

City Planning Commission Meeting
Tuesday, June 23, 2015

CPC Deadline: 08/07/15
CC Deadline: 09/11/15
Council Districts: All

PRELIMINARY STAFF REPORT

To: City Planning Commission

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Zoning Docket: 053/15

Date: June 16, 2015

I. GENERAL INFORMATION

Applicant: City Council Motion M-15-202

Request: Text Amendment to the Comprehensive Zoning Ordinance, No. 4,264 M.C.S., as amended by Calendar number 30,637, to:

- Alter the definition “Restaurant, Standard” to be consistent with state law (Staff Report Section II);
- Clarify language related to restaurant alcoholic beverage sales for consumption off-premises in the AC-1 Arts and Cultural Overlay District (Staff Report Section III);
- Clarify use standards for restaurant alcoholic beverage sales in conjunction with meals to go (Staff Report Section III);
- Change the definition and standards of “Live Entertainment-Secondary Use” (Staff Report Section IV);
- Increase the height limit of the HM-MU Historic Marigny/Tremé/Bywater Mixed-Use District to 55’ with a requirement that 5% of units be affordable for any development above 50’ (Staff Report Section V);
- Increase the height limit for fences to 8’ (Staff Report Section VI);
- Delete the requirement that bars, restaurants, and live entertainment-secondary use venues submit a noise abatement plan and a list of certain surrounding land uses within 300’ (Staff Report Section VII);
- Allow recorded music in courtyards in the Vieux Carré until 2 a.m.(Staff Report Section VII);
- Modify requirements related to holding bars (Staff Report Section VIII); and
- Amend the “Table Specifying Relationship Between Future Land Use Designations and Zoning Classifications” (also known as the “consistency table”) to include MU-1 Mixed-Use Medium Intensity District as consistent with the Residential Post-War Multi-Family Future Land Use Designation (Staff Report Section IX).

Location: The proposed text amendment would affect regulations that are applied to all properties citywide.

Why is City Planning Commission action required?

The City Planning Commission is required to make a recommendation on all amendments to the text of the Comprehensive Zoning Ordinance prior to City Council action, in accordance with **Article 16, Section 16.2.3.2 Planning Commission Recommendation** of the Comprehensive Zoning Ordinance.

II. ANALYSIS – DEFINITION OF “RESTAURANT, STANDARD” (NMR-16)

A. What is the reason for the text amendment? What area would be affected by the text amendment?

Reason for text amendment

This text amendment is intended to expand upon the definition of a standard restaurant, making it consistent with the State’s definition pursuant to R.S. 26:73 Liquors-Alcoholic Beverages. The text amendment specifically relates to how a restaurant is defined in terms of its sale of alcohol.

Affected area

The text amendment would alter a zoning definition which is applied city-wide.

B. What is the existing language of the Comprehensive Zoning Ordinance?

The City Council motion proposes revisions to the definition of a standard restaurant in **Article 26, Section 26.6** of the Comprehensive Zoning Ordinance. The existing definition is as follows:

Article 26, Section 26.6 – Definitions

[...]

Restaurant, Standard. An establishment where food and/or beverages are prepared to order, served by wait staff, and usually consumed on-premises. A standard restaurant’s principal method of operation includes ordering by customers from an individual menu or menu board and the service of food and beverages by a restaurant employee at the same table or counter where the items are consumed. Standard restaurants may offer alcoholic beverages for sale as incidental to food and non-alcoholic beverage service. Food service and sale of non-alcoholic beverages shall constitute at least fifty percent (50%) or more of the revenue for said establishment.

C. What is the proposed language for amendment?

The City Council motion proposes a revision to the definition of a standard restaurant, deleting the last two (2) sentences within the definition, and replacing them with two (2) revised sentences. The first existing sentence stipulates that the offering of alcoholic beverages is “incidental” to food and non-alcoholic beverage sales within a standard restaurant. The second existing sentence specifies the minimum percent of revenue that must be generated exclusively by the sale of food and non-alcoholic beverages. The revised definition is written below. Additions to the text are indicated by **underlined, bold** text. Deletions are indicated by ~~strikethrough~~ text.

Article 26, Section 26.6 – Definitions

[...]

Restaurant, Standard. An establishment where food and/or beverages are prepared to order, served by wait staff, and usually consumed on-premises. A standard restaurant’s principal method of operation includes ordering by customers from an individual menu or menu board and the service of food and beverages by a restaurant employee at the same table or counter where the items are consumed. ~~Standard restaurants may offer alcoholic beverages for sale as incidental to food and non-alcoholic beverage service. Food service and sale of non-alcoholic beverages shall constitute at least fifty percent (50%) or more of the revenue for said establishment.~~ **Standard restaurants may sell and serve alcoholic beverages. Average monthly revenue from food and nonalcoholic beverages shall exceed fifty percent of the total average monthly revenue from the sale of food, nonalcoholic beverages and alcoholic beverages.**

The intent of the proposed text amendment is to align the definition with state law. The City Council motion refers to Title 26 of the Louisiana Revised Statutes related to the regulation of alcoholic beverages, specifically to R.S. 26:73 which details retail liquor permits for restaurants. The language of R.S. 73(C)(1) reads as follows:

For purposes of this Section, "restaurant establishment" shall be defined as an establishment:

(a) Which operates a place of business whose average monthly revenue from food and nonalcoholic beverages exceeds fifty percent of its total average monthly revenue from the sale of food, nonalcoholic beverages, and alcoholic beverages.

The second revised sentence includes language which reflects the State’s definition. Specifically, the revised second sentence copies verbatim the term, “total average monthly revenue.” The first revised sentence, however, is essentially a deletion of the existing text and does not relate to any provision of state law.

D. Does the text amendment adequately answer the problem that is being addressed; if not, are other modifications necessary?

The purpose of the text amendment is to align the Comprehensive Zoning Ordinance's definition of "restaurant, standard" with state law where a "restaurant establishment" is defined. The problem identified is the difficulty experienced by both regulatory authorities and restaurant operators when corresponding laws have contrasting language. In general, the use of similar language reduces conflict between sets of laws.

The staff believes the deletion of the second sentence within the definition and the insertion of the second sentence as written above in Section C adequately addresses the problem at hand. The insertion of the language used within the Louisiana Revised Statutes provides a specific calculation in which to evaluate a use's legitimacy as a restaurant as defined. Furthermore, the proposed text would also better align the definition with that found in Chapter 10 of the City Code related to alcoholic beverages. Article II, Section 10-53.2(b) of Chapter 10 reads as follows:

For purposes of this section, "restaurant establishment" shall be defined as an establishment:

6. Which grosses at least 50 percent of its average monthly revenue from the retail sale of food, food items that are prepared for service and consumption on the premises of the establishment, and nonalcoholic beverages.

However, the deletion of the first sentence, which stipulated that the offering of alcoholic beverages is "incidental" to food and non-alcoholic beverage sales within a standard restaurant, in effect does not better align the definition with state law. The sentence is merely deleted and replaced with a broader statement that the sale of alcoholic beverages is permitted within restaurants. The staff believes this text change has no relation to the problem stated above. In fact, the existing sentence, as written, currently aligns with the definition of a "restaurant establishment" in Chapter 10 of the City Code where the following is written:

For purposes of this section, "restaurant establishment" shall be defined as an establishment:

1. Which operates a place of business whose purpose and primary function is to take orders for and serve food and food items;

The staff believes that the text change related to the revision of the first sentence is unnecessary as it does not reduce any perceived conflict with state law. However, the argument could be made that the existing sentence is irrelevant as the secondary function of the sale of alcohol is already implied within the language of the second sentence which stipulates the permitted ratio of food sales to alcoholic beverage sales. Thus, the staff is in support of the proposed text amendment in its entirety.

E. Staff Recommendation

Based on this analysis in this section, the staff recommends approval of the proposed text amendment related to the definition of a standard restaurant. Additions to the Comprehensive Zoning Ordinance are shown below as **underlined, bold** text and deletions are shown in ~~strikethrough~~ text:

Article 26, Section 26.6 – Definitions

[...]

Restaurant, Standard. An establishment where food and/or beverages are prepared to order, served by wait staff, and usually consumed on-premises. A standard restaurant’s principal method of operation includes ordering by customers from an individual menu or menu board and the service of food and beverages by a restaurant employee at the same table or counter where the items are consumed. ~~Standard restaurants may offer alcoholic beverages for sale as incidental to food and non-alcoholic beverage service. Food service and sale of non-alcoholic beverages shall constitute at least fifty percent (50%) or more of the revenue for said establishment.~~ **Standard restaurants may sell and serve alcoholic beverages. Average monthly revenue from food and nonalcoholic beverages shall exceed fifty percent of the total average monthly revenue from the sale of food, nonalcoholic beverages and alcoholic beverages.**

F. Reason for Recommendation

1. The proposed changes to the definition provide a more detailed figure related to the percentage of food and non-alcoholic beverages associated with a standard restaurant. The measure, as it is copied verbatim from the Louisiana Revised Statutes, facilitates interpretation and enforcement of the standard.
2. In general, the usage of similar language reduces conflict between sets of laws.

III. ANALYSIS – ALCOHOL BEVERAGE SALES FOR OFF PREMISES CONSUMPTION AT RESTAURANTS (AMENDMENT NMR-12 PARTS 2 & 3)

A. What is the reason for the text amendment? What area would be affected by the text amendment?

Reason for text amendment

This text amendment is intended to modify the text of standard restaurants in the permitted uses of the AC-1 Arts and Cultures Diversity Overlay District in **Article 18, Section 18.9.B.1.f** and the restaurant use standards in **Article 20, Section 20.3.ZZ.5** of

the Comprehensive Zoning Ordinance. The purpose of the changes in Amendment NMR-12 would be to allow for restaurants to sell alcoholic beverages for off premise consumption in conjunction with meals to go.

The AC-1 Arts and Culture Diversity Overlay District regulations allow for standard restaurants to sell alcoholic beverages for on premises consumption in conjunction with meals as a permitted use in that district. The proposed amendment would allow for alcoholic beverages sales for consumption off premises in conjunction with meals to go.

In the restaurant use standards, the language originally expressly prohibited the retail sales of packaged alcoholic beverages for consumption off premises. However, Amendment SSH-4 was adopted with the new Comprehensive Zoning Ordinance and changed the language to say that unless otherwise permitted by law, retail sales of packaged alcoholic beverages for the consumption off premises are prohibited. The new text approved in SSH-4 basically leaves it up to Chapter 10 of City Code and State Law to regulate the type of alcohol sales at restaurants.

Chapter 10 of City Code has four types of alcohol permits including a Class A-Restaurant permit that allows restaurant establishments to serve alcoholic beverages under certain conditions. Some of the conditions include that the restaurant serves alcoholic beverages in conjunction with meals and grosses at least 50 percent of its average monthly revenue from the retail sales of food. There is a separate Class B permit that allows for the retail sales of alcoholic beverages for off premises consumption. A restaurant could not hold a Class A-Restaurant and a Class B permit at the same time.

The purpose of the proposed amendment is to allow for alcoholic beverage sales in conjunction with meals to go. Amendment NMR-12 would amended the description of permitted uses in the AC-1 Arts and Cultures Diversity Overlay District in **Article 18, Section 18.9.B.1.f** and the restaurant use standards in **Article 20, Section 20.3.ZZ.5** of the Comprehensive Zoning Ordinance for restaurants to sell alcoholic beverages for consumption off premises when sold in conjunction with meals to go. The proposed text amendment would not, and could not, amend the language of Chapter 10 – Alcoholic Beverages of City Code.

Affected area

There are two separate parts of this proposed text amendment. The changes to the restaurant use standards would apply to all restaurants and have a city-wide impact. The other portion of the amendment would only apply to the AC-1 Arts and Culture Diversity Overlay District which is located on portions of Frenchmen Street,¹ Saint Bernard Avenue,² and Broad Street.³

¹ All lots fronting Frenchmen Street between Royal Street and Esplanade Avenue, the lots fronting Decatur Street between Frenchmen Street and Esplanade Avenue, and the lots fronting the downriver side of Esplanade Avenue between North Peters Street and Decatur Street.

² All lots in non-residential districts with frontage on Saint Bernard Avenue between North Rampart Street/McShane

B. What is the existing language of the Comprehensive Zoning Ordinance?

The City Council motion proposes revisions to the description of permitted uses in the AC-1 Arts and Culture Diversity Overlay District in **Article 18, Section 18.9.B.1** and to the use standards of “Restaurants (All Types)” in **Article 20, Section 20.3.ZZ** of the Comprehensive Zoning Ordinance. The existing section texts are as follows:

Article 18, Section 18.9.B.1 – AC-1 Overlay District, Permitted Uses

- f. Restaurant, Standard, which may sell alcoholic beverages for consumption on premises in conjunction with meals

Article 20, Section 20.3.ZZ – Use Standards, Restaurant (All Types)

- 5. Unless otherwise permitted by law, retail sales of packaged alcoholic beverages for consumption off the premises are prohibited.

The existing definitions do not by right allow for the sales of alcoholic beverages for consumption off premises. The original text for Article 20, Section 20.3.ZZ.5 was “retail sales of packaged alcoholic beverages for consumption off premises are prohibited.” The text of this section was changed by Amendment SSH-4 to make it clear that retail sales of packaged alcoholic beverages are regulated as a separately defined use rather than being allowed by right in a restaurant.

C. What is the proposed language for amendment?

The City Council motion proposes that the description of permitted uses in the AC-1 Overlay District and the restaurant use standards be modified to allow for the sale of alcoholic beverages for off premises consumption at restaurants in conjunction with meals to go. These revisions would modify the text of **Article 18, Section 18.9.B.1.f** and **Article 20, Section 20.3.ZZ.5** to read as follows:

Article 18, Section 18.9.B.1 – AC-1 Overlay District, Permitted Uses

- f. ~~Restaurant, Standard, which may sell alcoholic beverages for consumption on premises in conjunction with meals~~ **Restaurant, Standard, which may sell alcoholic beverages for consumption on premises or which may sell alcoholic beverages for consumption off of the premises when sold in conjunction with meals to go.**

Place and North Roman Street.

³ All lots in non-residential districts with frontage on Broad Street between Interstate 10/Pontchartrain Expressway and Columbus Street, as well as those lots in non-residential districts with frontage on Columbus Street between North Broad Street and North Dorgenois Street.

Article 20, Section 20.3.ZZ – Use Standards, Restaurant (All Types)

5. ~~Unless otherwise permitted by law, retail sales of packaged alcoholic beverages for consumption off the premises are prohibited.~~ **Retail sales of packaged alcoholic beverages for consumption off premises are prohibited unless sold in conjunction with meals to go.**

D. Does the text amendment adequately answer the problem that is being addressed; if not, are other modifications necessary?

The proposed text amendment could allow for the sales of alcoholic beverages for the consumption off premises at a restaurant when sold in conjunction with meals to go. According to the restaurant use standards, alcoholic beverages sales for on premises consumption are allowed at any permitted restaurant. Restaurant establishments would be issued a Class A-Restaurant alcoholic beverage permit. This would allow for patrons to have alcoholic beverages with meals. The proposed amendments would allow in the Comprehensive Zoning Ordinance for restaurants that sell meals to go to sell alcoholic beverages with those meals.

The retail sale of alcoholic beverages is separate use that is listed in the Comprehensive Zoning Ordinance. Retail sales of alcoholic beverages are defined as “Retail sales of packaged alcoholic beverages for consumption off-premises when licensed by the City. Sale of alcoholic beverages shall be in factory original containers.” These businesses would be issued a Class B alcoholic beverage permit. Restaurants cannot simultaneously hold a Class A-Restaurant and a Class B permit. Since a restaurant cannot engage in the retail sales of alcoholic beverages, it is a matter of interpretation of Chapter 10 of City Code to determine if restaurants are allowed to sell alcoholic beverages in conjunction with meals to go.

Problem: Allow for standard restaurant to sell alcoholic beverages in conjunction with meals to go

The current language in the restaurant use standards states that “unless otherwise permitted by law, retail sales of packaged alcoholic beverages for consumption off the premises are prohibited.” Therefore, the Comprehensive Zoning Ordinance prohibits retail sales of alcoholic beverages unless it is allowed under State Law and Chapter 10 of City Code. Chapter 10 does not allow restaurants to be a Class B packaged liquor store. Chapter 10 does allow for service of “alcoholic beverages in conjunction with meals.” Therefore, whether alcoholic beverage sales are allowed with the sale of meals to go would be based on an interpretation of this section of City Code. The current language of **Article 20, Section 20.3.ZZ.5** defers to City Code. If the proposed language would be adopted, it could create confusion by implying that something is allowed in the Comprehensive Zoning Ordinance that might not be allowed in City Code. In addition, this could result in restaurants containing an alcoholic beverage retail component which

would not be appropriate and would not be allowed in many districts. Therefore, the staff does not recommend any changes to **Article 20, Section 20.3.ZZ.5**.

Similarly, the proposed language of **Article 18, Section 18.9.B.1.f** could imply that something would be allowed in the AC-1 Overlay District, the sale of alcoholic beverages for consumption off of the premises when sold in conjunction with meals to go, that might not be allowed in City Code. Furthermore, allowing the retail sales of alcoholic beverages at a restaurant would not be an appropriate use at a restaurant. Therefore, the staff does not recommend the language as proposed in the Amendment. The existing language states that the following is a permitted use in the AC-1 District: "Restaurant, Standard, which may sell alcoholic beverages for consumption on premises in conjunction with meals." The sale of alcoholic beverages is allowed at a standard restaurant, so there is no need to repeat that in the list of permitted uses.⁴ Furthermore, this definition could imply a limitation on taking open alcoholic beverages off premises which otherwise would be permitted by City Code. Therefore, the staff recommends revising **Article 18, Section 18.9.B.1.f** to only state "Restaurants, Standard." Since there is similar language for the AC-2 and AC-3 Overlay Districts, the staff recommends changing those sections as well.

E. Staff Recommendation

Based on this analysis, the staff recommends the following changes to the text of standard restaurants in the permitted uses of the AC-1 Arts and Cultures Diversity Overlay District in **Article 18, Section 18.9.B.1.f** and the restaurant use standards in **Article 20, Section 20.3.ZZ.5**. Additions to the Comprehensive Zoning Ordinance are shown below as **underlined, bold** text and deletions are shown in ~~strikethrough~~ text:

Article 18, Section 18.9.B.1 – AC-1 Overlay District, Permitted Uses

- f. ~~Restaurant, Standard, which may sell alcoholic beverages for consumption on premises in conjunction with meals~~

Article 18, Section 18.10.B.1 – AC-2 Overlay District, Permitted Uses

- h. ~~Restaurant, Standard, which may sell alcoholic beverages for consumption on premises in conjunction with meals~~

Article 18, Section 18.11.B.1 – AC-3 Overlay District, Permitted Uses

- h. **Standard Restaurant with a maximum of 5,000 square feet of gross floor area;** ~~which may sell alcoholic beverages for consumption on premises in conjunction with meals~~

⁴ This appears to be a holdover from the current Comprehensive Zoning Ordinance where the sale of alcoholic beverages was not permitted by right in standard restaurants.

Article 20, Section 20.3.ZZ– Use Standards, Restaurant (All Types)

5. Unless otherwise permitted by law, retail sales of packaged alcoholic beverages for consumption off the premises are prohibited.

F. Reasons for Recommendation

1. The sale of alcoholic beverages at restaurants in conjunction with meals to go is regulated by Chapter 10 of City Code. The Comprehensive Zoning Ordinance should not imply that something is allowed that might be in conflict with City Code.
2. The description of standard restaurants in the permitted uses in the AC-1, AC-2, and AC-3 Overlay Districts should be modified to reflect that alcoholic beverage sales is permitted by right at standard restaurants.

