

MEMORANDUM

TO: The Honorable City Council

FROM: Dr. Larry H. Filer II, City Manager

CC TO: Bernard A. Pishko, City Attorney; R. Allan Bull, City Clerk

SUBJECT: Scotty Quixx – 434 Granby Street

DATE: September 14, 2022

Enclosed is the Statement of Proposed Revocation with supporting documents provided for the revocation hearing which is scheduled for September 27, 2022.

Please contact me with any questions.



Inter Department Correspondence Sheet

TO: Dr. Larry H. Filer II, City Manager

FROM: Jeremy Sharp, Zoning Administrator
Bernard A. Pishko, City Attorney, Allan Bull, City Clerk,

COPIES TO: George Homewood, Director of Planning

SUBJECT: Request for City Council Public Hearing of Scotty Quixx
Conditional Use Permit (Ordinance No. 45,078)

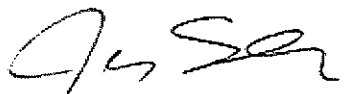
September 12, 2022

The City has evaluated the operations of Scotty Quixx, an establishment located at 434 Granby Street, operated by the owner, Oates Enterprises II, LLC. A copy of that conditional use permit (Ordinance No. 45,078) is attached (Attachment 1).

The purpose of this memo is to request that a public hearing be set on City Council's Agenda on September 27, 2022 in order for it to determine whether the conditional use permit should be revoked.

On May 13, 1997, City Council adopted Ordinance No. 38,746 (Attachment 2) setting forth specific procedures to be followed in all proceedings in which the City Council considers the revocation of any permit or certificate previously granted by City Council. This procedure requires that a Statement of Proposed Revocation be prepared and submitted to City Council 14 days prior to the hearing.

I will prepare for your review a draft "Statement of Proposed Revocation," a draft City Council transmittal letter, and a draft ordinance to be adopted in the event revocation is approved by the City Council.


Jeremy Sharp
Zoning Administrator

Attachments

City of Norfolk's
Statement of Proposed Special Exception
Revocation for Scotty Quixx, 434 Granby Street

Scotty Quixx is a nightclub located at 434 Granby Street, Norfolk, Virginia. Oates Enterprises II, LLC is the owner and operator of Scotty Quixx and the holder of a Special Exception adopted April 23, 2013 under Ordinance No. 45,078 (Exhibit 1). The Special Exception requires adherence to specific conditions contained therein and also requires compliance with all other applicable laws and ordinances. The Special Exception permit is now known as a Conditional Use Permit (CUP).

Exhibit A of the Special Exception lists Alfred J. Rayas Jr., Christopher M. Johnson, and Oates Food Services II, LLC as the business owners, managers, and operators. It lists Scott Oates and Oates Enterprises II, LLC as the property owners. The members of Oates Enterprises II, LLC are listed as Hugh F. Oates, Jr., Scott Oates, Johnnie Mallory, Ashley Tomaseski, and Jamie Cossell. The names cited here are handwritten and not entirely legible in Exhibit 1 of the Special Exception.

The Special Exception, at Section 2(l), states that “the facility shall remain current on all food and beverage taxes and business personal property taxes which many become due while it is in operation.”

The Special Exception, at Section 2(s), states that:

“Any requirements, limitations, or restrictions imposed by the Virginia ABC Commission or by any provision of Virginia law upon this establishment which are more stringent than the requirements of this Special Exception shall be effective and binding. Any violation of such requirement, limitation, or restriction imposed by the ABC Commission shall be deemed a violation of this Special Exception. This Special Exception may be revoked

for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.”

Oates Food Services II, LLC holds an active Mixed Beverage ABC license for Scotty Quixx at 436 Granby Street. A requirement for this license is the submission of a Mixed Beverage Annual Review (MBAR). This report documents the food and beverage sales of mixed-beverage licensees. These licensees are required by law to submit an MBAR to Virginia ABC once a year on the anniversary of the issuance of their license. Per the ABC website, “[w]hen it comes to operating your mixed beverage business in compliance with the Commonwealth’s alcohol regulations, the food and beverage ratio is paramount.” (Exhibit 2). Under Virginia Code § 4.1-206.3, 45% of a mixed-beverage licensee’s total gross sales (excluding beer and wine sales) must be from food and nonalcoholic beverages. Putting it another way, mixed beverage alcohol sales cannot comprise more than 55 percent of the total gross sales.

The Commissioner of the Revenue for the City of Norfolk assesses a Food and Beverage tax, also referred to as a Meal Tax, at 6.5% on all food and beverages, including alcoholic beverages, purchased in or from any food establishment. These businesses must register with the Commissioner of the Revenue, post a meal tax bond, collect the tax, and report and remit the tax on or before the 20th day of the month following the month of collection.

Upon comparing the MBAR submitted by Scotty Quixx to Virginia ABC and the Meals Tax reports to the Commissioner of the Revenue, the City finds that the

MBAR complies with the 45 percent food and non-alcoholic beverage sales, but the Meals Tax reports to the City are significantly lower than the amount reported to the ABC.

Therefore, Scotty Quixx is in violation of its Special Exception, regardless of whether the Meals Tax reports or the MBAR (if either) is accurate. If the amount reported to ABC is true and correct, then the operator has failed to correctly and completely collect and report Meals Tax to the City of Norfolk. If the amount reported to the Commissioner of the Revenue is true and correct, then it has failed to correctly report its food sales to comply with the statutory 45% requirement. If neither the sales reported in the Meals Tax reports nor in the MBAR are accurate, then the operator has committed multiple violations of the conditions required by the Special Exception. Under no set of circumstance can the operator be in compliance with both Sections 2(l) and (s) of the Special Exception.

