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AMENDMENT NO. 2 TO ORDINANCE NO. 149 OF 2017

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ORDINANCE NO. 149 OF 2017

AN ORDINANCE TO AMEND AND REENACT CERTAIN PROVISIONS OF CHAPTER 10, CHAPTER 62 AND CHAPTER 78 OF THE CITY OF SHREVEPORT, LOUISIANA, CODE OF ORDINANCES RELATIVE TO ALLOWING OPEN CONTAINER AND PUBLIC OUTDOOR CONSUMPTION OF ALCOHOLIC BEVERAGES IN DESIGNATED DOWNTOWN AREAS WHICH INCLUDE SIDEWALK CAFÉS OR BISTROS ADJACENT TO CERTAIN PREMISES; AND TO ALLOW OPEN CONTAINER AND OUTDOOR CONSUMPTION OF ALCOHOLIC BEVERAGES CITY-WIDE, TO INCLUDE ON CITY PROPERTY, WHEN A LAWFUL LOCAL (“CITY”) TEMPORARY SPECIAL EVENT ALCOHOL PERMIT IS OBTAINED; AND TO ALLOW FOR AN APPLICANT TO APPLY FOR A LOCAL (“CITY”) TEMPORARY SPECIAL EVENT ALCOHOL PERMIT IN ANY AREA WITHIN THE CITY OF SHREVEPORT AND TO OTHERWISE PROVIDE WITH RESPECT THERETO.

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**INSTRUCTIONS:**

Delete the Ordinance with the above title and substitute the attached Ordinance with the same title.

**EXPLANATION OF THE AMENDMENT:**

This amendment replaces the entire Ordinance (but the title remains the same).

- *Amending section 10-1 adding new definitions for “premises” and “licensed premises” so as to be clear that a licensed or permitted premises includes any “outdoor area” that has been properly identified and defined by the applicant or permittee/licensee.*
- *Amending Section 10-190 Drinking in Public, Open Container, Generally Prohibited; Exceptions.*
  - *Sub-section 10-190(b)(4) which allows patrons of restaurants to consume alcoholic beverages outdoors in non-disposable containers (not “Go-cups”) on the licensed premises, which includes the outdoor areas considered part of the licensed premises.*
- *Amending Section 78-139 to clarify the type of drink containers for alcoholic beverages which may be used.*
- *Amending Section 10-54. – Local (“City”) Temporary Special Event Alcohol Permit to further clarify the regulations.*
- *Removing previous proposed sections related to “to-go” (“Go-Cup”) alcoholic beverages for downtown areas.*

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**BY COUNCILMEMBERS: JEFF EVERSON  
AND  
JERRY BOWMAN**

**WHEREAS**, the City wishes to update and revise the City’s alcohol laws; and

**WHEREAS**, pursuant to Louisiana Revised Statutes Title 26 §493 ([La. R.S. 26:493](#)), the City shall not, in the exercise of its police power, regulate the business of selling alcoholic beverages more than is necessary for the protection of the public health, morals, safety, and peace; and

**WHEREAS**, at the request of the Downtown Development Authority and numerous downtown businesses the City desires to allow any qualified property owners or tenants selling food or beverages, including alcohol, in the City D-1 Downtown zoning districts, except for the D-1 CMU (Downtown Commercial Mixed-Use Zoning Sub-District), as defined in the City of Shreveport, Louisiana, Unified Development Code (“[Shreveport UDC](#)”), to occupy a portion of the sidewalk adjacent to the premises for the purpose of a sidewalk café or bistro when the property owners or tenants have obtained a lawful Sidewalk Permit; and

**WHEREAS**, in connection with sidewalk cafés or bistros the City desires to allow open container and outdoor consumption of alcohol, as provided herein, in the City’s D-1 Downtown zoning districts, except for the D-1 CMU (Downtown Commercial Mixed-Use Zoning Sub-District); and

**WHEREAS**, the City desires to allow open container and outdoor consumption of alcoholic beverages City-wide, to include on City property, *when* a lawful local (“City”) temporary Special Event Alcohol Permit is obtained. This is a practice already authorized periodically by the City Council via individual Resolutions adopted per event. This Ordinance amendment allows for *automatic authorization* for open container and outdoor consumption of alcoholic beverages at events *when* a lawful local (“City”) temporary Special Event Alcohol Permit is obtained from the Shreveport Police Department’s Alcohol Beverage Office; and