IV. ANALYSIS – LIVE ENTERTAINMENT – SECONDARY USE DEFINITION (NMR-14)

A. What is the reason for the text amendment? What area would be affected by the text amendment?

Reason for text amendment

This text amendment is intended to refine the definition of “Live Entertainment – Secondary Use” in the **Article 26, Section 26.2** of the Comprehensive Zoning Ordinance. The definition for live entertainment – secondary use allows for live performances to be a secondary use in standard and specialty restaurants, bars, and indoor amusement facilities. The uses described in the live entertainment – secondary use definition are separate from the main use and requires separate approval. The definition exempts certain activities from this definition including musical accompaniment at a restaurant (except within any Vieux Carré District). This means that musical accompaniment would not be subject to this definition and would be allowed as accessory use at a restaurant and would not require a separate approval.⁵

In an amendment to the initially recommended definition by the City Planning Commission, the City Council revised the language which exempted musical accompaniment at restaurant.⁶ This amendment removed the limitation on non-amplified musical accompaniment and placed specific use standards for the musical accompaniment to be exempt from this requirement. Musical accompaniment that does not meet these standards and restaurants within any Vieux Carré District are subject to the definition of live entertainment – secondary use.

⁵ Except in the Vieux Carré Districts which would be subject to the live entertainment – secondary use definition and would require separate approval.

⁶ Amendment MJL-1

The proposed text amendment NMR-14 would delete the last sentence in subsection D.⁷ This sentence states that musical accompaniment at a restaurant within any Vieux Carré District shall be included within the definition of Live Entertainment – Secondary Use. By deleting this sentence, live musical accompaniment in specialty and standard restaurants in the French Quarter would no longer be considered live entertainment – secondary use if they meet the use standards and would be treated the same as restaurants city-wide which allow musical accompaniment. Live Entertainment – Secondary Use is permitted in the VCE and VCE-1 Districts and prohibited in every other Vieux Carré District. This would allow musical accompaniment at restaurants on portions of Bourbon⁸ and Decatur⁹ Streets and prohibit musical accompaniment at restaurants everywhere else in the French Quarter. The purpose of the amendment would allow for musical accompaniment at restaurants in the French Quarter.

Affected area

While the text amendment would alter a zoning definition that is applied city-wide, the proposed amendment would delete text that only applies to restaurants in Vieux Carré Districts. Therefore this amendment would only affect the French Quarter.

B. What is the existing language of the Comprehensive Zoning Ordinance?

The City Council motion proposes revisions to the definition of “Live Entertainment – Secondary Use” in **Article 26, Section 26.6** of the Comprehensive Zoning Ordinance. The existing definition is as follows:

Article 26, Section 26.6

[...]

Live Entertainment – Secondary Use. Any one (1) or more of any of the following live performances, performed live by one (1) or more persons, whether or not done for compensation and whether or not admission is charged: musical act, theatrical play or act, including stand-up comedy, magic, dance clubs, and disc jockey performances using vinyl records, compact discs, computers, or digital music players when the disc jockey is in verbal communication with the clientele of the establishment. Live entertainment - secondary use shall be part of a standard restaurant, specialty restaurant, indoor amusement facility or bar, and shall be approved separately. A standard restaurant,

⁷ The actual language of the proposed text amendment NMR-14 is delete subsection D in its entirety and insert a whole new text for subsection D. The text proposed in amendment NMR-14 is the same that was adopted in amendment MJL-1 except for the last sentence, which is deleted in its entirety. Therefore, the partical impact of amendment NMR-14 is to delete the last sentence of subsection D.

⁸ Bourbon Street between Iberville and St. Ann Streets

⁹ Decatur Street between Iberville and Conti Streets

specialty restaurant, indoor amusement facility, or bar may be open to the public when no live performances are scheduled. Live entertainment - secondary use does not include:

- A. Any such activity performed for the practice or private enjoyment of the residents of a dwelling and their guests.
- B. Any adult uses.
- C. Periodic entertainment at educational facilities or places of worship, performances at cultural facilities, performances at reception facilities, performances at weddings or similar religious events, the playing of recorded music over speakers without a disc jockey, poetry readings, or spoken word performances.
- D. Musical accompaniment for patrons at a restaurant (standard or specialty), in conformance with the following use standards:
 - 1. During the performance of any musical accompaniment, all doors and windows in the restaurant shall remain closed. Any amplification used in support of a musical accompaniment shall be directed towards the patrons of the restaurant, and not toward any door, window or outdoor space.
 - 2. No cover charge shall be charged for any performance of any musical accompaniment.
 - 3. Full restaurant service shall continue during the performance of any musical accompaniment.
 - 4. No more than ten percent (10%) of a restaurant's seating area may be dedicated to a staging area for any performance of musical accompaniment.
 - 5. Aside from the portion of the restaurant seating area dedicated to the staging of the musical accompaniment, no restaurant seating may be removed or relocated during the performance in order to accommodate an audience and/or dance area.
 - 6. Performance of the musical accompaniment shall not be permitted beyond 10:00 p.m. on Sundays through Wednesdays, or beyond midnight on Thursdays through Saturdays.
 - 7. Musical accompaniment shall only be performed in the interior of a restaurant; outdoor musical accompaniment shall be subject to the general Live Entertainment – Secondary Use regulations, as applicable.

Any musical accompaniment for patrons at a restaurant that is not in conformance with the above standards shall be included within the definition of Live entertainment – Secondary Use above, and shall be subject to the applicable regulations. Notwithstanding

anything herein to the contrary, any musical accompaniment for patrons at a restaurant within any Vieux Carré District shall be included within the definition of Live Entertainment – Secondary Use.

This existing definition would allow for restaurants to have musical accompaniment as an accessory use if it meets the seven use standards included in this definition. This exception does not apply to restaurants in the French Quarter, which would be considered Live Entertainment – Secondary Use.

C. What is the proposed language for amendment?

The City Council motion proposes that the definition be revised to allow restaurants in the French Quarter to have musical accompaniment as an accessory use. This revision would be made by deleting “Notwithstanding anything herein to the contrary, any musical accompaniment for patrons at a restaurant within any Vieux Carré District shall be included within the definition of Live Entertainment – Secondary Use.” The definition reads as follows with the deleted text shown in ~~strikethrough~~ text:

Article 26, Section 26.6

[...]

Live Entertainment – Secondary Use. Any one (1) or more of any of the following live performances, performed live by one (1) or more persons, whether or not done for compensation and whether or not admission is charged: musical act, theatrical play or act, including stand-up comedy, magic, dance clubs, and disc jockey performances using vinyl records, compact discs, computers, or digital music players when the disc jockey is in verbal communication with the clientele of the establishment. Live entertainment - secondary use shall be part of a standard restaurant, specialty restaurant, indoor amusement facility or bar, and shall be approved separately. A standard restaurant, specialty restaurant, indoor amusement facility, or bar may be open to the public when no live performances are scheduled. Live entertainment - secondary use does not include:

- A. Any such activity performed for the practice or private enjoyment of the residents of a dwelling and their guests.
- B. Any adult uses.
- C. Periodic entertainment at educational facilities or places of worship, performances at cultural facilities, performances at reception facilities, performances at weddings or similar religious events, the playing of recorded music over speakers without a disc jockey, poetry readings, or spoken word performances.
- D. Musical accompaniment for patrons at a restaurant (standard or specialty), in conformance with the following use standards:

1. During the performance of any musical accompaniment, all doors and windows in the restaurant shall remain closed. Any amplification used in support of a musical accompaniment shall be directed towards the patrons of the restaurant, and not toward any door, window or outdoor space.
2. No cover charge shall be charged for any performance of any musical accompaniment.
3. Full restaurant service shall continue during the performance of any musical accompaniment.
4. No more than ten percent (10%) of a restaurant's seating area may be dedicated to a staging area for any performance of musical accompaniment.
5. Aside from the portion of the restaurant seating area dedicated to the staging of the musical accompaniment, no restaurant seating may be removed or relocated during the performance in order to accommodate an audience and/or dance area.
6. Performance of the musical accompaniment shall not be permitted beyond 10:00 p.m. on Sundays through Wednesdays, or beyond midnight on Thursdays through Saturdays.
7. Musical accompaniment shall only be performed in the interior of a restaurant; outdoor musical accompaniment shall be subject to the general Live Entertainment – Secondary Use regulations, as applicable.

Any musical accompaniment for patrons at a restaurant that is not in conformance with the above standards shall be included within the definition of Live entertainment – Secondary Use above, and shall be subject to the applicable regulations. ~~Notwithstanding anything herein to the contrary, any musical accompaniment for patrons at a restaurant within any Vieux Carré District shall be included within the definition of Live Entertainment – Secondary Use.~~

D. Does the text amendment adequately answer the problem that is being addressed; if not, are other modifications necessary?

The central problem with the definition is a policy discussion of whether or not musical accompaniment should be allowed at restaurants in the French Quarter. The current definition would allow musical accompaniment at all restaurants in the city, except for those in the French Quarter where it would be regulated as live entertainment – secondary use. Live entertainment – secondary use is only allowed in the VCE Districts, which is limited to portions of Bourbon and Decatur Streets. The proposed amendment would delete the statement that restaurants in Vieux Carré Districts are live entertainment –

secondary uses, which would allow for French Quarter restaurants to have musical accompaniment.

This amendment to allow for musical accompaniment at restaurants in the French Quarter has a number of merits. First, musical accompaniment is allowed at restaurants everywhere else in the city and this proposed amendment would treat French Quarter restaurants the same. Second, musical accompaniment is only allowed at restaurants if certain performance standards are met. These standards are intended to minimize the impact on the adjacent land uses and to ensure that restaurants do not morph into music clubs. Finally, musician advocates argue that that tourists come to the French Quarter restaurants looking for live music.

Ever since the City Planning Commission has proposed an exception to allow for musical accompaniment at restaurants in the Comprehensive Zoning Ordinance, the exception has not applied to restaurants in the Vieux Carré Districts. The reasoning for this is that the French Quarter is a large scale tourist destination with multiple existing musical entertainment options; therefore, new venues for music and live entertainment should be concentrated in the VCE Vieux Carré Entertainment District as the current text provides. French Quarter resident advocates argue that allowing musical accompaniment at all restaurants in the French Quarter would overwhelm the neighborhood and erode their quality of life.

The staff finds merit in both of these arguments and sees an opportunity in the French Quarter where musical accompaniment at restaurants can be expanded in areas that would minimize the impact to residents. There is already a large amount of live entertainment in the French Quarter, so the staff wants to discourage additional live entertainment near residents. Musical accompaniment for restaurants in the Vieux Carré Entertainment District should be allowed because this is already an entertainment district and live performance venues are allowed. Musical accompaniment for restaurants in the Vieux Carré Service Districts should be allowed since these locations are not near the residential portions of the French Quarter. The staff does not support allowing musical accompaniment at restaurants in the Vieux Carré Residential and Commercial Districts, because of the proximity to residences in combination with the sometimes overwhelming number of visitors in these districts. Therefore, the staff recommends revising the existing language of the “Live Entertainment – Secondary Use” to apply the limitation to restaurants in any Vieux Carré Residential or Commercial District.

E. Staff Recommendation

Based on this analysis, the staff recommends that the “Live Entertainment – Secondary Use” definition be revised as follows, with additions shown in **underlined, bold** text and deletions shown in ~~strikethrough~~ text:

Article 26, Section 26.6

[...]

Live Entertainment – Secondary Use. Any one (1) or more of any of the following live performances, performed live by one (1) or more persons, whether or not done for compensation and whether or not admission is charged: musical act, theatrical play or act, including stand-up comedy, magic, dance clubs, and disc jockey performances using vinyl records, compact discs, computers, or digital music players when the disc jockey is in verbal communication with the clientele of the establishment. Live entertainment - secondary use shall be part of a standard restaurant, specialty restaurant, indoor amusement facility or bar, and shall be approved separately. A standard restaurant, specialty restaurant, indoor amusement facility, or bar may be open to the public when no live performances are scheduled. Live entertainment - secondary use does not include:

- A. Any such activity performed for the practice or private enjoyment of the residents of a dwelling and their guests.
- B. Any adult uses.
- C. Periodic entertainment at educational facilities or places of worship, performances at cultural facilities, performances at reception facilities, performances at weddings or similar religious events, the playing of recorded music over speakers without a disc jockey, poetry readings, or spoken word performances.
- D. Musical accompaniment for patrons at a restaurant (standard or specialty), in conformance with the following use standards:
 - 1. During the performance of any musical accompaniment, all doors and windows in the restaurant shall remain closed. Any amplification used in support of a musical accompaniment shall be directed towards the patrons of the restaurant, and not toward any door, window or outdoor space.
 - 2. No cover charge shall be charged for any performance of any musical accompaniment.
 - 3. Full restaurant service shall continue during the performance of any musical accompaniment.
 - 4. No more than ten percent (10%) of a restaurant's seating area may be dedicated to a staging area for any performance of musical accompaniment.
 - 5. Aside from the portion of the restaurant seating area dedicated to the staging of the musical accompaniment, no restaurant seating may be removed or relocated during the performance in order to accommodate an audience and/or dance area.

6. Performance of the musical accompaniment shall not be permitted beyond 10:00 p.m. on Sundays through Wednesdays, or beyond midnight on Thursdays through Saturdays.
7. Musical accompaniment shall only be performed in the interior of a restaurant; outdoor musical accompaniment shall be subject to the general Live Entertainment – Secondary Use regulations, as applicable.

Any musical accompaniment for patrons at a restaurant that is not in conformance with the above standards shall be included within the definition of Live Entertainment – Secondary Use above, and shall be subject to the applicable regulations. Notwithstanding anything herein to the contrary, any musical accompaniment for patrons at a restaurant within any Vieux Carré Residential or Commercial District shall be included within the definition of Live Entertainment – Secondary Use.

F. Reasons for Recommendation

1. Given the amount of existing live entertainment in the French Quarter and the potential conflict with nearby residents, the staff does not support permitting musical accompaniment at restaurants in all Vieux Carré Districts.
2. Musical accompaniment at restaurants should be expanded to the Vieux Carré Service Districts where there is little potential conflict with nearby residents and the Vieux Carré Entertainment Districts where other live performance venues are already allowed.

V. ANALYSIS – AFFORDABLE HOUSING PROVISION IN HM-MU DISTRICT (NMR-9 PART 2)

A. What is the reason for the text amendment? What area would be affected by the text amendment?

Reason for text amendment

This text amendment is intended to revise the bulk and yard requirements of the HM-MU Historic Marigny/Tremé/Bywater Mixed-Use District to include a mandatory provision for affordable housing in the event a multi-family development exceeds a specific height: fifty (50) feet.

The amendment is one of several similar amendments related to the development of affordable housing that were recently adopted or proposed by the City Council. Both **Article 5 – Planned Development Standards** and **Article 17 – Central Business District** currently include the provision of a density bonus for the development of

affordable housing. Specifically, **Article 5** outlines a bonus in density up to thirty (30) percent of the base maximum in the Historic Core and Historic Urban Residential Districts. **Article 17** outlines a bonus in floor area ratio (FAR) up to thirty (30) percent of the base maximum FAR. There is also a height bonus provision in **Article 18, Section 18.3 – RIV Riverfront Design Overlay District** which outlines a bonus of up to two (2) stories in height, or twenty-five (25) feet. The bonuses are awarded based on the provision of a certain proportion of affordable housing units at specific affordability levels related to area median income (AMI). An additional text amendment, which has been referred to the City Planning Commission for recommendation, proposes to expand density bonuses for affordable housing in all zoning districts which permit multi-family residences.¹⁰

In all of the districts that include affordable housing bonuses, the provisions are voluntary, meaning a developer may elect not to provide affordable housing and would then be held to comply with the base bulk requirements. These types of incentive-based zoning mechanisms have proven to be effective especially in areas with high land prices and high housing demand. However, the affordable housing requirement proposed with this amendment would be, in effect, a mandatory requirement. This rationale is based on the City's conversations with developers throughout the drafting process which led to the amendment of the maximum FAR and maximum height requirements of the HM-MU District.

The maximum height permitted within the HM-MU District was previously fifty (50) feet in an earlier draft of the new Comprehensive Zoning Ordinance. This base maximum was later amended to fifty-five (55) feet based on comments received from stakeholders.¹¹ The basis for increasing the height maximum to fifty-five (55) feet was to allow for four-story mixed-use development with reasonable floor to ceiling heights in the range of ten (10) to twelve (12) feet. Any development of four stories measuring less than fifty (50) feet in height would result in a substandard design (i.e., ground floor commercial units would have to be lowered less than minimum preferred twelve (12) feet, residential ceiling heights would have to be reduced below ten (10) feet, and parapets would have to be forgone, etc.). It was concluded that increasing the maximum building height to fifty-five (55) feet and increasing the maximum FAR from two (2) to two and a half (2.5) would give developers a reasonable amount of flexibility in which to provide four (4) stories in addition to the design elements which promote desirable structures. See Figure 1 for reference.

The staff is concerned the proposed requirement may not function in practice in the same manner as a typical incentive-based policy because it would effectively penalize the developer for good design with appropriate floor-to-ceiling heights. As written, the

¹⁰ Amendment LC-13, if adopted, would affect the HM-MU District. As proposed, developments with a residential component which provide 5% affordable units for a period of 50 years would have a density bonus of up to 15%, dependent on the level of affordability provided. This amendment has been referred to the City Planning Commission with the same motion, and is being reviewed under Zoning Docket 054-15.

¹¹ Per Amendment MJL-4 adopted May 14, 2015.

amendment would allow a developer to squeeze four (4) floors into fifty (50) feet of building height, by right, and without providing affordable housing units. Based on the stakeholder comments received, this would result in poor building design due to inappropriately low ceiling heights. Alternatively, the developer could construct a four-story building measuring above fifty (50) feet in height with ten (10) to (12) feet ceiling heights, which would typically result in a better overall building design. This alternative, however, would force the developer to include affordable housing units. As such, the staff believes the amendment, if passed, may incent developers to develop poorly designed four-story structures without affordable housing, rather than construct well designed buildings with affordable housing units. The staff does not believe this was the intent of the proposed amendment.

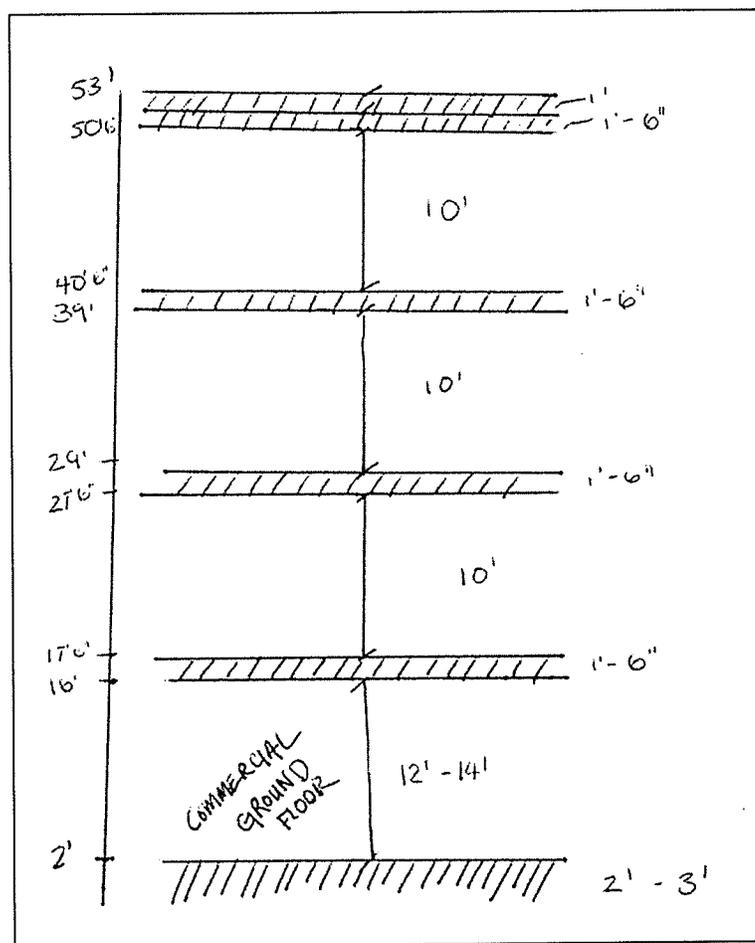


Figure 1. A typical four-story development usually exceeds 50 feet. Taking into account base flood elevation, the inclusion of a parapet, flooring assemblies, as well as a minimum ground floor ceiling height in the range of 12 to 14 feet, a four-story development below 50 feet would substantially reduce the ceiling heights of the residential floors.