In all possible cases, Scotty Quixx is in violation of the conditions of its Special Exception and the City proposes that the Special Exception be revoked.

4/3/13 ts

Form and Correctness Approved:

Contents Approved:

By [Signature]
Office of the City Attorney

By [Signature]
DEPT:

NORFOLK, VIRGINIA

ORDINANCE No. 45,078

R-8

AN ORDINANCE GRANTING A SPECIAL EXCEPTION TO PERMIT THE OPERATION OF AN ENTERTAINMENT ESTABLISHMENT ON PROPERTY LOCATED AT 434 GRANBY STREET.

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That a Special Exception is hereby granted to Oates Enterprises II, LLC, authorizing the operation of an Entertainment Establishment named "Scotty Quixx" on property located at 434 Granby Street. The property which is the subject of this Special Exception is more fully described as follows:

Property fronting 41 feet, more or less, along the eastern line of Granby Street, beginning 130 feet, more or less, from the southern line of E. Charlotte Street and running southwardly; premises numbered 434 Granby Street.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

- (a) The hours of operation for the facility shall be from 7:00 a.m. until 2:00 a.m. the following morning, seven days per week. No use of the facility outside of the hours of operation listed herein shall be permitted.
- (b) The hours of operation for the sale of alcoholic beverages and for entertainment shall be from 11:00 a.m. until 2:00 a.m. the following morning, seven days per week.
- (c) The seating for the facility shall not exceed 162 seats indoors, 18 seats outdoors, and the total occupant capacity, including employees, shall not exceed 260 people.

- (d) This special exception shall terminate in the event of a change in ownership of the facility and may be revoked in the event of a change in the operation or management of the facility as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the facility shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier. Notwithstanding the above, no violation of this condition shall be deemed to have occurred if the only change in management is a result of one or more of the members of the management team identified in the Description of Operations ceasing to work at the establishment.
- (e) Entertainment shall only be provided indoors and shall be limited live bands having no more than five (5) members and Cultural Dance, defined for the purposes of this ordinance alone as a form of dance unique in style and appearance to a specific cultural group. Examples include, but are not limited to, belly dance, flamenco dance, hula, and geisha dance. No form of dance which does not meet all of the following characteristics shall be considered cultural dance for purposes of this ordinance:
- i. Cultural dancers shall not perform nude or semi-nude, but shall perform in a state of dress more modest than semi-nude, as those terms are defined herein.
 - ii. For the purposes of this ordinance, the term "nude" means to be undressed completely, and the term "semi-nude" means to be in any state of dress in which opaque clothing covers no more than the genitals, pubic region, buttocks, areola and nipple of the breast, as well as portions of the body

covered by supporting straps or devices. Examples of "semi-nude" dress include but are not limited to a state of dress consisting of a bikini or equivalent clothing.

iii. Cultural dancers shall not physically touch or be physically touched by spectators while performing.

(f) In addition to the above, the following restrictions shall apply to all cultural dance performances:

i. Cultural dancers shall not use the following items and accessories when performing, for safety reasons: swords, weapons of any kind, lit candles, or lit torches. Notwithstanding this provision, at the discretion of the grantee of this Special Exception, dancers may use prop swords and prop weapons. For purposes of this ordinance, the adjective "prop" means a fake sword or weapon, similar to those used by actors on the stage, not designed for or capable of causing injury. Such "prop" swords or weapons shall be either made of wood, or if made of metal, shall be blunt with no cutting edge.

ii. At the discretion of the grantee of this Special Exception, customers may tip dancers at the conclusion of a performance. Spectators shall not physically touch a dancer when tipping.

(g) The provisions of this ordinance concerning cultural dance are not intended, nor shall they be applied, to impose any limitation or restriction on the content of cultural dance performances at the subject property. Cultural dance performances, should they degenerate to the point of involving obscenity or nude or semi-nude dance performances, shall be subject to all the

usual prohibitions upon such performances in bars and restaurants selling alcohol under the laws and regulations of the Commonwealth of Virginia and the ordinances and regulations of the City of Norfolk. These restrictions include but are not limited to such prohibitions upon obscene performances as are found in Chapter 28 of the Code of the City of Norfolk (1979), as amended, or Chapter 8, Article 5 of Title 18.2 of the Code of Virginia, (1950), as amended (both concerning obscenity). These restrictions also include all prohibitions upon nude and semi-nude dancing, designed to alleviate the negative secondary effects thereof, as authorized in such cases as Barnes v. Glen Theatre, Inc., 501 US 560 (1991) and City of Erie v. Pap's A.M., 529 US 277 (2000), as may be found in the statutes, regulations, or ordinances of the Commonwealth of Virginia and the City of Norfolk, including but not limited to Sections 28-11 and 28-12 of the Code of the City of Norfolk (1979), as amended, concerning public nudity and indecent exposure, and the regulations of the Alcoholic Beverage Control Board of the Commonwealth of Virginia, as amended.

- (h) There shall be no dancing and no dance floor provided.
- (i) The layout of the establishment shall adhere to the specifications of any of the floor plans attached hereto at "Exhibit B".
- (j) No door to the facility which opens onto or faces a public right-of-way shall be propped open during any time that entertainment is being provided.
- (k) The facility shall maintain a current, active business license at all times while in operation.
- (l) The facility shall remain current on all food and beverage taxes and business personal property taxes which may become due

while it is in operation.