**WHEREAS**, currently Chapter 10 only makes mention of local (“City”) temporary Special Event Alcohol Permits for the *Riverfront area*. When an applicant seeks a State Special Event Alcohol Permit the State Alcohol and Tobacco Commission (“ATC”) first requires City approval in the form of a letter or a local (“City”) temporary Special Event Alcohol Permit. This ordinance amendment allows for an applicant to apply for a local (“City”) temporary Special Event Alcohol Permit in *any area* within the City of Shreveport, Louisiana; and

**WHEREAS**, the ordinance sections relative to open container and public outdoor consumption of alcoholic beverages are in need of revisions to align with the changes herein described; and

**WHEREAS**, the proposed revisions will grant immediate additional business opportunities and is anticipated to have a direct positive financial and quality of life impact on the City’s citizens, visitors and local businesses.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Shreveport, in due, legal and regular session convened, that a new definition be added to Chapter 10, Article I, Sec. 10-1 as follows:

\* \* \*

**Premises** means the building or that part of the building as identified and defined by an applicant in the application, or in a later amended or revised document or application, for local alcohol permit(s) in which alcoholic beverages are sold. In cases where alcoholic beverages are to be sold or served outside the building the term “premises” shall also include such outside areas so long as all outdoor areas have been properly identified and defined by the applicant or permittee/licensee in the application, or in a later amended or revised document or application for the local alcohol permit(s).

**Premises – Licensed Premises or Permitted Premises** means the building or that part of the building as identified and defined by an applicant for a local alcohol permit(s) in which the application has been approved by the Shreveport Police Department for the sale of alcoholic beverages. The *licensed premises* or *permitted premises* where alcoholic beverages are to be sold or served outside the building shall also include such outside area so long as all lawful permits and/or licenses are obtained and the outdoor area has been properly identified and defined by the applicant or permittee/licensee in the application, or in a later amended or revised document or application for the approved local alcohol permit(s).

\* \* \*

[Add State law references at bottom of Section 10-1.]

State law reference – Similar provisions, [La. R.S. 26:2](#) and [La. R.S. 26:241](#).

**BE IT FURTHER ORDAINED** that Chapter 10, Article I, [Sec. 10-7](#) be hereby repealed and is to be revised and relocated to another Section as provided for herein.

Sec. 10-7. – Repealed.

**BE IT FURTHER ORDAINED** that Chapter 10, Article II, Division 2, [Sec. 10-54](#) be hereby repealed and replaced to now read as follows:

**Sec. 10-54. – Local (“City”) Temporary Special Event Alcohol Permit.**

- (a) *Purpose.* Local (“City”) temporary Special Event Alcohol Permits are issued for events held at any location where alcoholic beverages are served, both as an incidental part of the event for payment rendered or are supplied as part of a general admission or other type fee, and the event is open to the public.
- (b) *Permit: Local (“City”) Temporary Special Event Alcohol Permit.* Business entities and/or individuals are required to obtain a local (“City”) Temporary Special Event Alcohol Permit in accordance with this section.
  - (1) *Non-Profit Business Entities or Individuals.* Non-Profit business entities or individuals are required to obtain a local (“City”) temporary Special Event Alcohol Permit pursuant to this section. In cases where a non-profit business entity partners with for a for-profit business entity the non-profit business entity will lose its “non-profit alcohol status” for purposes of obtaining a local (“City”) temporary Special Event Alcohol Permit.
  - (2) *For-Profit Business Entities or Individuals.* For-profit business entities or individuals are required to obtain a local (“City”) temporary Special Event Alcohol Permit pursuant to this section.
- (c) *Duration.* Local (“City”) temporary Special Event Alcohol Permits are for a maximum duration of three (3) consecutive days only, and no more than twelve (12) Special Event Alcohol Permits can be obtained by any one person or business entity within a single calendar year.
- (d) *Manufactures.* A Manufacturer ordinarily does not qualify for a Special Event Alcohol Permit; however, a Manufacturer shall apply for and obtain a local (“City”) temporary Special Event Alcohol Permit only if the special event is authorized by the State.
- (e) *Application Requirements.* All applicants shall meet the requirements of [section 10-44](#) of this Code. Applications shall be submitted to the chief of police not later than ten (10) days prior to the proposed event.
- (f) *Fee.* For each local (“City”) temporary Special Event Alcohol Permit the fee shall be calculated per event (3 consecutive days allowed per event period), by non-profit or for-profit status.
  - (1) *Non-Profit Business Entities or Individuals.* Local (“City”) temporary Special Event Alcohol Permits shall be fifty dollars (\$50) per three (3) day event period for non-profit business entities or individuals.
  - (2) *For-Profit Business Entities or Individuals.* Local (“City”) temporary Special Event Alcohol Permits shall be one hundred dollars (\$100) per three (3) day event period for For-profit business entities or individuals.

