shall apply for a new permit if a Transfer of Ownership or a change in location of the Establishment has occurred. Until such time as the Alcoholic Beverage Establishment makes application, is approved, and receives a new permit, the privilege of extended hours for the sale of Alcoholic Beverages shall be suspended. Failure to renew the Extended Hours of

Operation Permit on or before the 30<sup>th</sup> day of September of each year, or to pay the annual fee as set by resolution of the city commission, shall be cause for the immediate suspension of extended hours privileges pursuant to section 4-3(d), including any penalties described therein.

- (7) No Alcoholic Beverage Establishment is authorized to sell or serve Alcoholic Beverages for purposes of consumption on the premises after 12:00 a.m. unless it possesses a valid Extended Hours of Operation Permit from the city. No Alcoholic Beverage Establishment is authorized to sell or serve Alcoholic Beverages, or be open for operation, after 2:00 a.m. and before 7:00 a.m. on any day of the week.
- (8) The provisions of this section shall not impair or affect the right of an Alcoholic Beverage Establishment with a state alcoholic beverage license to remain open and Sell Alcoholic Beverages between the hours of 7:00 a.m. and 12:00 a.m.

(d) Notice of violations, hearings, and penalties. The ability of an Alcoholic Beverage Establishment to Sell, offer for Sale, deliver, or permit to be consumed upon the premises any Alcoholic Beverage Establishment between the hours of 12:00 a.m. and 2:00 a.m. on any day of the week is a permissive exercise of the police power over regulated activities within its jurisdiction conditioned on the applicant meeting all regulatory requirements, and subject to suspension or revocation of the permit for any violation of the terms of the permit or these regulations. Notice of violations will be deemed effective, and a hearing may ensue, on the tenth (10<sup>th</sup>) calendar day following notice by any of the following methods: leaving the notice of violation with an adult employee on-site of the Alcoholic Beverage Establishment, or posting the notice of violation at the location of the Alcoholic Beverage Establishment, or providing mailed notice by standard U.S. mail to the address identified in the Alcoholic Beverage Establishment's most recent application. Notice pursuant to this section will be deemed complete on the tenth (10<sup>th</sup>) calendar day following any of these methods.

- (1) Notice of Violations. A notice of violation to an Alcoholic Beverage Establishment may be issued by authorized officials of the City of St. Augustine for the following violations:
  - a. Violations of any permitting or compliance requirement found in section 4-1 or 4-3 of the code of the City of St. Augustine.
  - b. Illegal activity on the premises of the Alcoholic Beverage Establishment. Illegal activities on the premises of the Alcoholic Beverage Establishment requiring a police response to the illegal activities of the owner, employees, vendors and service providers, or patrons, of the Alcoholic Beverage Establishment, involving the use, sale, or delivery of controlled substances, allowing underage drinking, continuing to sell Alcoholic Beverages after closing time, violations of open container or drinking in public laws of the state or city ordinances, or violations of public nudity or gambling laws.
  - c. Failure to maintain the elements meeting the definition of a Restaurant which possesses a Special Food Service (SFS) license for consumption on premises state alcoholic beverage license as addressed under the provisions of section F.S. § 561.20 and 565.045, as amended.
  - d. Maintaining a public nuisance pursuant to the laws of the State of Florida.
  - e. Violations of any provisions of the City of St. Augustine Code of Ordinances;

including, but not limited to, Chapter 11, Article IV, relating to noise and sound limitations.

- f. Failure to obtain an Extended Hours of Operation Permit, or failure to renew the permit as required.
- g. Violations of state statutes and local code regarding fire prevention or life safety related to the maximum permissible occupancy at the Alcoholic Beverage Establishment location.
- h. Sales by employees during prohibited hours. No person, or any agent, servant, or employee of any person licensed under the state alcoholic beverage laws shall Sell, or offer for Sale, any Alcoholic Beverage of any kind during prohibited hours.
- i. Gifts. It is a violation of this section for any person, or any agent, servant or employee of any person licensed under the state alcoholic beverage laws, during prohibited hours as set forth in this section, to gratuitously give any kind of Alcoholic Beverage, whether conditioned upon the purchase of any kind of Alcoholic Beverage or product of any nature, at any inflated price or otherwise, or in the form of a so-called bonus predicated upon another purchase, or as a gift.

**(2) Initial violation and Successive violations.**

- a. 1<sup>st</sup> notice of violation. Except as provided, a 1<sup>st</sup> notice of violation by an Alcoholic Beverage Establishment shall result in a written notice of violation that will not require an appearance before the Special Magistrate. The Establishment must cure the violation as identified in the 1<sup>st</sup> notice of violation within ten calendar days as directed in the written notice of violation. Issuance of a written 1<sup>st</sup> notice of violation for a violation of this section shall not prevent the prosecution of a violation against the Alcoholic Beverage Establishment or any person with any other violation of state statutes or city code. The 1<sup>st</sup> notice of violation shall be issued by an authorized official of the City of St. Augustine with responsibility for enforcing this chapter or state or local law. If the 1<sup>st</sup> notice of violation is the result of a felony criminal offense being committed on the premises consistent with the prohibition on illegal activities found in this chapter, the 1<sup>st</sup> notice of violation may be presented to the Special Magistrate for a hearing and consideration of the suspension of the Extended Hours of Operation Permit.
- b. 2<sup>nd</sup> or subsequent notice of violation. Any subsequent violation of this chapter or state statutes by an Alcoholic Beverage Establishment shall result in a written 2<sup>nd</sup> or subsequent numbered notice of violation. Subsequent notices of violation shall be issued by an authorized official of the City of St. Augustine with responsibility for enforcing this chapter or state or local law. All 2<sup>nd</sup> or subsequent notices of violation will result in a hearing before the city's Special Magistrate at least ten (10) calendar days after notice is given pursuant to this Chapter. Notice of the hearing will be effectuated in the same manner as notice of violation pursuant to this chapter.
- c. Special Magistrate. All 2<sup>nd</sup> and subsequent notices of violation shall be heard at a hearing before the city's Special Magistrate for consideration of suspension or revocation of the Alcoholic Beverage Establishment's Extended Hours of Operation Permit. The Special Magistrate's jurisdiction and