- (m) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the facility's staff and shall not be permitted within any restroom.
- (n) During all hours of operation, the facility operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the Special Exception so as to keep such areas free of litter, refuse, solid waste, and any bodily discharge.
- (o) The facility shall maintain a designated driver program which shall provide, at minimum, that designated drivers may be served non-alcoholic beverages at no charge. The facility shall describe the program in writing and its availability shall be made known to patrons via either a printed card placed on each table and on the bar or a description printed on the menu.
- (p) A menu shall be provided containing an assortment of foods which shall be made available at all times the restaurant is open. A food menu and full dining service shall be available at the bar.
- (q) This special exception shall automatically expire upon a change in possession of the property or a change in the operation or management of the facility.
- (r) The business authorized by this Special Exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this Special Exception.

Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new Special Exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.

- (s) Any requirements, limitations, or restrictions imposed by the Virginia ABC Commission or by any provision of Virginia law upon this establishment which are more stringent than the requirements of this Special Exception shall be effective and binding. Any violation of such requirement, limitation, or restriction imposed by the ABC Commission shall be deemed a violation of this Special Exception. This Special Exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.
- (t) An ABC manager, employed and compensated by the applicant, shall be present at all events held on the premises. This manager shall supervise the event at all times. The ABC manager shall be present on the premises at least one hour prior to the beginning of the event and shall remain on the premises until the event is concluded and the facility is secured and locked. If alcohol is not served or consumed, a responsible supervisor, employed and compensated by the applicant, shall perform this function.
- (u) In addition to the ABC manager or supervisor the applicant shall provide such additional paid staff as may be necessary to coordinate, supervise, and manage any event held on the premises.

- (v) 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.
- (w) The facility manager shall notify the Commissioner of the Revenue no less than 72 hours prior to the commencement of any event at which a cover charge is to be collected.
- (x) A binder or folder containing documentation relating to the operation of the facility shall be kept on the premises at all times and shall be produced upon request made by any person. For purposes of this section, the documentation relating to the operation of the facility shall include copies of the following:
 - (1) This Special Exception;
 - (2) Any ABC license(s);
 - (3) Any occupancy permit(s);
 - (4) Certifications of all persons who work on the premises as a security guard;
 - (5) All fire code certifications, including alarm and sprinkler inspection records;
 - (6) Any health department permits;
 - (7) The emergency action plan required under the Fire Prevention Code;
 - (8) The names, addresses, and phone numbers of all persons who manage or supervise the facility at any time;
 - (9) The facility's designated driver program; and
 - (10) The facility's Security Plan.

- (y) The business shall provide in-house security or retain the services of a licensed security firm to provide one security guard per 50 guest occupants on the property whenever occupancy exceeds 193 people or when otherwise required by at least 36 hours prior written notice of the Fire Marshal, Chief of Police, or any designee of either. After 8:00 p. m. each Friday and Saturday as well as during special events, a security supervisor certified in accordance with the requirements of the Virginia Department of Criminal Justice Services shall be present on the property.
- (z) The written security plan submitted to the City as part of the application for this Special Exception and on file with the Department of Planning shall remain in full force and effect at all times while the facility is in operation.

Section 3:- That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely that:

- (a) The proposed use and development will be in harmony with the objectives and policies of the adopted General Plan of Norfolk and with the general and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established;
- (b) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located;
- (c) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to mitigate

potential adverse impacts;

- (d) The proposed use and development will be constructed, arranged and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable district regulations;
- (e) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;
- (f) The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;
- (g) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;
- (h) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;
- (i) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;
- (j) The proposed use and development complies with all additional standards imposed on it by the particular provisions of the ordinance authorizing such use; and
- (k) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the

City of Norfolk on the subject property have been paid.

Section 4:- That the Special Exception granted hereby amends the previously granted special exception permitting operation of an Entertainment Establishment on this property, adopted on December 9, 20088, (Ordinance No. 43,310) and all provisions and conditions previously approved are entirely superseded by the terms of this Special Exception.

Section 5:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENTS:

Exhibit A (6 pages)

Exhibit B (3 pages)

Adopted by Council April 23, 2013
Effective April 23, 2013

TRUE COPY

TESTE:

R. BRECKENRIDGE DAUGHTREY, CITY CLERK

BY:

DEPUTY CITY CLERK

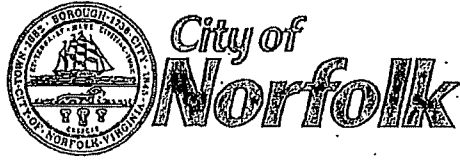


EXHIBIT "A"
Description of Operations
Entertainment Establishment

Date of Application 1-28-2013

Trade name of business: Oates Food Service II LLC Scotty Quixx

Address of business: 436 Grandy Street

Name(s) of business owner(s)* Almed J. Reyes Jr. & Christopher M. Johnson Oates Food Service LLC

Name(s) of property owner(s)* Scott Oates Oates Enterprises II, LLC Hugh Oates Jr.

Name(s) of business manager(s)/operator(s): Chris Johnson; Al Reyes Jr. Scott Oates

Daytime telephone number: (755) 617-3086 - 374-1602 Johnnie Mallozzi Ashley Tomaseski

* If business or property owner is an LLC or Corporation, all partners must be listed. Tamie Correll

1. Proposed Hours of Operation:

Table with 2 columns: Facility and Alcoholic Beverage Sales. Rows for Weekday, Friday, Saturday, and Sunday with specific time ranges.

2. Type of alcoholic beverage applied for:

- Beer Wine Mixed Beverage

Handwritten signature

Exhibit A
Entertainment Establishment
Page 2

3. Will video games, pool tables, game boards or other types of entertainment be provided?
 Yes No

3a If yes, please describe type and number of each game to be provided:

1 pool table 1 bar top touch screens, 1 "golden T" - on floor.