- (g) *Application Approval or Denial.* The chief of police, or his designee, is authorized to approve, without delay, any such application when he determines, in his discretion, that the applicant has the prescribed qualifications for such permit and has complied with all applicable provisions of this chapter. If the chief of police, or his designee, disapproves such an application, he shall notify the applicant in writing and state the reasons for such disapproval.
- (h) *Appeal Rights.* Any applicant aggrieved by the decision of the chief of police, or his designee, may appeal to the city council by filing a written request with the office of the clerk of council for a review of such decision and shall file such request within ten (10) days from the date the decision is rendered. The city council shall thereafter hold a hearing thereon in accordance with [section 10-133](#) of this chapter.
- (i) *Display of Alcohol Permit.* The local ("City") temporary Special Event Alcohol Permit, or a copy thereof, shall be displayed in open view at each event location.

**BE IT FURTHER ORDAINED** that Chapter 10, Article II., [Sec. 10-57](#) Subsection (e) be hereby repealed and replaced to now read as follows:

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(e) *Restrictions.*

- (1) In accordance with State law and regulations, manufacturers are generally prohibited from obtaining a local ("City") or State temporary Special Event Alcohol Permit. However, under circumstances when the State allows a Manufacturer to obtain a State temporary Special Event Alcohol Permit the Manufacturer shall also apply for and obtain a local ("City") temporary Special Event Alcohol Permit.
- (2) In accordance with State law and regulations, Manufactures are also prohibited from obtaining an alcohol caterer's permit.

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**BE IT FURTHER ORDAINED** that Chapter 10, Article VI, [Sec. 10-190](#) is hereby repealed and replaced to now read as follows:

**Sec. 10-190. - Drinking in Public, Open Container, Generally Prohibited; Exceptions.**

- (a) *Drinking in Public, Open Container – Prohibited In General.* Except as provided in Subsection (b), it shall be unlawful to consume alcoholic beverages in public of high or low alcoholic content within the city limits in or on any of the following areas:
  - (1) On any public street or sidewalk;
  - (2) On any property zoned so as to permit only packaged alcoholic beverage sales for off-premises consumption;
  - (3) On the parking lot of a business or on other property of a business where said property is open to the public;
  - (4) Within the view of the public outside of an enclosed structure on any public or private property, except that this subsection shall not apply to the owner or resident of the property, or the invited guests of the owner or resident when the owner or resident is present.

(b) *Exceptions to Drinking in Public and Open Container prohibitions.*

- (1) The provisions of section 10-190(a) shall not apply where said consumption is specifically authorized by:
  - a. a lawful local and/or State issued temporary Special Event Permit, or
  - b. by a City Council Resolution or Ordinance, or
  - c. the Zoning Board of Appeals (ZBA).
- (2) The provisions of section 10-190(a) shall not apply:
  - a. in or on the banks and waters of a navigable waterway as defined by the laws of the State when such beverages are purchased from any person engaged in the lawful operation of a permitted restaurant, convenience store, or other business in or on the banks of a navigable waterway as defined by the laws of the state, or
  - b. in or on the banks and waters of Cross Lake located within the city limits.
- (3) The provisions of section 10-190(a) shall not apply to property covered by or exempted from coverage when applicable under sections 10-191 through 10-193.
- (4) The provisions of section 10-190(a) shall not apply to persons consuming alcoholic beverages in any outdoor area or on any sidewalk or other public or private area as identified and defined by an applicant as their *licensed premises* for a local alcohol permit(s) in which the application has been approved by the Shreveport Police Department. The following regulation shall be enforced:
  - a. *Non-disposable containers required.* If the allowed outdoor area is a public sidewalk, or other public area, non-disposable containers are required. See also [Sec. 78-139](#).

Cross References –

Permit for buildings or improvements on sidewalks and public grounds, [Section 78-139](#); and Class M (manufacturer) alcohol attachment permits, [Sec. 10-58\(a\)\(2\)](#) & (a)(3).