authority to hear violations of this chapter shall be exercised consistent with Division 3, Article VI of the City's municipal code and Florida law. The city may also prosecute code violations in any other legally available procedure.

d. Action by the Special Magistrate. Upon completion of the hearing, the Special Magistrate shall enter an order that either no action shall be taken against the Alcoholic Beverage Establishment's Extended Hours of Operation Permit, or that the Extended Hours of Operation Permit is be suspended or revoked due to a violation of this chapter and the terms of the permit.

1. A suspension of the Extended Hours of Operation Permit for a first finding of violation by the Special Magistrate shall be for up to sixty (60) consecutive calendar days.
2. A second finding of violation of the Extended Hours of Operation Permit by the Special Magistrate within one hundred eighty (180) days of issuance of the first notice of violation regardless of whether the first notice of violation was heard by the Special Magistrate and regardless of findings shall be suspended for no less than thirty (30) days but no more than (90) consecutive calendar days.
3. A third and any subsequent finding of violations occurring within one-year (365 days) of the date of completion of the most recent suspension period shall result in revocation of the Extended Hours of Operation Permit for the remainder of the permit's duration.
4. In addition to any suspension or revocation of the Extended Hours of Operation Permit, the City may take any other legally available action in response to a violation of its codes.

The Special Magistrate shall base their determination of a violation upon competent, substantial evidence presented at the hearing. The Alcoholic Beverage Establishment owner may be represented by counsel, or by its agents, at the hearing and may present relevant evidence and testimony. The strict rules of evidence will not be required however, due process will be afforded to the Alcoholic Beverage Establishment's owners. The Special Magistrate may hear from other witnesses and experts. Factors considered by the Special Magistrate in determining the length of a suspension or the revocation of the permit may include the relative impact on public health, safety, morals, and welfare of the public caused by the violations, the repetitive nature of violations at the same location, any evidence of good faith attempts at compliance, and any efforts and remediation or mitigation of the negative impacts of the violation. The Special Magistrate's written order of suspension or revocation of the Extended Hours of Operation Permit shall state the effective date of suspension and shall give the Alcoholic Beverage Establishment at least (10) ten calendar days' notice of the suspension. A party may appeal an order of the Special Magistrate to the Circuit Court consistent with the rules of appellate procedure.

(e) Failure of alleged violator to appear. If an Alcoholic Beverage Establishment served with a notice of violation fails to appear at the hearing after having received notice pursuant to this chapter, the Special Magistrate shall take testimony from city staff, and other relevant testimony, as available, and shall enter an order either that no action shall be taken against the Alcoholic Beverage Establishment's Extended Hours of Operation Permit, or that the Extended Hours of Operation

Permit shall be suspended for a period of time as set forth in this chapter, or revoked consistent with this chapter. An order that the Extended Hours of Operation Permit be suspended or revoked shall take effect on the eleventh calendar day after the order is issued and mailed by standard U.S. mail to the Alcoholic Beverage Establishment.

- (f) *Suspension.* Any Alcoholic Beverage Establishment that has had an Extended Hours of Operation Permit suspended cannot avoid the consequences of the Special Magistrate's action by changing its business name or corporate status, as set forth in section 561.32, Florida Statutes.
- (g) *Enforcement procedures.* The enforcement procedures contained herein are alternative procedures, and the city reserves the right to arrest, prosecute, or take action utilizing alternative procedures authorized by law.

Section 3. Inclusion in Code. The City Commission intends that the provisions of this Ordinance shall become and shall be made part of the Code of the City of St. Augustine, that the sections of this Ordinance may be re-numbered or re-lettered and that the word ordinance may be changed to section, article or other such appropriate word or phrase in order to accomplish such intentions.

Section 4. Conflict with Other Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5. Severance of Invalid Provisions. In the event that any section, subsection, sentence, clause, phrase, word, term or provision of this Ordinance shall be held by a court of competent jurisdiction to be partially or wholly invalid, unconstitutional or unenforceable or involved for any reason whatsoever, any such invalidity, unconstitutionality, illegality, or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences, or sections of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid, unconstitutional, illegal, or unenforceable section, subsection, sentence, clause, phrase, word, term or provision did not exist.

Section 6. Effective Date. This Ordinance shall become effective immediately upon passage, pursuant to § 166.041(5), Florida Statutes.

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**PASSED** by the City Commission of the City of St. Augustine, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

ATTEST:

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Nancy Sikes-Kline, Mayor-Commissioner

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Darlene Galambos, City Clerk  
(SEAL)