Affected area

The text amendment would only affect new multi-family or mixed-use developments within the HM-MU Historic Marigny/Tremé/Bywater Mixed-Use District that exceed fifty (50) feet in height. Developments below fifty (50) feet in height, and developments consisting of exclusively non-residential uses would not be subject to the proposed requirement. The HM-MU District covers most of the main corridors which surround the Bywater and Holy Cross neighborhoods including St. Claude Avenue, Press Street, and Chartres Street.

B. What is the existing language of the Comprehensive Zoning Ordinance?

The City Council motion proposes to add a footnote to Table 10-2: Bulk & Yard Regulations in the row for “Maximum Building Height” and the column under the HM-MU District. The existing table appears as follows.

Article 10, Section 10.3 – Site Development Standards

TABLE 10-2: BULK & YARD REGULATIONS											
BULK & YARD REGULATIONS	DISTRICTS										
	VCC-1	VCC-2	VCE	VCE-1	VCS	VCS-1	VCP	HMC-1	HMC-2	HM-MU	
BULK REGULATIONS											
MINIMUM LOT AREA	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	None	SF: 1,500sf/du 2F: 1,200sf/du MF: 900sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None
A MAXIMUM BUILDING HEIGHT	50'	50'	50'	50'	50'	50'	50'	40'	50'	55'	
MINIMUM OPEN SPACE RATIO	<i>By Lot Type</i> Corner: .20 Interior: .30	<i>By Lot Type</i> Corner: .20 Interior: .30	Residential or Mixed-Use: .30 Non-Residential: .20	Residential or Mixed-Use: .30 Non-Residential: None	Residential or Mixed Use: .30 Non-Residential: None						
MAXIMUM FAR	None	1.4	2.2	2.5							
MAXIMUM TOTAL FLOOR AREA'								Non-Residential: 3,000sf	Non-Residential: Any use over 10,000sf is a conditional use		
MINIMUM YARD REQUIREMENTS											
B FRONT YARD	None	None	None	None							
C INTERIOR SIDE YARD	None	None	None	None							
D CORNER SIDE YARD	None	None	None	None							
E REAR YARD	None	None	None	None							

TABLE 10-2 FOOTNOTES

¹Total floor area limits per commercial use

C. What is the proposed language for amendment?

The City Council motion proposes to revise the bulk and yard requirements of the HM-MU Historic Marigny/Tremé/Bywater Mixed-Use District, specifically the maximum building height requirement, to include a footnote which would require any use with a residential component (i.e., a multi-family residence or mixed-use development), over fifty (50) feet in height, to provide at least five (5) percent affordable housing units. These units would be required to be designated for households with incomes equal to or below eighty (80) percent of the area median income (AMI), and would need to be provided for a minimum period of thirty (30) years. The revised table would appear as follows:

Article 10, Section 10.3 – Site Development Standards

TABLE 10-2: BULK & YARD REGULATIONS											
BULK & YARD REGULATIONS	DISTRICTS										
	VCC-1	VCC-2	VCE	VCE-1	VCS	VCS-1	VCP	HMC-1	HMC-2	HM-MU	
BULK REGULATIONS											
MINIMUM LOT AREA	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	None	SF: 1,500sf/du 2F: 1,000sf/du 2F: 1,200sf/du MF: 900sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None
A	MAXIMUM BUILDING HEIGHT	50'	50'	50'	50'	50'	50'	50'	40'	50'	55' ²
	MINIMUM OPEN SPACE RATIO	<i>By Lot Type</i> Corner: .20 Interior: .30	<i>By Lot Type</i> Corner: .20 Interior: .30	Residential or Mixed-Use: .30 Non-Residential: .20	Residential or Mixed-Use: .30 Non-Residential: None	Residential or Mixed-Use: .30 Non-Residential: None					
	MAXIMUM FAR	None	None	None	None	None	None	None	1.4	2.2	2.5
	MAXIMUM TOTAL FLOOR AREA¹								Non-Residential: 3,000sf	Non-Residential: Any use over 10,000sf is a conditional use	
MINIMUM YARD REQUIREMENTS											
B	FRONT YARD	None	None	None	None	None	None	None	None	None	None
C	INTERIOR SIDE YARD	None	None	None	None	None	None	None	None	None	None
D	CORNER SIDE YARD	None	None	None	None	None	None	None	None	None	None
E	REAR YARD	None	None	None	None	None	None	None	None	None	None

TABLE 10-2 FOOTNOTES

¹Total floor area limits per commercial use

²For any development above fifty feet (50'), a development shall provide at least five (5%) percent of dwelling units as affordable for households with incomes equal to or below eighty percent (80%) of area median income (AMI) for thirty (30) years.

A number of jurisdictions around the country have adopted inclusionary housing policies in the form of development incentives. As the price of housing continues to rise and affordability is a concern, policy makers have instituted incentive-based zoning standards in areas where market conditions are ripe for development. The basis of an affordable housing incentive is the offering of development bonuses such as increased density,

height, or FAR in return that a proportion of the development include an affordable housing option. The staff is concerned the proposed language, because it does not offer a true incentive, may not produce the intended outcome which is the increase in the supply of affordable housing units. Instead, the standard may in fact incent inferior design as a way to avoid triggering the affordable housing requirement.

D. Does the text amendment adequately answer the problem that is being addressed; if not, are other modifications necessary?

The proposed text amendment is intended to add an affordable housing provision within the HM-MU Historic Marigny/Tremé/Bywater Mixed-Use District and is intended to correspond with other zoning measures which have been initiated with the adoption of the new Comprehensive Zoning Ordinance. However, the difference between the existing affordable housing measures and that proposed is that the existing standards are currently written as density and height bonuses above the base maximum outlined; the proposed amendment involves inserting a mandatory requirement for multi-family developments to include a share of affordable housing within the base height permitted and not to exceed the base maximum.

Because it was concluded that increasing the HM-MU District's maximum building height to fifty-five (55) feet and increasing the maximum FAR from two (2) to two and a half (2.5) would give developers a reasonable flexibility in which to provide a well-designed four-story structure, the staff is concerned the amendment as proposed would actually incent developers to squeeze four stories within fifty (50) feet in order to circumvent the triggering of the affordable housing requirement. As written, the staff believes the proposed standard would penalize developers for good design, which was not its original intent.

In light of other affordable housing measures approved as part of the Comprehensive Zoning Ordinance, the staff believes this proposed amendment is unnecessary. However, if the Commission is inclined to recommend approval of an affordable housing requirement ties to the fifty-five (55) foot maximum height of the HM-MU District, the staff would recommend the following:

- Change the base height maximum of the HM-MU District to three (3) stories and forty-five (45) feet;
- Change the base maximum FAR to two (2.0);
- Provide for an affordable housing incentive which would allow up to a maximum height of four (4) stories and/or fifty-five (55) feet and an increase in FAR up to two and a half (2.5), in return for the setting aside of five (5) percent of units for affordable housing.

The staff believes a more appropriate affordable housing standard would be incentive-based and therefore allow a developer to exceed the base maximum height or base number of floors permitted. As an example, the HM-MU District base height could be

reduced to a maximum of three stories, and forty-five (45) feet, and an affordable housing incentive could be granted in the amount of one additional story or fifty-five (55) feet. This revision would not unintentionally penalize good design.

Though a mandatory inclusionary zoning policy may be desirable route to meeting the affordable housing needs of the community, the staff cannot recommend approval of such a policy shift prematurely without sufficient public vetting, market analysis, and research into best practices. It should be noted that the denial of this amendment would not eliminate an affordable housing provisions altogether within the HM-MU District. Several properties within the HM-MU District are also within the RIV Riverfront Design Overlay District and may take advantage of the height bonus already written. Additionally, proposed Amendment LC-13, if adopted, would affect the HM-MU District and would make available a density bonus in exchange for the same amount of affordable housing as that proposed in Amendment NMR-9.

E. Staff Recommendation

Based on the analysis in this section, the staff recommends denial of the proposed text amendment related to revisions of the bulk and yard requirements of the HM-MU Historic Marigny/Tremé/Bywater Mixed-Use District to include a mandatory provision for affordable housing. Additions to the Comprehensive Zoning Ordinance are shown below as **underlined, bold** text and deletions are shown in ~~striketrough~~ text. The text should read as follows:

Article 10, Section 10.3 – Site Development Standards

TABLE 10-2: BULK & YARD REGULATIONS											
BULK & YARD REGULATIONS	DISTRICTS										
	VCC-1	VCC-2	VCE	VCE-1	VCS	VCS-1	VCP	HMC-1	HMC-2	HM-MU	
BULK REGULATIONS											
MINIMUM LOT AREA	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	None	SF: 1,500sf/du 2F: 1,200sf/du MF: 900sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None
A MAXIMUM BUILDING HEIGHT	50'	50'	50'	50'	50'	50'	50'	40'	50'	55'	
MINIMUM OPEN SPACE RATIO	<i>By Lot Type</i> Corner: .20 Interior: .30	<i>By Lot Type</i> Corner: .20 Interior: .30	Residential or Mixed-Use: .30 Non-Residential: .20	Residential or Mixed-Use: .30 Non-Residential: None	Residential or Mixed-Use: .30 Non-Residential: None						
MAXIMUM FAR	None	1.4	2.2	2.5							
MAXIMUM TOTAL FLOOR AREA¹								Non-Residential: 3,000sf	Non-Residential: Any use over 10,000sf is a conditional use		
MINIMUM YARD REQUIREMENTS											
B FRONT YARD	None	None	None	None							
C INTERIOR SIDE YARD	None	None	None	None							
D CORNER SIDE YARD	None	None	None	None							
E REAR YARD	None	None	None	None							

TABLE 10-2 FOOTNOTES

¹Total floor area limits per commercial use

F. Reasons for Recommendation

1. The standard, in essence, would penalize developers for good design, as the most desirable designs include floor to ceiling heights in the range of ten (10) to twelve (12) feet. The amendment does not address FAR as a trigger of the requirement. The staff is concerned the amendment as proposed would incent developers to squeeze four stories within fifty (50) feet in order to circumvent the affordable housing requirement.

2. The staff believes the institution of a mandatory inclusionary zoning policy warrants further research into best practices than what has currently been performed to date, as well as further public vetting and market analyses.

VI. ANALYSIS – INCREASE MAXIMUM HEIGHT OF FENCES AND WALLS (JCB-8)

A. What is the reason for the text amendment? What area would be affected by the text amendment?

Reason for text amendment

The purpose of the text amendment of **Article 21, Section 21.6.N.1 – General Fence Requirements** is to increase the general height limitation placed on fences and walls city-wide.¹² The current standard limits the height of a fence or wall to seven (7) feet. The proposed amendment would increase this maximum by one (1) foot and would allow a fence or wall to measure a maximum of eight (8) feet. The reasoning behind the proposed amendment is to allow fences and walls of greater height in order to align with new flood protection requirements. The text amendment also addresses a practical issue related to the manufacturing of fence boards. Most fence boards do not come in lengths less than six (6) feet. When added to a typical-sized chain wall, which can measure between one (1) and two (2) feet, the total fence height will usually exceed seven (7) feet by a few inches. The proposed amendment allows a property owner the flexibility to construct a standard size fence and also meet minimum flood protection requirements of the building code.

Affected area

The text amendment would change a general on-site development standard related to fences and walls which is applied city-wide.

B. What is the existing language of the Comprehensive Zoning Ordinance?

The City Council motion proposes revisions to the height limit of fences and walls outlined under **Article 21, Section 21.6.N.1 – General Fence Requirements**. The existing limit is seven (7) feet. The standard is outlined in the text as follows:

¹² The proposed amendment would affect the general fence height limitation and would not affect the separate fence height limitation of the S-LRS2 and S-LRD1 Districts per **Article 21, Section 21.6.N.2**, nor would it supersede fence height limitations in historic districts per **Section 21.6.N.3**.

Article 21, Section 21.6.N.1 – General Fence Requirements

- a. Unless otherwise permitted or restricted by this Ordinance, a fence or wall may be located in any yard but may not exceed seven (7) feet in height. Fences in front yards shall be open fences.

The ordinance also stipulates an exception to the standard when there is a grade differential among abutting properties. The exception allows increased fence height in the amount of the difference between grades, but this exception is limited to a maximum additional three (3) feet. A building permit is not required for the construction of a fence; however, if the fence were to exceed seven (7) due to the existence of a grade differential, a building permit would be necessary. The standard is outlined in the text as follows:

Article 21, Section 21.6.N.1 – General Fence Requirements

[...]

- c. The height of fences or walls along common property lines in required side or rear yards shall be measured from grade. When grade differs between abutting properties, the height of the fence or wall shall be measured from the highest grade at the property line on either side of the property. In no case shall the total fence height exceed ten (10) feet. A building permit is required for all fences and walls exceeding seven (7) feet in height. (See Figure 21-4: Fences with Grade Differential)

C. What is the proposed language for amendment?

The City Council motion proposes to increase the general height limit of fences and walls to eight (8) feet. Additions to the text are indicated by **underlined, bold** text. Deletions are indicated by ~~striketrough~~ text. The revised text would read as follows:

Article 21, Section 21.6.N.1 – General Fence Requirements

- a. Unless otherwise permitted or restricted by this Ordinance, a fence or wall may be located in any yard but may not exceed ~~seven (7)~~ **eight (8)** feet in height. Fences in front yards shall be open fences.

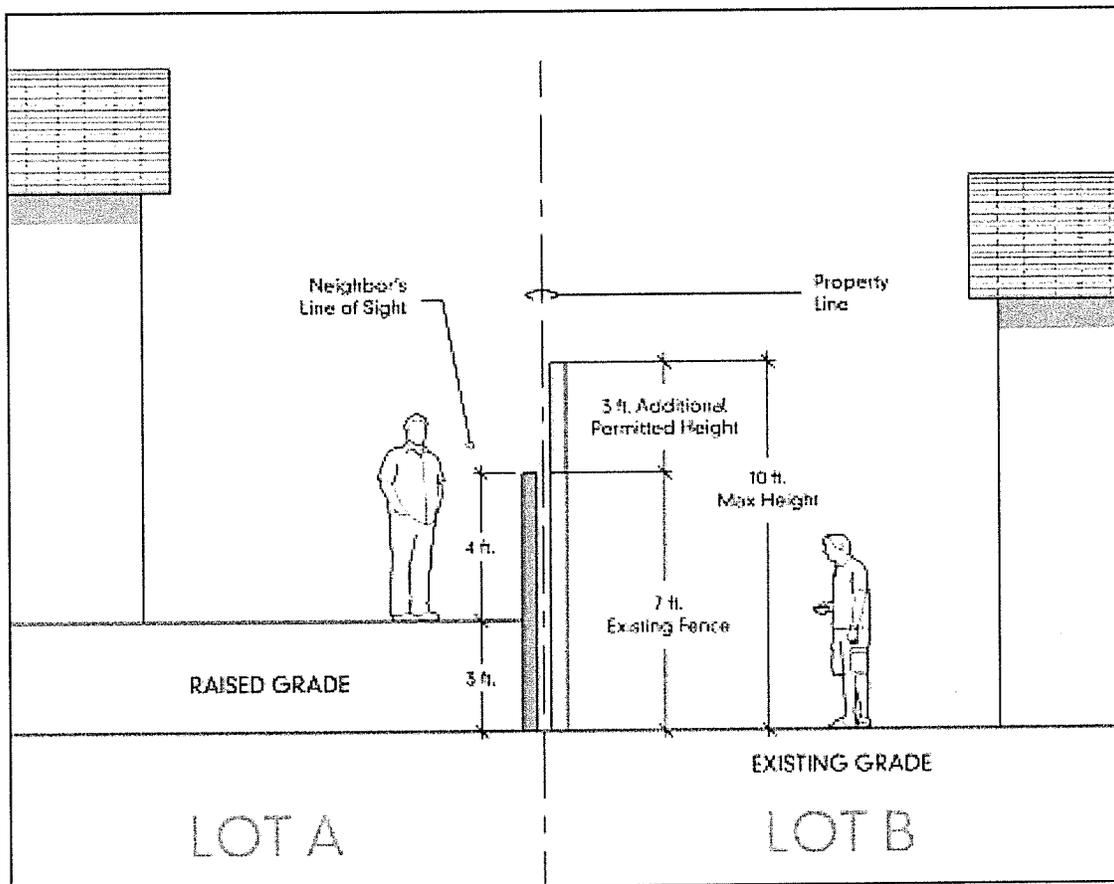
[...]

- c. The height of fences or walls along common property lines in required side or rear yards shall be measured from grade. When grade differs between abutting properties, the height of the fence or wall shall be measured from the highest grade at the property line on either side of the property. In no case shall the total fence height exceed ten (10) feet. A building permit is required for all fences and

walls exceeding seven (7) **eight (8)** feet in height. (See Figure 21-4: Fences with Grade Differential)

The City Council motion did not outline modifications to related figures or tables within the Comprehensive Zoning Ordinance. Figure 21-4 in the text currently illustrates a grade differential circumstance where the height of a fence or wall could exceed the existing seven (7) foot limit. See Figure 21-4 below. It should be noted that if the proposed text amendment were to be adopted, this figure would also need to be modified to reflect the amended requirement. The additional permitted height, which is illustrated within the Figure 21-4, would change from three (3) feet to two (2) feet.

FIGURE 21-4: FENCES WITH GRADE DIFFERENTIAL



- D. Does the text amendment adequately answer the problem that is being addressed; if not, are other modifications necessary?**

The staff believes the proposed amendment, as it only comprises an increase of one (1) foot in height, would have a minimal visual impact if applied city-wide. However, the amendment would have a significant practical impact. As previously mentioned, general

fence board is not manufactured and sold in lengths less than six (6) feet. When a fence is installed in combination with a required chain wall for flood protection, it will usually exceed seven (7) feet by a few inches. The modified maximum height of eight (8) feet will address this practical problem.

The staff also researched the fence height limitations of other communities for comparison and found that the maximum fence height permitted typically ranges from six (6) to eight (8) feet. As such, neither the current maximum standard nor the proposed would be inconsistent with the regulations of other cities. See Table 1 below.