4. Will patrons ever be charged to enter the establishment?
 Yes No

4a. If yes, why:

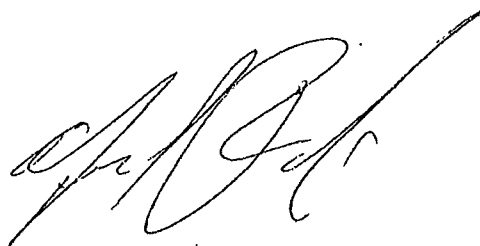
4b. Which days of the week will there be a cover charge (circle all applicable days):

Monday Tuesday Wednesday Thursday Friday
Saturday Sunday

5. Will the facility or a portion of the facility be available for private parties?
 Yes No

5a. If yes, explain:

Baby Showers, Bachelor/Bachelorette parties
corporate parties



**Exhibit A
Entertainment Establishment
Page 3**

6. Will a third party (promoter) be permitted to lease, let or use the establishment?
 Yes No

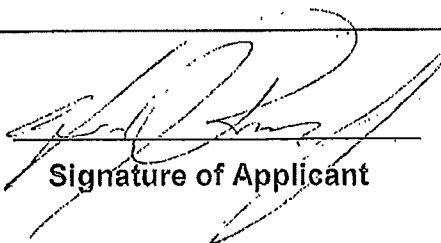
6a. If yes, explain:

7. Type of ABC license applied for (check all applicable boxes):
 On-Premises Off-Premises (second application required)

8. Will there ever be a minimum age limit?
 Yes No

9. Will there be smoking in the establishment?
 Yes No

10. Additional comments/description/operational characteristics:


Signature of Applicant

Plan A

Exhibit A Entertainment Establishment Floor Plan(s)

1. Seating (Approved floor plan must be attached)

a. Indoor

Number of seats 122
(not including bar seats)

Number of bar seats 40
Number of tables 25

b. Outdoor

Number of seats 18

Number of tables 6

c. Number of employees 21

Total Occupancy (Indoor and Outdoor and employees) 168 + 71 standing

2. Describe type tables and booth (i.e., rounds of 4, booth seats 6, etc.)

11 ³ 2-Tops 8 4-Tops 3 ⁵ 6-Tops

Other:

4 - 9 seat booths 1 - 10 top 1 - 8 top 1 - Booth 5 seat, 2 - 6 top

3. Will indoor or outdoor entertainment be provided?

(Entertainment consists of anything more than one, unamplified musician)

Yes No

4a. If yes, describe in detail:

4. Will a dance floor be provided?

Yes No

4a. If yes, square footage of establishment _____
square footage of dance floor _____

Plan B.

**Exhibit A
Entertainment Establishment
Floor Plan(s)**

1. Seating (Approved floor plan must be attached)

a. Indoor

Number of seats 110
(not including bar seats)

Number of bar seats 40
Number of tables 19

b. Outdoor

Number of seats 18

Number of tables 6

c. Number of employees 21

Total Occupancy (Indoor and Outdoor and employees) 168 + 71 Standing

2. Describe type tables and booth (i.e., rounds of 4, booth seats 6, etc.)

11 ³/₂-Tops 2 4-Tops 2 6 Tops

Other:

3- Booth 9 seats 1-10 top 2-8 top, 3-5 top, 1-Booth 5 seats

3. Will indoor or outdoor entertainment be provided?

(Entertainment consists of anything more than one, unamplified musician)

Yes No

4a. If yes, describe in detail:

4. Will a dance floor be provided?

Yes No

4a. If yes, square footage of establishment _____
square footage of dance floor _____

PIAN C

Exhibit A
Entertainment Establishment
Floor Plan(s)

1. Seating (Approved floor plan must be attached)

a. Indoor

Number of seats 102
(not including bar seats)

Number of bar seats 28
Number of tables 15

b. Outdoor

Number of seats 18 Number of tables 6

c. Number of employees 21

Total Occupancy (Indoor and Outdoor and employees) 169 + 71 standing = 240

2. Describe type tables and booth (i.e., rounds of 4, booth seats 6, etc.)

_____ 2-Tops _____ 4-Tops _____ 6 Tops

Other:

3 booths 18 Tables inside 9 tables outside

3. Will indoor or outdoor entertainment be provided?

(Entertainment consists of anything more than one, unamplified musician)

Yes No

4a. If yes, describe in detail:

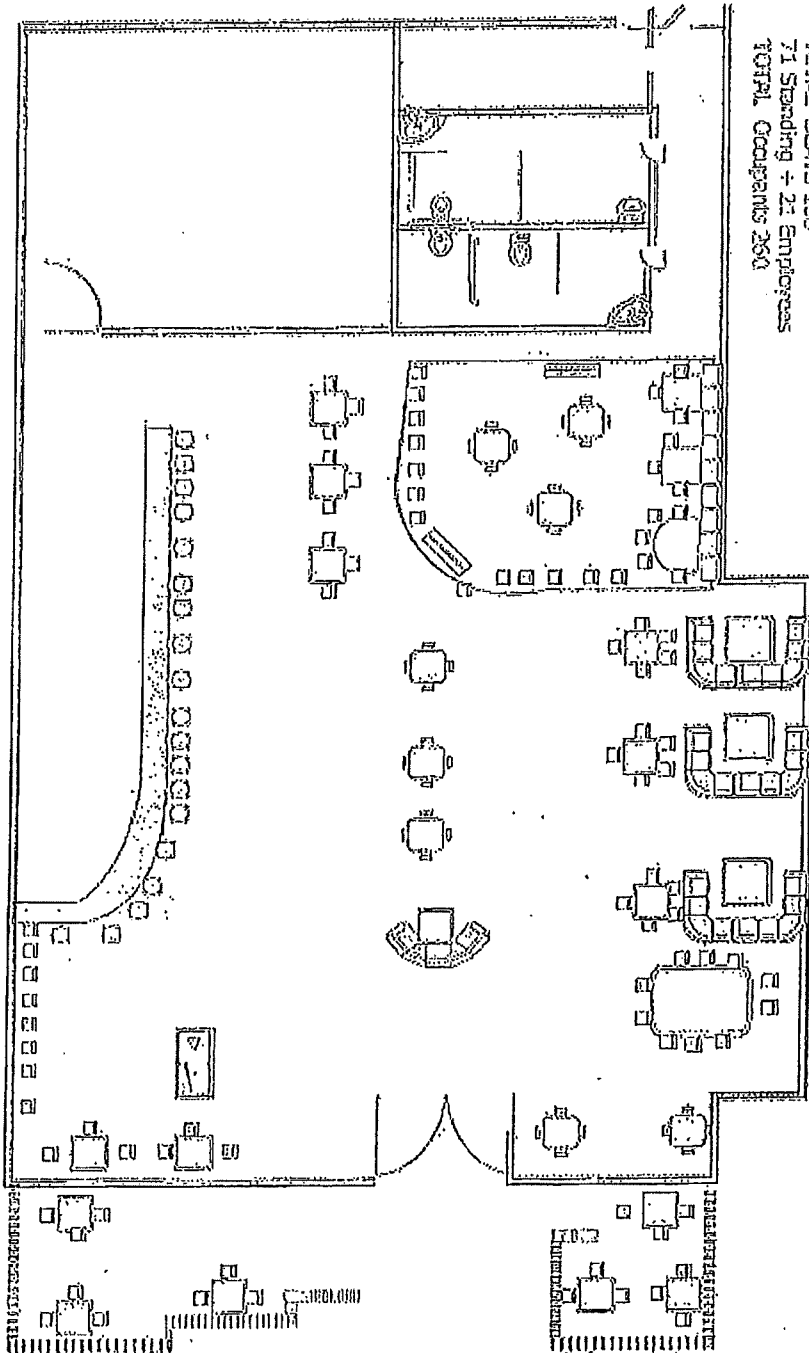
5 piece band

4. Will a dance floor be provided?

Yes No

4a. If yes, square footage of establishment _____
square footage of dance floor _____

Floor Plan A Proposed Adult use: Special Exception
Safety Quiz 436 Brady Street
722 Seats
40 Barstools
18 Patio Seats
TOTAL SEATS 168
71 Standing + 21 Employees
TOTAL Occupants 260