**BE IT FURTHER ORDAINED** that Chapter 10, Article VI, [Sec. 10-192](#) is hereby repealed and replaced to now read as follows:

**Sec. 10-192. - Sale and Consumption of Alcoholic Beverages in City Parks Generally Prohibited; Exceptions.**

- (a) It shall be unlawful for any person to possess, either on his person, in his immediate control, in any automobile or vehicle, or in any other manner, any alcoholic beverage in any of the public parks owned by the city, except that the possession of alcoholic beverages for sale or consumption in accordance with the exceptions stated in this section shall be permitted. It shall be unlawful to sell or consume alcoholic beverages in any of the public parks owned by the city unless alcohol sales and consumption are authorized pursuant to a contract with the City or a lawfully authorized local (“City”) temporary Special Event Alcohol Permit.

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**BE IT FURTHER ORDAINED** that Chapter 62, Article II, Division 1, [Sec. 62-65](#) is hereby repealed and replaced to now read as follows:

**Sec. 62-65. - Alcoholic Beverages in City Parks; Intoxication.**

- (a) No alcoholic beverages shall be permitted in any park or area of a park except where such alcoholic beverage is authorized for sale pursuant to a contract with the city or a lawfully authorized local ("City") temporary Special Event Alcohol Permit. When so authorized, such sale shall comply with all other applicable laws and ordinances, including but not limited to Chapter 10 of this Code and applicable State laws.
- (b) It shall be unlawful for any person to remain in a park or playground while in an intoxicated condition unless alcohol sales and consumption are authorized pursuant to a contract with the City or a lawfully authorized local ("City") temporary Special Event Alcohol Permit. In any event, it shall be unlawful for any person to remain in a park or playground while in an unlawful intoxicated condition causing a public nuisance or public safety, health or welfare concern.

**Charter reference**— Authority to suppress drunkenness, [§ 2.04\(c\)](#).

**Cross reference**— Alcoholic beverages, [ch. 10](#).

**BE IT FURTHER ORDAINED** that Chapter 78, Article III, [Sec. 78-139](#) is hereby repealed and replaced to now read as follows:

**Sec. 78-139. - Permit for buildings or improvements on sidewalks and public grounds.**

- (a) *Permission to Occupy Public Property.* No person shall occupy or construct any building or improvement of any kind upon the streets, sidewalks, neutral grounds, or other public lands in the city, without special permission being granted therefor by the city council.
- (b) *Sidewalk Café or Bistro.*
  - (1) A property owner or tenant selling food or beverages, including alcohol, for consumption on the premises in all City D-1 Downtown zoning districts, except for the D-1 CMU (Downtown Commercial Mixed-Use Zoning Sub-District), as defined in the City of Shreveport, Louisiana, Unified Development Code ("[Shreveport UDC](#)"), may occupy a portion of the sidewalk adjacent to the premises as further defined in subsection (f), when it has obtained a Sidewalk Permit pursuant to this section.
  - (2) Said Sidewalk Permit shall be considered to be a temporary privilege and not a property right and shall be subject to revocation as provided herein.
  - (3) A property owner or tenant described in subsection (b)(1) who holds a retail dealer's permit or manufacturer's permit to sell alcoholic beverages for consumption on the premises may sell and serve alcoholic beverages on the sidewalk adjacent to the premises when it has obtained a Sidewalk Permit pursuant to this section and has complied with all local and State regulations. Such sales, serving and consumption of alcohol shall be in compliance with all provisions of this section and all applicable provisions of Chapter 10 of the Code of Ordinances and State law.
- (c) *Sidewalk Permit Committee.* There shall be a sidewalk permit committee which shall consist of the executive director of the downtown development authority or his designee, the executive director of the metropolitan planning commission or his designee, the chief of police or his designee and the director of public works or his designee.
- (d) *Application for Sidewalk Permit.* A property owner or tenant as described in subsection (b) may make application to the sidewalk permit committee for a Sidewalk Permit to occupy a portion of the sidewalk adjacent to the premises as further defined in subsection (f), on such forms as required by

said committee. The application shall be filed in the office of the metropolitan planning commission or such other place as designated by the committee in its rules and regulations.