Table 1. Fence Heights Limitations within Other Communities	
City	Fence Height Maximum
Charleston, SC	6'
Baton Rouge, LA	8'
Lafayette, LA	7'
Memphis, TN	9'
Nashville, TN	8' (The maximum is reduced to 6' in front yard setback)
Portland, OR	8' (The maximum is reduced to 3'-6" in front yard setback)
Savannah, GA	6' (The maximum increases to 11' in historic districts)
Seattle, WA	6'

E. Staff Recommendation

Based on this analysis in this section, the staff recommends approval of the amendment. Additionally, because the City Council motion did not outline modifications to related figures within the Comprehensive Zoning Ordinance, the staff recommends modifications to Figure 21-4 to reflect the amended maximum requirement. Additions to the text are indicated by **underlined, bold** text. Deletions are indicated by ~~strikethrough~~ text. The text would read as follows:

Article 21, Section 21.6.N.1 – General Fence Requirements

- a. Unless otherwise permitted or restricted by this Ordinance, a fence or wall may be located in any yard but may not exceed ~~seven (7)~~ **eight (8)** feet in height. Fences in front yards shall be open fences.

[...]

- c. The height of fences or walls along common property lines in required side or rear yards shall be measured from grade. When grade differs between abutting properties, the height of the fence or wall shall be measured from the highest grade at the property line on either side of the property. In no case shall the total fence height exceed ten (10) feet. A building permit is required for all fences and

walls exceeding ~~seven (7)~~ **eight (8)** feet in height. (See Figure 21-4: Fences with Grade Differential)

F. Reason for Recommendation

1. The amendment addresses a practical problem based on the fact that standard manufactured fence boards do not come in lengths less than six (6) feet.
2. The proposed amendment allows a property owner the flexibility to construct a standard size fence and also meet minimum flood protection requirements of the building code.

VII. ANALYSIS – USE STANDARDS (AMENDMENT NMR-17 PARTS 1-5)

A. What is the reason for the text amendment? What area would be affected by the text amendment?

Reason for text amendment

This text amendment is intended to modify the use standards for “Bar,” “Live Entertainment – Secondary Use and Live Performance Venue,” and “Restaurant (All Types)” in **Article 20, Section 20.3** of the Comprehensive Zoning Ordinance. The use standards outline information that the applicant would need to submit for permitting and the standards that the particular use will be held to. Use standards include things like hours of operation, limitations on certain uses, and plans for litter abatement.

The proposed amendment would impact the use standards for bars, live entertainment venues, and restaurants.¹³ Generally, the amendment would eliminate a number of requirements for these uses including providing a noise abatement plan, submitting a summary of certain land uses within 300 feet of the proposed use, and requiring an updated security and operations plan when an increase in intensity is proposed.

Specifically, the proposed amendments would eliminate the following use standards for bars: a noise abatement plan, submit certain land uses within 300 feet, live entertainment is a separate principal use, any expansion requires an update to the security and operation plans, and new security and operation plans shall be submitted for approval. The proposed amendments would eliminate the following use standards for live entertainment – secondary use and live performance venues: a noise abatement plan, submit certain land uses within 300 feet, any expansion requires an update to the security and operation plans, and new security and operation plans shall be submitted for approval. In addition, the amendment would delete the closed window and door requirement and allow recorded music in courtyards until 2:00 a.m. Finally, the amendment would eliminate the following restaurant use standards: a noise abatement plan, submit certain land uses

¹³ Amendment NMR-17

within 300 feet, post hours of operation, any expansion requires an update to the security and operation plans, and new security and operation plans shall be submitted for approval.

Affected area

The text amendment would alter the use standards that are applied city-wide.

B. What is the existing language of the Comprehensive Zoning Ordinance?

The City Council motion proposes revisions to the use standards for “Bar,” “Live Entertainment – Secondary Use and Live Performance Venue,” and “Restaurant (All Types) in **Article 20, Section 20.3** of the Comprehensive Zoning Ordinance. The existing use standards are as follows:

Article 20, Section 20.3 – Use Standards

[...]

G. Bar

1. A bar shall submit the following impact management plans to the Department of Safety and Permits:
 - a. A security and operation plan, which includes the provision of exterior security cameras. If the bar contains a brewing or distilling facility on-site, a floor plan indicating the area reserved for brewing or distilling, a description of the facility and capacity shall be included in the security and operation plan.
 - b. A noise abatement plan.
2. Bars shall submit a summary of the number and location of place of worship, educational facilities, and parks and playgrounds within three-hundred (300) feet of the proposed location.
3. Unless otherwise permitted by law, retail sales of packaged alcoholic beverages for consumption off the premises are prohibited.
4. Bars with live entertainment are also subject to the standards of this Article for “live entertainment – secondary use.” Live entertainment is a separate principal use and subject to separate approval.
5. If the bar use plans an increase in intensity, such as an expansion of floor area or increase in permitted occupancy, the security and operation plan shall be updated

and resubmitted for approval. A revised security and operation plan shall be approved prior to the issuance of any permits.

6. Security and operation plans may be revised by the property owner or licensed operator . New plans shall be resubmitted for approval.
7. On-site micro-brewing and micro-distillery facilities are allowed.

[...]

JJ. Live Entertainment – Secondary Use and Live Performance Venue

1. Live entertainment - secondary use is considered a separate principal use. Live entertainment – secondary use may only be established when allowed within a zoning district and in conjunction with a bar, standard restaurant, or indoor amusement facility.
2. Live entertainment – secondary use and live performance venues shall submit a noise abatement plan, to be reviewed by the Director of Safety and Permits, and all other appropriate City agencies, which shall address the intended use of amplification, noise levels, and need for soundproofing. Outdoor live entertainment areas located within thirty (30) feet of a residential district shall be a conditional use.
3. Live entertainment - secondary use and live performance venues shall submit a security and operation plan, with the following added:
 - a. For live entertainment – secondary use, the days and hours of operation for the establishment’s general operations as a standard restaurant or bar, and the days and hours of operation for the live entertainment component.
 - b. The configuration of the live entertainment area within the establishment.
 - c. Loading areas.
 - d. All live entertainment – secondary use and live performance shall provide exterior security cameras.
4. Live entertainment – secondary use and live performance venues shall submit a summary of the number and location of places of worship, educational facilities, and parks and playgrounds within three-hundred (300) feet of the proposed location.
5. Windows and doors shall be closed during live entertainment performances and compliance with the City of New Orleans Noise Ordinance is required. In the

Vieux Carré Districts, music of any kind is prohibited outside the building, unless authorized through the conditional use process.

6. If the live entertainment - secondary use and live performance venues use plans an increase in intensity, such as an expansion of floor area, increase in live performance area or increase in permitted occupancy, a security and operation plan shall be updated and resubmitted for approval. Revised security and operation plans shall be approved prior to the issuance of any permits.
7. Security and operation plans may be revised by the property owner or person authorized in writing by the owner. New plans shall be resubmitted for approval.
8. Because live entertainment – secondary use is only allowed with a bar, standard restaurant, or indoor amusement facility, when the submittal requirements of live entertainment – secondary use and standard restaurant or bar are duplicated, only one (1) set of submittal requirements is required to be submitted and updated.

[...]

ZZ. Restaurant (All Types)

1. A restaurant shall submit a security and operation plan, to be reviewed by the Director of Safety and Permits, and all other relevant City agencies, with the following added:
 - a. For restaurants with an outdoor component, the plan shall include provisions regarding how the facility will control the sales of alcoholic beverages to ensure consumption on-premises.
 - b. All restaurants serving alcoholic beverages shall provide exterior security cameras.
2. A restaurant shall submit a noise abatement plan, to be reviewed by the Director of Safety and Permits, and all other relevant City agencies.
3. If a restaurant contains a brewing or distilling facility on-site, a floor plan indicating the area reserved for brewing or distilling and a description of the facility and capacity. On-site micro-brewing and micro-distillery facilities are only allowed in standard restaurants.
4. Standard restaurants shall submit a summary of the number and location of places of worship, educational facilities, and parks and playgrounds within three-hundred (300) feet of the proposed location.
5. Unless otherwise permitted by law, retail sales of packaged alcoholic beverages for consumption off the premises are prohibited.

6. All restaurants that serve alcoholic beverages are limited to the following hours of operation (see also Table 20-2: Restaurant Hours of Operation Regulations). No new customers are permitted after the closing hour, and the restaurant shall be completely shut down, including no staff present on the premises, within two (2) hours of the closing time. Opening hour is for first opening of business to customers. These limitations do not apply to restaurants that serve alcoholic beverages in the Vieux Carré Districts, the CBD Districts, and in the C-1, C-2, C-3, LI, HI, MI, BIP, MU-2, EC, MC, and LS Districts.
 - a. Sunday thru Wednesday: from 6:00 am to 10:00 pm.
 - b. Thursday thru Saturday: from 6:00 am to 12:00 am (midnight).
 - c. Other hours may be approved through the conditional use process.
7. Hours of operation shall be posted on or near the restaurant entrance visible to the public.
8. Standard restaurants with live entertainment are also subject to the standards of this Article. Live entertainment is a separate principal use and subject to separate approval.
9. If the restaurant use plans an increase in intensity, such as an expansion of floor area or increase in permitted occupancy, the security and operation plans shall be updated and resubmitted for approval. The revised security and operation plan shall be approved prior to the issuance of any permits.
10. Security and operation plans may be revised by the property owner or person authorized in writing by the owner. New plans shall be resubmitted for approval.
11. Restaurants with drive-through facilities are subject to the standards of this Article. Standard restaurants with live entertainment – secondary uses are also subject to the standards of this Article. Drive-through facilities and live entertainment – secondary uses are considered separate principal uses and subject to separate approval.
12. A holding bar is permitted only for a standard restaurant. The holding bar is an accessory use to the principal use of a standard restaurant. The holding bar is an area of a restaurant where alcoholic beverages are prepared and served at the bar. Holding bars are subject to the following:
 - a. A holding bar cannot exceed fifteen percent (15%) of the floor area of the public seating area of the restaurant, up to a maximum area of three-hundred (300) square feet, including the service area behind the bar. The calculation of

the total public seating area shall include the holding bar area in the calculation. If a portion of the holding bar is used to serve non-alcoholic beverages, such as coffee, that area is included as part of the holding bar area. The holding bar area shall be calculated from the back wall to the front of the bar. . (See Figure 20-1: Restaurant Holding Bar.) If the holding bar is not set against a wall, the area shall be calculated from one bar front to another.

- b. The holding bar shall only be open to the public while food is being served in the restaurant’s dining room.
- d. Through the conditional use process, the City Council may grant a variance to increase in the square footage of the holding bar area. Such variance cannot exceed twenty-five percent (25%) of the public seating area of the restaurant.

13. There shall be no cover charge to enter a restaurant.

The existing use standards requires that bars, live entertainment – secondary uses, live performance venues, and restaurants provide a noise abatement plan, submit a summary of certain land uses within 300 feet of the proposed use, and require an updated security and operations plan when an increase in intensity is proposed. In addition, bars with live entertainment are subject to the live entertainment – secondary use requirements, live entertainment venues are subject to a closed door and window policy, and restaurants shall post their hours of operation.

C. What is the proposed language for amendment?

The City Council motion proposes that the use standards be revised to eliminate a number of requirements of bars, live entertainment – secondary uses, live performance venues, and restaurants. As proposed, the use standards would read as follows:

Article 20, Section 20.3 – Use Standards

[...]

G. Bar

- 1. A bar shall submit the following impact management plans to the Department of Safety and Permits:
 - a. A security and operation plan, which includes the provision of exterior security cameras. If the bar contains a brewing or distilling facility on-site, a floor plan indicating the area reserved for brewing or distilling, a description of the facility and capacity shall be included in the security and operation plan.
 - ~~b. A noise abatement plan.~~

- ~~2.~~ Bars shall submit a summary of the number and location of place of worship, educational facilities, and parks and playgrounds within three hundred (300) feet of the proposed location.
- ~~3~~2. Unless otherwise permitted by law, retail sales of packaged alcoholic beverages for consumption off the premises are prohibited.
- ~~4.~~ Bars with live entertainment are also subject to the standards of this Article for “live entertainment — secondary use.” Live entertainment is a separate principal use and subject to separate approval.
- ~~5.~~ If the bar use plans an increase in intensity, such as an expansion of floor area or increase in permitted occupancy, the security and operation plan shall be updated and resubmitted for approval. A revised security and operation plan shall be approved prior to the issuance of any permits.
- ~~6.~~ Security and operation plans may be revised by the property owner or licensed operator. New plans shall be resubmitted for approval.
- ~~7~~3. On-site micro-brewing and micro-distillery facilities are allowed.

[...]

JJ. Live Entertainment – Secondary Use and Live Performance Venue

1. Live entertainment - secondary use is considered a separate principal use. Live entertainment – secondary use may only be established when allowed within a zoning district and in conjunction with a bar, standard restaurant, or indoor amusement facility.
- ~~2.~~ Live entertainment — secondary use and live performance venues shall submit a noise abatement plan, to be reviewed by the Director of Safety and Permits, and all other appropriate City agencies, which shall address the intended use of amplification, noise levels, and need for soundproofing. Outdoor live entertainment areas located within thirty (30) feet of a residential district shall be a conditional use.
3. Live entertainment - secondary use and live performance venues shall submit a security and operation plan, with the following added:
 - a. For live entertainment – secondary use, the days and hours of operation for the establishment’s general operations as a standard restaurant or bar, and the days and hours of operation for the live entertainment component.
 - b. The configuration of the live entertainment area within the establishment.

- c. Loading areas.
 - d. All live entertainment – secondary use and live performance shall provide exterior security cameras.
- ~~4. Live entertainment – secondary use and live performance venues shall submit a summary of the number and location of places of worship, educational facilities, and parks and playgrounds within three hundred (300) feet of the proposed location.~~
- ~~54. Windows and doors shall be closed during live entertainment performances and compliance with the City of New Orleans Noise Ordinance is required. In the Vieux Carré Districts, music of any kind is prohibited outside the building, unless authorized through the conditional use process. **In the Vieux Carré Districts, recorded music of any kind is prohibited outside the building but not including courtyards, unless authorized through the conditional use process. Recorded music in courtyard shall not extend beyond 2:00 a.m.**~~
- ~~6. If the live entertainment – secondary use and live performance venues use plans an increase in intensity, such as an expansion of floor area, increase in live performance area or increase in permitted occupancy, a security and operation plan shall be updated and resubmitted for approval. Revised security and operation plans shall be approved prior to the issuance of any permits.~~
- ~~7. Security and operation plans may be revised by the property owner or person authorized in writing by the owner. New plans shall be resubmitted for approval.~~
- ~~85. Because live entertainment – secondary use is only allowed with a bar, standard restaurant, or indoor amusement facility, when the submittal requirements of live entertainment – secondary use and standard restaurant or bar are duplicated, only one (1) set of submittal requirements is required to be submitted and updated.~~

[...]

ZZ. Restaurant (All Types)

- 1. A restaurant shall submit a security and operation plan, to be reviewed by the Director of Safety and Permits, and all other relevant City agencies, with the following added:
 - a. For restaurants with an outdoor component, the plan shall include provisions regarding how the facility will control the sales of alcoholic beverages to ensure consumption on-premises.

- b. All restaurants serving alcoholic beverages shall provide exterior security cameras.
- ~~2. A restaurant shall submit a noise abatement plan, to be reviewed by the Director of Safety and Permits, and all other relevant City agencies.~~
- ~~32.~~ If a restaurant contains a brewing or distilling facility on-site, a floor plan indicating the area reserved for brewing or distilling and a description of the facility and capacity. On-site micro-brewing and micro-distillery facilities are only allowed in standard restaurants.
- ~~4. Standard restaurants shall submit a summary of the number and location of places of worship, educational facilities, and parks and playgrounds within three hundred (300) feet of the proposed location.~~
- ~~53.~~ Unless otherwise permitted by law, retail sales of packaged alcoholic beverages for consumption off the premises are prohibited.
- ~~64.~~ All restaurants that serve alcoholic beverages are limited to the following hours of operation (see also Table 20-2: Restaurant Hours of Operation Regulations). No new customers are permitted after the closing hour, and the restaurant shall be completely shut down, including no staff present on the premises, within two (2) hours of the closing time. Opening hour is for first opening of business to customers. These limitations do not apply to restaurants that serve alcoholic beverages in the Vieux Carré Districts, the CBD Districts, and in the C-1, C-2, C-3, LI, HI, MI, BIP, MU-2, EC, MC, and LS Districts.
 - a. Sunday thru Wednesday: from 6:00 am to 10:00 pm.
 - b. Thursday thru Saturday: from 6:00 am to 12:00 am (midnight).
 - e. Other hours may be approved through the conditional use process.
- ~~7. Hours of operation shall be posted on or near the restaurant entrance visible to the public.~~
- ~~85.~~ Standard restaurants with live entertainment are also subject to the standards of this Article. Live entertainment is a separate principal use and subject to separate approval.
- ~~9. If the restaurant use plans an increase in intensity, such as an expansion of floor area or increase in permitted occupancy, the security and operation plans shall be updated and resubmitted for approval. The revised security and operation plan shall be approved prior to the issuance of any permits.~~

~~10.~~ Security and operation plans may be revised by the property owner or person authorized in writing by the owner. New plans shall be resubmitted for approval.

~~116.~~ Restaurants with drive-through facilities are subject to the standards of this Article. Standard restaurants with live entertainment – secondary uses are also subject to the standards of this Article. Drive-through facilities and live entertainment – secondary uses are considered separate principal uses and subject to separate approval.

~~127.~~ A holding bar is permitted only for a standard restaurant. The holding bar is an accessory use to the principal use of a standard restaurant. The holding bar is an area of a restaurant where alcoholic beverages are prepared and served at the bar. Holding bars are subject to the following:

- a. A holding bar cannot exceed fifteen percent (15%) of the floor area of the public seating area of the restaurant, up to a maximum area of three-hundred (300) square feet, including the service area behind the bar. The calculation of the total public seating area shall include the holding bar area in the calculation. If a portion of the holding bar is used to serve non-alcoholic beverages, such as coffee, that area is included as part of the holding bar area. The holding bar area shall be calculated from the back wall to the front of the bar. . (See Figure 20-1: Restaurant Holding Bar.) If the holding bar is not set against a wall, the area shall be calculated from one bar front to another.
- b. The holding bar shall only be open to the public while food is being served in the restaurant’s dining room.
- d. Through the conditional use process, the City Council may grant a variance to increase in the square footage of the holding bar area. Such variance cannot exceed twenty-five percent (25%) of the public seating area of the restaurant.

~~138.~~ There shall be no cover charge to enter a restaurant.

D. Does the text amendment adequately answer the problem that is being addressed; if not, are other modifications necessary?

The proposed amendment would eliminate many of the use standards for bars, live entertainment – secondary use and live performance venues, and restaurants. The staff believes that use standards are necessary to mitigate potential negative impacts of a use on surrounding properties. If the proposed use standard does that, then it should be retained. If the proposed use standard does not mitigate negative impacts, then it is unnecessary and should be eliminated. In addition, the staff believes that the use standards need to be located in the appropriate section of City Code and/or Comprehensive Zoning Ordinance. The staff will review each of the proposed changes to the use standards to determine whether or not the use standard is necessary in **Article 20, Section 20.3** of the Comprehensive Zoning Ordinance.