SEATING LAYOUT Monday - Thursday

ME
3/11/13

Floor Plan B Proposed Adult use Special Exception

North Dakota State University

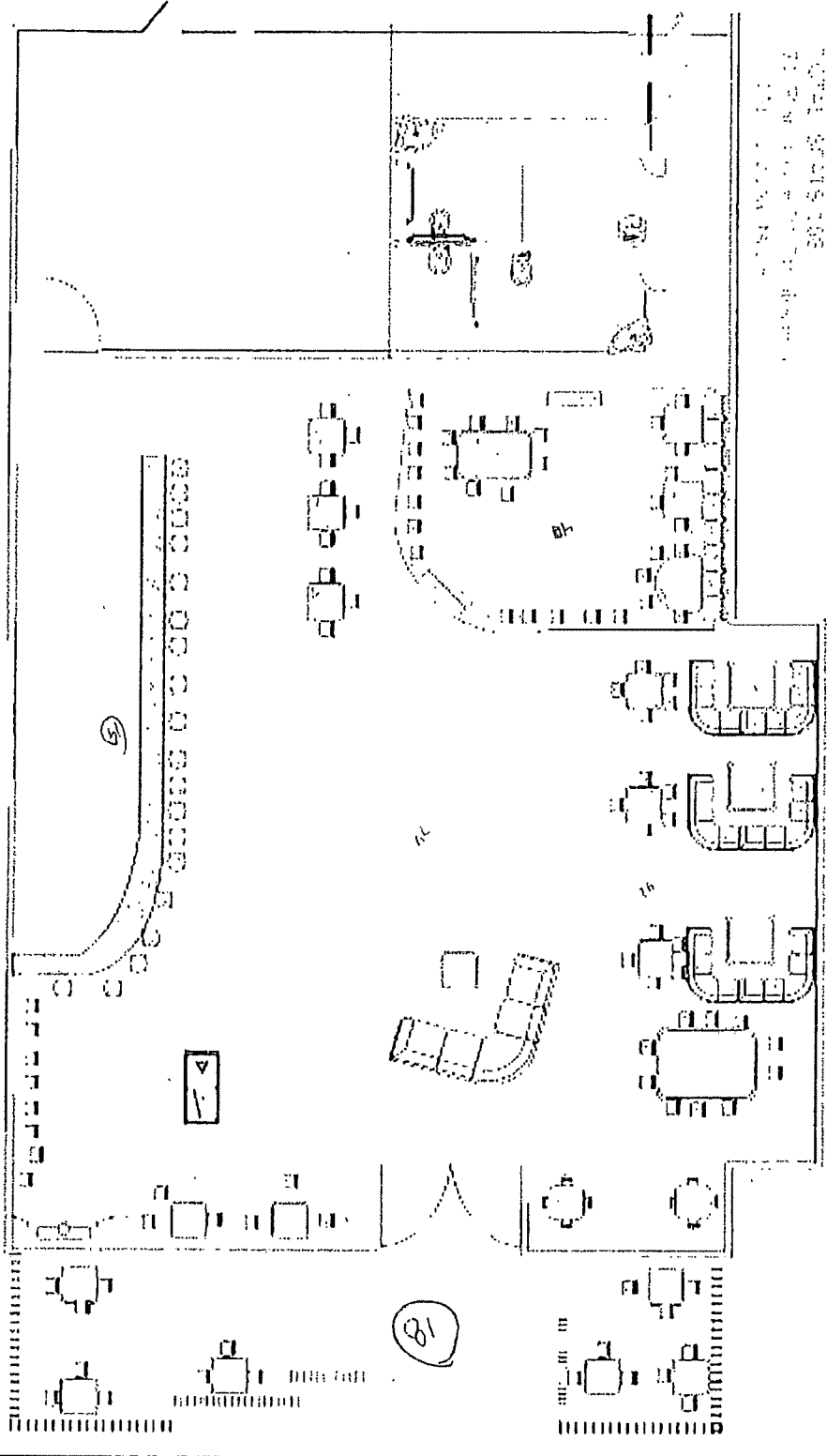
1000 Stadium Drive

Grand Forks, ND 58202

Phone: 701/785-8100

Fax: 701/785-8101

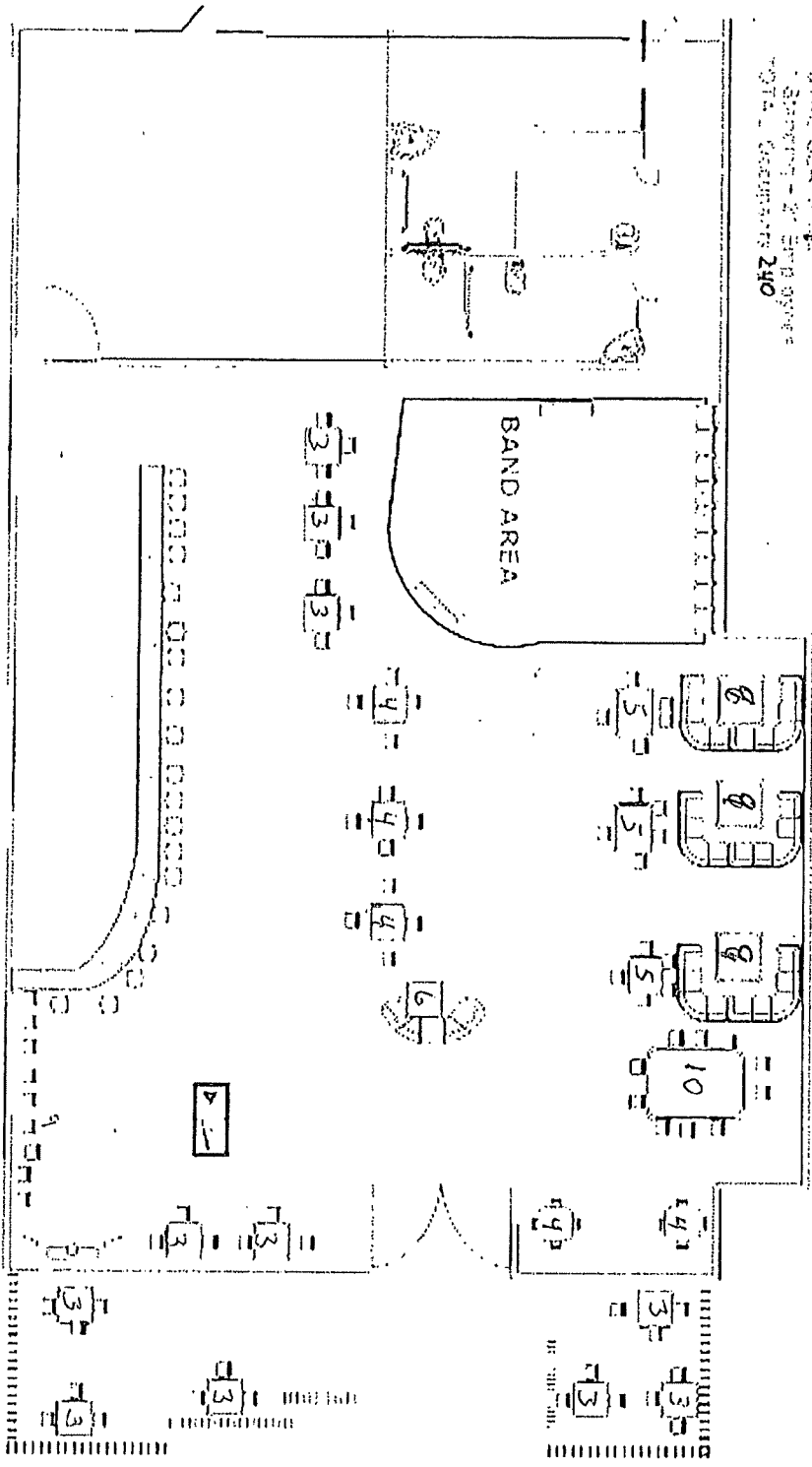
Website: www.ndsu.edu



SEATING LAYOUT Friday-Saturday

Floor Plan C Proposed Adult Use Special Exception
 Seating: 240
 102 Seating
 28 Seating
 1 Seating