- (e) *Sidewalk Permit Committee Rules and Regulations.* The sidewalk permit committee is hereby authorized to adopt rules and regulations for the granting of permits and the use of sidewalks hereunder, including but not limited to requirements for:
  - (1) drawings of the area requested,
  - (2) marking the area included in the permit,
  - (3) limiting access to the sidewalk area so as to exclude persons under the age of twenty-one if the presence of such persons in the area is prohibited by law or ordinance (for example a bar where the principal commodity sold at retail is alcohol),
  - (4) seating and arrangement of furniture,
  - (5) the cleaning of the area,
  - (6) the type of food and drink containers which may be used, including but not limited to:
    - a. *Restaurants:* Non-disposable containers for outdoor alcoholic beverages (not "Go-cups") in accordance with Chapter 10.
- (f) *Applicant Requirements:* The applicant shall meet the following requirements:
  - (1) The area for which an applicant is eligible to apply shall consist of the area between the building in which it is located and the street curb directly in front of the building, subject to the clearance requirements stated below. The applicant shall submit a drawing of the area requested. The sidewalk permit committee may place further restrictions on the area which may be occupied.
  - (2) The area occupied shall be limited to a depth which will allow space for tables, chairs, and for patrons and employees to walk, and shall leave at least six (6) feet clear and unoccupied space for pedestrian traffic on the sidewalk. However, in any City D-1 Downtown zoning district, except for the D-1 CMU (Downtown Commercial Mixed-Use Zoning Sub-District), as long as said block is closed to vehicular traffic, the area occupied may include the full width of the sidewalk.
  - (3) The applicant shall execute a hold harmless agreement in a form approved by the city attorney and shall obtain and maintain insurance covering its occupancy and use of the sidewalk in a form and amount approved by the risk manager. The applicant shall file said agreement and a certificate of insurance with the permit application.
- (g) *Conditions May Be Imposed.* In addition to the above stated requirements, the sidewalk permit committee may consider the impact of the use of the proposed area on the general public health, safety and welfare, and may impose conditions on the use of the area in granting the permit.
- (h) *Application Approval or Denial and Appeal Rights.* The committee shall consider the application and thereafter grant or deny the permit with or without conditions. The applicant may appeal the decision to the city council, which may affirm, modify or reverse the decision of the committee.
- (i) *Compliance with Laws and Regulations and Posting of the Sidewalk Permit.* The permit holder shall comply with all requirements of this section, the rules and regulations of the sidewalk permit committee, and the specific conditions of his permit.
- (j) *Display of Sidewalk Permit.* Sidewalk Permittee shall post the permit in an easily accessible place on the premises.
- (k) *Term of Sidewalk Permit and Renewal.* A permit granted herein shall expire on December 31 of the year for which it is granted. It may be renewed each year as long as all requirements of this section and the rules and regulations of the sidewalk permit committee continue to be met.
- (l) *Fee.* The fee for the first permit granted for the use of an area of the public sidewalk shall be \$200. The fee for the renewal of a permit shall be \$100. A permit may be transferred to a new permit holder if the business and the manner of use of the sidewalk remain unchanged. The permit holder shall notify the sidewalk permit committee in writing of such transfer. If the business is changed or the



manner of use of the sidewalk is changed, the new owner shall make application for a new permit, the fee for which shall be \$200.

- (m) *Sidewalk Permit May Be Revoked, Hearing and Appeal Rights.* The sidewalk permit committee may revoke any permit issued hereunder at any time if it finds the use of the sidewalk area covered by the permit has been in violation of the provisions of this section, the rules or regulations of the committee, or the specific conditions of the permit. Prior to revoking a permit, the committee shall hold a hearing and shall give at least ten (10) days notice of the hearing in writing to the permit holder. The permit holder may appeal the sidewalk permit committee's decision within ten (10) days, of the date of decision, to the city council, which shall affirm, modify or overturn/reverse the sidewalk permit committee's decision.
- (n) *City Council Action.* Any permit issued hereunder may also be revoked at any time the city council finds it is in the public interest to amend or repeal this section so as not to permit the use of the public sidewalks or any portion thereof or so as to otherwise limit the use thereof.

**Cross reference**— Buildings and building regulations, Ch. 22; parks and recreation, Ch. 62.

**BE IT FURTHER ORDAINED** pursuant to [La. R.S. 26:495](#), the governing authority of each municipality adopting ordinances pertaining to alcoholic beverages shall furnish, in each instance, a certified copy thereof to the Commissioner of Alcohol and Tobacco Control (ATC).

**BE IT FURTHER ORDAINED** that if any provision or item of this Ordinance or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this Ordinance which can be given affect without the invalid provisions, items or applications and to this end the provisions of this Ordinance are hereby declared severable.

**BE IT FURTHER ORDAINED** that all Ordinances or parts thereof in conflict herewith are hereby repealed.

**THUS DONE AND ORDAINED** by the City Council of the City of Shreveport, Louisiana.

**APPROVED AS TO LEGAL FORM:**

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City Attorney's Office