Noise Abatement Plan

A noise abatement plan is required for bars, live entertainment – secondary uses and live performance venues, and restaurants. Part of the proposed amendment is to eliminate the requirement that the applicant needs to submit a noise abatement plan. A noise abatement plan is an important component of any use with live entertainment or any use that serves alcoholic beverages; however, the staff believes that it is better to regulate noise in the City’s Noise Ordinance¹⁴ than in the Comprehensive Zoning Ordinance. While there are currently no requirements in Chapter 66 of City Code for businesses to provide a noise abatement plan, there are plans to update the Noise Ordinance in the near future. Since the Noise Ordinance regulates sound for all uses, the noise abatement plan should be a requirement of Chapter 66 of the City Code and not the use standards of the Comprehensive Zoning Ordinance. Therefore, the staff recommends removing the noise abatement plan requirements for a bar in **Article 20, Section 20.3.G.1.b.**, a live entertainment – secondary use or a live entertainment venue in the first sentence of **Article 20, Section 20.3.JJ.2**, and a restaurant in **Article 20, Section 20.3.ZZ.2**.

Provide Adjacent Land Uses

The use standards for bars in **Article 20, Section 20.3.G.2**, live entertainment – secondary uses and live performance venues in **Article 20, Section 20.3.JJ.4**, and restaurants in **Article 20, Section 20.3.ZZ.4** all require that the applicant provide a summary of the number and location of places of worship, educational facilities, and parks and playgrounds within three-hundred (300) feet of the proposed location. This is because Chapter 10 of City Code prohibits the opening of a barroom within three-hundred (300) feet of these uses. This prohibition would apply to a bar and a live entertainment venue (since alcoholic beverage sales are allowed). Since this prohibition does not apply to restaurants or Live Entertainment – Secondary Use, **Article 20, Section 20.3.ZZ.4** can be removed and **Article 20, Section 20.3.JJ.4** can be revised to remove this requirement for Live Entertainment – Secondary Use.

Live Entertainment at Bars

Article 20, Section 20.3.G.4 states that live entertainment in bars is a separate principal use and subject to the “live entertainment – secondary use” standards. This language is addressed in the definition for Live Entertainment – Secondary Use which states that “live entertainment – secondary use shall be part of a standard restaurant, specialty restaurant, indoor amusement facility or bar, and shall be approved separately.” Since this language is included in the definition, it does not need to be included in the bar use standards. Furthermore, there is similar language in the restaurant use standards which repeats what is in the live entertainment – secondary use definition (and it only applies to standard restaurants and not standard and specialty restaurants per the definition). Therefore, the staff recommends removing the use standard in **Article 20, Section**

¹⁴ The City’s Noise Ordinance can be found in Chapter 66, Article IV of City Code.

20.3.ZZ.8. In addition, the Live Entertainment – Secondary Use and Live Performance Venue use standard in **Article 20, Section 20.3.JJ.1** and **Article 20, Section 20.3.JJ.5** does not mention specialty restaurants as allowing live entertainment – secondary use which is allowed in the definition and should be revised. Therefore, the staff recommends making all of the changes listed above.

Update Security and Operation Plans

The proposed amendment recommends removing use standards that relate to updating a security and operation plans if there is any increase in intensity at a bar, a live entertainment – secondary use and live performance venue, and a restaurant. This amendment would also remove the use standard that allow for the property owner or his or her agent to revise and resubmit these plans. This requirement was put in place to mitigate the impacts of uses that serve alcoholic beverages. Since the impact is related to the sale of alcoholic beverages and not one specific land use (i.e. only applies to restaurants), this requirement would best fit in the section of City Code that regulates Alcoholic Beverages, Chapter 10. Furthermore, there is no description of the specific requirements of security and operation plans in the Comprehensive Zoning Ordinance. Chapter 10 of City Code would be the best place to detail the requirements and performance standards for security and operation plans for all uses that sell alcoholic beverages for on premises consumption. While the amendment recommends removing the requirement that these plans be updated, it did not recommend eliminating the use standards that require the security and operation plans in the first place. The staff believes this is an oversight and recommends removing the security and operation plans requirement for the reasons stated above. Therefore, the staff recommends removing the following use standards for bars in **Article 20, Section 20.3.G.1**, **Article 20, Section 20.3.G.1.a**, **Article 20, Section 20.3.G.5**, and **Article 20, Section 20.3.G.6**, for Live Entertainment – Secondary Uses and Live Performance Venues in **Article 20, Section 20.3.JJ.3**, **Article 20, Section 20.3.JJ.6**, and **Article 20, Section 20.3.JJ.7**, and for restaurants in **Article 20, Section 20.3.ZZ.1**, **Article 20, Section 20.3.ZZ.9**, and **Article 20, Section 20.3.ZZ.10**.

Music Outdoors

For **Article 20, Section 20.3.JJ.5**, the amendment recommends deleting the existing language and inserting new text. This amendment would delete the closed door and window policy for the entire city and allow recorded music in courtyards in the French Quarter until 2:00 a.m. The staff is opposed to deleting the closed door and window policy. This language applies to the entire city and to all doors and windows, not just the ones that face courtyards. Deleting this requirement would allow for any live entertainment venue to have its doors and windows open to the street which could impact adjacent uses. The staff is open to allowing live entertainment in courtyards in the French Quarter but thinks that the proposed language is not clear. Courtyards, if fully enclosed, would limit the impact of music and live entertainment to the courtyard. Since they are enclosed, sound may not necessarily filter out into the street and impact adjacent land

uses. In addition, recorded music is just one type of entertainment. The staff believes that all live entertainment should be allowed, not just recorded music, and the staff recommends a revised use standard. Therefore, the staff recommends modifying **Article 20, Section 20.3.JJ.5** to state the following: “Windows and doors shall be closed during live entertainment performances and compliance with the City of New Orleans Noise Ordinance is required. In the Vieux Carré Districts, live entertainment of any kind is prohibited outside the building, except in fully enclosed courtyards and no later than 2:00 a.m. Additional outdoor locations and later hours may be authorized through the conditional use process.” It should be noted that the live entertainment – secondary use or live performance venue must be authorized by the site’s zoning district.

Restaurant Hours of Operation

Article 20, Section 20.3.ZZ.7 requires that “hours of operation shall be posted on or near the restaurant entrance visible to the public.” This is a common practice of most, if not all restaurants and should not a difficult requirement to comply with. In addition, in some zoning districts restaurants with alcoholic beverage sales have limitations on hours of operation so requiring that those hours of operation be posted near the entrance will assist in the enforcement of this requirement. Therefore, the staff does not recommend any changes to **Article 20, Section 20.3.ZZ.7**.

E. Staff Recommendation

Based on this analysis, the staff recommends that the following changes to the uses standards for Bar, Live Entertainment – Secondary Use and Live Performance Venue, and Restaurant in **Article 20, Section 20.3**. Additions are shown in **underlined, bold** text and deletions shown in ~~strikethrough~~ text:

Article 20, Section 20.3 – Use Standards

[...]

G. Bar

- ~~1. A bar shall submit the following impact management plans to the Department of Safety and Permits:
 - ~~a. A security and operation plan, which includes the provision of exterior security cameras. If the bar contains a brewing or distilling facility on-site, a floor plan indicating the area reserved for brewing or distilling, a description of the facility and capacity shall be included in the security and operation plan.~~
 - ~~b. A noise abatement plan.~~~~

- ~~21.~~ Bars shall submit a summary of the number and location of places of worship, educational facilities, and parks and playgrounds within three-hundred (300) feet of the proposed location.
- ~~32.~~ Unless otherwise permitted by law, retail sales of packaged alcoholic beverages for consumption off the premises are prohibited.
- ~~4.~~ Bars with live entertainment are also subject to the standards of this Article for “live entertainment – secondary use.” Live entertainment is a separate principal use and subject to separate approval.
- ~~5.~~ If the bar use plans an increase in intensity, such as an expansion of floor area or increase in permitted occupancy, the security and operation plan shall be updated and resubmitted for approval. A revised security and operation plan shall be approved prior to the issuance of any permits.
- ~~6.~~ Security and operation plans may be revised by the property owner or licensed operator. New plans shall be resubmitted for approval.
- ~~73.~~ On-site micro-brewing and micro-distillery facilities are allowed.

[...]

JJ. Live Entertainment – Secondary Use and Live Performance Venue

1. Live entertainment - secondary use is considered a separate principal use. Live entertainment – secondary use may only be established when allowed within a zoning district and in conjunction with a bar, standard restaurant, **specialty restaurant** or indoor amusement facility.
- ~~2.~~ Live entertainment – secondary use and live performance venues shall submit a noise abatement plan, to be reviewed by the Director of Safety and Permits, and all other appropriate City agencies, which shall address the intended use of amplification, noise levels, and need for soundproofing. Outdoor live entertainment areas located within thirty (30) feet of a residential district shall be a conditional use.
- ~~3.~~ Live entertainment – secondary use and live performance venues shall submit a security and operation plan, with the following added:
 - ~~a.~~ For live entertainment – secondary use, the days and hours of operation for the establishment’s general operations as a standard restaurant or bar, and the days and hours of operation for the live entertainment component.
 - ~~b.~~ The configuration of the live entertainment area within the establishment.

~~e. Loading areas.~~

~~d. All live entertainment – secondary use and live performance shall provide exterior security cameras.~~

~~43. Live entertainment – secondary use and live performance venues shall submit a summary of the number and location of places of worship, educational facilities, and parks and playgrounds within three-hundred (300) feet of the proposed location.~~

~~54. Windows and doors shall be closed during live entertainment performances and compliance with the City of New Orleans Noise Ordinance is required. In the Vieux Carré Districts, music of any kind is prohibited outside the building, unless authorized through the conditional use process~~ **In the Vieux Carré Districts, live entertainment of any kind is prohibited outside the building, except in fully enclosed courtyards and no later than 2:00 a.m. Additional outdoor locations and later hours may be authorized through the conditional use process.**

~~6. If the live entertainment – secondary use and live performance venues use plans an increase in intensity, such as an expansion of floor area, increase in live performance area or increase in permitted occupancy, a security and operation plan shall be updated and resubmitted for approval. Revised security and operation plans shall be approved prior to the issuance of any permits.~~

~~7. Security and operation plans may be revised by the property owner or person authorized in writing by the owner. New plans shall be resubmitted for approval.~~

~~85. Because live entertainment – secondary use is only allowed with a bar, standard restaurant, **specialty restaurant** or indoor amusement facility, when the submittal requirements of live entertainment – secondary use and standard restaurant, **specialty restaurant** or bar are duplicated, only one (1) set of submittal requirements is required to be submitted and updated.~~

[...]

ZZ. Restaurant (All Types)

~~1. A restaurant shall submit a security and operation plan, to be reviewed by the Director of Safety and Permits, and all other relevant City agencies, with the following added:~~

~~a. For restaurants with an outdoor component, the plan shall include provisions regarding how the facility will control the sales of alcoholic beverages to ensure consumption on premises.~~

- ~~b. All restaurants serving alcoholic beverages shall provide exterior security cameras.~~
- ~~2. A restaurant shall submit a noise abatement plan, to be reviewed by the Director of Safety and Permits, and all other relevant City agencies.~~
- ~~31. If a restaurant contains a brewing or distilling facility on-site, a floor plan indicating the area reserved for brewing or distilling and a description of the facility and capacity. On-site micro-brewing and micro-distillery facilities are only allowed in standard restaurants.~~
- ~~4. Standard restaurants shall submit a summary of the number and location of places of worship, educational facilities, and parks and playgrounds within three-hundred (300) feet of the proposed location.~~
- ~~52. Unless otherwise permitted by law, retail sales of packaged alcoholic beverages for consumption off the premises are prohibited.~~
- ~~63. All restaurants that serve alcoholic beverages are limited to the following hours of operation (see also Table 20-2: Restaurant Hours of Operation Regulations). No new customers are permitted after the closing hour, and the restaurant shall be completely shut down, including no staff present on the premises, within two (2) hours of the closing time. Opening hour is for first opening of business to customers. These limitations do not apply to restaurants that serve alcoholic beverages in the Vieux Carré Districts, the CBD Districts, and in the C-1, C-2, C-3, LI, HI, MI, BIP, MU-2, EC, MC, and LS Districts.
 - ~~a. Sunday thru Wednesday: from 6:00 am to 10:00 pm.~~
 - ~~b. Thursday thru Saturday: from 6:00 am to 12:00 am (midnight).~~
 - ~~c. Other hours may be approved through the conditional use process.~~~~
- ~~74. Hours of operation shall be posted on or near the restaurant entrance visible to the public.~~
- ~~8. Standard restaurants with live entertainment are also subject to the standards of this Article. Live entertainment is a separate principal use and subject to separate approval.~~
- ~~9. If the restaurant use plans an increase in intensity, such as an expansion of floor area or increase in permitted occupancy, the security and operation plans shall be updated and resubmitted for approval. The revised security and operation plan shall be approved prior to the issuance of any permits.~~

~~10. Security and operation plans may be revised by the property owner or person authorized in writing by the owner. New plans shall be resubmitted for approval.~~

~~115.~~ Restaurants with drive-through facilities are subject to the standards of this Article. Standard **and specialty** restaurants with live entertainment – secondary uses are also subject to the standards of this Article. Drive-through facilities and live entertainment – secondary uses are considered separate principal uses and subject to separate approval.

~~126.~~ A holding bar is permitted only for a standard restaurant. The holding bar is an accessory use to the principal use of a standard restaurant. The holding bar is an area of a restaurant where alcoholic beverages are prepared and served at the bar. Holding bars are subject to the following:

- a. A holding bar cannot exceed fifteen percent (15%) of the floor area of the public seating area of the restaurant, up to a maximum area of three-hundred (300) square feet, including the service area behind the bar. The calculation of the total public seating area shall include the holding bar area in the calculation. If a portion of the holding bar is used to serve non-alcoholic beverages, such as coffee, that area is included as part of the holding bar area. The holding bar area shall be calculated from the back wall to the front of the bar. (See Figure 20-1: Restaurant Holding Bar.) If the holding bar is not set against a wall, the area shall be calculated from one bar front to another.
- b. The holding bar shall only be open to the public while food is being served in the restaurant's dining room.
- d. Through the conditional use process, the City Council may grant a variance to increase in the square footage of the holding bar area. Such variance cannot exceed twenty-five percent (25%) of the public seating area of the restaurant.

~~137.~~ There shall be no cover charge to enter a restaurant.

F. Reasons for Recommendation

1. Many of the proposed use standards for noise abatement, security, and operation plans are better suited for the noise and alcoholic beverage chapters of City Code. Other use standards should be eliminated because they are not necessary or repeat requirements in other sections of the Comprehensive Zoning Ordinance.
2. Other changes were made to reflect that specialty restaurants allow live entertainment – secondary use.
3. Some use standards were retained because they are necessary to mitigate potential negative impacts associated with certain use.

VIII. ANALYSIS – HOLDING BAR REQUIREMENTS (NMR-17 PART 6)

A. What is the reason for the text amendment? What area would be affected by the text amendment?

Reason for text amendment

This text amendment is intended to modify the use standards in regard to holding bars within standard restaurants per **Article 20, Section 20.3.ZZ.12 – Use Standards (Restaurants – Holding Bars)**. As currently written in the new ordinance, the standard allows for a restaurant to contain a holding bar which is defined as “an area of a restaurant where alcoholic beverages are prepared and served at the bar.” **Article 20, Section 20.3.ZZ.12.a** limits the size of a holding bar to fifteen (15) percent of the public seating area of a restaurant up to a maximum of three hundred (300) square feet. Currently, a variance of this standard is permitted through the conditional use process; however, per **Article 20, Section 20.3.ZZ.12.d** the variance cannot exceed twenty-five (25) percent of the public seating area. The holding bar standard is applied to all permitted restaurants city-wide.

The sale of alcoholic beverages in conjunction with food service is permitted in all districts where a restaurant is a permitted use except for the S-LB1 Lake Area Neighborhood Business District.¹⁵ However, alcoholic beverage service is intended to be supplementary to the primary function of a restaurant which is the service of food. Like bars, restaurants are authorized to serve alcoholic beverages with meals, but what distinguishes a restaurant from a bar is the proportion of alcoholic beverages sold. Per **Article 26, Section 26.6 – Definitions**, revenue from food and non-alcoholic beverages must exceed the revenue from alcoholic beverages, thereby constituting at least fifty (50) percent of sales. As such, the only distinguishing factor between a bar and a restaurant is sales revenue. This creates a problem in that City cannot verify a restaurant use until after it has commenced operations. The holding bar standard of **Article 20**, however, is a physical development standard which helps to ensure that alcohol sales are an ancillary as opposed to a dominant function of a restaurant. As it is a standard which relates to design and space, it allows the City the ability to verify a use prior to operation or even construction. Additionally, it enables the City to accurately monitor licensures.

The proposed amendment is intended to remove the holding bar restrictions entirely in all districts except for the S-B1 Suburban Business District, the S-B2 Pedestrian-Oriented Corridor Business District, the S-LB2 Lake Area Neighborhood Business District, the S-LC Lake Area General Commercial District, the HU-B1A and HU-B1 Neighborhood Business Districts, the HU-MU Neighborhood Mixed-Use District, and the HMC-1 and HMC-2 Historic Marigny/Tremé/Bywater Commercial Districts. The amendment is

¹⁵ The sale of alcohol is permitted in conjunction with food service in the S-LB1 District only through the conditional use process. A conditional use process is also required for the sale of alcohol in restaurants for those properties within the HU-B1A Use Restriction Overlay District and the Magazine Street Use Restriction Overlay District.

intended to correspond with the current regulations of the previous zoning ordinance, where a similar holding bar requirement exists and is applied to only the B-1, B-2 and B-1A Neighborhood Business Districts, and the HMC-1 and HMC-2 Historic Marigny/Tremé Commercial Districts.

Affected area

The text amendment would alter a use standard which is applied city-wide in zoning districts where a standard restaurant is a permitted or conditional use. Additionally, the text amendment as proposed would eliminate the specific standards related to holding bars, which includes the maximum permitted area of a holding bar, in those districts not specifically called out within the text. Table 2 lists the specific zoning districts that would be affected by the proposed text amendment.

Table 2. Zoning Districts Affected by NMR-17 Part 6 – Amendment to Holding Bar Requirements

Districts with Holding Bar Requirement	Districts without Holding Bar Requirement
S-B1 Suburban Business District S-B2 Pedestrian-Oriented Corridor Business District S-LB2 Lake Area Neighborhood Business District S-LC Lake Area General Commercial District HU-B1A Neighborhood Business District HU-B1 Neighborhood Business District HU-MU Neighborhood Mixed-Use District HMC-1 Historic Marigny/Tremé/Bywater Commercial District HMC-2 Historic Marigny/Tremé/Bywater Commercial District	OS-R Regional Open Space District M-MU Maritime Mixed-Use District VCC-1 Vieux Carré Commercial District VCC-2 Vieux Carré Commercial District VCE Vieux Carré Entertainment District VCE-1 Vieux Carré Entertainment District VCS Vieux Carré Service District VCS-1 Vieux Carré Service District HM-MU Historic Marigny/Tremé/Bywater Mixed-Use District S-LM Lake Area Marina District C-1 General Commercial District C-2 Auto-Oriented Commercial District C-3 Heavy Commercial District MU-1 Medium Intensity Mixed-Use District MU-2 High Intensity Mixed-Use District EC Educational Campus District MC Medical Campus District MS Medical Service District LS Life Science Mixed-Use District LI Light Industrial District HI Heavy Industrial District MI Maritime Industrial District BIP Business-Industrial Park District CBD-1 Core Central Business District CBD-2 Historic Commercial and Mixed-Use District CBD-3 Cultural Arts District CBD-4 Exposition District CBD-5 Urban Core Neighborhood Lower Intensity Mixed-Use District CBD-6 Urban Core Neighborhood Mixed-Use District CBD-7 Bio-Science District

B. What is the existing language of the Comprehensive Zoning Ordinance?

The City Council motion proposes revisions to holding bar requirements outlined under **Article 20, Section 20.3.ZZ.12 – Use Standards (Restaurants – Holding Bars)**. The existing standard is applied to restaurant uses city-wide. The standard is outlined in the text as follows:

Article 20, Section 20.3 – Use Standards

ZZ. Restaurant (All Types)

[...]