TOTAL SEATING: 44
 Seating - 21 Seating
 TOTAL Seating: 240



SEATING LAYOUT

Layout for Band Entertainment

Location Map

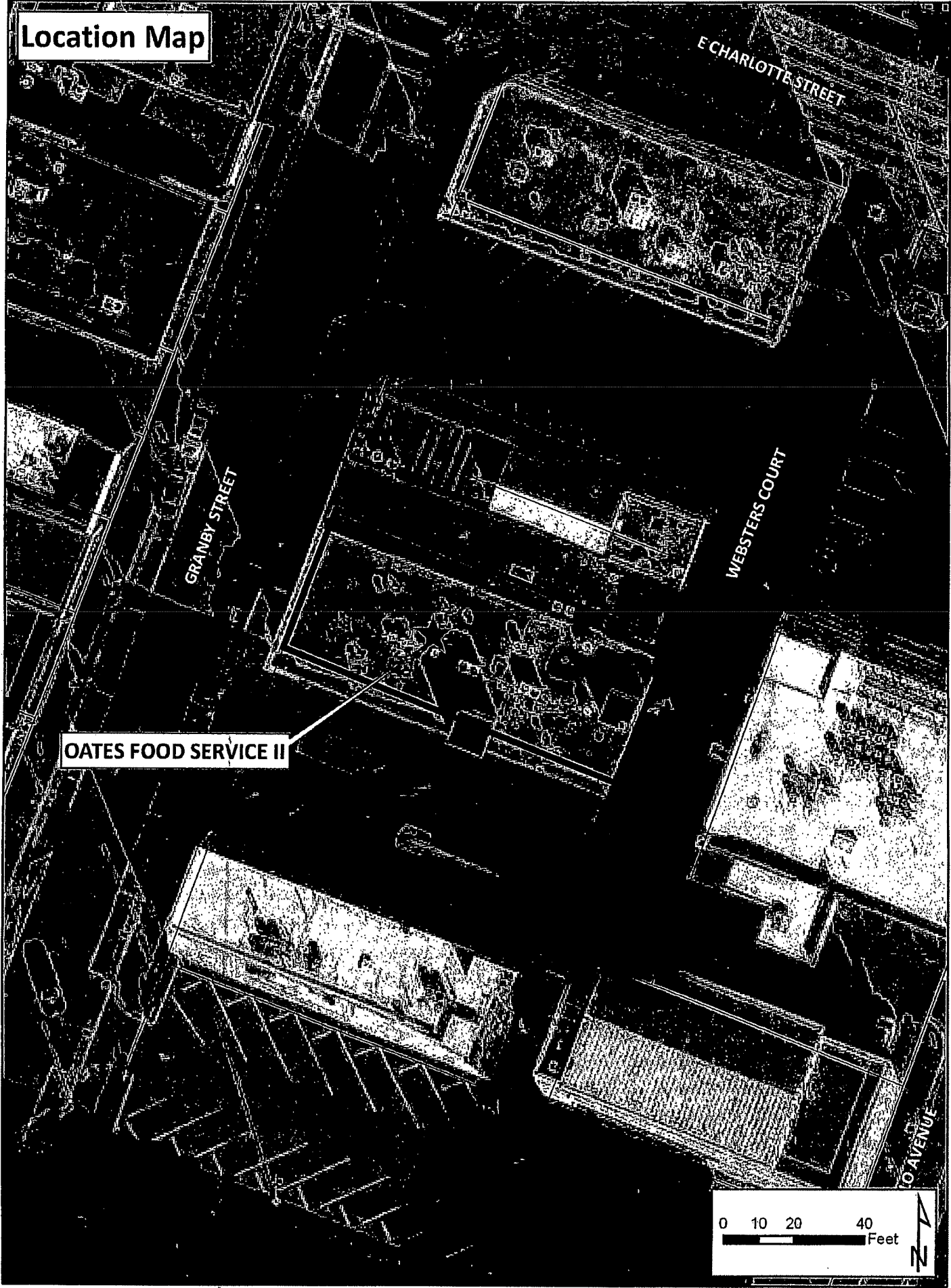
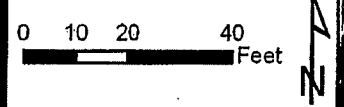
E CHARLOTTE STREET

GRANBY STREET

WEBSTERS COURT

OATES FOOD SERVICE II

LO AVENUE



PLAN AHEAD: Virginia ABC will conduct a system update beginning Friday, Sept. 16 at 10 p.m. The 48-hour event will impact several online functions including MIPS, VAL and ordering. Thank you for your patience. **X**

[Virginia ABC \(/\)](#) > [Licenses \(/licenses\)](/licenses) > [Retail Resources \(/licenses/retail-resources\)](/licenses/retail-resources) > Food-Beverage Ratio

Food-Beverage Ratio

 [Share](#) 



When it comes to operating your mixed beverage business in compliance with the commonwealth's alcohol regulations, the food and beverage ratio is paramount.

For the mixed beverage licensee, current Virginia ABC regulations stipulate that a minimum 45 percent of the total gross sales must be from food and nonalcoholic beverages. Conversely, alcohol sales should comprise no more than 55 percent of these sales.

In addition, monthly sales of food prepared and consumed on your premises must be at least \$4,000, of which no less than \$2,000 shall be in the form of meals with substantial entrees.

It sounds simple enough. But sometimes restaurants do not meet these minimum requirements. Your special agent is ready to help you avoid the costly consequences of not meeting the food-beverage ratio. In addition to ABC's standard inspections, special agents visit mixed beverage licensees during nontraditional meal times to advise you on ways you can follow the "45-percent rule."

Agents should be able to order a menu item anytime during your operating hours to ensure food sales are being conducted in the proper way. (Prepackaged snacks aren't the intent of the regulation regarding the 45 percent rule.) Agents also want to see food in your freezer and other food storage facilities.

