

ORDINANCE NO. 2015-58

1 **AN ORDINANCE OF THE CITY COUNCIL OF**
2 **THE CITY OF ORLANDO, FLORIDA, RELATING**
3 **TO AFTERHOURS NIGHTCLUBS; ADOPTING**
4 **FINDINGS OF FACT; PROVIDING DEFINITIONS;**
5 **IMPOSING A TEMPORARY MORATORIUM ON**
6 **THE OPENING OF NEW AFTERHOURS**
7 **NIGHTCLUBS AND ON THE EXPANSION OR**
8 **RELOCATION OF ANY EXISTING AFTERHOURS**
9 **NIGHTCLUBS; DIRECTING STAFF TO STUDY**
10 **AND REPORT TO THE MAYOR ON PUBLIC**
11 **HEALTH, SAFETY, AND WELFARE CONCERNS**
12 **RELATING TO NIGHTCLUBS BY A DATE**
13 **CERTAIN; PROVIDING FOR PENALTIES,**
14 **SEVERABILITY, REPEAL OF CONFLICTING**
15 **ORDINANCES, CORRECTION OF SCRIVENER'S**
16 **ERRORS, AND AN EFFECTIVE DATE.**

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18 **WHEREAS**, as provided in section 2(b), Article VIII of the Constitution of the
19 State of Florida, and section 166.021(1), Florida Statutes, the City of Orlando, Florida, a
20 municipal corporation, enjoys all governmental, corporate, and proprietary powers
21 necessary to conduct municipal government, perform municipal functions, and render
22 municipal services, and may exercise any power for municipal purposes, except as
23 expressly prohibited by law; and
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25 **WHEREAS**, as provided in section 166.021(3), Florida Statutes, the governing
26 body of each municipality in the state has the power to enact legislation concerning any
27 subject matter upon which the state legislature may act, except when expressly
28 prohibited by law; and
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30 **WHEREAS**, the Orlando Police Department (“OPD”), the Orlando Fire
31 Department (“OFD”), and the Executive Director of the City of Orlando Downtown
32 Development Board and Community Redevelopment Agency (the “DDB” and the “CRA”)
33 have each reported to the City Council of the City of Orlando, Florida (the “Orlando City
34 Council”), that the proliferation of nighttime entertainment establishments such as
35 nightclubs, pubs, bars, rave clubs, discos, and similar uses, have, especially in
36 downtown Orlando, but also throughout the City of Orlando, presented a variety of
37 challenges to the public health, safety, and welfare, and the safe and efficient provision
38 of public services, especially law enforcement and fire/rescue services; and
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40 **WHEREAS**, there are currently more than 80 establishments in downtown
41 Orlando that are licensed by the Florida Department of Business and Professional
42 Regulation, Division of Alcoholic Beverages and Tobacco, Bureau of Licensing, to serve
43 alcoholic beverages; and
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45 **WHEREAS**, many of these establishments are within close proximity to each
46 other; and

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WHEREAS, at night, this large concentration of alcoholic beverage establishments and great number of patrons has created certain negative impacts and a need for exceptional law enforcement and fire and rescue personnel and resources; and

WHEREAS, alcoholic beverage establishments require special supervision from the public safety agencies of the City in order to protect and preserve the health, safety, and welfare of the patrons of such establishments as well as the citizens of and visitors to the City; and

WHEREAS, the Orlando City Council finds that alcoholic beverage establishments are, as a category of commercial use, sometimes used for unlawful activities such as underage drinking and illegal drug use; and

WHEREAS, there is convincing, competent, and substantial documented evidence that certain alcoholic beverage establishments, as a category of commercial use, have deleterious and negative secondary effects on surrounding land uses and communities, and are frequently associated with crime, noise, vandalism, and the diminution of surrounding property values; and

WHEREAS, while Chapter 33, Orlando City Code, requires that alcoholic beverage establishments generally close at 2:00 a.m., nightclubs that do not serve and do not allow the consumption of alcoholic beverages are currently not prohibited from staying open past 2:00 a.m.; and

WHEREAS, OPD, OFD, and the Executive Director of the DDB and CRA have recently reported to the Orlando City Council that current business and social trends suggest increasing popularity of these so-called “afterhours nightclubs,” and that reports from other cities suggest that the presence of such nightclubs may exacerbate crime, traffic, noise, and other negative secondary effects of the nighttime entertainment economy; and

WHEREAS, the purpose of this ordinance is to place a temporary moratorium on the opening of any new afterhours nightclubs, and on the expansion or relocation of any existing afterhours nightclubs; and

WHEREAS, the Orlando City Council hereby finds that the temporary moratorium imposed by this ordinance is being imposed for a reasonable duration intended to give the City the time reasonably necessary to investigate the impacts of afterhours nightclubs, and if necessary, to promulgate reasonable regulations relating to such establishments; and

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89 **WHEREAS**, the Orlando City Council hereby finds that this ordinance advances
90 an important government purpose by reducing the likelihood of the unregulated negative
91 secondary effects of afterhours nightclubs; and

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93 **WHEREAS**, the Orlando City Council hereby finds that this ordinance is in the
94 best interest of the public health, safety, and welfare; and

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96 **NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY**
97 **OF ORLANDO, FLORIDA:**

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99 **SECTION 1. FINDINGS OF FACT.** The foregoing recitals are hereby ratified
100 and confirmed as being true and correct and are hereby made a part of this ordinance.