12. A holding bar is permitted only for a standard restaurant. The holding bar is an accessory use to the principal use of a standard restaurant. The holding bar is an area of a restaurant where alcoholic beverages are prepared and served at the bar. Holding bars are subject to the following:

- a. A holding bar cannot exceed fifteen percent (15%) of the floor area of the public seating area of the restaurant, up to a maximum area of three-hundred (300) square feet, including the service area behind the bar. The calculation of the total public seating area shall include the holding bar area in the calculation. If a portion of the holding bar is used to serve non-alcoholic beverages, such as coffee, that area is included as part of the holding bar area. The holding bar area shall be calculated from the back wall to the front of the bar. (See Figure 20-1: Restaurant Holding Bar.) If the holding bar is not set against a wall, the area shall be calculated from one bar front to another.
- b. The holding bar shall only be open to the public while food is being served in the restaurant’s dining room.
- d. Through the conditional use process, the City Council may grant a variance to increase in the square footage of the holding bar area. Such variance cannot exceed twenty-five percent (25%) of the public seating area of the restaurant.

C. What is the proposed language for amendment?

The City Council motion proposes to revise the text of **Article 20, Section 20.3.ZZ.12 – Use Standards (Restaurants – Holding Bars)** by calling out in which districts the holding bar restrictions would apply. As mentioned previously in this report, the text amendment as proposed would eliminate the special use standard related to holding bars in several districts where restaurants are a permitted use.

The revised text would read as follows. The language proposed for deletion from the text is indicated below in ~~strikethrough~~ font. Language recommended for addition is indicated in **bold, underlined** font.

Article 20, Section 20.3 – Use Standards

ZZ. Restaurant (All Types)

[...]

12. A **In S-B1, S-B2, S-LB2, S-LC, HU-B1A, HU-B1, HU-MU, HMC-1, and HMC-2 zoning districts, a** holding bar is permitted only for a standard restaurant. The holding bar is an accessory use to the principal use of a standard restaurant. The holding bar is an area of a restaurant where alcoholic beverages are prepared and served at the bar. Holding bars are subject to the following:

- a. A holding bar cannot exceed fifteen percent (15%) of the floor area of the public seating area of the restaurant, up to a maximum area of three-hundred (300) square feet, including the service area behind the bar. The calculation of

the total public seating area shall include the holding bar area in the calculation. If a portion of the holding bar is used to serve non-alcoholic beverages, such as coffee, that area is included as part of the holding bar area. The holding bar area shall be calculated from the back wall to the front of the bar. (See Figure 20-1: Restaurant Holding Bar.) If the holding bar is not set against a wall, the area shall be calculated from one bar front to another.

- b. The holding bar shall only be open to the public while food is being served in the restaurant's dining room.
- d. Through the conditional use process, the City Council may grant a variance to increase in the square footage of the holding bar area. Such variance cannot exceed twenty-five percent (25%) of the public seating area of the restaurant.

D. Does the text amendment adequately answer the problem that is being addressed; if not, are other modifications necessary?

The staff does not believe a problem exists which warrants the proposed amendment to the current holding bar requirements in **Article 20, Section 20.3.ZZ.12 – Use Standards (Restaurants – Holding Bars)** of the Comprehensive Zoning Ordinance. The holding bar requirement was originally established within the Comprehensive Zoning Ordinance in the late 1990s in response to an increasing number restaurants morphing into bars on weekends and causing nuisance issues in several neighborhoods.¹⁶ Initially, the holding bar requirements were applied to the B-1, B-2 and B-1A Neighborhood Business Districts. The text was later amended to include the HMC-1 and HMC-2 Historic Marigny/Tremé Commercial Districts.¹⁷ Holding bar restrictions, because they are essentially a physical and dimensional standard, enable City officials to make an instant verification of the use of a structure, thereby allowing more consistent and accurate enforcement of the zoning code. If revenue figures are the only factor of differentiation, then the City is hamstrung into waiting until sufficient revenue data is obtained in order to enforce the zoning code. For this reason, when drafting the new Comprehensive Zoning Ordinance, it was intended to apply the standard to all zoning districts where a standard restaurant is permitted. Additionally, it was believed the holding bar limitation should be changed to apply city-wide since the new Comprehensive Zoning Ordinance was to authorize all standard restaurants to serve alcohol. It should be noted that the holding bar limitation does not apply to food counters.

Bars by their nature have certain impacts which at times, dependent on their location, require special conditions or regulation. As such, the zoning ordinance prohibits bars in some districts and requires the use to be authorized through a conditional use process in the majority of others. A bar is only a permitted use in a handful of high-intensity districts. See Table 3.

¹⁶ Ord. 17,664

¹⁷ Ord. 19,722

The staff has discovered that in some areas there are a number of de facto bars and live entertainment venues are operating throughout the city though they are licensed as standard restaurants. The proposed amendment to the text would cause the holding bar standard to only be applicable in a few neighborhood business districts. As such, it would effectively eliminate holding bar standards in the rest of the districts where restaurants are permitted. This would include several districts where a bar use is prohibited or conditional. The staff believes that without a concrete standard in which to differentiate bars and restaurants, a loophole exists for restaurants to morph into bars. This loophole would enable pseudo-restaurants to bypass the different operational requirements of bars which could give rise to public nuisance issues. This would be especially problematic in districts where bars are a prohibited use.

Table 3. Zoning Districts Where Standard Restaurant Permitted		
Bar Prohibited Use	Bar Conditional Use	Bar Permitted Use
OS-R	VCE-1	VCE
M-MU	VCS	C-2
VCC-1	VCS-1	C-3
VCC-2	HMC-1	MU-2
HU-B1A	HMC-2	LS
HU-B1	HM-MU	LI
S-B1	HU-MU	HI
EC	SB-2	MI
MC	S-LB1	BIP
MS	S-LB2	CBD-4
CBD-5	S-LC	
	S-LM	
	C-1	
	MU-1	
	CBD-1	
	CBD-2	
	CBD-3	
	CBD-6	
	CBD-7	

The staff believes it is appropriate to require a conditional use process for restaurants which exceed the holding bar limitation. In the many districts where a bar is a conditional use, this measure ensures that restaurants with more “bar-like” functions follow the same vetting process and permitting channel as would a bar use. The staff believes, however, that the limitation on the extent of a variance which could be granted by the City Council is unnecessary, especially within districts where a bar use is permitted or conditional. The staff believes a modification to apply this limitation only in such districts where a bar is a prohibited use would make more sense.

E. Staff Recommendation

Based on this analysis in this section, the staff believes the proposed text amendment related to the modification of holding bar requirements for restaurants should be denied. The staff recommends modified approval of the amendment to only place a limitation on the variance allowable in those districts where bars are a prohibited use. Additions are shown in **underlined, bold** text and deletions shown in ~~strikethrough~~ text:

Article 20, Section 20.3 – Use Standards

ZZ. Restaurant (All Types)

[...]

~~126.~~A holding bar is permitted only for a standard restaurant. The holding bar is an accessory use to the principal use of a standard restaurant. The holding bar is an area of a restaurant where alcoholic beverages are prepared and served at the bar. Holding bars are subject to the following:

- a. A holding bar cannot exceed fifteen percent (15%) of the floor area of the public seating area of the restaurant, up to a maximum area of three-hundred (300) square feet, including the service area behind the bar. The calculation of the total public seating area shall include the holding bar area in the calculation. If a portion of the holding bar is used to serve non-alcoholic beverages, such as coffee, that area is included as part of the holding bar area. The holding bar area shall be calculated from the back wall to the front of the bar. (See Figure 20-1: Restaurant Holding Bar.) If the holding bar is not set against a wall, the area shall be calculated from one bar front to another.
- b. The holding bar shall only be open to the public while food is being served in the restaurant's dining room.
- ~~dc.~~ Through the conditional use process, the City Council may grant a variance to increase in the square footage of the holding bar area. **If a property is located within a zoning district where bars are prohibited,** ~~S~~such variance cannot exceed twenty-five percent (25%) of the public seating area of the restaurant.

F. Reason for Recommendation

1. Eliminating the holding bar requirements could create a loophole for restaurants to morph into bars in districts where bars are prohibited or require a conditional use permit, which includes the majority of zoning districts.
2. The holding bar requirement provides a physical development standard which enables City officials to effectively enforce the zoning code and accurately monitor

licenses. The standard ensures that the bar is an ancillary function and not a dominant function of a restaurant.

3. The staff could not identify a distinct reason as to why it would be more appropriate to enforce the use standard only in some neighborhood business districts as opposed to all districts where a restaurant is permitted. The absence of large bar area, as opposed to a bar area which measures below three hundred (300) square feet, does not prevent a restaurant from operating as defined by the ordinance.

IX. ANALYSIS – AMENDMENT TO CONSISTENCY TABLE (NMR-8)

A. What is the reason for the text amendment? What area would be affected by the text amendment?

Reason for text amendment

This text amendment is intended to amend the Consistency Table, or the Table Specifying Relationship Between Future Land Use Designations and Zoning Classifications, found in **Appendix A** of the Comprehensive Zoning Ordinance, to add an additional zoning district, the MU-1 Medium Intensity Mixed-Use District, within the list of those consistent with the Residential Post-War Multi-Family future land use category. The amendment is proposed in conjunction with another proposed amendment¹⁸ to the zoning map. This particular map amendment applies to several parcels within Planning District 12 in the Behrman neighborhood of Algiers, and the request is for a zoning change from SRM-1 Multi-Family Residential District to MU-1 Medium Intensity Mixed-Use District. The map amendment applies to a specific group of properties where there is interest in developing multi-family residences with commercial units on the ground floor. The text amendment, however, would apply to the entire city where properties are designated as Residential Post-War Multifamily according the Master Plan's future land use map. Currently, the Consistency Table only associates residential districts with the Residential Post-War Multifamily future land use designation. However, the addition of the MU-1 District to the Consistency Table, as is proposed, would link a mixed-use district to that designation as well.

Affected area

The text amendment would alter the Consistency Table of **Appendix A** and would affect properties that are designated as Residential Post-War Multifamily according to the Master Plan's future land use map. These properties are primarily located within Planning Districts 6, 9, 11, 12, and 13.

¹⁸ ZD 055-15
ZD 053/15

B. What is the existing language of the Comprehensive Zoning Ordinance?

The City Council motion proposes an amendment to the Consistency Table in **Appendix A** of the Comprehensive Zoning Ordinance as it pertains to the Residential Post-War Multifamily future land use map designation. The existing section of the Consistency Table is as follows:

MASTER PLAN FUTURE LAND USE MAP DESIGNATION	CONSISTENT ZONING DISTRICT CLASSIFICATIONS
[...]	
RESIDENTIAL POST-WAR MULTIFAMILY (RMF-POST)	S-RD Two-Family Residential District S-RM1 Multi-Family Residential District S-RM2 Multi-Family Residential District S-LRM1 Lake Area Low-Rise Multi-Family Residential District S-LRM2 Lake Area High-Rise Multi-Family Residential District

C. What is the proposed language for amendment?

The City Council motion proposes an additional zoning district, the MU-1 Medium Intensity Mixed-Use District, within the list of those consistent with the Residential Post-War Multi-Family future land use category. The table would appear as written below. Additions to the text are indicated by **underlined, bold** text.

MASTER PLAN FUTURE LAND USE MAP DESIGNATION	CONSISTENT ZONING DISTRICT CLASSIFICATIONS
[...]	
RESIDENTIAL POST-WAR MULTIFAMILY (RMF-POST)	S-RD Two-Family Residential District S-RM1 Multi-Family Residential District S-RM2 Multi-Family Residential District S-LRM1 Lake Area Low-Rise Multi-Family Residential District S-LRM2 Lake Area High-Rise Multi-Family Residential District <u>MU-1 Medium Intensity Mixed-Use District</u>

D. Does the text amendment adequately answer the problem that is being addressed; if not, are other modifications necessary?

As mentioned in Section A of this report, the proposed text amendment is in conjunction with a map amendment request for a zoning change of several parcels from SRM-1 Multi-Family Residential District to MU-1 Medium Intensity Mixed-Use District. Together with the map amendment, the proposed text amendment is intended to add a mixed-use district to the Residential Post-War Multifamily future land use category

within the Consistency Table of **Appendix A** of the Comprehensive Zoning Ordinance, where currently only residential zoning districts are listed. The adoption of the text amendment would facilitate future requests for similar zoning changes city-wide where lots are designated as Residential Post-War Multifamily.

However, the fact that the MU-1 District is not listed within the Consistency Table, does not necessarily preclude a property owner from developing a mixed-use development upon a parcel with the Residential Post-War Multifamily future land use designation. As stated in the Master Plan, the range of uses envisioned in this future land use category includes “limited neighborhood-serving commercial uses on the ground floor.” The consistency of a potential mixed-use district within the Residential Post-War Multifamily does depend, however, on particular factors such as the compatibility of the district’s development standards with adjacent zoning districts. Because of the addition of the MU-1 District to the Consistency Table would be applied city-wide, it would essentially enable the district in all such Residential Post-War Multifamily areas. The staff believes this would be inappropriate, as the Residential Post-War Multifamily designation is characterized by development which is suburban in scale. The allowable density within an MU-1 District exceeds that of the other multi-family residential districts currently listed within the Consistency Table. Furthermore, the MU-1 District would allow entirely commercial structures, which would not be authorized by the Residential Post-War Multifamily future land use map designation. Mixed-use districts in the Residential Post-War Multifamily future land use areas should be limited to those particular sites where a case can be made that the mixed-use district is compatible with surrounding land uses and zoning districts.

E. Staff Recommendation

Based on this analysis in this section, the staff recommends denial of the amendment. The text, as it pertains to this specific amendment to the Consistency Table, should remain in its current format as follows.

Appendix A

MASTER PLAN FUTURE LAND USE MAP DESIGNATION	CONSISTENT ZONING DISTRICT CLASSIFICATIONS
[...]	
RESIDENTIAL POST-WAR MULTIFAMILY (RMF-POST)	S-RD Two-Family Residential District S-RM1 Multi-Family Residential District S-RM2 Multi-Family Residential District S-LRM1 Lake Area Low-Rise Multi-Family Residential District S-LRM2 Lake Area High-Rise Multi-Family Residential District

F. Reason for Recommendation

1. The addition of the MU-1 Medium Intensity Mixed-Use District to the Consistency Table of **Appendix A** would essentially enable this zoning district within all areas of the city designated as Residential Post-War Multifamily. On the other hand, the absence of the MU-1 District from the Consistency Table does not preclude a property owner from developing a mixed-use development, which is the primary intent of this proposed text amendment.
2. The MU-1 District allows for increased density as well as more intense uses which may not be compatible with the neighborhood-serving commercial uses in the Residential Post-War Multifamily areas. Therefore, the MU-1 District should not be authorized in all Residential Post-War Multifamily areas, but authorized on a case by case basis where such development is congruous with surrounding zoning districts.

X. Are the proposed actions supported by or in conflict with the policies and strategies of the *Plan for the 21st Century*?

The Master Plan's Land Use Plan provides general guidance related to the community's vision for land use development with each the Future Land Use Category. In regards to amendment NMR-8, the staff believes that the request is inconsistent with the vision for the Residential Post-War Multifamily designation. The goal, range of uses, and development character for that designation are provided below:

RESIDENTIAL POST-WAR MULTIFAMILY

Goal: Preserve the character and scale of existing suburban multifamily residential areas and encourage new multifamily development at nodes along potential mass transit routes or major city roadways that can support greater densities.

Range of Uses: Mixed single- and two-family units, and multifamily residential structures allowed. Limited neighborhood-serving commercial uses on the ground floor allowed.

Development Character: Maximum of 36 units/acre. Design guidelines and landscaping requirements required to encourage walkability and allow for proper transition to surrounding single-family and low density neighborhoods.

The Residential Post-War Multifamily designation allows for limited neighborhood-serving commercial uses on the ground floor level. The proposed NMR-8 Amendment would authorize the MU-1 Medium Intensity Mixed Use District as appropriate in any Residential Post-War Multifamily area city-wide. The staff believes that this is **inconsistent** with the Master Plan because the MU-1 District allows for more intensive commercial and industrial uses than are allowed in this future land use designation. In

addition, the proposed MU-1 District allows for densities up to 44 units/acre, which is greater than allowed in the Residential Post-War Multifamily future land use designation. Zoning change requests for an MU-1 District within this future land use category should be evaluated on a case by case basis.

The Master Plan does not provide as specific recommendations as to particular zoning language such as what has been presented in the remaining amendments. The staff believes that in general the recommended language is consistent with the following section of the Master Plan that seeks to simplify and streamline the Comprehensive Zoning Ordinance:

A Zoning Response to the Master Plan Theme: From Plan to Action¹⁹

2. Simplify and streamline the ordinance

- Clarify the administrative provisions to create a consistent, predictable and understandable process for Ordinance users whether they are a developer, City staff person or interested resident.
- Eliminate obstacles to development by deregulating routine matters, minimizing nonconformities, and eliminating unnecessary and redundant regulations.

The modifications recommended by the staff would reduce redundant regulations, eliminate duplications, and further improve the clarity of the Comprehensive Zoning Ordinance to be more consistent, predictable, and understandable for all users. The recommended modifications are therefore **consistent** with the *Plan for the 21st Century*.

XI. SUMMARY

Zoning Docket 053/15 considers text amendments to the newly adopted Comprehensive Zoning Ordinance introduced by the City Council at their May 14, 2015 meeting and referred to the City Planning Commission for further review and recommendation. The proposed text amendments and the staff's recommendation for each are summarized below:

- The staff supports Amendment NMR-16 to alter the definition "Restaurant, Standard" to be consistent with state law (Staff Report Section II).
- The staff opposes Amendment NMR-12 to clarify language related to restaurant alcoholic beverage sales for consumption off-premises in the AC-1 Arts and Cultural Overlay District and to clarify use standards for restaurant alcoholic beverage sales in conjunction with meals to go (Staff Report Section III).

¹⁹ City of New Orleans, Plan for the 21st Century. Chapter 14: Land Use Plan, p. 14.34.

- The staff partially supports Amendment NMR-14 to change the definition and standards of “Live Entertainment-Secondary Use” (Staff Report Section IV).
- The staff supports Amendment NMR-9 Part 2 to include a requirement in the HM-MU Historic Marigny/Tremé/Bywater Mixed-Use District, requiring 5% of units be affordable for any multi-family development above 50’ (Staff Report Section V).
- The staff opposes Amendment JCB-8 to increase the height limit for fences to 8’ (Staff Report Section VI).
- The staff partially supports Amendment NMR-17 Parts 1, 2, 3, and 4 to delete the requirement that bars, restaurants, and live entertainment-secondary use venues submit a noise abatement plan and a list of certain surrounding land uses within 300’ (Staff Report Section VII).
- The staff supports modified approval of Amendment NMR-17 Part 5 to allow recorded music in courtyards in the Vieux Carré until 2 a.m. (Staff Report Section VII).
- The staff opposes Amendment NMR-17 Part 6 to modify requirements related to holding bars but supports a change to the language to reduce the variance limitations (Staff Report Section VIII).
- The staff opposes Amendment NMR-8 to amend the “Table Specifying Relationship Between Future Land Use Designations and Zoning Classifications” (also known as the “consistency table”) to include MU-1 Mixed-Use Medium Intensity District as consistent with the Residential Post-War Multi-Family Future Land Use Designation (Staff Report Section IX).