Although buffets are convenient, they can be danger zones for the mixed beverage licensee trying to stay in compliance. It is incumbent upon the licensee, if using food from a buffet to meet the food beverage ratio, that the buffet fare is actually consumed by a customer. You must be able to document this.

When your special agent arrives for his or her visit, be prepared to discuss various points of your business. Keep regular, accurate records on site, that are immediately available for review. Meeting the food-beverage ratio requirement is important if you wish to avoid fines and suspension or revocation of your license.

When your business is operating correctly it's good for you, and it's good for Virginia's business.

Mixed Beverage Annual Reviews

M-B-A-R. For the mixed beverage licensee, these four letters are very important.

The MBAR, or Mixed Beverage Annual Review, is the name of a report that documents the food and beverage sales of mixed beverage licensees. These licensees, who include restaurants, caterers and clubs, are required by law to submit an MBAR to Virginia ABC once a year on the anniversary of the issuance of their license.

The one-page form, provided by Virginia ABC, requires the sales totals for each month of the reporting year in four categories:

- food and nonalcoholic beverages
- mixed beverages
- wine and beer
- miscellaneous

In addition to this form, mixed beverage licensees must attach a list of all alcoholic beverages in their inventory on the last day of their reporting year. Virginia ABC also supplies forms for this purpose.

The information provided in the MBAR report is used to verify that a mixed beverage licensee is in compliance with the 45-percent rule that states food and nonalcoholic beverages must account for at least 45 percent of the total gross sales of mixed beverages and food.

For more information about MBARs, please contact Virginia ABC License Records Management at (804) 213-4576 or lrnhlp@virginiaabc.com (<mailto:lrnhlp@virginiaabc.com>).

Form and Correctness Approved:

Contents Approved:

By Daniel R. Hagemister
Office of the City AttorneyBy E. J. [Signature]
DEPT City Planning & Codes Adm

NORFOLK, VIRGINIA

R-15

ORDINANCE No. 38,746

AN ORDINANCE ESTABLISHING PROCEDURES FOR REVOKING PERMITS.

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BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the following procedures, which are adopted pursuant to Section 10 of the Norfolk City Charter, shall govern all proceedings in which the Council considers the revocation of any permit or certificate that the Council has previously granted:

- (a) The process for revoking permits or certificates issued by Council shall be initiated by the preparation of a formal Statement of Proposed Revocation by the city manager or his designee. This statement shall be submitted to Council members not later than fourteen days prior to the scheduled proceeding before Council.
- (b) The Statement of Proposed Revocation shall be supported by appropriate documentation and may include affidavits, photographs, video tapes, recordings, official reports, compilations of statistics and any other pertinent matters.
- (c) The Statement of Proposed Revocation shall also contain a concise exposition of the principles of law under which revocation of the permit is being sought.
- (d) The Statement of Proposed Revocation shall be sent to the Permit Holder at the same time it is forwarded to Council members.
- (e) The Permit Holder thereafter shall file all documents including affidavits, exhibits, photographs, compilation of statistics, etc. that constitutes its defense. This Response must address all matters set forth in the Statement of Proposed Revocation. The Permit Holder shall include in its Response a written statement of all legal authorities upon which it relies. The Response shall be submitted to the City Clerk not later than seven days before Council is scheduled to meet on the revocation issue. Ten copies of the Response shall be filed with the Clerk who shall advise the

Council when all the materials are filed and the matter ready to be heard by Council.

- (f) Immediately upon receipt of the Response, the City Clerk shall provide one copy of said Response to each Council member. Also, one copy shall be provided to the Office of the City Attorney.
- (g) The Office of the City Attorney shall represent the City Manager (or his designee) before Council. Council shall allow the City Attorney to present an opening argument not to exceed fifteen minutes. The Permit Holder shall then be allowed oral argument not to exceed twenty minutes. The City Attorney shall then be allowed a rebuttal argument not to exceed five minutes.
- (h) No oral testimony may be taken in any such proceeding; however, Council shall review any and all transcripts which were provided as part of the documentation by either side.
- (i) Failure to fully meet the provisions of this ordinance shall result in a forfeiture of the right to file unless Council agrees to late filing.

Section 2:- That this ordinance shall be in effect from the date of its adoption.

Adopted by Council May 13, 1997
Effective May 13, 1997

TRUE COPY
TESTE:

R. BRECKENRIDGE DAUGHTREY, CITY CLERK

BY: _____
DEPUTY CITY CLERK

NOTICE OF PUBLIC HEARING

The Council of the City of Norfolk will conduct a **PUBLIC HEARING** on **TUESDAY, September 27, 2022 at 7:00 P.M.**, at the regular meeting of the City Council, pursuant to State Law on the following proposed ordinance:

An Ordinance Revoking a Conditional Use Permit Previously Granted to Oates Enterprises II, LLC on April 23, 2013 by Ordinance No. 45,078, Authorizing the Operation of an Entertainment Establishment named Scotty Quixx on Property Located at 434 Granby Street.

Proposed ordinance is on file in the Office of the City Clerk.

All interested persons are invited to participate by providing their comments in email to the City Clerk's Office (NEED EMAIL ADDRESS TO SEND TO) in advance of the hearing or by WebEx phone or video.

Richard A. Bull
City Clerk

PUBLIC HEARING scheduled this day under the State law, public notice having been inserted in the local press by the City Clerk, to revoke a **Conditional Use Permit** previously granted on April 23, 2013, by Ordinance No. 45,078 authorizing the sale of alcoholic beverages for off-premises consumption named "**Scotty Quixx**" on property located at **434 Granby Street**, for the failure to adhere to the conditions contained in the conditional use permit.