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102 **SECTION 2. DEFINITIONS.** For the purposes of this ordinance, the following
103 words, terms, and phrases, including their respective derivatives, have the following
104 meanings:

- 105
106 a. "Afterhours nightclub" means a nightclub open for business at any time
107 between 2:00 a.m. and 7:00 a.m.
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109 b. "Nightclub" means an indoor or outdoor drinking, dancing, or
110 entertainment establishment that does its primary business after dark,
111 has a dance floor or open area free of tables and chairs that would
112 allow dancing or assembly occupancies, and sound equipment to allow
113 live or recorded music played for the purpose of dancing (whether or
114 not dancing actually occurs). Onsite consumption of alcoholic
115 beverages is typical, but not universal, and a bar area may or may not
116 be present. A fee for admittance is often, but not always, required. The
117 term includes establishments commonly referred to as discos,
118 discotheques, rave clubs, dance clubs, and dance halls.
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120 **SECTION 3. TEMPORARY MORATORIUM.** Beginning on the effective date of
121 this ordinance and continuing through October 31, 2016, or sooner if provided by section
122 4 of this ordinance, a moratorium is hereby imposed on the opening of new afterhours
123 nightclubs and on the expansion or relocation of existing afterhours nightclubs.

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125 a. During the moratorium, it is unlawful and a violation of this ordinance
126 for any person, firm, or corporation to open or cause to be opened any
127 afterhours nightclub within the City of Orlando.
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129 b. During the moratorium, it is unlawful and a violation of this ordinance
130 for any person, firm, or corporation to relocate or cause to be relocated
131 any afterhours nightclub within the City of Orlando.
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- 133 c. During the moratorium, it is unlawful and a violation of this ordinance
134 for any person, firm, or corporation to expand or cause to be expanded
135 any afterhours nightclub within the City of Orlando. For purposes of
136 this subsection, the term “expand” means to “enlarge the physical size
137 of.”

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139 **SECTION 4. EXPIRATION OF THE TEMPORARY MORATORIUM.** The
140 temporary moratorium imposed by section 3 of this ordinance expires as of the earliest
141 of the following occurrences:

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143 a. November 1, 2016; or
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145 b. A date before November 1, 2016, if provided by ordinance of the
146 Orlando City Council.

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148 **SECTION 5. MORATORIUM TASK FORCE.** Within 14 days of the effective date
149 of this ordinance, the City Attorney and the Chief of Police shall appoint a working
150 committee of City officials to be known as the “City of Orlando Nightclubs Task Force
151 (the “Task Force”). The primary purpose of the Task Force is to recommend findings of
152 fact to the Mayor regarding nightclubs (including afterhours nightclubs), how nightclubs
153 may or may not exacerbate the existing public health, safety, and welfare challenges
154 presented by the nighttime entertainment economy, especially in Downtown Orlando, but
155 also throughout the City of Orlando, and the manner by which existing state and City
156 laws already regulate the nighttime entertainment economy. The Task Force is hereby
157 constituted as and shall undertake its work as a “Staff Panel” pursuant to City of Orlando
158 Policy and Procedure 161.4. The Task Force shall investigate and report by no later than
159 July 1, 2016, on such matters that in its consideration advances its primary purpose, to
160 include the following:

- 161
162 a. The number and location of nightclubs within the City of Orlando.
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164 b. The prevalence of nightclubs in some of Orlando’s peer cities (or
165 counties).
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167 c. The reported impacts of nightclubs on the public health, safety, and
168 welfare, particularly as it relates to crime and negative effects on
169 surrounding land uses.
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171 d. Identify state and local laws (here in Florida and also outside of Florida)
172 currently regulating nightclubs.
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174 e. The common business methods of nightclubs.
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f. Gather and analyze representative studies and reports on the impact of nightclubs on the public health, safety, and welfare.

SECTION 6. PENALTIES. Violations of this ordinance are punishable as provided by section 1.08, Code of the City of Orlando, Florida.

SECTION 7. SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 8. REPEAL. All ordinances or parts of ordinances previously adopted and in conflict with this ordinance are hereby repealed.

SECTION 9. SCRIVENER'S ERROR. The city attorney may correct scrivener's errors found in this ordinance by filing a corrected copy of this ordinance with the city clerk.

SECTION 10. EFFECTIVE DATE. This ordinance takes effect immediately upon adoption.

DONE, THE FIRST READING, by the City Council of the City of Orlando, Florida, at a regular meeting, this _____ day of _____, 2015.

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Orlando, Florida, by the City Clerk of the City of Orlando, Florida, this _____ day of _____, 2015.

DONE, THE SECOND READING, AND HEARING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of a majority of a quorum present of the City Council of the City of Orlando, Florida, at a regular meeting, this _____ day of _____, 2015.

BY THE MAYOR OF THE CITY OF
ORLANDO, FLORIDA:

Mayor

ATTEST, BY THE CLERK OF THE
CITY COUNCIL OF THE CITY OF
ORLANDO, FLORIDA:

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City Clerk

Print Name

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
CITY OF ORLANDO, FLORIDA:

City Attorney

Print Name

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