Based on this analysis and the recommendations for each proposed amendment described above, the staff recommends modified approval of the proposed text amendment.

XII. PRELIMINARY STAFF RECOMMENDATION²⁰

The staff recommends **MODIFIED APPROVAL** of Zoning Docket 053/15 with the following zoning text changes. Additions to the Comprehensive Zoning Ordinance are shown below as **underlined, bold** text and deletions are shown in ~~strikethrough~~ text:

²⁰ Subject to modification by the City Planning Commission

Article 10, Section 10.3 – Site Development Standards

TABLE 10-2: BULK & YARD REGULATIONS											
BULK & YARD REGULATIONS	DISTRICTS										
	VCC-1	VCC-2	VCE	VCE-1	VCS	VCS-1	VCP	HMC-1	HMC-2	HM-MU	
BULK REGULATIONS											
MINIMUM LOT AREA	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	None	SF: 1,500sf/du 2F: 1,000sf/du 2F: 1,200sf/du MF: 900sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None	SF: 1,500sf/du 2F: 1,000sf/du MF – 3 Units: 800sf/du MF – 4+ Units: 600sf/du Non-Residential: None
A MAXIMUM BUILDING HEIGHT	50'	50'	50'	50'	50'	50'	50'	50'	40'	50'	55'
MINIMUM OPEN SPACE RATIO	<i>By Lot Type</i> Corner: .20 Interior: .30	<i>By Lot Type</i> Corner: .20 Interior: .30	Residential or Mixed-Use: .30 Non-Residential: .20	Residential or Mixed-Use: .30 Non-Residential: None	Residential or Mixed Use: .30 Non-Residential: None						
MAXIMUM FAR	None	None	1.4	2.2	2.5						
MAXIMUM TOTAL FLOOR AREA¹									Non-Residential: 3,000sf	Non-Residential: Any use over 10,000sf is a conditional use	
MINIMUM YARD REQUIREMENTS											
B FRONT YARD	None	None	None	None	None						
C INTERIOR SIDE YARD	None	None	None	None	None						
D CORNER SIDE YARD	None	None	None	None	None						
E REAR YARD	None	None	None	None	None						

TABLE 10-2 FOOTNOTES

¹Total floor area limits per commercial use

[...]

Article 18, Section 18.9.B.1 – AC-1 Overlay District, Permitted Uses

- ~~f. Restaurant, Standard, which may sell alcoholic beverages for consumption on premises in conjunction with meals~~

[...]

Article 18, Section 18.10.B.1 – AC-2 Overlay District, Permitted Uses

- ~~h. Restaurant, Standard, which may sell alcoholic beverages for consumption on premises in conjunction with meals~~

[...]

Article 18, Section 18.11.B.1 – AC-3 Overlay District, Permitted Uses

- ~~h. Standard Restaurant with a maximum of 5,000 square feet of gross floor area, which may sell alcoholic beverages for consumption on premises in conjunction with meals~~

[...]

Article 20, Section 20.3.G – Use Standards, Bar

- ~~1. A bar shall submit the following impact management plans to the Department of Safety and Permits:~~

- ~~a. A security and operation plan, which includes the provision of exterior security cameras. If the bar contains a brewing or distilling facility on site, a floor plan indicating the area reserved for brewing or distilling, a description of the facility and capacity shall be included in the security and operation plan.~~

- ~~b. A noise abatement plan.~~

- ~~21. Bars shall submit a summary of the number and location of places of worship, educational facilities, and parks and playgrounds within three-hundred (300) feet of the proposed location.~~

- ~~32. Unless otherwise permitted by law, retail sales of packaged alcoholic beverages for consumption off the premises are prohibited.~~

- ~~4. Bars with live entertainment are also subject to the standards of this Article for “live entertainment secondary use.” Live entertainment is a separate principal use and subject to separate approval.~~

- ~~5. If the bar use plans an increase in intensity, such as an expansion of floor area or increase in permitted occupancy, the security and operation plan shall be updated and resubmitted for approval. A revised security and operation plan shall be approved prior to the issuance of any permits.~~
 - ~~6. Security and operation plans may be revised by the property owner or licensed operator. New plans shall be resubmitted for approval.~~
- ~~73.~~ On-site micro-brewing and micro-distillery facilities are allowed.

[...]

Article 20, Section 20.3.JJ. – Use Standards, Live Entertainment – Secondary Use and Live Performance Venue

1. Live entertainment - secondary use is considered a separate principal use. Live entertainment – secondary use may only be established when allowed within a zoning district and in conjunction with a bar, standard restaurant, **specialty restaurant** or indoor amusement facility.
- ~~2. Live entertainment – secondary use and live performance venues shall submit a noise abatement plan, to be reviewed by the Director of Safety and Permits, and all other appropriate City agencies, which shall address the intended use of amplification, noise levels, and need for soundproofing. Outdoor live entertainment areas located within thirty (30) feet of a residential district shall be a conditional use.~~
- ~~3. Live entertainment – secondary use and live performance venues shall submit a security and operation plan, with the following added:~~
 - ~~e. For live entertainment – secondary use, the days and hours of operation for the establishment’s general operations as a standard restaurant or bar, and the days and hours of operation for the live entertainment component.~~
 - ~~f. The configuration of the live entertainment area within the establishment.~~
 - ~~g. Loading areas.~~
 - ~~h. All live entertainment – secondary use and live performance shall provide exterior security cameras.~~
- ~~43.~~ Live entertainment – secondary use and live performance venues shall submit a summary of the number and location of places of worship, educational facilities,

and parks and playgrounds within three-hundred (300) feet of the proposed location.

- ~~54.~~ Windows and doors shall be closed during live entertainment performances and compliance with the City of New Orleans Noise Ordinance is required. ~~In the Vieux Carré Districts, music of any kind is prohibited outside the building, unless authorized through the conditional use process~~ **In the Vieux Carré Districts, live entertainment of any kind is prohibited outside the building, except in fully enclosed courtyards and no later than 2:00 a.m. Additional outdoor locations and later hours may be authorized through the conditional use process.**
- ~~6.~~ If the live entertainment – secondary use and live performance venues use plans an increase in intensity, such as an expansion of floor area, increase in live performance area or increase in permitted occupancy, a security and operation plan shall be updated and resubmitted for approval. Revised security and operation plans shall be approved prior to the issuance of any permits.
- ~~7.~~ Security and operation plans may be revised by the property owner or person authorized in writing by the owner. New plans shall be resubmitted for approval.
- ~~85.~~ Because live entertainment – secondary use is only allowed with a bar, standard restaurant, **specialty restaurant** or indoor amusement facility, when the submittal requirements of live entertainment – secondary use and standard restaurant, **specialty restaurant** or bar are duplicated, only one (1) set of submittal requirements is required to be submitted and updated.

[...]

Article 20, Section 20.3.ZZ. – Restaurant (All Types)

- ~~1.~~ A restaurant shall submit a security and operation plan, to be reviewed by the Director of Safety and Permits, and all other relevant City agencies, with the following added:
- ~~e.~~ For restaurants with an outdoor component, the plan shall include provisions regarding how the facility will control the sales of alcoholic beverages to ensure consumption on premises.
 - ~~d.~~ All restaurants serving alcoholic beverages shall provide exterior security cameras.
- ~~2.~~ A restaurant shall submit a noise abatement plan, to be reviewed by the Director of Safety and Permits, and all other relevant City agencies.
- ~~31.~~ If a restaurant contains a brewing or distilling facility on-site, a floor plan indicating the area reserved for brewing or distilling and a description of the

facility and capacity. On-site micro-brewing and micro-distillery facilities are only allowed in standard restaurants.

- ~~4.~~ Standard restaurants shall submit a summary of the number and location of places of worship, educational facilities, and parks and playgrounds within three hundred (300) feet of the proposed location.
- ~~5~~2. Unless otherwise permitted by law, retail sales of packaged alcoholic beverages for consumption off the premises are prohibited.
- ~~6~~3. All restaurants that serve alcoholic beverages are limited to the following hours of operation (see also Table 20-2: Restaurant Hours of Operation Regulations). No new customers are permitted after the closing hour, and the restaurant shall be completely shut down, including no staff present on the premises, within two (2) hours of the closing time. Opening hour is for first opening of business to customers. These limitations do not apply to restaurants that serve alcoholic beverages in the Vieux Carré Districts, the CBD Districts, and in the C-1, C-2, C-3, LI, HI, MI, BIP, MU-2, EC, MC, and LS Districts.
 - a. Sunday thru Wednesday: from 6:00 am to 10:00 pm.
 - b. Thursday thru Saturday: from 6:00 am to 12:00 am (midnight).
 - c. Other hours may be approved through the conditional use process.
- ~~7~~4. Hours of operation shall be posted on or near the restaurant entrance visible to the public.
- ~~8.~~ Standard restaurants with live entertainment are also subject to the standards of this Article. Live entertainment is a separate principal use and subject to separate approval.
- ~~9.~~ If the restaurant use plans an increase in intensity, such as an expansion of floor area or increase in permitted occupancy, the security and operation plans shall be updated and resubmitted for approval. The revised security and operation plan shall be approved prior to the issuance of any permits.
- ~~10.~~ Security and operation plans may be revised by the property owner or person authorized in writing by the owner. New plans shall be resubmitted for approval.
- ~~11~~5. Restaurants with drive-through facilities are subject to the standards of this Article. Standard **and specialty** restaurants with live entertainment – secondary uses are also subject to the standards of this Article. Drive-through facilities and live entertainment – secondary uses are considered separate principal uses and subject to separate approval.

~~126~~. A holding bar is permitted only for a standard restaurant. The holding bar is an accessory use to the principal use of a standard restaurant. The holding bar is an area of a restaurant where alcoholic beverages are prepared and served at the bar. Holding bars are subject to the following:

- a. A holding bar cannot exceed fifteen percent (15%) of the floor area of the public seating area of the restaurant, up to a maximum area of three-hundred (300) square feet, including the service area behind the bar. The calculation of the total public seating area shall include the holding bar area in the calculation. If a portion of the holding bar is used to serve non-alcoholic beverages, such as coffee, that area is included as part of the holding bar area. The holding bar area shall be calculated from the back wall to the front of the bar. (See Figure 20-1: Restaurant Holding Bar.) If the holding bar is not set against a wall, the area shall be calculated from one bar front to another.
- b. The holding bar shall only be open to the public while food is being served in the restaurant's dining room.
- ~~c.~~ Through the conditional use process, the City Council may grant a variance to increase in the square footage of the holding bar area. **If a property is located within a zoning district where bars are prohibited,** ~~S~~such variance cannot exceed twenty-five percent (25%) of the public seating area of the restaurant.

~~137~~. There shall be no cover charge to enter a restaurant.

[...]

Article 21, Section 21.6.N.1 – General Fence Requirements

- a. Unless otherwise permitted or restricted by this Ordinance, a fence or wall may be located in any yard but may not exceed ~~seven (7)~~ **eight (8)** feet in height. Fences in front yards shall be open fences.

[...]

- c. The height of fences or walls along common property lines in required side or rear yards shall be measured from grade. When grade differs between abutting properties, the height of the fence or wall shall be measured from the highest grade at the property line on either side of the property. In no case shall the total fence height exceed ten (10) feet. A building permit is required for all fences and walls exceeding ~~seven (7)~~ **eight (8)** feet in height. (See Figure 21-4: Fences with Grade Differential)

[...]

Article 26, Section 26.6 – Definitions

Live Entertainment – Secondary Use. Any one (1) or more of any of the following live performances, performed live by one (1) or more persons, whether or not done for compensation and whether or not admission is charged: musical act, theatrical play or act, including stand-up comedy, magic, dance clubs, and disc jockey performances using vinyl records, compact discs, computers, or digital music players when the disc jockey is in verbal communication with the clientele of the establishment. Live entertainment - secondary use shall be part of a standard restaurant, specialty restaurant, indoor amusement facility or bar, and shall be approved separately. A standard restaurant, specialty restaurant, indoor amusement facility, or bar may be open to the public when no live performances are scheduled. Live entertainment - secondary use does not include:

- A. Any such activity performed for the practice or private enjoyment of the residents of a dwelling and their guests.
- B. Any adult uses.
- C. Periodic entertainment at educational facilities or places of worship, performances at cultural facilities, performances at reception facilities, performances at weddings or similar religious events, the playing of recorded music over speakers without a disc jockey, poetry readings, or spoken word performances.
- D. Musical accompaniment for patrons at a restaurant (standard or specialty), in conformance with the following use standards:
 - 1. During the performance of any musical accompaniment, all doors and windows in the restaurant shall remain closed. Any amplification used in support of a musical accompaniment shall be directed towards the patrons of the restaurant, and not toward any door, window or outdoor space.
 - 2. No cover charge shall be charged for any performance of any musical accompaniment.
 - 3. Full restaurant service shall continue during the performance of any musical accompaniment.
 - 4. No more than ten percent (10%) of a restaurant's seating area may be dedicated to a staging area for any performance of musical accompaniment.
 - 5. Aside from the portion of the restaurant seating area dedicated to the staging of the musical accompaniment, no restaurant seating may be removed or relocated during the performance in order to accommodate an audience and/or dance area.

6. Performance of the musical accompaniment shall not be permitted beyond 10:00 p.m. on Sundays through Wednesdays, or beyond midnight on Thursdays through Saturdays.
7. Musical accompaniment shall only be performed in the interior of a restaurant; outdoor musical accompaniment shall be subject to the general Live Entertainment – Secondary Use regulations, as applicable.

Any musical accompaniment for patrons at a restaurant that is not in conformance with the above standards shall be included within the definition of Live Entertainment – Secondary Use above, and shall be subject to the applicable regulations. Notwithstanding anything herein to the contrary, any musical accompaniment for patrons at a restaurant within any Vieux Carré **Residential or Commercial** District shall be included within the definition of Live Entertainment – Secondary Use.

[...]

Restaurant, Standard. An establishment where food and/or beverages are prepared to order, served by wait staff, and usually consumed on-premises. A standard restaurant’s principal method of operation includes ordering by customers from an individual menu or menu board and the service of food and beverages by a restaurant employee at the same table or counter where the items are consumed. ~~Standard restaurants may offer alcoholic beverages for sale as incidental to food and non-alcoholic beverage service. Food service and sale of non-alcoholic beverages shall constitute at least fifty percent (50%) or more of the revenue for said establishment.~~ **Standard restaurants may sell and serve alcoholic beverages. Average monthly revenue from food and nonalcoholic beverages shall exceed fifty percent of the total average monthly revenue from the sale of food, nonalcoholic beverages and alcoholic beverages.**

[...]

Appendix A

MASTER PLAN FUTURE LAND USE MAP DESIGNATION	CONSISTENT ZONING DISTRICT CLASSIFICATIONS
[...]	
RESIDENTIAL POST-WAR MULTIFAMILY (RMF-POST)	S-RD Two-Family Residential District S-RM1 Multi-Family Residential District S-RM2 Multi-Family Residential District S-LRM1 Lake Area Low-Rise Multi-Family Residential District S-LRM2 Lake Area High-Rise Multi-Family Residential District

XIII. REASONS FOR RECOMMENDATION

Standard Restaurant Definition (NMR-16)

1. The proposed changes to the definition provide a more detailed figure related to the percentage of food and non-alcoholic beverages associated with a standard restaurant. The measure, as it is copied verbatim from the Louisiana Revised Statutes, facilitates interpretation and enforcement of the standard.
2. In general, the usage of similar language reduces conflict between sets of laws.

Alcohol Beverage Sales for Off Premises Consumption at Restaurants (Amendment NMR-12 Parts 2 & 3)

1. The sale of alcoholic beverages at restaurants in conjunction with meals to go is regulated by Chapter 10 of City Code. The Comprehensive Zoning Ordinance should not imply that something is allowed that might be in conflict with City Code.
2. The description of standard restaurants in the permitted uses in the AC-1, AC-2, and AC-3 Overlay Districts should be modified to reflect that alcoholic beverage sales is permitted by right at standard restaurants.

Live Entertainment – Secondary Use Definition (NMR-14)

1. Given the amount of existing live entertainment in the French Quarter and the potential conflict with nearby residents, the staff does not support permitting musical accompaniment at restaurants in all Vieux Carré Districts.
2. Musical accompaniment at restaurants should be expanded to the Vieux Carré Service Districts where there is little potential conflict with nearby residents and the Vieux Carré Entertainment Districts where other live performance venues are already allowed.

Affordable Housing Height Requirement HM-MU (Amendment NMR-9)

1. The standard, in essence, would penalize developers for good design, as the most desirable designs include floor to ceiling heights in the range of ten (10) to twelve (12) feet. The amendment does not address FAR as a trigger of the requirement. The staff is concerned the amendment as proposed would incent developers to squeeze four stories within fifty (50) feet in order to circumvent the affordable housing requirement.
2. The staff believes the institution of a mandatory inclusionary zoning policy warrants further research into best practices than what has currently been performed to date, as well as further public vetting and market analyses.

Fence Height (Amendment JCB-8)

1. The amendment addresses a practical problem based on the fact that standard manufactured fence boards do not come in lengths less than six (6) feet.
2. The proposed amendment allows a property owner the flexibility to construct a standard size fence and also meet minimum flood protection requirements of the building code.

Use Standards (Amendment NMR-17 Parts 1-5)

1. Many of the proposed use standards for noise abatement, security, and operation plans are better suited for the noise and alcoholic beverage chapters of City Code. Other use standards should be eliminated because they are not necessary or repeat requirements in other sections of the Comprehensive Zoning Ordinance.
2. Other changes were made to reflect that specialty restaurants allow live entertainment – secondary use.
3. Some use standards were retained because they are necessary to mitigate potential negative impacts associated with certain use.

Holding Bars (Amendment NMR-17 Part 6)

1. Eliminating the holding bar requirements could create a loophole for restaurants to morph into bars in districts where bars are prohibited or require a conditional use permit, which includes the majority of zoning districts.
2. The holding bar requirement provides a physical development standard which enables City officials to effectively enforce the zoning code and accurately monitor licensures. The standard ensures that the bar is an ancillary function and not a dominant function of a restaurant.
3. The staff could not identify a distinct reason as to why it would be more appropriate to enforce the use standard only in some neighborhood business districts as opposed to all districts where a restaurant is permitted. The absence of large bar area, as opposed to a bar area which measures below three hundred (300) square feet, does not prevent a restaurant from operating as defined by the ordinance.

Consistency Table (Amendment NMR-8)

1. The addition of the MU-1 Medium Intensity Mixed-Use District to the Consistency Table of **Appendix A** would enable this zoning district within all areas of the city designated as Residential Post-War Multifamily. On the other hand, the absence of

the MU-1 District from the Consistency Table does not preclude a property owner from developing a mixed-use development, which is the primary intent of this proposed text amendment.

2. The MU-1 District allows for increased density as well as more intense land uses which may not be compatible with the neighborhood-serving commercial uses in the Residential Post-War Multifamily areas.

MOTION

NO. M-15-202

CITY HALL: May 14, 2015

BY: COUNCILMEMBER HEAD

SECONDED BY:

BE IT MOVED BY THE CITY COUNCIL OF THE CITY OF NEW ORLEANS, that the City Planning Commission is directed to conduct a public hearing to consider the following proposed text and map amendments (attached hereto and incorporated by reference), to Ordinance 4264 M.C.S., the Comprehensive Zoning Ordinance (CZO), as amended by Calendar number 30,637, adopted by the Council on May 14, 2015, for further study, review and recommendation:

- LC-13
- JCB-8
- NMR-8
- NMR-9
- NMR-12, subparts 2 & 3
- NMR-14
- NMR-16
- NMR-17
- NMR-18

BE IT FURTHER MOVED BY THE CITY COUNCIL OF THE CITY OF NEW ORLEANS, that in the process of reviewing the proposed text and map changes to the Comprehensive Zoning Ordinance for the City of New Orleans, the City Planning Commission and staff are directed and granted the flexibility to make any and all legal and appropriate changes and adjustments deemed necessary in light of public testimony resulting from this review.

THE FOREGOING MOTION WAS READ IN FULL, THE ROLL WAS CALLED ON THE ADOPTION OF THEREOF AND RESULTED AS FOLLOWS:

YEAS:

NAYS:

ABSENT:

AND THE MOTION WAS ADOPTED.

ZD 053/15

AMENDMENT NMR-14 TO CALENDAR ORDINANCE NUMBER 30,637

BY: COUNCILMEMBER RAMSEY

nme

CITY HALL: May 14, 2015

SECONDED BY:

- 1) In Exhibit "A," Part X, Article 26, Section 26.6 "Definitions," on page 26-24, in the definition of "Live Entertainment-Secondary Use" delete subsection "D." in its entirety and insert the following:

"D. Musical accompaniment for patrons at a restaurant (standard or specialty), in conformance with the following use standards:

- i) During the performance of any musical accompaniment, all doors and windows in the restaurant shall remain closed. Any amplification used in support of a musical accompaniment shall be directed toward the patrons of the restaurant, and not toward any door, window, or outdoor space.
- ii) No cover charge shall be charged for any performance of any musical accompaniment.
- iii) Full restaurant service shall continue during the performance of any musical accompaniment.
- iv) No more than ten percent (10%) of a restaurant's seating area may be dedicated to a staging area for any performance of musical accompaniment.
- v) Aside from the portion of the restaurant seating area dedicated to staging of the musical accompaniment, no restaurant seating may be removed or relocated during the performance in order to accommodate an audience and/or dance area.
- vii) Performance of the musical accompaniment shall not be permitted beyond 10:00 p.m. on Sundays through Wednesdays, or beyond midnight on Thursdays through Saturdays.
- viii) Musical accompaniment shall only be performed in the interior of the restaurant; outdoor musical accompaniment shall be subject to the general Live Entertainment – Secondary Use regulations, as applicable.

Any musical accompaniment for patrons at a restaurant that is not in conformance with the above standards shall be included within the definition of Live Entertainment – Secondary Use above, and shall be subject to applicable regulations."

SUMMARY

An amendment to change the definition and standards of live entertainment-secondary use.

AMENDMENT NMR-12 TO CALENDAR ORDINANCE NUMBER 30,637 ■

nMR
BY: COUNCILMEMBER RAMSEY

CITY HALL: May 14, 2015

SECONDED BY:

adopted { 1) In Exhibit "A," Part III, Article 10, Section 10.2 "Uses," on page 10-3, in Subsection B. "Use Restrictions," in Subsection 10.2B.1.b. delete the following second sentence in its entirety: "Live entertainment that charges the general public for admission is subject to the requirements regarding amusement taxes as per the City Code."

referred to PC { 2) In Exhibit "A," Part VI, Article 18, Section 18.9 "AC-1 Arts and Culture Diversity Overlay District," on page 18-14, in Subsection 18.9B1.f. delete the subsection in its entirety and insert the following:
"Restaurant, Standard, which may sell alcoholic beverages for consumption on the premises or which may sell alcoholic beverages for consumption off of the premises when sold in conjunction with meals to go."

3) In Exhibit "A," Part VIII, Article 20, Section 20.3 "Use Standards," on page 20-32, in Subsection 20.3YY5 after the word "prohibited" insert the following:
"unless sold in conjunction with meals to go"

SUMMARY

A package of amendments to accomplish the following:

- Deletes references to nonexistent amusement taxes,
- Clarifies language related to restaurant alcohol sales for consumption off of the premises in the AC-1 Arts and Cultural Diversity Overlay District.
- Clarifies the Use Standards for restaurant alcohol sales in conjunction with meals to go.

AMENDMENT NMR-17 TO CALENDAR ORDINANCE NUMBER 30,637

BY: COUNCILMEMBER ^{NMR} RAMSEY

CITY HALL: May 14, 2015

SECONDED BY:

- 1) In Exhibit "A," Part VIII, Article 20, Section 20.3 "Use Standards," on page 20-6, delete Subsection 20.3G.1.b, 2, 4, 5 and 6 in their entirety and renumber accordingly.
- 2) In Exhibit "A," Part VIII, Article 20, Section 20.3 "Use Standards," on page 20-22, Subsection 20.3II.2, delete the first sentence.
- 3) In Exhibit "A," Part VIII, Article 20, Section 20.3 "Use Standards," on page 20-22, delete Subsections 20.3II.4, 6 and 7 and renumber accordingly.
- 4) In Exhibit "A," Part VIII, Article 20, Section 20.3 "Use Standards," beginning on page 20-31, delete the following Subsections: 20.3YY.2, 4, 7, 9, and 10.
- 5) In Exhibit "A," Part VIII, Article 20, Section 20.3 "Use Standards," on page 20-22, in Subsection 20.3II. delete Subsection 20.3II.5. in its entirety and insert the following:

"5. In the Vieux Carre Districts, recorded music of any kind is prohibited outside the building but not including courtyards, unless authorized through the conditional use process. Recorded music in courtyards shall not extend beyond 2:00 a.m."

- 6) In Exhibit "A," Part VIII, Article 20, Section 20.3 "Use Standards," beginning on page 20-31, in subsection 20.3.YY.12, before the phrase "holding bar is permitted only for a standard restaurant" delete "A" and insert the following:

"In SB-1, SB2, S-LB2, S-LC, HU-B1A, HU-B1, HU-MU, HMC-1, and HMC-2 zoning districts, a"

SUMMARY

An amendment to:

- Delete the requirement that Bars and Restaurants and Live Entertainment secondary use venues submit a noise abatement plan and a list of certain surrounding land uses within 300 feet. ■
- Allows recorded music in courtyards in the Vieux Carre until 2:00 a.m.
- Retains current law related to holding bars.
- Clarifies definition of Live Entertainment-Secondary Use to exclude non-amplified music for patrons at all restaurants.

AMENDMENT NMR-16 TO CALENDAR ORDINANCE NUMBER 30,637

nmr
BY: COUNCILMEMBER RAMSEY

CITY HALL: May 14, 2015

SECONDED BY:

- 1) In Exhibit "A," Part X, Article 26, Section 26.6 "Definitions," on page 26-36, in the definition of "Restaurant, Standard" delete the last two sentences in their entirety and insert the following:

"Standard restaurants may sell and serve alcoholic beverages. Average monthly revenue from food and nonalcoholic beverages shall exceed fifty percent of the total average monthly revenue from the sale of food, nonalcoholic beverages and alcoholic beverages."

SUMMARY

An amendment to make the definition of Restaurant, Standard consistent with state law.

AMENDMENT JCB-8 TO ORDINANCE CALENDAR NUMBER 30,637

CITY HALL: May 14, 2015

BY: COUNCILMEMBER ~~BROSSETT~~

SECONDED BY:

1. In Exhibit "A", Part VIII, Article 21, Section 21.6 "Fences and Walls", on page 21-12, subsection 21.6.N.1.a., delete the phrase "seven (7)" and insert in lieu thereof:

"eight (8)"

2. In Exhibit "A", Part VIII, Article 21, Section 21.6 "Fences and Walls", on page 21-12, subsection 21.6.N.1.c., delete the phrase "seven (7)" and insert in lieu thereof:

"eight (8)"

SUMMARY

A package of amendments to increase the maximum height requirement for fences and yards.

AMENDMENT NMR-9 CALENDAR ORDINANCE NUMBER 30,637

nmr
BY: COUNCILMEMBER RAMSEY

CITY HALL: May 14, 2015

SECONDED BY:

- 1) In Exhibit "A", Part III, Article 10, Section 10.2 in "Table 10-2: Bulk & Yard Regulations", under "Maximum Building Height HM-MU", on page 10-8, delete "50'" insert the following in lieu thereof:

"55'1"

- 2) In Exhibit "A", Part III, Article 10, Section 10.2 in "Table 10-2: Bulk & Yard Regulations", under "Maximum Building Height HM-MU", on page 10-8, insert the following footnote:
 1. For any development above fifty feet (50'), a development shall provide at least five (5%) percent of dwelling units as affordable for households with incomes equal to or below eighty percent (80%) of area median income (AMI) for thirty (30) years.

SUMMARY

An amendment to modify the Riverfront Overlay District to increase the height of the HM-MU district to 55' with a requirement that 5% of the units be affordable.

Nicholas J. Kindel

From: CPCinfo
Sent: Tuesday, June 16, 2015 10:46 AM
To: Nicholas J. Kindel
Subject: FW: ZD 53/14 Comments regarding CZO, live entertainment and the French Market
Attachments: ZD53_14 Comments on Live Ent and French Market_Ellestad.pdf

The City Planning Commission Staff

From: Ethan Ellestad [<mailto:ethanellestad@gmail.com>]
Sent: Monday, June 15, 2015 4:56 PM
To: CPCinfo
Subject: ZD 53/14 Comments regarding CZO, live entertainment and the French Market

Planning Commission Staff and Members--

Please see the attached comments for Zoning Docket 53/14 regarding the CZO, Live Entertainment and the French Market.

Please contact me if you have any questions.

Thank you,
Ethan Ellestad

6/15/15

RE: Zoning Docket 053/14—Amendments to CZO Re French Market and Live Entertainment

City Planning Commission Members—

The Comprehensive Zoning Ordinance (CZO) as adopted failed to cure an anomaly which existed in the previous CZO regarding live entertainment in the Historic French Market.

Live entertainment has been a fundamental and crucial part of the re-vitalization and success of the French Market since the late 1970's in those areas designated as the "Historic French Market" ("HFM").¹ (See attached map and description).

Under the new CZO, live entertainment is not permitted in the HFM, according to the zoning districts VCS and VCC. Existing live entertainment venues in the HFM are grandfathered in; however, if one of the important purposes of the new CZO is to eliminate anomalies and inconsistencies, the failure to address the issue of live entertainment as a permitted use in the HFM, is an obvious oversight. By failing to properly address this issue, the new CZO fails to reflect the decades-long history of live entertainment in the HFM, the importance of live entertainment to the continued vitality and prosperity of the French Market, and current reality.

Live entertainment takes place throughout the year in the HFM. The FMC sponsors weekly concerts, as well as other regularly scheduled events and festivals, featuring live music, as it has done for many years—the 28th Annual French Market Creole Tomato Festival, which includes live entertainment, was just held on June 13th and 14th.² The HFM includes stages, at Dutch Alley and in the Farmers' Market, where live entertainment takes place. There are restaurants in the HFM which have held city-issued permits for live entertainment for decades. There are leases between the FMC and certain of its tenants which support and authorize live entertainment. There are city ordinances approving live entertainment at specific locations in the HFM.

The FMC and through it, the City of New Orleans, derives direct financial benefit and shares in the profits of restaurants in the HFM which have live entertainment. The City of New Orleans general fund received over 1 Million Dollars from the successful operations of the French Market in 2014, which includes businesses and events which feature live entertainment.

Food, shopping and music were seen as essential ingredients in the 1970's re-birth and re-structuring of the French Market (initiated by then Mayor Moon Landrieu), into a viable commercial operation designed to generate revenue for the City of New Orleans. Live

¹ The term "Historic" French Market is meant to convey the traditional, historic boundaries of the area involved and to distinguish the affected area from the more geographically diverse area over which the French Market Corporation ("FMC") exercises jurisdiction.

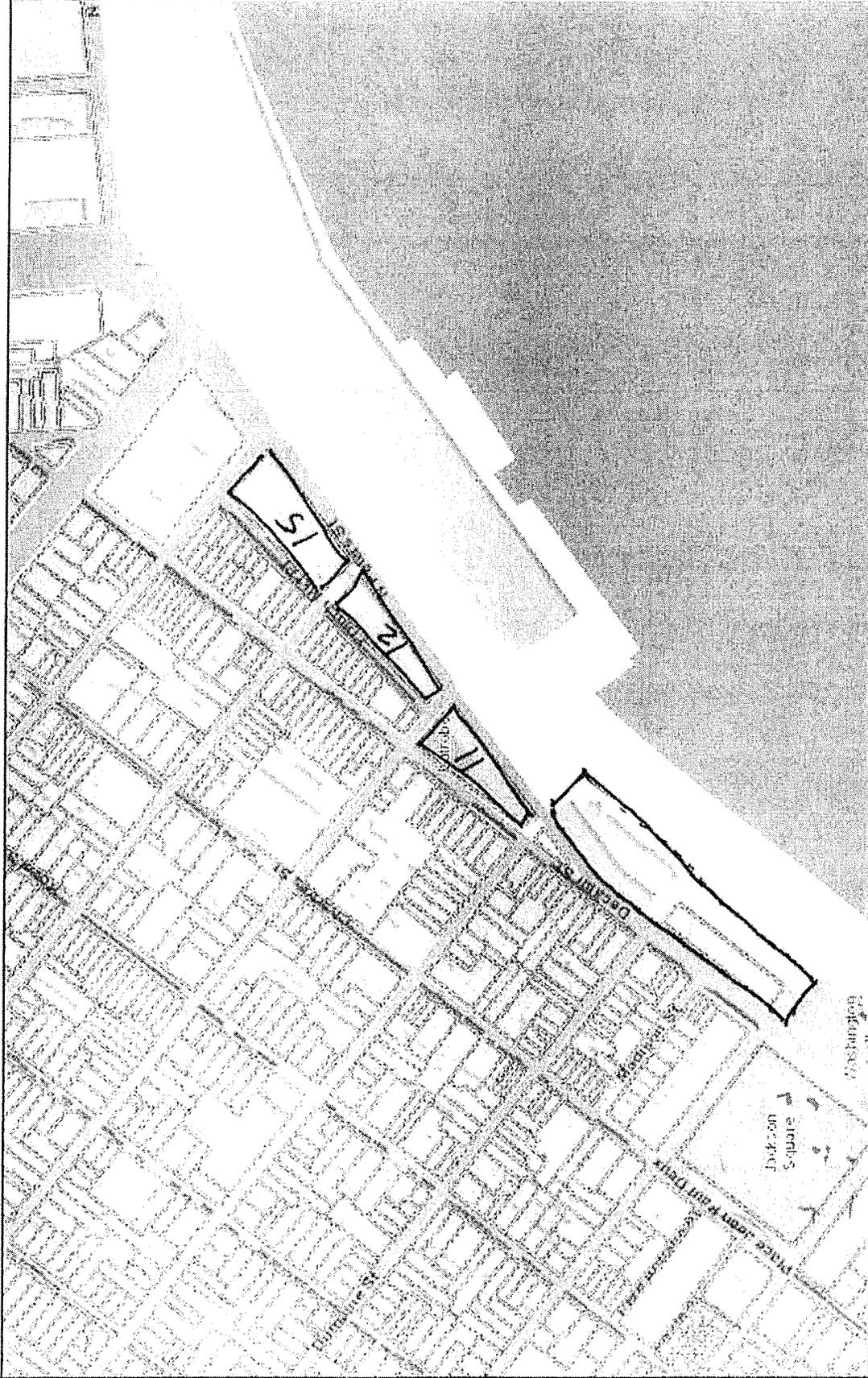
entertainment, particularly of traditional New Orleans and Louisiana music, has been an essential part of the re-vitalization and success of the operations of the French Market properties to the benefit of the City of New Orleans and its citizens.

The failure of the new CZO to acknowledge live entertainment as a permitted use in the HFM is an anomaly which needs to be corrected. The CZO should be amended to permit live entertainment as a permitted use in the HFM.

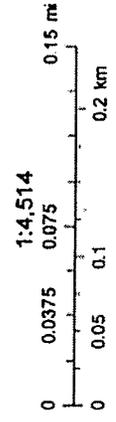
If you have any questions, please feel free to contact me at ethanellestad@gmail.com or call 608-417-9052.

Thank you,
Ethan Ellestad

City of New Orleans Property Viewer



May 8, 2015



Historic French Market Property Description

1. The entirety of former Square 11, bounded by Decatur Street, North Peters Street, Ursulines Street and St. Philip Street; and
2. The undesignated parcel bounded by Decatur Street, North Peters Street, a line that is the projected southerly line of Ursulines Street, the Mississippi River floodwall, and that line which is the projected northerly line of St. Ann Street.
3. The entirety of former Square 12, bounded by Governor Nicholls Street, North Peters Street, Ursulines Street and French Market Place (formerly Gallatin Street).
4. The entirety of former Square 15, bounded by Barracks Street, North Peters Street, Governor Nicholls Street, and French Market Place (former Gallatin Street).

Nicholas J. Kindel

From: CPCinfo
Sent: Tuesday, June 16, 2015 10:47 AM
To: Nicholas J. Kindel
Subject: FW: Zoning Docket 53/14 comments re: Live Entertainment in French Quarter restaurants
Attachments: Zoning Docket_53_14_MaCCNO letter.pdf

The City Planning Commission Staff

-----Original Message-----

From: Ethan Ellestad [<mailto:coordinator@maccno.com>]
Sent: Monday, June 15, 2015 5:00 PM
To: CPCinfo
Subject: Zoning Docket 53/14 comments re: Live Entertainment in French Quarter restaurants

City Planning Commission:

Please see the attached comments from the Music and Culture Coalition of New Orleans about live musical accompaniment in restaurants in the French Quarter.

Thank you,

Ethan Ellestad
Coordinator
Music and Culture Coalition of New Orleans
504-327-7713
coordinator@maccno.com

6/15/15

Re: Zoning Docket 53/14, Live Entertainment--Secondary Use Definition

City Planning Commission Members--

The Music and Culture Coalition of New Orleans (MaCCNO) is writing to offer our strong support for the change proposed in the definition of Live Entertainment-Secondary Use that would allow restaurants in the French Quarter to have live musical accompaniment.

Throughout the CZO process, MaCCNO has maintained that live musical accompaniment in restaurants should be allowed throughout the City. Now, with the passage of the new Comprehensive Zoning Ordinance, restaurants are allowed to have live musical accompaniment everywhere in the City EXCEPT most of the French Quarter (with exceptions for parts of Bourbon St., and a few blocks of Decatur and N. Peters St). This singles out restaurants in the rest of the French Quarter for a competitive disadvantage. In the newly passed CZO, for example, Galatoire's on Bourbon St can have a jazz brunch every Sunday, but Mr.B's Bistro, a block away at the corner of Iberville and Royal St, this same jazz brunch is illegal without a special event permit.

Restricting live musical accompaniment only in the French Quarter is arbitrary, and creates an unequal playing field for specific businesses—exactly the type of issues the passage of a new Zoning Ordinance was supposed to fix. In addition, it denies musicians—still some of the most underpaid workers in the city—a potentially lucrative market. Once again, we remind you that visitors come to New Orleans looking for great food and great music, and it is counterintuitive that the French Quarter is the only area where it is difficult for them to find the two together.

If you have any questions, please do not to hesitate to contact Ethan Ellestad, MaCCNO Coordinator, at coordinator@maccno.com or 504-327-7713. We also ask you to please refer to comments received from both MaCCNO and our supporters during the drafting of the new CZO, where we repeatedly addressed this issue as well.

Thank you,

The Music and Culture Coalition of New Orleans
Planning and Facilitation Committee